

ORIGINAL

VOLUME III OF IV

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Chester County

Benjamin H. Culbertson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER MARQUAVIOUS MOORE,

APPELLANT

APPELLATE CASE NO 2016-001429

RECORD ON APPEAL

SUSAN B. HACKETT
Appellate Defender

ALAN WILSON
Attorney General

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Deputy Attorney General
Attorney General Office
P. O. Box 11549
Columbia, SC 29211

ATTORNEY FOR APPELLANT

ATTORNEYS FOR RESPONDENT

PAGES 1001-1500

INDEX

INDEX	i
TRANSCRIPT DATED FEBRUARY 12, 2015	1
<u>SCHMERBER V. CALIFORNIA HEARING</u>	
TESTIMONY	
RANDY ST. CLAIR.....	4
TRANSCRIPT DATED DECEMBER 17, 2015.....	16
MOTION FOR A BOND.....	18
MOTION FOR CHANGE OF VENUE	19
TRIAL TRANSCRIPT DATED APRIL 18, 2016 (DAY ONE).....	50
JURY VOIR DIRE	55
JURY SELECTION.....	79
MOTION FOR IMMUNITY FROM PROSECUTION PURSUANT TO SECTION 16-11-450	92
MOTION TO EXCLUDE REFERENCE TO GANGS.....	92
MOTION TO EXCLUDE REFERENCE TO ASSAULT RIFLE	92
MOTION TO EXCLUDE EVIDENCE PURSUANT TO RULE 404(B)	92
TESTIMONY	
CHRISTOPHER MOORE (IN CAMERA).....	97
RULING BY THE COURT ON MOTION FOR IMMUNITY	139
RULING BY THE COURT ON MOTION TO EXCLUDE EVIDENCE.....	143
RULING ON THE COURT ON MOTION TO EXCLUDE REFERENCE TO GANGS	144
RULING BY THE COURT ON MOTION TO EXCLUDE REFERENCE TO ASSAULT RIFLE	147

MOTION TO EXCLUDE EVIDENCE OF DECEASED’S PRIOR BAD ACTS	147
DISCUSSIONS OF STIPULATIONS	152
TRIAL TRANSCRIPT DATED APRIL 19, 2016 (DAY TWO).....	164
OPENING STATEMENT BY MS. HALL	175
OPENING STATEMENT BY MR. FRICK.....	180
TRIAL TESTIMONY	
KYLE CUMMINGS.....	185
ANNIE LOUISE WILLIAMS.....	205
LANA WILLIAMS AKIN	226
JASON BINNALL.....	233
JENNIFER LOWERY	238
RICHARD GRAY	246
KIRA BAGLEY.....	251
MAURICE JAMES	263
RAFAELL JACKSON.....	275
CORNELL JOHNSON.....	286
LASHONDA WRAY	294
CINDY TAAFFE.....	311
BURLY MCDANIEL.....	315
CHRIS KINSEY	330
RANDY ST. CLAIR.....	344
BRIAN PHILLIP PERRY	354
CHUCK STARNES.....	357

MELINDA WORLEY	362
TRIAL TRANSCRIPT DATED APRIL 20, 2016 (DAY 3)	418
TESTIMONY	
BRITTANY BURKE	433
TIFFANY HEZEL	468
PHILLIP THOMAS GREGORY	494
WHITNEY BERRY	499
JENNIFER CLAYTON	510
ROBERT THOMAS	542
DAN DEFREESE	554
TERRANCE BUCHANAN	614
TRIAL TRANSCRIPT DATED APRIL 21, 2016 (DAY 4)	665
INQUIRY BY JUDGE REGARDING JUROR MISCONDUCT	673
MOTION TO INTRODUCE EVIDENCE OF DECEASED'S PRIOR BAD ACTS	675
DERRICK DIXON	681
D'ANGELO ROSEBORO	744
CHRIS REYNOLDS	808
LEE BLACKMON	833
MOTION FOR A DIRECTED VERDICT	855
RULING BY THE COURT	857
COLLOQUY REGARDING DEFENDANTS RIGHT TO TESTIFY	858
TESTIMONY	
CHRISTOPHER WATKINS	863

CHRISTOPHER MOORE.....	867
TRIAL TRANSCRIPT DATED APRIL 22, 2016 (DAY 5).....	941
CLOSING ARGUMENT BY MR. FRICK.....	952
CLOSING ARGUMENT BY MS. HALL.....	968
CHARGE ON THE LAW	1002
JURY NOTE.....	1020
JURY NOTE.....	1022
RE-CHARGE ON THE LAW OF SELF-DEFENSE.....	1025
JURY NOTE.....	1028
TRIAL TRANSCRIPT DATED APRIL 23, 2016 (DAY 6).....	1030
JURY NOTE.....	1038
ADDITIONAL JURY INSTRUCTIONS.....	1038
JURY DEADLOCKED	1042
TRANSCRIPT DATED JUNE 15, 2016.....	1047
TRIAL TRANSCRIPT DATED JUNE 27-30, 2016.....	1052
JURY VOIR DIRE	1058
JURY SELECTION.....	1071
MOTION FOR IMMUNITY FROM PROSECUTION.....	1084
RULING BY THE COURT.....	1088
MOTION TO QUASH INDICTMENT.....	1088
MOTION TO EXCLUDE EVIDENCE UNDER RULE 404(b).....	1092
RULING BY THE COURT.....	1093
MOTION TO EXCLUDE MENTION OF ASSAULT RIFLE.....	1094

RULING BY THE COURT.....	1095
MOTION TO EXCLUDE GANG EVIDENCE.....	1095
RULING BY THE COURT.....	1096
MOTION TO USE OLD CONVICTIONS	1096
RULING BY THE COURT.....	1099
MOTION TO EXCLUDE DECEASED'S PRIOR BAD ACTS.....	1099
RULING BY THE COURT.....	1102
OPENING STATEMENT BY MS. HALL.....	1110
OPENING STATEMENT BY MR. FRICK.....	1114
TESTIMONY	
KYLE CUMMINGS.....	1120
ANNIE LOUISE WILLIAMS.....	1134
LANA WILLIAMS AKIN	1152
JASON BINNALL.....	1162
JENNIFER LOWERY	1168
RICHARD GRAY	1177
KIRA BAGLEY.....	1182
MAURICE JAMES	1191
RAFAELL JACKSON.....	1202
CORNELL JOHNSON.....	1212
LASHONDA WRAY	1219
INQUIRY REGARDING JUROR MISCONDUCT	1236
JUROR DISMISSED.....	1244

TESTIMONY

BURLY MCDANIEL	1247
RANDY ST. CLAIR.....	1258
PHILLIP PERRY	1271
CHRISTOPHER KINSEY.....	1274
CINDY TAAFFE.....	1290
MELINDA WORLEY	1295
BRITTANY BURKE.....	1339
TIFFANY HEZEL	1380
WHITNEY BERRY.....	1397
JENNIFER CLAYTON	1406
PHILLIP GREGORY	1429
ROBERT THOMAS.....	1433
DAN DEFREESE	1441
TERRANCE BUCHANAN.....	1497
D'ANGELO ROSEBORO.....	1548
DERRICK DIXON	1593
STEVIE BRELAND.....	1633
CHRISTOPHER REYNOLDS.....	1660
LEE BLACKMON	1684
MOTION FOR DIRECTED VERDICT.....	1713
COLLOQUY REGARDING DEFENDANT'S RIGHT TO TESTIFY.....	1717

TESTIMONY

CHRISTOPHER MOORE.....	1721
CLOSING ARGUMENT BY MR. FRICK.....	1781
CLOSING ARGUMENT BY MS. HALL.....	1797
CHARGE ON THE LAW	1818
VERDICT	1837
POLLING OF THE JURY.....	1838
SENTENCING	1850
COURT'S EXHIBIT #5 (MOTION FOR IMMUNITY).....	1853
COURT'S EXHIBIT #6 (JURY NOTE).....	1900
COURT'S EXHIBIT #7 (JURY NOTE).....	1901
COURT'S EXHIBIT #8 (JURY NOTE).....	1902
COURT'S EXHIBIT #9 (JURY NOTE).....	1903
COURT'S EXHIBIT #10 (JURY NOTE).....	1904
COURT'S EXHIBIT #11 (JURY NOTE).....	1904
COURT'S EXHIBIT #12 (JURY NOTE).....	1904
COURT'S EXHIBIT #13 (JURY NOTE).....	1904
INDICTMENTS AND SENTENCE SHEETS.....	1905
CERTIFICATE OF COUNSEL	1911

1 a doubt. It's -- it's evidence that leaves you firmly
2 convinced of the defendant's guilt. That's what it is.

3 Now, I would submit to you, the defense's job is
4 to confuse you, confuse you into believing the defendant's
5 lie; don't fall for it. We come seeking the truth and we
6 come seeking justice for Odell Williams. We come telling
7 you everything we have, putting all of our witnesses up,
8 good, bad or ugly, painting the picture for you, giving you
9 the pieces of puzzle to put together to make a picture.
10 The truth is that Christopher Moore on November 4th, of 2014
11 intentionally and unlawfully killed Odell Williams and that
12 he had -- with malice, with the safety off, intending to
13 get out, intending to shoot, and that he possessed and used
14 over and over and over and over again a weapon, an assault
15 rifle, to carry this out. He's guilty on both charges.
16 Thank you.

17 THE COURT - Thank you, counsel. Ladies and
18 gentlemen of the jury, it's now my duty to charge you the
19 law of the case. It's probably going to take 35 minutes,
20 40 minutes, to do this. Anybody need a brief break?

21 (WHEREUPON, JURORS RESPOND)

22 THE COURT - Okay, let's take ten minutes, come
23 back and I'll proceed with the charge.

24 (WHEREUPON, JURY EXITS THE COURTROOM)

1 THE COURT - Court stand at ease for about ten
2 minutes.

3 (WHEREUPON, RECESS TAKEN)

4 THE COURT - You may be seated. Thank you.

5 All right, bring them in.

6 (WHEREUPON, JURY ENTERS THE COURTROOM)

7 THE COURT - Ladies and gentlemen of the jury, now
8 that you've heard all the evidence and the arguments of the
9 attorneys, it is my duty to instruct you the law that
10 applies to the case. These instructions will be in three
11 parts. First, the instructions on general rules that
12 define and control the jury's duties, second, the
13 instructions that state the rules of law that you must
14 apply, and, lastly, some rules for your deliberations.

15 It is your duty to find the facts from all the
16 evidence in the case. To those facts you must apply the
17 law as I give it to you. You must follow the law as I give
18 it to you, and you shall not be concerned with what you may
19 think the law may should be, but you should be concerned
20 with what the law is, and you must not be influenced by any
21 personal likes or dislikes, opinions, prejudice or undue
22 sympathy. That means that you must decide the case solely
23 on the evidence before you and according to the law. You
24 will recall that you took an oath promising to do just that
25 at the very beginning of this trial. Following my

1 instructions, you just follow all of them and not single
2 out some and ignore others. They are equally important,
3 and you must not read into these instructions or into
4 anything that I have said or done or any suggestions as to
5 what your verdict that you should return. That is a matter
6 entirely for you to decide, because under our Constitution,
7 the Trial Judge is not allowed to have an opinion about the
8 facts of the case. You and you alone are the judges of the
9 facts in the case. You decide what the facts are by
10 evaluating or weighing the evidence that you have heard
11 during this trial. Now, there is a no way for you to weigh
12 evidence in the literal sense. I can't give you a set of
13 scales. It is entirely a mental process, and you weigh and
14 evaluate the evidence by simply using your good sense and
15 sound judgment.

16 The indictments that I have up here on the bench
17 are not evidence. In these indictments the defendant is
18 charged with the offenses of murder and possession of a
19 firearm during the commission of a violent crime. I remind
20 you that the defendant, or the fact that the defendant was
21 arrested, charged and indicted in this case, is not
22 evidence in the case. It cannot be considered by you as
23 evidence of the guilt -- or of guilt in the case, nor does
24 it create any presumption or inference of guilt. The
25 documents of the indictments are simply the formal written

1 instruments which contain the charges made against the
2 defendant, and it is the formal document by which the case
3 is brought into the Court. The defendant has pled not
4 guilty to the indictments, and that plea puts the burden of
5 the State to prove the defendant guilty beyond a reasonable
6 doubt. A person charged with committing a criminal offense
7 in South Carolina is never required to prove himself
8 innocent. I charge you that it is an important rule of the
9 law that the defendant in a criminal trial, no matter what
10 the seriousness of the charge may be, will always be
11 presumed to be innocent of the crime for which the
12 indictment was issued unless guilt has been proven by
13 evidence satisfying you of that guilt beyond a reasonable
14 doubt. This presumption of innocence does not end when you
15 begin your deliberations, but it accompanies the defendant
16 throughout the trial until you reach a verdict of guilt
17 based on evidence satisfying you of that guilt beyond a
18 reasonable doubt. Presumption of innocence is like a robe
19 righteousness placed about the shoulders of a defendant,
20 and it remains with the defendant until it has been
21 stripped from the defendant by evidence satisfying you the
22 jury of the defendant's guilt beyond a reasonable doubt.
23 Presumption of innocence is not a mere legal theory; it is
24 not just a legal phrase. It is a substantial right to
25 which every defendant is entitled unless you the jury are

1 satisfied from the evidence of the defendant's guilt beyond
2 a reasonable doubt.

3 Let me speak with you about credibility of
4 witnesses. Necessarily, you must determine the credibility
5 of witnesses who have testified in the case. Credibility
6 simply means believability. It becomes your duty as jurors
7 to analyze and to evaluate the evidence and determine which
8 evidence convinces you of its truth. In determining the
9 believability of witnesses who have testified in the case,
10 you may believe one witness over several witnesses or
11 several witnesses over one witness. You may believe a part
12 of the testimony of a witness and reject the remaining part
13 of the testimony of that same witness. You may believe the
14 testimony of a witness in its entirety or reject the
15 testimony of a witness in its entirety. You may consider
16 whether any witness has exhibited to you any interest,
17 bias, prejudice or other motive in the case. You may also
18 consider the appearance and the manner of a witness while
19 on the witness stand.

20 I remind you that during the trial you and I have
21 certain duties to perform. As the Trial Judge it is my
22 responsibility to preside over the trial of the case, and I
23 also have the duty to rule on the admissibility of the
24 evidence offered during the trial. You are to consider
25 only the competent evidence before you. If there was any

1 testimony ordered stricken from the record in this case
2 during the trial, you must disregard that testimony. You
3 are to consider only the testimony which has been presented
4 from the witness stand and any exhibits which have been
5 made a part of the record in this case and any stipulations
6 of counsel. Now, stipulation is where both sides agree as
7 to whatever that evidence may be.

8 I have the additional duty to charge you the law
9 applicable to the case. As the presiding Judge I am the
10 sole Judge of the law of the case, and it is your duty as
11 jurors to accept and apply the law as I state it to you.
12 If you already have any idea as to what the law is or what
13 the law ought to be and it does not agree with what I tell
14 you the law is, you must abandon this idea, because you are
15 sworn to accept the law and apply the law exactly as I
16 state it to you. In every case tried in this Court before
17 a jury, the jury becomes the sole and exclusive judge of
18 the facts of the case. The Trial Judge cannot intimate,
19 state, comment on or make any statement to a trial jury
20 about the facts in a case. Since you the jury are the sole
21 judges of the facts in this case, you are not to infer from
22 what I have said during the progress of this trial in
23 ruling upon the admissibility of evidence or otherwise or
24 anything that I say now during the course of this
25 instruction to you that I have any opinion about the facts

1 in the case. The law does not allow me to have an opinion
2 about the facts. This is a matter solely for you the jury
3 to determine and as jurors, it's your duty to determine the
4 effect, the value, the weight and the truth of the evidence
5 presented during the trial.

6 You've heard us use during this trial the term
7 proof beyond a reasonable doubt. Let me speak with you
8 about that. The State has the burden of proving the
9 defendant guilty beyond a reasonable doubt. Some of you
10 may have served as jurors in civil cases where you were
11 told that it is only necessary to prove that a fact is more
12 likely true than not true, such as by the greater weight or
13 the preponderance of the evidence. In criminal cases the
14 State's proof must be more powerful than that. It must be
15 beyond a reasonable doubt. Proof beyond a reasonable doubt
16 is proof that leaves you firmly convinced of the
17 defendant's guilt. There are very few things in this world
18 that we know with absolute certainty. In criminal cases
19 the law does not require proof that overcomes every
20 possible doubt. If, based on your consideration of the
21 evidence, you are firmly convinced that the defendant is
22 guilty of the crime charged, you must find the defendant
23 guilty. If on the other hand, you think there's a real
24 possibility that the defendant is not guilty, you must give

1 the defendant the benefit of the doubt and find him not
2 guilty.

3 Let me speak with you about criminal intent. In
4 order to establish criminal liability, criminal intent is
5 required. For example, the mental state required to be
6 proven by the State for a particular crime might be
7 purpose, intent, knowledge, recklessness or criminal
8 negligence, for example. Criminal intent must be proven by
9 the State beyond a reasonable doubt. Criminal intent is
10 always a matter that must be determined by the jury from
11 the circumstances surrounding the situation. There is no
12 way to prove intent to a mathematical certainty. There is
13 no way medical science can dissect a person's brain and
14 determine what the person had in mind. So the law says
15 that criminal intent may be inferred from the circumstances
16 shown to have existed. This is how you make a
17 determination of whether or not the element requiring
18 intent was present. It is not necessary to establish
19 intent by direct and positive evidence, but intent may be
20 established by inference in the same way as any other fact
21 by taking into consideration the acts of the parties and
22 all the acts and circumstances of a case. Criminal intent
23 is a mental state, a conscious wrongdoing. It is up to you
24 to determine what the defendant intended to do based on the
25 circumstances shown to have existed. Criminal intent can

1 arise from action or a failure to act. It may arise from
2 negligence, recklessness or indifference to duty or to the
3 consequences that is considered by the law to be the
4 equivalent of criminal intent.

5 I'm speaking with you now about types of
6 evidence. There are two types of evidence where sometimes
7 are presented during a trial. I in no way tell you what is
8 present and what is not present. That is up to you the
9 jury to define what's presented to you in the evidence.
10 Direct evidence and circumstantial evidence are the two
11 types. Direct evidence is the testimony of a person who
12 claims to have actual knowledge of the fact, such as an
13 eye-witness. It is evidence which immediately establishes
14 the main fact to be proven. Circumstantial evidence is
15 proof of a chain of facts and circumstances indicating the
16 existence of a fact. It is evidence which immediately
17 establishes collateral facts from which the main fact may
18 be inferred. Circumstantial evidence is based on inference
19 and not on personal knowledge or observation. The law
20 makes absolutely no distinction between the weight or value
21 to be given to either direct or circumstantial evidence,
22 nor is a greater degree of certainty required of
23 circumstantial evidence than that of direct evidence. You
24 should weigh all of the evidence in the case. After
25 weighing all the evidence, if you are not convinced of the

1 guilt of the defendant beyond a reasonable doubt, then you
2 would find the defendant not guilty.

3 You have heard evidence that the defendant
4 committed a bad act not the subject of a conviction other
5 than the one for which he is now on trial. This testimony,
6 if you conclude it is true, may only be considered by you
7 on the question of common scheme or plan and for no other
8 reason and for no other purpose. You may give this
9 evidence the weight and value, if any, which you find it
10 should have on the sole issue of common, scheme or plan.
11 You must not consider evidence of the bad act not the
12 subject of a conviction as proof of the defendant's guilt
13 of the charge we are trying today.

14 We have heard testimony concerning the penalty a
15 person can serve for alleged crimes. In determining the
16 guilt or innocence of a defendant, you cannot consider any
17 possible penalty for any particular crime. The punishment
18 for the crime is a matter for me to determine should that
19 come into play and should not be considered by you the
20 jury.

21 Now, you've heard already the two crimes that are
22 charged. I'm going to speak first with you about the crime
23 of murder. I'm going to read to you Section 16-3-10 of the
24 Code of Laws of the State of South Carolina, 1976, as
25 amended. Murder is the killing of any person with malice

1 aforethought either express or implied. I point out to you
2 that implied and inferred mean the same thing, because
3 often you will hear those words used interchangeably.
4 Murder is an unlawful killing of any person with malice
5 aforethought either express or implied. Hence, in order to
6 convict one of murder, the State must not only prove the
7 killing of the deceased by the defendant, but that it was
8 done with malice aforethought, and such proof must be
9 beyond a reasonable doubt. Malice aforethought is an
10 essential element in the crime of murder. Now, what is
11 malice? Malice is defined in the law of homicide as a term
12 of art. Malice does not necessarily mean in an actual
13 intent to kill. It is a technical term importing
14 wickedness and excluding just cause or legal excuse. It is
15 something which springs from wickedness, from depravity,
16 from a depraved spirit, from a heart devoid of social duty
17 and fatally bent on mischief. The words expressed or
18 inferred malice do not mean different kinds of malice, but
19 merely the manner in which the only kind of malice known to
20 the law may be shown to exist. That is to say, either by
21 direct evidence or by inference. Malice may be expressed
22 as where previous threats of vengeance or lying in wait or
23 other circumstances show directly that an intent to kill
24 was entertained. Malice may be inferred where though no
25 expressed intent to kill is proved by direct evidence. It

1 may be inferred from the facts and circumstances which are
2 proved. Malice may be inferred from the willful,
3 deliberate and intentional doing of an unlawful act without
4 just cause or legal excuse. In other words, in its general
5 signification, malice means the doing of a wrongful act
6 intentionally without justification or legal excuse. But
7 even if facts proved are sufficient to raise an inference
8 of malice, this inference would be simply an evidentiary
9 fact to be taken into consideration by you the jury along
10 with all the other evidence in the case, and you may give
11 it such weight as you determine it should receive as to
12 whether or not malice has been proven beyond a reasonable
13 doubt. Once again, in this particular crime, there must be
14 malice aforethought. While the law does not require that
15 malice shall exist for any particular length of time before
16 the commission of the act, it must be aforethought. There
17 must be a combination of the previous evil intent and the
18 act producing the fatal result. The State is not required
19 to prove a motive for homicide.

20 The other indictment is for possession of a
21 firearm during the commission of a violent crime, comes
22 from 16-23-490 of that section of the Code of Laws, 1976,
23 as amended. That statute makes it illegal to possess a
24 firearm or visibly display what appears to be a firearm
25 during the commission of a violent crime. Section 16-1-60

1 provides that a violent crime includes the offense of
2 murder. For you to find the defendant guilty of this
3 separate statutory offense of possessing a firearm during a
4 violent crime, you must first find the defendant guilty of
5 the violent crime, and in this case that alleged crime is
6 murder. If you find the defendant guilty of murder, then
7 you must determine whether the State has proved beyond a
8 reasonable doubt that the defendant was in possession of a
9 firearm or visibly displayed what appeared to be a firearm
10 during the commission of murder.

11 All right, the defendant has raised the defense
12 of self-defense. Self-defense is a complete defense, and
13 if it is established, you must find the defendant not
14 guilty. The State has the burden of disproving self-
15 defense by proof beyond a reasonable doubt. If you have a
16 reasonable doubt of the defendant's guilt after considering
17 all the evidence, including the evidence of self-defense,
18 then you must find the defendant not guilty. On the other
19 hand, if you have no reasonable doubt of the defendant's
20 doubt after considering all the evidence, including the
21 evidence of self-defense, then you must find the defendant
22 guilty. The following elements are required to establish
23 self-defense: One, without fault. First, the defendant
24 must be without fault in bringing on the difficulty. If
25 the defendant's conduct was the type which was reasonably

1 calculated to and did provoke a deadly assault, the
2 defendant would be at fault in bringing on the difficulty
3 and would not be entitled to an acquittal based on self-
4 defense. Second, imminent danger. The second element of
5 self-defense is that the defendant was actually in imminent
6 danger of death or serious bodily injury or that the
7 defendant actually believed he was in imminent danger of
8 death or serious bodily injury. If the defendant was
9 actually in imminent danger, it must be shown that the
10 circumstances would have warranted a person of ordinary
11 firmness and courage to strike the fatal blow to prevent
12 death or serious bodily injury. If the defendant believed
13 he was in imminent danger of death or serious bodily
14 injury, it must be shown that a reasonable prudent person
15 of that ordinary firmness and courage would have had the
16 same belief. In deciding whether the defendant actually
17 was or believed he was in imminent danger of death or
18 serious bodily injury, you should consider all the facts
19 and circumstances surrounding the crime, including the
20 physical condition and characteristics of the defendant and
21 the victim. Let me speak to you about right to act on
22 appearances. Defendant does not have to show that he was
23 actually in danger. It is enough that the defendant
24 believed he was in imminent danger and a reasonably prudent
25 person of ordinary firmness and courage would have -- would

1 have the same belief. The defendant has the right to act
2 on appearances even though the defendant's belief may have
3 been mistaken. It is for you to decide whether the
4 defendant's fear of imminent danger of death or serious
5 bodily injury was reasonable and would have been felt by an
6 ordinary person in the same situation. Third, no other way
7 to avoid danger. A third element of self-defense is that
8 the defendant had no other probable way to avoid the danger
9 of death or serious bodily injury than to act as the
10 defendant did in this particular circumstance. A person
11 cannot be required to make an exact calculation as to the
12 degree or amount of force which may be needed to avoid
13 death or serious bodily harm. Therefore, in self-defense
14 the defendant has the right to use the force needed to
15 avoid death or serious bodily harm. The force used in
16 self-defense does not have to be limited to the degree or
17 amount of force used by the victim. The defendant has the
18 right to use such much force as appeared to be necessary
19 for complete self protection in which a person of ordinary
20 reason and firmness would've believed to be needed to
21 prevent death or serious bodily harm. If the defendant is
22 justified in defending himself or others and in firing the
23 first shot, then the defendant is also justified in
24 continuing to shoot until it is apparent that the danger of
25 death or serious bodily injury has completely ended.

1 Ladies and gentlemen of the jury, you are not
2 partisans or advocates for the State or the defendant. You
3 do not serve as jurors to reward friends or punish enemies.
4 Obviously, such a perverted system of justice would be
5 intolerable in our society. You have been selected by both
6 the State and the defendant as fair and impartial jurors.
7 It is your duty then by your joint deliberations to
8 determine the truth in this case, giving to the defendant
9 the benefit of every reasonable doubt on each and every
10 issue, then to the facts which you determine to be true,
11 you then take and apply the law which has been given to you
12 by the Court and thus arrive at a verdict which does speak
13 the truth of the case, for the word verdict, which is a
14 Latin derivative word, means a true saying. And when you
15 have accomplished these responsibilities, you will have
16 satisfied your oath as jurors and will have discharged your
17 duty to the Court.

18 There are two separate indictments up here. Let
19 me speak to you about the forms of the verdict in the case.
20 Madam forelady and ladies and gentlemen of the jury, you'll
21 take up each of the indictments. I've instructed you as to
22 that second indictment about the firearm charge, so that
23 would be considered second, so you would take up the first
24 indictment of murder to deliberate. If the State has
25 failed to prove the guilt of the defendant beyond a

1 reasonable doubt, your verdict would be two words, not
2 guilty. If the State has proved the guilt of the defendant
3 beyond a reasonable doubt, your verdict will be one word,
4 guilty. The verdict that you render in this case must be
5 the verdict of each and every juror and it must be your
6 unanimous verdict. All 12 jurors must agree on the
7 verdict, which madam forelady is authorized to write for
8 the jury. Do not give any weight as to how I numerically
9 gave those possible forms of verdict to you. They have to
10 be stated to you and just give no weight to how they were
11 numerically read to you. Of course, that applies to both
12 indictments. Madam forelady, it will be your
13 responsibility to write in the appropriate verdict, sign
14 your name to the verdict form and date it for us.

15 All right, on the back of these indictments,
16 there's an area in the bottom left corner -- let me
17 retrieve the other one -- where it says verdict. That's
18 where you will write the verdict, the signature line and
19 then the date line's under that. After the verdicts are
20 reached, you need to knock on the door and let the bailiff
21 staff know and then we will receive the verdict.

22 I think I've covered everything that I intended
23 to cover with you. Now, let me speak with you just a
24 minute or two about the exhibits. There are several
25 firearms that have been introduced into evidence. I

1 certainly will allow you to take them back to the jury
2 room, but I instruct you at this time, do not make any
3 attempt to load any of these firearms. Do not attempt to
4 place any of the unspent cartridges into any of these
5 firearms. That's strictly a safety measure that I needed
6 to speak with you about.

7 Madam forelady, it will be your duty, since it is
8 15 minutes til 12:00, to let us know about lunch. If you
9 would like to have lunch brought in, please let the
10 bailiffs know and we will work on that for you.

11 All right, I can't turn you loose until I check
12 in with counsel and also get these exhibits lined up. So I
13 need the 12 jurors to step back to the jury room, and I
14 need the alternate juror to stay with us just a few
15 minutes, please, in a separate room that we will arrange.
16 I need y'all to step back and relax a few minutes until we
17 get all these exhibits checked off. Okay? So if y'all
18 will step back to the jury room, we'll try to have that to
19 you just as soon as possible.

20 (WHEREUPON, JURY EXITS THE COURTROOM)

21 THE COURT - All right, counsel, anything for the
22 record concerning the instructions or anything else?

23 MS. HALL - Nothing from the State.

24 MR. FRICK - Nothing from defense.

1 THE COURT - Thank y'all for helping me with that
2 charge. All right, if y'all will check off on your
3 exhibits, let's make sure everything's accounted for and we
4 will send it back and put them to work.

5 (WHEREUPON, COURT REPORTER AND COUNSEL REVIEW
6 EXHIBITS)

7 (WHEREUPON, DISCUSSION IS HELD WHICH IS NOT
8 REPORTED AND PAUSE IN RECORD AWAITING JURORS TO RETURN FROM
9 SMOKE BREAK PRIOR TO BEGINNING THEIR DELIBERATIONS.)

10 (WHEREUPON, DISCUSSION IS HELD BETWEEN THE COURT
11 AND THE COURT REPORTER WHICH IS NOT REPORTED.)

12 THE COURT - One of y'all tell madam clerk to
13 bring the forelady back in a minute.

14 (WHEREUPON, FORELADY ENTERS THE COURTROOM)

15 THE COURT - One other thing I need to cover with
16 you, madam forelady, when you do begin your deliberations,
17 if somebody on the jury refuses to deliberate, in other
18 words, sits there and says, I'm not taking part in this,
19 you will immediately notify the bailiff staff to report
20 that to me, because I do have an alternate to reserve.
21 Thank you.

22 (WHEREUPON, THE FORELADY EXITS THE COURTROOM)

23 THE COURT - Anything for the record before we go
24 back into the stand at-ease mode here?

25 MS. HALL - I don't have anything.

1 (WHEREUPON, DISCUSSION IS HELD REGARDING MATTERS
2 TO BE HEARD IN OTHER MATTERS WHICH WAS NOT REPORTED.)

3 (WHEREUPON, JURY BEGINS DELIBERATION AT 12:08
4 P.M.)

5 (WHEREUPON, COURT IN RECESS AWAITING VERDICT.)

6 (WHEREUPON, NOTE IS SENT OUT BY THE JURY AT 1:40
7 P.M.)

8 THE COURT - You may be seated. Thank you. Would
9 you tell madam forelady to bring the forelady out here.

10 (WHEREUPON, FORELADY ENTERS THE COURTROOM AT 1:50
11 P.M.)

12 THE COURT - Madam forelady, everything I say has
13 to be on the record, and we've got everybody we need in.
14 I'm in receipt of your request.

15 Can you hear me?

16 COURT REPORTER - Yes, sir.

17 THE COURT - I spoke to counsel about this. There
18 are no written statements in evidence, so basically we're
19 having to deal with the testimony that was delivered here
20 from the witness stand. The method we have to use for that
21 is madam court reporter has to pull that up off the
22 recording system and play it back. You mentioned five in
23 the truck. In speaking with counsel, there are only four
24 that testified.

25 FORELADY - Okay.

1 THE COURT - So we would -- we'd have to trace
2 that back and out play it, if we can do that. And that's
3 going to be -- I don't know -- several hours, I guess,
4 which is fine, but if you can help us to refine that or to
5 narrow it down to portions or what order you would like to
6 hear them in and if we play all of them -- if you know from
7 your deliberations from the jury that you've heard what you
8 need to hear, you can stop us, but we need for you to give
9 us a little more direction about how you would like us to
10 proceed with that.

11 FORELADY - All right.

12 THE COURT - I understand you've got some out on
13 smoke break, so ---

14 FORELADY - Yes, sir.

15 THE COURT - Okay. If you can help us out with
16 that, fine; if you can't, then we'll just start with the
17 first one that testified and move through it. Okay?

18 FORELADY - Okay.

19 THE COURT - All right.

20 FORELADY - Thank you.

21 THE COURT - Let me keep this note.

22 (WHEREUPON, FORELADY EXITS THE COURTROOM AT 1:53
23 P.M.)

24 THE COURT - Any problem with that, counsel?

25 MR. FRICK - Nothing from defense, Your Honor.

1 MS. HALL - Nothing from the State.

2 THE COURT - Well, let's just sit tight a few
3 minutes and see what might come of that request.

4 (WHEREUPON, COURT IN RECESS AWAITING HEARING BACK
5 FROM FORELADY.)

6 THE COURT - They're all back now, so we should
7 have an answer in a few minutes. (Pause)

8 We'll stand at ease; they have decided they do
9 not want to hear it.

10 (WHEREUPON, NOTE MARKED AS COURT'S EXHIBIT NUMBER
11 6.)

12 (WHEREUPON, COURT IN RECESS AWAITING VERDICT.)

13 (WHEREUPON, NOTE SENT OUT BY THE JURY AT 2:15
14 P.M.)

15 (WHEREUPON, DISCUSSION IS HELD BETWEEN THE COURT
16 AND THE COURT REPORTER REGARDING PLAYING TESTIMONY WHICH
17 WAS NOT REPORTED.)

18 (WHEREUPON, JURY RETURNS TO THE COURTROOM.)

19 THE COURT - Madam forelady and ladies and
20 gentlemen of the jury, because of the way this system is
21 set up, we have to start at the beginning of the testimony;
22 we can't narrow it down; we have to start at the beginning
23 of each witness's testimony, so that's what we're going to
24 have to do. We're going to begin with Mr. Buchanan's; he's
25 the first one to testimony. Madam forelady, if we get to

1 the point that the jury has heard what y'all want to hear,
2 we can stop at that point, but you have -- you have to give
3 me feedback as to when to stop. Okay? And then the same
4 with the other witnesses. Now, if we get to the point that
5 you've heard everything you want to hear, we can also stop
6 at that time. Now, we may have to have a little time in
7 between the different ones so we can go on the digital
8 locator to start the next one. Okay?

9 Everybody be quiet as possible, because this is
10 going to be difficult to hear.

11 (WHEREUPON, COURT REPORTER BEGINS PLAYING
12 TESTIMONY OF TERRANCE BUCHANAN FOR THE JURY.)

13 THE COURT - STOP IT.

14 (WHEREUPON, COURT REPORTER STOPS PLAYING
15 TESTIMONY.)

16 THE COURT - I think we have thought out a better
17 method to maybe accomplish what y'all want. Counsel --
18 just whispered to them and they're in agreement. We're
19 going to let y'all go back to the jury room along with
20 madam court reporter. She can handle this equipment; she
21 will be strictly there to do that, and let y'all start and
22 stop wherever you want to. That will save considerable
23 time and will get more to the point of possibly what y'all
24 want.

25 Any problem with that, counsel?

1 MR. FRICK - No, Your Honor, I think it'd be more
2 audible, too.

3 THE COURT - I agree. I think you're going to be
4 able to hear a lot better. We'll stop that one right there
5 and y'all can go back to the room and proceed from there.

6 (WHEREUPON, JURY EXITS THE COURT REPORTER)

7 (WHEREUPON, COURT REPORTER PROCEEDS TO THE JURY
8 ROOM TO PLAY TESTIMONY FOR THE JURY. ONCE IN THE JURY ROOM
9 THE REMAINDER OF TERRANCE BUCHANAN IS PLAYED AND THE JURY
10 ADVISES THE COURT REPORTER THEY DO NOT WANT TO HEAR DIXON,
11 ROSEBORO OR MOORE AT THIS TIME. COURT REPORTER EXITS THE
12 JURY ROOM.)

13 (WHEREUPON, NOTE IS MARKED AS COURT'S EXHIBIT
14 NUMBER 7.)

15 (WHEREUPON, JURY FURTHER DELIBERATES AT 3:15
16 P.M.)

17 (WHEREUPON, COURT IN RECESS AWAITING VERDICT)

18 (WHEREUPON, NOTE IS SENT OUT BY THE JURY AT 4:15
19 P.M.)

20 (WHEREUPON, NOTE IS MARKED AS COURT'S EXHIBIT
21 NUMBER 8.)

22 (WHEREUPON, NOTE IS SENT OUT BY THE JURY AT 4:20
23 P.M.)

24 THE COURT - All right, we're back on the record.
25 The jury request to be recharged on self-defense.

1 (WHEREUPON, JURY ENTERS THE COURTROOM AT 4:29
2 P.M.)

3 THE COURT - Madam forelady, ladies and gentlemen
4 of the jury, I have your request to be recharged on the
5 issue of self-defense.

6 The defendant has raised the defense of self-
7 defense. Self-defense is a complete defense, and if it is
8 established, you must find the defendant not guilty. The
9 State has the burden of disproving self-defense by proof
10 beyond a reasonable doubt. If you have a reasonable doubt
11 of the defendant's guilt after considering all the
12 evidence, including the evidence of self-defense, then you
13 must find the defendant not guilty. On the other hand, if
14 you have no reasonable doubt of the defendant's guilt after
15 considering all the evidence, including the evidence of
16 self-defense, then you must find the defendant guilty. The
17 following elements are required to establish self-defense:
18 One, without fault. First, the defendant must be without
19 fault in bringing on the difficulty. If the defendant's
20 conduct was the type which was reasonably calculated to and
21 did provoke a deadly assault, the defendant would be at
22 fault in bringing on the difficulty and would not be
23 entitled to an acquittal based on self-defense. Two,
24 imminent danger. The second element of self-defense is
25 that the defendant was actually in imminent danger of death

1 or serious bodily injury or that the defendant actually
2 believed he was in imminent danger of death or serious
3 bodily injury. If the defendant was actually in imminent
4 danger, it must be shown that the circumstances would have
5 warranted a person of ordinary firmness and courage to
6 strike the fatal blow to prevent death or serious bodily
7 injury. If the defendant believed he was in imminent
8 danger of death or serious bodily injury, it must be shown
9 that a reasonably prudent person of ordinary firmness and
10 courage would have had the same belief. In deciding
11 whether the defendant actually was or believed he was in
12 imminent danger of death or serious bodily injury, you
13 should consider all the facts and circumstances surrounding
14 the crime, including the physical condition and the
15 characteristics of the defendant and the victim. The
16 defendant does not have to show that he was actually in
17 danger. It is enough that the defendant believed he was in
18 imminent danger and a reasonably prudent person of ordinary
19 firmness and courage would have had the same belief. The
20 defendant has the right to act on appearances even though
21 the defendant's beliefs may have been mistaken. It is for
22 you to decide whether the defendant's fear of imminent
23 danger of death or serious bodily injury was reasonable and
24 would have been felt by an ordinary person in the same
25 situation. Three, no other way to avoid danger. The final

1 element of self-defense is that the defendant had no other
2 probable way to avoid the danger of death or serious bodily
3 injury than to act as the defendant did in this particular
4 instance. A person cannot be required to make an exact
5 calculation as to the degree or amount of force which may
6 be needed to avoid death or serious bodily harm.
7 Therefore, in self-defense, the defendant has the right to
8 use the force needed to avoid death or serious bodily harm.
9 The force used in self-defense does not have to be limited
10 to the degree or amount of force used by the victim. The
11 victim has the -- correction -- the defendant has the right
12 to use so much force as appear to be necessary for complete
13 self-protection in which a person of ordinary reason and
14 firmness would have believed to be needed to prevent death
15 or serious bodily harm. If the defendant is justified in
16 defending himself or others and in firing the first shot,
17 then the defendant is also justified in continuing to shoot
18 until it is apparent that the danger of death or serious
19 bodily injury is completely ended.

20 Is that complete as to what I charged the first
21 time?

22 MS. HALL - That's my recollection.

23 MR. FRICK - Yes, sir.

24 THE COURT - Any further request to be charged?

25 MS. HALL - I believe that's all.

1 THE COURT - Okay. Now, the other request you
2 sent out, you still need that?

3 FORELADY - Court reporter, yes, sir.

4 THE COURT - It is getting close to 5:00 o'clock.
5 In no way do I want to rush you or think that we're trying
6 to rush you, but it is Friday evening, getting close to
7 5:00. We certainly have the availability to come back in
8 the morning, and it will be no problem at all. So we need
9 your advice on what we can do in case we need to arrange
10 that. We can come back in the morning, as long as
11 necessary. Okay? All right. Thank you very much. Y'all
12 may return.

13 (WHEREUPON, JURY EXITS THE COURTROOM TO FURTHER
14 DELIBERATE AT 4:35 P.M.)

15 THE COURT - Stand at ease. Madam court reporter
16 will assist the jury.

17 (WHEREUPON, COURT REPORTER PROCEEDS TO THE JURY
18 ROOM TO PLAY PORTIONS OF TESTIMONY OF DIXON, ROSEBORO AND
19 MOORE FOR THE JURY AT 4:36 P.M.)

20 (WHEREUPON, COURT REPORTER EXITS THE JURY ROOM AT
21 5:10 P.M. WHEREUPON, JURY BEGINS TO FURTHER DELIBERATE AT
22 5:10 P.M.)

23 (WHEREUPON, COURT IN RECESS AWAITING VERDICT)

24 (WHEREUPON, NOTE SENT OUT BY THE JURY AT 5:20
25 P.M..)

1 THE COURT - Thank you, ladies and gentlemen of
2 the jury. I got your note. What we're going to do is
3 we're going to reconvene at 10:15 in the morning. If y'all
4 will just report back, you may begin your deliberations
5 then. Since it's Saturday, we're going to need to adjust
6 our timing a little bit, make sure everybody gets here and
7 gets everything open and ready to go. Remember my
8 instructions; also, remember no independent research.
9 Avoid any press coverage; don't let anybody contact you.
10 Y'all have a good night. See you back in the morning.
11 Everybody else remain seated while the jury departs for the
12 evening.

13 (WHEREUPON, THE JURY EXITS THE COURTROOM AT 5:25
14 P.M.)

15 THE COURT - All right, if the court staff will
16 make sure that the evidence is secured, whatever the normal
17 procedure here is. Madam clerk has the indictments back.
18 We'll see everybody back at 10:15 in the morning. Plan
19 accordingly.

20 (WHEREUPON, NOTES MARKED AS COURT'S EXHIBITS
21 NUMBERS 9 AND 10.)

22 (WHEREUPON, COURT IN RECESS FOR THE DAY AT 5:30
23 P.M.)

24 * * * * *

25

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
) SIXTH JUDICIAL CIRCUIT
COUNTY OF FAIRFIELD) CASE NOS: 2015-GS-12-085, 086

STATE OF SOUTH CAROLINA)
)
vs.)
)
CHRISTOPHER MARQUAVIOUS)
MOORE)

TRANSCRIPT OF RECORD

(DAY 6 - VOLUME VI)
(PAGES 950 - 958)

APRIL 23, 2016
WINNSBORO, SC

BEFORE THE HONORABLE PAUL BURCH

APPEARANCES:

JULIE HALL, DEPUTY SOLICITOR
CHESTER, SOUTH CAROLINA

RILEY MAXWELL, ASSISTANT SOLICITOR
CHESTER, SOUTH CAROLINA

RANDY NEWMAN, SOLICITOR
LANCASTER, SOUTH CAROLINA

ATTORNEYS FOR THE STATE

WILLIAM FRICK, PUBLIC DEFENDER
CHESTER, SOUTH CAROLINA

DEVON NIELSON, ASSISTANT PUBLIC DEFENDER
CHESTER, SOUTH CAROLINA

ATTORNEYS FOR THE DEFENDANT

SHIRLEY BROOM
16TH Circuit Court Reporter

I-N-D-E-X

WITNESSES: DIRECT CROSS RE-DIRECT RE-CROSS

PRE-TRIAL TESTIMONY:

CHRISTOPHER MOORE

By Mr. Frick	51			
By Ms. Hall		71		
By Mr. Frick			83	

TRIAL BEGINS:

OPENING STATEMENTS 121

KYLE CUMMINGS

By Ms. Hall	131			
By Mr. Frick		140		
By Ms. Hall			149	
By Mr. Frick				151

Annie Louise Williams

By Ms. Hall	151			
By Mr. Frick		164		
By Ms. Hall			171	

Lana Akin

By Ms. Hall	172			
By Mr. Frick		175		
By Ms. Hall			177	

Jason Binnall

By Mr. Maxwell	179			
By Mr. Frick		182		

Jennifer Lowery

By Mr. Maxwell	184			
By Mr. Frick		188		

Richard Gray

By Mr. Maxwell	192			
By Mr. Frick		196		

Kira Bagley

By Ms. Hall	197			
By Mr. Frick		205		

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
Maurice James				
By Ms. Hall	209			
By Mr. Frick		214		
Rafaell Jackson				
By Ms. Hall	221			
By Mr. Frick		231		
Cornell Johnson				
By Ms. Hall	232			
By Mr. Frick		238		
Lashonda Wray				
By Ms. Hall	240			
By Mr. Frick		250		
By Ms. Hall			255	
Cindy Taffe				
By Mr. Maxwell	257			
By Mr. Frick		261		
Burly McDaniel				
By Ms. Hall	261			
By Mr. Frick		270		
By Ms. Hall			275	
Chris Kinsey				
By Mr. Maxwell	276			
By Mr. Frick		284		
By Mr. Maxwell			288	
By Mr. Frick				289
Randy St.Clair				
By Ms. Hall	290			
Proffered:				
By Ms. Hall	295			
Contd.				
By Ms. Hall	298			
By MR. Frick		299		
Brian Perry				
By Mr. Maxwell	300			
By Mr. Frick		302		

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
Chuck Starnes				
By Ms. Hall	303			
Melinda Worley				
By Ms. Hall	308			
By Mr. Frick		344		
By Ms. Hall			356	
By Mr. Frick				359
By Ms. Hall	362			
Brittany Burke				
By Ms. Hall	368			
By Mr. Frick		394		
By Ms. Hall			402	
Tiffany Hezel				
By Ms. Hall	403			
By Mr. Frick		428		
Phil Gregory				
By Mr. Maxwell	430			
By Mr. Frick		434		
Whitney Berry				
By Ms. Hall	435			
By Mr. Frick		443		
By Ms. Hall			444	
By Mr. Frick				445
By Ms. Hall	445			
Jennifer Clayton				
By Ms. Hall	446			
By Mr. Frick		471		
Dr. Robert Thomas				
By Mr. Maxwell	478			
By MR. Frick		485		
Dan Defreese				
By Ms. Hall	490			
By Mr. Frick		530		
By Ms. Hall			546	
By Mr. Frick				549
Terrance Buchanan				
By Ms. Hall	550			
By Mr. Frick		582		

WITNESSES:	DIRECT	CROSS	RE-DIRECT	RE-CROSS
By Ms. Hall			597	
Derrick Dixon				
By Ms. Hall	609			
By Mr. Frick		647		
By Ms. Hall			669	
By Mr. Frick				671
D'Angelo Roseboro				
By Ms. Hall	673			
By Mr. Frick		712		
By Ms. Hall			734	
Chris Reynolds				
By Ms. Hall	736			
By Mr. Frick		756		
Lee Blackmon				
By Ms. Hall	761			
By Mr. Frick		773		
By Ms. Hall			778	
Christopher Watkins				
By Mr. Frick	791			
By Ms. Hall		794		
Christopher Moore				
By Mr. Frick	795			
By Mr. Maxwell		838		
Closings	872			
Jury Charge	922			

E-X-H-I-B-I-T-S

NO.	DESCRIPTION	ID.	EV.
S-1	Photos, a,b,c, truck	118	333
S-2	Photos, a,b,c, truck (defects)	118	333
S-3	Disk - video - First & Patrick	118	195
S-4	Diagram	118	133
S-5	Photo, a,b,c,d Cadillac @ house		135,136
S-6	CAD sheet		
S-7	Diagram		152
S-8	Statement		159
S-9	Jackson's statement		230
S-10	Cornell Jackson's statement		236
S-11	Buccal/Chris Moore		470
S-12	SKS rifle		507
S-13	Swab/Yukon		793,455
S-14	Copy of photo - SKS under shed		330,282
S-15	Map		284
S-16	Photos, a,b,c		295
S-17	Swab/Honda Accord		455
S-18	32 caliber handgun		521
S-19	9 mm Keltec handgun		524
S-20	.38 firearm (.38 special revolver)		523
S-21	shell casing		510
S-22	shell casing		510
S-23	shell casing		510
S-24	shell casing		510
S-25	shell casing		510
S-26	shell casing		510
S-27	shell casing		510
S-28	shell casing		510
S-29	shell casing		510
S-30	shell casing		510
S-31	shell casing		510
S-32	shell casing		510
S-33	shell casing		510
S-34	shell casing		510
S-35	shell casing		510
S-36	shell casing		510
S-37	shell casing		510
S-38	shell casing		510
S-39	projectile		519
S-40	projectile		520
S-41	projectile - Cadillac		516
S-42	40 caliber shell casing		527
S-43	40 caliber cartridge case		527

NO.	DESCRIPTION	ID.	EV.
S-44	projectile - fragment		513
S-45	cartridge case		511
S-46	projectile - carpeted area On back window of Cadillac		518
S-47	projectile fragment from Autopsy		
S-48	Photos, a,b,c,d,e,f		373
S-49	Photos, a,b,c,d		319
S-50	Photos, a,b		376
S-51	Photo		378
S-52	Photos, a-I	329, 330, 331	
S-53	Photos, a,b,c	312, 315, 316	
S-54	Photos, a,b		324
S-55	Photos, a,b,c,d		321
S-56	Photos, a,b,c,d		323
S-57	Diagram		343
S-58	Diagram		328
S-59	Chain of Custody		344
S-60	9 mm magazine w/bullets		525
S-61	empty rifle magazine		522
S-62	swab of blood from fence		465
S-63	Photos, a,b		389
S-64	Photos, a,b - Crown vic		387
S-65	Photos, a,b,c		381
S-66	Photos, swab of blood - Crown vic		465
S-67	Affidavit of Haley Quam		367
S-68	Latent print report 11/12/14		419
S-69	Latent print report 11/19/14		427
S-70	Right palm print		428
S-71	Finger print card		428
S-72	Left palm print		428
S-73	GSR kit		
S-74	Toxicology report		365
S-75	Trace report		440
S-76	Firearms report		530
S-77	DNA report 6/12/15		467
S-78	DNA report 8/28/15		470
S-79	Print lift card - truck		427
S-80	unknown/known comparison chart		413
S-81	DNA evidence/swab extract		470
S-82	Pathology report		485
S-83	Disk - audio		751
S-84	Video		746
S-85	Transcript		

NO.	DESCRIPTION	ID.	EV.
D-1	Copies of four photos		183
D-2	Photo		190
D-3	Photo		345, 195
D-4	Photo		345
D-5	Photo		345
D-6	Photo		345
D-7	Photo		345
D-8	Photo		345
D-9	Photo		345
D-10	Photo		345
D-11	Photo		345
D-12	Photo		345
D-13	Copy of dialed call sheets		793
C-1	Rights form	114	
C-2	Motion	608	
C-3	Motion	608	
C-4	Motion	608	
C-5	Motion	608	
C-6	Note from jury	942	
C-7	Note from jury	944	
C-8	Note from jury	944	
C-9	Note from jury	949	
C-10	Note from jury	949	
C-11	Note from jury	953	
C-12	Note from jury	954	
C-13	Note from jury	954	

1 (WHEREUPON, TRIAL RESUMES ON SATURDAY, APRIL 23,
2 2016 AND JURY ARRIVES AND BEGINS DELIBERATION AT 10:15 A.M.
3 WHICH IS NOT ON RECORD)

4 (WHEREUPON, A NOTE IS SENT OUT BY THE JURY AT
5 10:55 A.M.)

6 THE COURT - Thank you very much. You may be
7 seated. Good morning everybody.

8 All right, we got a note from the jury that says
9 we're unable to reach the same verdict, what do we do now.
10 So I will give them the Allen Charge and we have modified
11 it according to the recent Supreme Court decision.

12 If you'll bring them in Mr. Bailiff.

13 (WHEREUPON, JURY RETURNS TO THE COURTROOM AT
14 11:09 A.M.)

15 THE COURT - Good morning.

16 (WHEREUPON, JURORS RESPOND)

17 THE COURT - Madam forelady, ladies and gentlemen
18 of the jury, I'm in receipt of your note. I have an
19 additional charge that I am going to give you at this time,
20 and this charge has to do with the problem of trying to
21 reach a verdict, and I have some very brief comments that
22 I'd like to make by way of further instruction on this
23 matter on you being unable to reach a verdict. As I've
24 already told you, you are the sole judges of the facts and
25 the evidence in this case. As the Judge I have already

1 told you that I'm not permitted to even give you a hint as
2 to how I feel about the factual matters, and certainly
3 could give you not hint about what verdict you ought to
4 bring in this case. It is my duty to state the law of the
5 case and I have done that. And it is your duty to bring in
6 the verdict. But I can say this, that when a matter is in
7 dispute, it's not always easy for even two people to agree
8 or two persons, two men or two women, and when 12 must
9 agree, it becomes obviously correspondingly more difficult,
10 but it is important that litigation - and this is
11 litigation - be ended if it may be ended without a single
12 one of you doing violence to your own conscience. No juror
13 is expected to give up an opinion based on reasoning
14 satisfactory to himself or herself merely for the purpose
15 of being in agreement, and I want to be clearly understood
16 on that. You are not called upon often to try cases.
17 There are over 40 Circuit Judges who work in this State
18 from day-to-day, week-to-week, and it is very unusual,
19 almost unheard of for a jury to go out and promptly return
20 with a verdict. This is what would happen if a juror
21 normally was in agreement to begin with. At the same time,
22 we usually get a verdict. What that means is, that it is
23 normal for jurors to disagree first, but the fact that we
24 normally get a verdict also means that after reasonable
25 persons lay aside all extraneous matters and determine to

1 decide a case on the basis of the law and the evidence,
2 they do come to a common understanding and write a verdict.
3 It has never been intended that the verdict of a jury
4 should be the verdict of any one person. On the other
5 hand, the verdict of the jury is the collective reasoning
6 of all the persons put together, and that is why we have a
7 jury, so that we may have the benefit of collective thought
8 and collective reasoning. It becomes your duty to tell the
9 other jurors how you feel about the case and why you think
10 as you do, and I'm sure that y'all have been doing that.
11 On the other hand it becomes the other juror's duty to
12 exchange views with you and should listen to each other and
13 give to the others' though such meaning as you think it
14 should have. And so in some degree it can be said that
15 jury service is a matter of give and take. If you do not
16 agree on a verdict, it doesn't mean that anybody wins; it
17 just simply means that at some future term of Court before
18 some other Judge, perhaps, that some other jury will sit
19 where you are sitting. The same participants will come and
20 the same attorneys probably will come and they will ask,
21 basically, the same questions, and presumably and probably,
22 they will get much the same answers, and we will go through
23 the whole process again, and I have no reason now to think
24 that any other 12 citizens of Fairfield County will be more
25 capable of solving this controversy than you. So I'm going

1 to ask you at this time to deliberate further and see if
2 you cannot write a verdict in this case, and I want to
3 close this part of the instructions by reminding you again,
4 that while it is important that litigation be ended, it
5 should be ended in the form of a verdict by no juror doing
6 violence to his own conscience. No juror is expected to
7 give up an opinion based on reasoning satisfactory to him
8 or herself merely for the purposes of being in agreement.
9 With that added instruction, I'm going to ask you to retire
10 back to the jury room and deliberate further.

11 Thank you.

12 (WHEREUPON, JURY EXITS THE COURTROOM TO FURTHER
13 DELIBERATE AT 11:15 P.M.)

14 THE COURT - Any exceptions or additions to the
15 charge?

16 MS. HALL - No, sir.

17 MR. FRICK - None from defendant.

18 THE COURT - Thank you. We will stand at ease
19 once again.

20 (WHEREUPON, NOTE MARKED AS COURT'S EXHIBIT NUMBER
21 11.)

22 (WHEREUPON, COURT IN RECESS AWAITING VERDICT)

23 (WHEREUPON, NOTE SENT OUT BY THE JURY AT 11:30
24 A.M.)

1 (WHEREUPON, JURY WAS NOT BROUGHT INTO THE
2 COURTROOM FOR RESPONSE, HOWEVER THE FOLLOWING WAS PLACED ON
3 THE RECORD BY THE COURT REPORTER: BY STIPULATION OF
4 COUNSEL AND THE JUDGE, PRINTOUT OF SELF-DEFENSE LAW WAS
5 PROVIDED TO THE JURY AT 11:50 A.M. AND JURY CONTINUES TO
6 DELIBERATE)

7 (WHEREUPON, DOCUMENT MARKED AS COURT'S EXHIBIT
8 NUMBER 12.)

9 (WHEREUPON, COURT REMAINS IN RECESS AWAITING
10 VERDICT)

11 (WHEREUPON, NOTE SENT OUT BY THE JURY AT 12:25
12 P.M.)

13 (WHEREUPON, NOTE MARKED AS COURT'S EXHIBIT NUMBER
14 13.)

15 THE COURT - Thank you very much. You may be
16 seated. We need the jury, please.

17 (WHEREUPON, JURY RETURNS TO THE COURTROOM AT
18 12:27 P.M.)

19 THE COURT - Madam forelady, I received your note.
20 Is the jury hopelessly deadlocked?

21 FORELADY - Yes, sir.

22 THE COURT - Okay. Thank y'all for serving; thank
23 you for listening to the case. That will end this case for
24 now and it'll be up to the State and the defense to set it
25 up for trial later on in the calendar year. They'll have

1 to coordinate with the Court dockets and get it set up for
2 a re-trial. We appreciate y'all's attempts on it, so that
3 ends this case. Of course, it ends the week of Court for
4 us. We'll start a one on Monday wherever we may be
5 assigned.

6 As far as your expense checks - ten days?

7 DEPUTY CLERK - Yes, sir.

8 THE COURT - If you don't get a check for your
9 jury expense within ten days, contact the clerk's office so
10 they can trace it out for you, but it should come in the
11 mail to you. If you need to correct your address with the
12 clerk's office, please do so at your convenience. You can
13 either, you know, check that out today or either give them
14 a call Monday.

15 All right. Anything before I release the jury?

16 MS. HALL - Nothing from the State.

17 MR. FRICK - Nothing from defense.

18 THE COURT - Jury's free to go. Thank you.

19 (WHEREUPON, JURY EXITS THE COURTROOM)

20 THE COURT - All right, we'll go back to ground
21 zero on it. Counsel, y'all will be responsible for working
22 with madam clerk and madam court reporter to retrieve the
23 evidence and make sure you got everything back that you
24 need and all of these documents passed up to me, probably

1 want to sort through them and get them back to hold down
2 your copying time.

3 MR. FRICK - Yes, sir.

4 THE COURT - I'll go through and make sure I
5 hadn't got any of my documents intertwined. Unless there
6 some other business for the Court, I'm going to drop the
7 gavel on the sine die adjournment.

8 MS. HALL - And I would just -- you know, I think
9 - the defendant's still on -- incarcerated on denied bond
10 and we'll call the Chester County Detention Center and let
11 them know that he's available to transport him back there
12 as soon as possible. I don't know if they can take him but
13 we'll work on getting him back down there - or up there.

14 THE COURT - All right, I appreciate y'all's
15 efforts in getting the case presented. You got to respect
16 - you got to represent your respective parties. I do
17 appreciate it when you work together and, you know, keep
18 the exhibits ahead of time and even flow to get it
19 presented without a whole lot of consternation between
20 y'all and putting be in difficult position. Y'all have
21 represented your respective side very honorable and I
22 didn't want to leave here til I thank you for your behavior
23 and your presentation. I appreciate it. Sure makes my job
24 a lot easier.

25 MS. HALL - Thank you.

1 THE COURT - Okay. I will return to the Fourth
2 Circuit next week, but I hope to see you soon.

3 MR. FRICK - Thank you, Your Honor.

4 MS. HALL - Thank you.

5 MR. MAXWELL - Thank you.

6 THE COURT - This term of General Sessions Court
7 for Fairfield County is adjourned sine die.

8 (COURT IN RECESS FOR THE WEEK AT 12:40 P.M.)

9 * * * * *

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 958 pages consisting of Volumes I, II, III, IV, V and VI is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of State of South Carolina vs. Christopher Marquavious Moore, as taken by me in the Court of General Sessions of the Sixth Judicial Circuit on April 18, 19, 20, 21, 22 and 23, 2016, and provided by me this the 18th day of Oct, 2016.

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



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina

1 STATE OF SOUTH CAROLINA

2 -----x

3 STATE,

4 Plaintiff,

5 Case No.

6 -against-

2015-GS-12-085

7 CHRISTOPHER M. MOORE,

8 Defendant.

9 -----x

10 June 15, 2016

11 Fairfield, S.C.

12

13 B E F O R E:

14 HONORABLE PAUL M. BURCH, Judge.

15

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

17 RILEY MAXWELL, Esquire

18 Assistant Solicitor

19

20 MR. WILLIAM FRICK, Esquire

21 Attorney for the Defendant

22

23 Aileen Butler

24 Official Court Reporter

25

1

2

E X H I B I T S

3

4

NO.DESCRIPTIONI.D.EVD.

5

6

NO EXHIBITS RECEIVED

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 MR. MAXWELL: May it please the Court.

2 THE COURT: Yes, sir,

3 MR. MAXWELL: This is Christopher Moore. He
4 represented by Mr. Frick. You may recall Mr. Moore had
5 a trial in Chester County. The defendant had a trial in
6 Fairfield then moved here a few months back.

7 Since then there has been a direct indictment
8 presented to the Grand Jury for two counts of conspiracy--
9 -- excuse me, one count of conspiracy, 2016-GS-12 --
10 382. I had the deputy provide him with a copy of it so
11 now he has been served. I believe bond has still been
12 denied on the murder charge along with the accompanying
13 charges there. Since this is an arraignment proceeding
14 in regards to this conspiracy count, which I think it's
15 is conspiracy to commit armed robbery. We are here for
16 the arraignment proceeding of that.

17 THE COURT: You may proceed.

18 MR. FRICK: Your Honor, we will waive the formal
19 process. I have been provided a copy of it. We do
20 enter a not guilty plea and request a jury trial on
21 this.

22 Regarding the bond matter, of course Mr. Maxwell is
23 filling in for the Chester prosecutor on this matter and
24 he's not aware of some of the latest developments. We
25 did have a hearing during a term of court a couple

1 months ago. It was the May term of court because it was
2 after the trial, the mistrial on this case. Judge did
3 grant bond on the murder case, however, it does not
4 become effective until July 27th, but there is a \$50,000
5 bond with electronic monitoring and some other
6 conditions. Because this is out of the same
7 circumstance I would ask you to consider setting bond
8 concurrent with that understanding that we are set at
9 this point for this case to be tried the week of June
10 27th. If that does not occur for whatever matter, or if
11 it results in another mistrial my client does have a
12 bond that is set to go in place on the murder case. I
13 think it would be appropriate for him to have the same
14 bond because it's out of the same circumstances.

15 MR. MAXWELL: I don't object to that, Your Honor.

16 THE COURT: All right. Prepare me an Order.

17 MR. FRICK: Thank you, Your Honor.

18 (END OF TRANSCRIPT)

19

20

21

22

23

24

25

C E R T I F I C A T E

I, the undersigned Aileen Butler, Official Court Reporter for the 16TH Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings in the captioned case, in the Circuit Court for Fairfield County, South Carolina, on the 15th day of June, 2016.

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

August 2, 2016

Aileen Butler

1 STATE OF SOUTH CAROLINA
2 COURT OF GENERAL SESSIONS
3 COUNTY OF CHESTER
4 2015-GS-12-00085
5 State of South Carolina
6 vs.
7 Christopher M. Moore
8
9 Winnsboro, South Carolina
10 June 27-30, 2016
11 Before the Honorable Paul Burch
12

13 APPEARANCES

14 For the Plaintiff: Julie Hall, Riley Maxwell

15 For the Defendant: William Frick
16

17 Reported by: Michael C. Watkins

18 Official Court Reporter
19
20
21
22
23
24
25

1		
1	Voir Dire:	7
2	Pretrial Motions:	32
3	Opening Statements:	59
4	Kyle Cummings:	69
5	Louise Williams:	83
6	Lana Akin:	101
7	Jason Binnall:	111
8	Jennifer Lowery:	117
9	Richard Gray:	126
10	Kira Bagley:	131
11	Maurice James:	140
12	Rafaell Jackson:	151
13	Cornell Johnson:	161
14	Lashonda Wray:	168
15	Burly McDaniel:	196
16	Randy St. Clair:	207
17	Phillip Perry:	220
18	Christopher Kinsey:	223
19	Cindy Taaffe:	240
20	Melinda Worley:	244
21	Brittany Burke:	288
22	Tiffany Hezel:	329
23	Whitney Berry:	346
24	Jennifer Clayton:	355
25	Phillip Gregory:	378

1	Robert Thomas, M.D.:	382
2	Dan DeFreese:	391
3	Terrance Buchanan:	446
4	D'Angelo Roseboro:	497
5	Derrick Dixon:	542
6	Stevie Breland:	582
7	Christopher Reynolds:	609
8	Lee Blackmon:	633
9	Christopher Moore:	670
10	Closing Arguments:	730
11	Jury Charge:	770
12	Jury Verdict:	786
13	Sentencing:	799
14	Certificate:	801
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1		STATE'S EXHIBITS	
2	1A-C	Photographs	270
3	2A-C	Photographs	271
4	3	Disc	128
5	4	Diagram	198
6	5A-D	Photographs	73
7	7	Diagram	259
8	11	Buccal Swab of Moore	371
9	12	SKS Rifle	408
10	13	Yukon Swabs	356
11	14	Photograph	229
12	15	Map	71
13	16A-C	Photographs	213
14	17	Swab from Honda	360
15	18	Handgun	398
16	19	Nine Millimeter handgun	403
17	20	.38 Handgun	400
18	21-38	Shell Casings	410
19	39	Projectile	418
20	40	Projectile	417
21	41	Projectile	414
22	42	Projectile	420
23	43	Projectile	421
24	44	Projectile	416
25	45	Projectile	409

1	46	Projectile	413
2	48A-F	Photographs	310
3	49A-D	Photographs	256
4	50A-B	Photographs	308
5	51	Photograph	307
6	52A-J	Photographs	254
7	53A-C	Photographs	253
8	54A-B	Photographs	249
9	55A-D	Photographs	251
10	56A-D	Photographs	252
11	58	Diagram	272
12	59	Chain of Custody Form	273
13	60	Nine Millimeter Magazine	405
14	61	Empty Rifle Magazine	419
15	62	Blood Swab from Fence	363
16	63A-B	Photographs	314
17	64A-B	Photographs	314
18	65A-C	Photographs	304
19	66	Crown Vic. Swab	363
20	67	Affidavit of Haley Quam	214
21	68	Latent Print Report 11/12	339
22	69	Latent Print Report 11/19	342
23	70	Right Palm Print/Moore	340
24	71	Fingerprint Card	340
25	72	Left Palm Print/Moore	340

1	75	Trace Report	353
2	76	Firearm Report	422
3	77	DNA Report 6/12	366
4	78	DNA Report 8/28	370
5	79	Fingerprint Card	312
6	80	Comparison Chart	334
7	82	Pathology Report	387
8	83	Audio Disc	612
9	84	Video	617
10	91	Breland Note	592
11	92	SLED Diagram	246
12	93	Swab	371
13	98	Inmate Request Form	623
14		DEFENDANT'S EXHIBITS	
15	1	Photograph	116
16	2	Photograph	121
17	3-12	Photographs	282
18			
19			
20			
21			
22			
23			
24			
25			

VOIR DIRE

1 THE COURT: We will begin our process in calling
2 cases, that means I will have to ask you some more
3 questions. They will be more detailed, okay? All right.
4 Before we get in to that. Anything else from counsel?
5 Madam Solicitor?

6 MR. FRICK: This is the State of South Carolina versus
7 Christopher Marquavious Moore, docket number 2015-GS-12-85,
8 which is an indictment for murder, and -- 2015-GS-12-86,
9 which is an indictment for murder, and 2015-GS-12-85, which
10 is an indictment for possession of a firearm during the
11 commission of a violent crime.

12 THE COURT: Thank you. All right. Ladies and
13 gentlemen of the jury, you have heard the matter that has
14 been called for trial. I have got some questions that I
15 need to pose to you that are what we call case specific
16 voir dire. Do I have anybody on the panel who is related
17 by blood or by marriage or has any business association,
18 religious or fraternal relationship with the defendant,
19 Christopher M. Moore? I'm going to ask him if he would
20 please stand at this time where the jury can see him.
21 Thank you, sir, you may be seated. Once again, anybody on
22 the panel related by marriage -- blood or marriage, have
23 any business, social, religious or fraternal relationship
24 with Mr. Moore? If so we need you to stand at this time,
25 or raise your right hand. The same question -- this is

VOIR DIRE

1 going to be rather extensive so please pay close attention.
2 Anybody on the panel related blood or by marriage or have
3 any business, social, religious or fraternal relationship
4 with any of these following individuals. If they are
5 present in court I'm going to ask them to stand. Many of
6 them will not be here until they're actually called.
7 Gidget Alexander. Lana Williams Akin, that's A-k-i-n.
8 Kira Bagley. Jason Binnall, that's B-i-n-n-a-l-l. Stevie
9 Breland. Terrance Buchanan. Kentoyea Carr. Brian
10 Chisholm. Derrick Dixon. Richard Gray. Rafael Jackson.
11 Maurice James. Cornell Johnson. Jennifer Lowery. Quinton
12 McClinton. D'Angelo Roseboro. Louise Williams. Lashonda
13 Wray. Officer Kyle Cummings with the York City Police
14 Department, formerly with the Chester County Sheriff's
15 Department. Johnny Roddey with the Chester Sheriff's
16 Department. Master Deputy Chris Kinsey presently with York
17 County Sheriff's Department. Deputy Travis Shealey with
18 the York County Sheriff's Department. Whitney Berry with
19 SLED, State Law Enforcement Division. Lee Blackmon with
20 SLED. Brittany Burke with SLED. Jennifer Clayton with
21 SLED. Dan DeFreese with SLED. Jamie Green with SLED.
22 Tiffany Hezel with SLED. Patrick Oliphant with SLED.
23 Melinda Worley with SLED. Cindy Henry Taffe with the
24 sheriff's department. Major Burly McDaniel with the
25 Chester County Sheriff's Department. Captain Phillip Perry

VOIR DIRE

1 with the Chester County Sheriff's Department. Detective
2 Chris Reynolds with Chester County Sheriff's Department.
3 Detective Randy St. Clair with the Chester County Sheriff's
4 Department. Major Randy Marsh with the Chester County
5 Sheriff's Department. Chuck Starnes with the Chester
6 County Sheriff's Department. Major Wayne Alley with the
7 Chester County Sheriff's Department. Sergeant Richard Odom
8 with the Chester County Sheriff's Department. Barbara
9 Cameron, Chester County Magistrate, formerly with the
10 sheriff's department over there. Kim Colson, registered
11 nurse. Phil Gregory formerly of the Chester County EMS.
12 Heather Terry with the Chester County EMS. Robert E.
13 Thomas, medical doctor with York Pathology Group. Eric
14 Simpson with the Chester -- Patrick Kennedy. Jennifer
15 Lowery. I think I've called Kira Bagley and also Maurice
16 James. Tonga Stewart. Jessica Camps. Andre Williams.
17 Gene Gilmore, all of them from Chester, South Carolina,
18 also Christopher Watkins of Columbia, South Carolina. If
19 so we need you to raise your right hand or stand. Yes,
20 sir? Come on up.

21 (Individual voir dire.)

22 MR. MAXWELL: 155.

23 THE JUROR: Mr. Roseboro is just a close friend and
24 I'm a close friend of the Roseboro family.

25 THE COURT: Okay. You're not related by blood or

VOIR DIRE

1 marriage, just close friends?

2 THE JUROR: Me and his uncle are best friends. I know
3 about the case and all of that, so --

4 THE COURT: All right. Would the fact that you're
5 close friends with some of these potential witnesses. If
6 you were to be seated on this jury could you be fair both
7 to the State and to the defendant?

8 THE JUROR: I don't know if I should put myself in
9 that position, Your Honor.

10 THE COURT: So that is a no?

11 THE JUROR: Yes, sir.

12 THE COURT: All right. We may need you on another
13 case so if you would just keep that to yourself, okay?

14 THE JUROR: All right.

15 THE COURT: Thank you. Juror 67, you may come back
16 up. Okay. Now is the time to tell us about --

17 THE JUROR: Well, I'm kin to Gidget Alexander.

18 THE COURT: That's a cousin?

19 THE JUROR: Uh-huh.

20 THE COURT: If you were to be seated on this jury,
21 could you be both fair and impartial to the State as well
22 as the defendant?

23 THE JUROR: Uh-huh.

24 THE COURT: Okay.

25 MS. HALL: Can I ask him, are you kin to the defendant

VOIR DIRE

1 or close friends with him?

2 THE JUROR: I just know them, that's it.

3 THE COURT: You're not kin to him?

4 THE JUROR: No.

5 THE COURT: You're not friends with him?

6 THE JUROR: No.

7 THE COURT: Tell us how you know him.

8 THE JUROR: Just small town.

9 THE COURT: You live in Winnsboro?

10 THE JUROR: Well, I had moved to Chester, I ain't
11 changed my address yet..

12 THE COURT: All right. Based on the fact that you
13 know him and you have moved up to Chester I'll ask you
14 again, if you were to be seated on this jury could you be
15 both fair to the State and the defendant?

16 THE JUROR: Yes.

17 MS. HALL: You live in Chester.

18 THE JUROR: I stay there now. I haven't changed my
19 address yet but I stay in Chester County.

20 THE COURT: How long have you been up there?

21 THE JUROR: I been staying up there about two weeks.

22 THE COURT: Do you intend to stay there?

23 THE JUROR: That's why I moved, sir.

24 THE COURT: You moved there.

25 THE JUROR: Yeah, but I ain't changed my address yet.

VOIR DIRE

1 I have got to change my license.

2 THE COURT: Okay. You're free to go, thank you.

3 (End of individual voir dire.)

4 THE COURT: Has any member of jury or an immediate

5 family member of the jury been the victim of a violent

6 crime? Yes?

7 (Individual voir dire.)

8 THE JUROR: 82.

9 THE COURT: How does that question apply?

10 THE JUROR: I was just saying because (inaudible.)

11 THE COURT: He's got to hear everything you say.

12 THE JUROR: He's my cousin (inaudible.)

13 THE COURT: Because of that if you were to be seated

14 on this jury could you be fair and impartial to both the

15 State and the defendant?

16 THE JUROR: No, sir.

17 THE COURT: Thank you. Stay with us, though, because

18 we may have to draw another jury, okay?

19 THE JUROR: Okay.

20 THE COURT: That was 82.

21 THE JUROR: My mom was killed back in 2003.

22 THE COURT: Juror 143?

23 THE JUROR: Uh-huh.

24 THE COURT: Your mother was --

25 THE JUROR: Murdered in 2003.

VOIR DIRE

1 THE COURT: 2003. Would the fact that that happened,
2 if you were to be seated on this jury could you be both
3 fair and impartial to the State as well as the defendant?

4 THE JUROR: Uh-huh.

5 THE COURT: Thank you.

6 (End of individual voir dire.)

7 THE COURT: A little more wide open question. Has any
8 member of the jury panel had an immediate family member
9 that's been accused of committing a crime? Little
10 extension of the previous questions and some of you have
11 already responded to this, have you had any member of your
12 family murdered or killed by another person? Do I have
13 anybody on the jury panel who has served as a guardian ad
14 litem in a case? Do any member of the jury panel know or
15 work with Odell Williams from Chester? He's the alleged
16 victim in this case. Do any of you or an immediate family
17 member know or work with a family member of Odell Williams?
18 Did any of you or an immediate family member attend the
19 funeral or wake for Odell Williams? At this time I will
20 ask both sides, beginning with the State, to introduce all
21 of the attorneys and any staff members to introduce
22 themselves so I can see if there's been any representation
23 or present representation.

24 MS. HALL: May name is Julie Hall, I'm the deputy
25 solicitor in Chester County. Randy Newman is the elected

VOIR DIRE

1 solicitor of the 6th Circuit. Riley Maxwell is the deputy
2 for Fairfield County. And then we have Sandra Sutton who
3 might assist on the case and she's an assistant solicitor
4 for the 6th Circuit. I think that's all.

5 THE COURT: Mr. Frick?

6 MR. FRICK: Thank you, Your Honor. Good morning. My
7 name is William Frick, I'm a criminal defense attorney here
8 in Fairfield County. Assisting me this morning is Attorney
9 Kay Boulware with our office, Attorney Devon Nielson with
10 our office, and perhaps assisting us will be our intern,
11 Ms. Holly.

12 THE COURT: All right.

13 MS. HALL: I glossed over, I didn't see Karen Fryar
14 over there but she might be helping us as well.

15 THE COURT: Okay. You've heard the attorneys involved
16 and staff members. Anybody been represented in the past or
17 presently represented by any of these attorneys or any of
18 the respective offices here, which would be the solicitor's
19 office or the public defender's office? Has any member of
20 the jury panel been a member, served on the board of
21 directors of, served as a volunteer, or worked for any
22 organization advocating victims rights or strengthening
23 criminal penalties or supports law enforcement such as the
24 South Carolina Victims Assistant Network, Mothers Against
25 Drunk Driving, the South Carolina Law Enforcement

VOIR DIRE

1 Association, the Fraternal Order of Police, or any similar
2 type organization? I think there's a Troopers Association
3 and maybe a sheriff's association? Yes, sir?

4 THE JUROR: I'm a member of the South Carolina
5 Fraternal Order of --

6 THE COURT: And your number, please?

7 THE JUROR: Fraternal Order of Police.

8 THE COURT: And your juror number?

9 THE JUROR: 96.

10 THE COURT: Ninety-six. But you're not a police
11 officer.

12 THE JUROR: No, my husband was.

13 THE COURT: Your husband. Okay. Thank you. Have any
14 of you worked for, served as a volunteer or served on the
15 board of directors, or in any other capacity been
16 associated with any organization advocating defendant's or
17 prisoner's rights? Yes.

18 THE JUROR: I used to work for the Charleston County
19 Public Defender's Office.

20 THE COURT: And your number again, please?

21 THE JUROR: 168.

22 THE COURT: Any member of the panel ever received
23 services from a victims advocate program such as Palmetto
24 Citizens Against Sexual Assault, Sister Care or the State
25 Office of Victims Assistance? Any member of the jury panel

VOIR DIRE

1 previously served on a jury either in magistrates court,
2 circuit court or the federal court? Has any member of the
3 jury panel ever been called as a witness in a trial or
4 participated in a court proceeding in any way? Now that's
5 excluding family court, we're not concerned with that here.

6 THE JUROR: I was a witness in 2007 for an attempted
7 murder case.

8 THE COURT: And your number again?

9 THE JUROR: 168.

10 THE COURT: Hand in the back, yes, sir?

11 THE JUROR: I've served several times as an
12 administrative law expert testimony for EMS proceedings.

13 THE COURT: And your number?

14 THE JUROR: 98.

15 THE COURT: Did I see another hand? Any member of the
16 panel ever been a witness in a criminal case regardless of
17 whether or not it went to trial? So I guess I could say
18 have you ever been subpoenaed to be a witness?

19 THE JUROR: Same thing.

20 THE COURT: Yes, sir in the back?

21 THE JUROR: I'm a voluntary firefighter and there was
22 a case where I got subpoenaed but I never went to trial.

23 THE COURT: And your number, please?

24 THE JUROR: I did go to trial. 80.

25 THE COURT: It went to trial?

VOIR DIRE

1 THE JUROR: Sir?

2 THE COURT: It went to trial but you didn't testify?

3 THE JUROR: Right.

4 THE COURT: Okay.

5 THE JUROR: And there was another one -- automobile
6 accident and I never was called to trial in it.

7 THE COURT: Thank you, sir. Anybody on the panel or
8 immediate family member ever been employed by law
9 enforcement or sought employment in law enforcement? If
10 you will stand and give your number, give us a short
11 response.

12 THE JUROR: I'm a retired deputy working with the
13 department of corrections, my number is 105.

14 THE COURT: 105. Okay. Saw another hand. Yes, sir?

15 THE JUROR: I used to work at Alvin S. Glenn.

16 THE COURT: Worked where?

17 THE JUROR: Alvin S. Glenn.

18 THE COURT: And your number?

19 (Inaudible.)

20 THE COURT: Yes.

21 THE JUROR: My dad used to be a deputy sheriff in
22 Fairfield County.

23 THE COURT: What was his name?

24 THE JUROR: Joe Wilkes.

25 THE COURT: Thank you, sir. Any juror ever worked or

VOIR DIRE

1 sought employment with the prosecutor's office, or a
2 prosecutor's office or as a security guard? Yes?

3 THE JUROR: I was a security guard at Fort Jackson.

4 THE COURT: Security officer at Fort Jackson? You
5 were with the military?

6 THE JUROR: Retired military.

7 THE COURT: And your number.

8 THE JUROR: 169.

9 THE COURT: 169?

10 THE JUROR: I've got a second interview with the
11 solicitor's office in the 14th Circuit.

12 THE COURT: Thank you, sir. Did I see another hand?
13 Anybody ever had any law enforcement or legal training, if
14 you would stand.

15 THE JUROR: Same thing. I came up to talk to you, I
16 was special commission for Richland County so --

17 THE JUROR: Obviously I have a J.D., Juris Doctorate.

18 THE COURT: Y'all don't be looking at me mean, I
19 didn't propose these questions but I need to ask them,
20 okay? Anybody on the panel or immediate family member work
21 for an attorney? Yes?

22 THE JUROR: I'm juror number 83. I worked for eight
23 years (inaudible.)

24 THE COURT: Your number?

25 THE JUROR: Eighty-three.

VOIR DIRE

1 THE COURT: Thank you. Do I have anybody on the panel
2 who worked over in Chester County or has worked in the past
3 two years? Yes, sir?

4 THE JUROR: I work at Chester High School.

5 THE COURT: And your number?

6 THE JUROR: 148.

7 THE COURT: That's at the high school? Is that
8 presently?

9 THE JUROR: Yes, sir.

10 THE COURT: Anybody on the panel ever worked for the
11 City of Chester? Anybody on the panel have a moral or
12 personal objection to firearms or persons carrying firearms
13 in public? Do I have anybody on the panel who has any
14 philosophical religious moral or other beliefs that would
15 prevent you from sitting and passing possible judgment on
16 another person? Would anybody on the panel give greater or
17 lesser weight to the testimony of a police officer merely
18 because of his police officer -- his or her police officer
19 status? Do I have anybody on the panel that would have any
20 difficulty following the principle that a defendant on
21 trial is presumed to be innocent and must be found not
22 guilty of that charge unless each and every essential
23 element of an offense charged is proved beyond a reasonable
24 doubt? Do I have anybody on the panel who has already
25 formed an opinion as to guilt or innocence of this

VOIR DIRE

1 defendant whereby you could not be fair and impartial if
2 seated on the jury? We need you to just raise your hand
3 but don't make any comment. Has anybody read or heard any
4 news cast or news coverage whereby you feel that you could
5 not be fair and impartial if seated on this case? Do I
6 have anybody on the panel because of opinion, prior
7 knowledge, biasness, or any prejudice whereby you feel that
8 you could not be a fair and impartial juror if seated on
9 this case? And then I will expand that. Do I have anybody
10 on the panel who has any reason whatsoever why you should
11 not sit on this case, in other words, you could not be fair
12 and impartial if seated? Any further questions from the
13 State or from the defense?

14 MS. HALL: None from the State.

15 MR. FRICK: None from the defense.

16 THE COURT: Thank y'all. Strikes are five and ten, we
17 had better seat two alternates.

18 (Break in proceedings.)

19 THE CLERK: Number 82, Lakeisha Harrison.

20 MR. FRICK: Can we approach on that?

21 (Bench conference was held.)

22 THE COURT: You may be seated, thank you.

23 THE CLERK: Number 26, Pansy Burns. What say the
24 State?

25 MS. HALL: Please present this juror.

VOIR DIRE

1 THE CLERK: What says the defense?

2 MR. FRICK: Please seat the juror.

3 THE CLERK: Number 102, Hazel Lumpkin. What says the
4 State?

5 MS. HALL: Please present this juror.

6 THE CLERK: What says the defense?

7 MR. FRICK: Please seat the juror.

8 THE CLERK: Number 54, James Dwyer. What say the
9 State?

10 MS. HALL: Please present this juror.

11 THE CLERK: What says the defense?

12 MR. FRICK: Please excuse the juror from the trial of
13 this case.

14 THE CLERK: Number 119, William Muller. What says the
15 State?

16 MS. HALL: Please present this juror.

17 THE CLERK: What says the defense?

18 MR. FRICK: Please seat the juror.

19 THE CLERK: Number 48, Rontavious Davis. What says
20 the State?

21 MS. HALL: Please excuse this juror.

22 THE CLERK: Number 177, Brandon Young. What says the
23 State?

24 MS. HALL: Please excuse this juror.

25 THE CLERK: Number 148, Kenneth Schofield. What says

VOIR DIRE

1 the State?

2 MS. HALL: Please present this juror.

3 THE CLERK: What says the defense?

4 MR. FRICK: Your Honor, can we approach on this one?

5 THE COURT: Yes, sir.

6 (A bench conference was held.)

7 THE CLERK: What says the defense?

8 MR. FRICK: Please excuse the juror from the trial of
9 this case.

10 THE CLERK: Number 25, Jerome Burns. What says the
11 State?

12 MS. HALL: Please excuse this juror.

13 THE CLERK: Number 44, Jamilia Davis. What says the
14 State?

15 MS. HALL: Please present this juror.

16 THE CLERK: What says the defense?

17 MR. FRICK: Please seat the juror.

18 THE CLERK: Number 85, James Hill. What says the
19 State?

20 MS. HALL: Please present this juror.

21 THE CLERK: What says the defense?

22 MR. FRICK: Please excuse the juror from the trial of
23 this case.

24 THE CLERK: Number 87, Ricky Hollingsworth. What says
25 the State?

VOIR DIRE

1 MS. HALL: Beg the Court's indulgence one second.

2 (Break in proceedings.)

3 MS. HALL: Please excuse this juror.

4 THE CLERK: Number 147, Lacrishia Sampson. What says
5 the State?

6 MS. HALL: Please present this juror.

7 THE COURT: What says the defense?

8 MR. FRICK: Please seat the juror.

9 THE CLERK: Number 53, Felicia Durham. What says the
10 State?

11 MS. HALL: Please present this juror.

12 THE CLERK: What says the defense?

13 MR. FRICK: Please seat the juror.

14 THE CLERK: Number 141, Priscilla Rhodes-Campbell.
15 What says the State?

16 MS. HALL: Please present this juror.

17 THE CLERK: What says the defense?

18 MR. FRICK: Please excuse the juror from the trial of
19 this case.

20 THE CLERK: Number 93, Tony Johnson. What says the
21 State?

22 MS. HALL: Please excuse this juror.

23 THE CLERK: That's five for you, Mrs. Hall. Number
24 34, Deborah Carolina. Any challenge for cause by the
25 State?

VOIR DIRE

1 MS. HALL: No, ma'am.

2 THE CLERK: What says the defense?

3 MR. FRICK: Please seat the juror.

4 THE CLERK: Number 74, Erica Ginyard. Any challenge
5 for cause by the State?

6 MS. HALL: No, ma'am.

7 THE CLERK: What says the defense?

8 MR. FRICK: Please excuse the juror from the trial of
9 this case.

10 THE CLERK: Number 168, Adrian Wilkes. Any challenge
11 for cause by the State?

12 MS. HALL: No, ma'am.

13 THE CLERK: What says the defense?

14 MR. FRICK: Please excuse the juror from the trial of
15 this case.

16 THE CLERK: Number 18, Tiffany Boulware. Any
17 challenge for cause by the State?

18 MS. HALL: No, ma'am.

19 THE CLERK: What says the defense?

20 MR. FRICK: Please seat the juror.

21 THE CLERK: Number 161, Willie Trapp. Any challenge
22 for cause by the State?

23 MS. HALL: No, ma'am.

24 THE CLERK: What says the defense?

25 MR. FRICK: Please seat the juror.

VOIR DIRE

1 THE CLERK: Number 156, Quentin Stewart. Any
2 challenge for cause by the State?

3 MS. HALL: No, ma'am.

4 THE CLERK: What says the defense?

5 MR. FRICK: Please excuse the juror from the trial of
6 this case.

7 THE CLERK: Number 144, Shanikkia Roseboro. Any
8 challenge for cause by the State?

9 MS. HALL: No, ma'am.

10 THE CLERK: What says the defense?

11 MR. FRICK: Please seat the juror.

12 THE CLERK: Number 164, Deborah Watkins. Any
13 challenge for cause by the State?

14 MS. HALL: No, ma'am.

15 THE CLERK: What says the defense?

16 MR. FRICK: Please excuse the juror from the trial of
17 this case.

18 THE CLERK: Number 162, Brandon Truesdale. Any
19 challenge for cause by the State?

20 MS. HALL: No, ma'am.

21 THE CLERK: What says the defense?

22 MR. FRICK: Please seat the juror.

23 THE CLERK: That's 12 -- that's 11, excuse me, that's
24 11. Number 128, Tempestt Pearson. Any challenge for cause
25 by the State?

VOIR DIRE

1 MS. HALL: No, ma'am.

2 THE CLERK: What says the defense?

3 MR. FRICK: Please seat the juror.

4 THE CLERK: And that's 12. And the next will be for
5 our alternate. 150, Deborah D. Sloss. What says the
6 State?

7 MS. HALL: Please present this juror.

8 THE CLERK: What says the defense?

9 MR. FRICK: Please excuse the juror from the trial of
10 this case.

11 THE CLERK: Number 7, Chameka Bagley. What says the
12 State?

13 MS. HALL: Please present this juror.

14 THE CLERK: What says the defense?

15 MR. FRICK: Please seat the juror.

16 THE CLERK: Number 96, Sheila L. Lane. What says the
17 State?

18 MS. HALL: Please present this juror.

19 THE CLERK: What says the defense?

20 MR. FRICK: Please excuse the juror from the trial of
21 this case.

22 THE CLERK: Number 37, Edward Coleman. What says the
23 State?

24 MS. HALL: Please present this juror.

25 THE CLERK: What says the defense?

VOIR DIRE

1 MR. FRICK: Please excuse the juror from the trial of
2 this case.

3 THE CLERK: Number 120, Rose Murphy. What says the
4 State?

5 MS. HALL: Please present this juror.

6 THE CLERK: Any challenge for cause by the defense?

7 MR. FRICK: No, ma'am.

8 THE CLERK: When I call your names if you will come
9 down and have a seat in the jury box. Pansy Burns, Hezel
10 Lumpkin, William Muller, Jamilia Davis, Laciasha Sampson,
11 Felicia Durham, Deborah Carolina, Tiffany Boulware, Willie
12 Trapp. Shanikkia Roseboro, Brandon Truesdale, Tempestt
13 Pearson. Chameka Bagley, And Rose Murphy.

14 THE COURT: Any matters concerning jury selection?

15 MS. HALL: May we approach, Your Honor?

16 (A bench conference was held.)

17 THE COURT: All right. Ladies and gentlemen that are
18 presently seated if you will follow Madam Bailiff to the
19 jury room, y'all go back, relax, meet each other but don't
20 discuss the case okay.

21 (The jury left the courtroom.)

22 THE COURT: All right. The remaining panel, if y'all
23 will just step out relax just a few minutes either in that
24 extra jury room or that lobby area out there, okay?

25 (The remaining panel left the courtroom.)

VOIR DIRE

1 THE COURT: All jurors are cleared of the courtroom.
2 Solicitor?

3 MS. HALL: Your Honor, the State requests a hearing
4 under Batson versus Kentucky. There were just -- I just
5 would like to hear Mr. Frick's reasons for striking the
6 jurors that he struck. There were seven white people
7 called for the actual jury itself, he struck five of those,
8 and then again when the alternates were selected the same
9 process did occur. We seated nine black females, two white
10 males and one black male during the jury selection process,
11 and the State would like to hear Mr. Frick's reasons --
12 race neutral reasons for striking the people that he did
13 strike.

14 THE COURT: Mr. Frick?

15 MR. FRICK: Thank you, Your Honor. Regarding juror
16 number 54, Mr. Dwyer, listed as an electrical engineer, a
17 B.S. Degree, wife supervises several McDonald's. I go by
18 using his wife in a supervisory position as well as the
19 fact that he is an engineer, I just don't typically seat
20 folks with an engineering background on my juries. Your
21 Honor, number 148, Mr. Schofield, he said -- I didn't know
22 whether he was a teacher that worked at Chester High
23 School, but as Your Honor is aware, our approach as to
24 inquire as to strike for cause on this, I just -- because
25 of the publicity I don't want anybody associated with

VOIR DIRE

1 Chester if I can avoid it, that's why I struck him.

2 THE COURT: All right.

3 MR. FRICK: Your Honor, regarding number 85, Mr. Hill
4 stays an Devils Race Track Road. Being somewhat familiar
5 with the politics in Fairfield, and interestingly enough
6 during the last solicitor's race during which Mr. Newman
7 and I both participated, I noticed Newman signs in that
8 area. I just do not feel that would be favorable for me or
9 for my client.

10 THE COURT: All right. Juror 141?

11 THE JUROR: Number 141, first of all she stays on
12 Centerville Road in Ridgeway which politically, again,
13 that's one of the more conservative areas of the county. I
14 traditionally stay away from anybody in that area of the
15 county, but she is also a registered nurse and it is my
16 practice to not put RNA's on my juries.

17 THE COURT: 168?

18 MR. FRICK: Your Honor, Mr. Wilkes, I know his mother
19 and daddy, I know their politics and that's why I didn't
20 put him on the jury, and his legal training.

21 THE COURT: Number 37?

22 MR. FRICK: Your Honor, Ms. Boulware and I attended
23 high school with Mr. Coleman, we've known him from way
24 back. We are too familiar with his leanings and we believe
25 that he would not be favorable for our client.

VOIR DIRE

1 MS. HALL: Your Honor, number 54 is a supervisor,
2 she's head custodian at -- I'm sorry, number 54, the one
3 that's seated, number 53, she's a head custodian for
4 Fairfield County Schools, that puts her in a supervisory
5 role which would negate the reason Mr. Frick gave for
6 number 54.

7 MR. FRICK: That was not the entire reason I gave for
8 54, that was part of the reason. The other part was he's
9 an electrical engineer and I don't seat engineers.

10 MS. HALL: I believe he was the only one so that
11 option didn't exist. And then number 18, again, she was a
12 verification supervisor and he seated her.

13 MR. FRICK: I've got verification associate, I didn't
14 have any indication there was a supervisory role with her
15 work.

16 THE COURT: Are you talking about juror 18 or number
17 18 -- well, y'all don't have the list.

18 MS. HALL: She's number 18 on the jury list.

19 MR. FRICK: Ms. Boulware.

20 MS. HALL: Tiffany Boulware.

21 THE COURT: All right. What else?

22 MS. HALL: That's all I have.

23 THE COURT: Have you got any motions?

24 MR. FRICK: I've thought about it, Your Honor, but no,
25 sir.

VOIR DIRE

1 MS. HALL: And I can give reasons, I have them written
2 down if you want to hear them. He's not making motions?

3 THE COURT: He didn't make a motion.

4 MS. HALL: Okay. Your Honor, with regard to number
5 37, the same reason exists, he was one of the alternates.
6 Number 37 was an alternate you struck.

7 MR. FRICK: I addressed that. I said I have known him
8 since high school and I know his politics.

9 THE COURT: Well, I have a little concern about juror
10 54 as to that reason.

11 MR. FRICK: Which reason was that, Your Honor?

12 THE COURT: The fact that he's an engineer and his
13 wife is a supervisor at McDonald's.

14 MR. FRICK: I don't know how that wouldn't be race
15 neutral or sex neutral.

16 THE COURT: The other five don't concern me that much
17 because I can see your explanation there. I don't see
18 enough here for me to reverse this.

19 MS. HALL: Okay, thank you.

20 MR. FRICK: Thank you, Your Honor.

21 (The remaining panel was excused and a break was
22 Taken.)

23 (The jury returned to the courtroom.)

24 THE COURT: Ladies and gentlemen, it's now 12:20, when
25 we come back from lunch I will give you some preliminary

VOIR DIRE

1 instructions and we'll get you sworn and start the trial
2 after lunch. What I'm going to tell you in that opening
3 includes this but I need to tell you now, you will be the
4 triers of the facts in this case, I'm the Judge of the law,
5 and sometimes I have to hear matters outside of your
6 presence to settle matters of law. So what we're going to
7 do, we're going to let y'all go now for lunch and we're
8 going to stay here and go ahead get some of those matters
9 of law out of the way so we can promptly start the trial
10 this afternoon, so y'all are going to get a little longer
11 lunch break than we will. So y'all know more about
12 Winnsboro than I do, some of you may want to go home for
13 lunch, others may want to go to a restaurant or cafe or
14 whatever, that's fine, but we do need you back here at
15 2:15. Don't let anybody approach y'all and discuss this
16 case with you, don't even discuss it amongst yourselves,
17 should anybody try to approach you you immediately notify
18 law enforcement. So y'all enjoy lunch, I will stay here
19 and work with the attorneys on these matters of law and
20 hopefully we can get started at 2:15. The jury is
21 dismissed for lunch, everybody else remain seated.

22 (The jury left the courtroom.)

23 THE COURT: All right.

24 MR. FRICK: Your Honor, as you may recall previously
25 defense requested a hearing pursuant to 16-11-450, commonly

PRETRIAL MOTIONS

1 referred to as stand your ground, we made that motion
2 previously and I passed the stuff up before, I know Your
3 Honor is familiar, with it. Of course, as Your Honor is
4 aware because the previous case ended in a mistrial I have
5 to put everything back on the record again, I will pass
6 up -- and, of course I didn't get down to the clerk's
7 office this morning to get the nice stapler but I do have
8 it clipped together, my motion with accompanying documents
9 on that. I think the State still has a copy of that.

10 MS. HALL: I do, and I have a copy of the transcript
11 as well.

12 MR. FRICK: I will pass that forward. Your Honor, in
13 lieu of eliciting testimony again on that I would simply
14 offer my client's previous testimony, I don't think we
15 would have anything additional to add for the stand your
16 ground hearing.

17 (Break in proceedings.)

18 MR. FRICK: The only thing I will offer will be
19 argument if want me to go ahead and do that and put that on
20 the record.

21 THE COURT: Yes, sir.

22 MR. FRICK: Your Honor, of course, the procedure is
23 governed by State versus Duncan really, and also through
24 Curry. Of course, it is a pretrial motion, I am asking for
25 immunity. As Your Honor is aware, while my client had been

PRETRIAL MOTIONS

1 engaged in some activity prior to this event my argument is
2 that this particular case, the murder case, does not occur
3 until the victim in the matter begins to pursue the vehicle
4 containing my client and other occupants off of
5 Featherstone, down York and through Chester County -- or
6 the City of Chester. There's also testimony, and you have
7 statements there, speaking of shots being fired, or shots
8 heard being fired by other witnesses, and then you have
9 statements from co-defendants and the testimony of my
10 client that say if shots were being fired by Mr. Williams
11 who's in the vehicle immediately behind them. My client
12 then falls out of the vehicle as they are coming off of
13 Parkway onto Roundtree, Mr. Williams' vehicle is coming
14 towards him and as my client is getting up off the ground
15 he discharged the firearm also in response to shots he
16 hears fired. Judge, I've attached in there as well the
17 warrants and accompanying statements regarding a pending
18 charge that Mr. Williams had for threatening a public
19 official. Your Honor, I do believe that is relevant to my
20 client's state of mind if not also the victim's state of
21 mind, and I'll argue that in the State's motion, as to his
22 knowledge of the history of Mr. Williams, and all of those
23 factors going together as he is collecting himself at the
24 intersection of the road there and firing in self-defense.
25 As such I would ask you to grant him immunity from

PRETRIAL MOTIONS

1 prosecution pursuant to 16-11-450, under the part -- more
2 specifically under the part 16-11-440C. He was in an area
3 that he had a right to be and was proper in acting as he
4 acted.

5 THE COURT: Solicitor?

6 MS. HALL: Your Honor, he was in a car and he exited
7 the car and put -- there is a reasonable person's standard,
8 and there's also that he was acting in violation of the law
9 at the time. He was on probation, he was not supposed to
10 be in possession of a gun. His actions by exiting the car
11 under Slater were reasonably calculated to produce the
12 occasion, and it's the State's position that he brought on
13 the difficulty by having an assault rifle and exiting the
14 car that he was riding in which was perfectly safe. I know
15 there was some discrepancy in testimony as to whether he
16 actually exited voluntarily, which is the State's position
17 that he did, or whether he actually fell out of the car.
18 But again, it's the State's position that he exited
19 voluntarily. And even when he did, he still had an
20 opportunity to move away from the -- and I know it's not
21 part of the stand your ground under the statute that he is
22 required to retreat, but he did have another way which
23 would be -- I would submit would be under a reasonable
24 person analysis to get away from the difficulty. He got
25 out of the car, and he was not necessarily in imminent

PRETRIAL MOTIONS

1 danger of losing his life or sustaining serious bodily
2 injury, he was -- according to what he said I believe
3 during his the testimony at the last trial, or the last
4 pretrial hearing, was that he'd been fired upon prior to
5 that, was not necessarily taking on fire at the time. And
6 also he -- again, back to the not being at fault in
7 bringing on the difficulty, he went to the victim's
8 property, he had the assault rifle with him when he went to
9 the victim's property, parked there with intent to commit
10 the crime at the adjacent property, again, he had been
11 armed and the State would submit that also would go along
12 with him bringing on the difficulty. That's what Slater
13 says, any act of the accused in violation of the law and
14 reasonably calculated to produce occasion amounts to
15 bringing on the difficulty. He had been trespassing at the
16 time and somebody in the car which he was riding had also
17 fired a shot back toward the victim in the case. And
18 that's basically in response to -- like I said -- I know we
19 need to start again but you've already heard the
20 defendant's testimony before and you have the record, and
21 that's basically the State's position that a reasonable
22 person under the same circumstances would not have done the
23 same thing. Thank you.

24 MR. FRICK: And Your Honor, just briefly, one thing I
25 needed to add on there. Regarding the alleged illegal

PRETRIAL MOTIONS

1 possession of a firearm, in my motion I've attached State
2 versus Burris, that stands for the proposition under
3 regular self-defense law which, of course, does apply in
4 this, that if even if you are in illegal possession of a
5 firearm, that does not in and of itself defeat
6 self-defense, I just wanted to clarify that for the record.

7 THE COURT: So noted. Okay. Based on my memory of
8 the first hearing and the transcript, which has been
9 presented to the Court and we will make a Court's exhibit
10 to be filed along with your motions, I see no reason why I
11 would rule differently in this trial even though it is a
12 new trial and we need to establish the record, based on all
13 of that I deny the motion. This particular matter in the
14 opinion of the Court should be left up to the jury to
15 determine guilt or innocence of the charges that he's been
16 indicted upon. What else?

17 MR. FRICK: Your Honor, I have a motion to quash the
18 indictment. The State after the last trial sought a
19 superceding indictment for conspiracy to commit armed
20 robbery, I make a motion that that be quashed as vindictive
21 prosecution. Your Honor, basically what happens is the
22 State after this trial ends in a mistrial decides that they
23 want to go forward with an extra indictment on my client
24 claiming they have information that only came about during
25 the last hearing that was elicited by several witnesses and

PRETRIAL MOTIONS

1 my client. I disagree with that, Your Honor. This case
2 has been pending since November of 2014, the State had the
3 statements of the witnesses -- and I'll be glad to pass
4 those forward if the Judge would like it, of all three
5 co-defendants. Mr. Buchanan gave a statement on November
6 18th of 2014, November 13th of 2015 and March 29th of 2016,
7 all three of his statements he said, "We intended to go rob
8 Tim Tim," or, "Go over to Tim Tim's house," or all said
9 that. Mr. Dixon gave similar statements of August 24th,
10 2015, and a statement on March 25th of 2016 again saying,
11 "We all got in the car, we met up and we were planning to
12 go over to Holmes Road to rob Tim Tim." Mr. Roseboro
13 likewise gave a statement on April 30th of 2015, August
14 10th of 2015 and March 14th of 2016 saying essentially the
15 same thing, "We all met up at this place, our plan was to
16 go over to Holmes Road." My trouble is, Your Honor, it's
17 those statements they used to charge my client with murder.
18 It was good enough to charge him with murder but it wasn't
19 good enough to charge him with the conspiracy, therefore I
20 think this is simply retaliatory for him exercising his
21 constitutional right and being somewhat successful. Your
22 Honor, I will hand you up a copy of State versus Anthony
23 Odom, this is 412SC253, I will give you a page number that
24 cites what is required here, essentially it's on page four
25 of the document I've handed up to you. Of course, it's a

PRETRIAL MOTIONS

1 high burden that the defendant has to prove this, but we
2 must prove that the prosecutor acted with genuine animus
3 and the defendant would not have been prosecuted but for
4 that animus. We also have to show it is due to him
5 using -- due to exercising his constitutional right. Your
6 Honor, of course I find it very interesting that the
7 indictment is sought after two very particular events
8 occurred; one the mistrial of this case during the week of
9 April 18th, and then the week subsequent to that we had a
10 bond hearing in which bond was actually granted. Now, it
11 wasn't -- it wasn't put in place immediately, but bond was
12 granted, and then the State goes to the grand jury on May
13 17th of this year to seek this indictment, and unless the
14 State can correct me, the only two people that have been
15 charged are Christopher Moore and Quinton McClinton, none
16 of the other people in the vehicle who gave statements were
17 charged. I do believe it's vindictive prosecution and as
18 such contrary in the interest of justice and ask you to
19 quash that indictment.

20 THE COURT: Solicitor?

21 MS. HALL: Just briefly, Your Honor. I think what did
22 change, and quite frankly I am probably not going to go
23 forward on that indictment at this time, I haven't really
24 made a decision whether I am going to use that as part of
25 the case, and obviously I'll need to do that within the

PRETRIAL MOTIONS

1 next hour or so but I'm kind leaning with not going forward
2 at this time. However, Quinton McClinton, who was another
3 codefendant in the case who did not give a statement, was
4 also charged with conspiracy to commit armed robbery, and
5 that was largely based on the statements of not only the
6 three co-defendants -- and again, they gave statements.
7 You never know what they're going to say under oath, now we
8 have documented in the court record, and additionally the
9 defendant at that time gave a statement which corroborated
10 what they had said, and we also had another witness come
11 forward and say that he knew about it, and that's the
12 Breland guy just for your information. I would submit that
13 that case really isn't on point because it talks about
14 enhanced charges, it doesn't talk about additional charges.
15 With regard to the fact that we charged him -- he was going
16 to the grand jury, he was already in Fairfield County,
17 immediately brought him before Your Honor, I think, last
18 week or the week before, whenever the Fairfield County term
19 of court was, and had him arraigned and had the bond --
20 it's now concurrent with the bond that he was set to get
21 out on in the event that this case didn't come to trial, so
22 I don't think he is in any way penalized by that. We would
23 just submit that the indictment should stand and the State
24 should -- the State obviously has the ability to make that
25 part of this trial or not, but we believe the indictment

PRETRIAL MOTIONS

1 should stand and not be quashed.

2 THE COURT: All right. Let me look this over during
3 lunch.

4 MR. FRICK: Yes, sir. I really need an answer from
5 the State whether they're going to go forward or not
6 because I have a motion for severance on that if it is not
7 quashed and they choose to go forward. Of course, that
8 would not be ripe considering whatever your ruling may be
9 and whatever the State's intentions are, but the Court
10 needs to be aware that I do have an additional motion on
11 that.

12 THE COURT: We'll hear it.

13 MS. HALL: That's to sever in the event I call the
14 conspiracy charge in conjunction --

15 MR. FRICK: That's absolutely correct.

16 MS. HALL: Which would not be done this week anyway.

17 MR. FRICK: Yeah.

18 MS. HALL: It wouldn't be for this -- okay.

19 MR. FRICK: I just want to make sure we're clear.
20 Your Honor, other motions I have are essentially the same
21 motions I had from the last time, I do have one
22 additional -- let me clear up those other ones. Again,
23 this kind of goes along with the other one, Your Honor. I
24 have a motion pursuant to 404B and Lyle saying that it is
25 more prejudicial than probative for the State to talk about

PRETRIAL MOTIONS

1 the events that were to have occurred on Holmes Road, which
2 of course, is the facts of the superceding indictment and
3 it goes along with all of that stuff, too. Obviously if
4 they go forward on the indictment then I don't really have
5 a motion there, that would be more to my severance motion.
6 But if they choose to not go forward with the indictment
7 but intend on using that as part of their case in chief I
8 do say that it is not res gestae, everything that happened
9 prior to cars turning onto York Road is not necessary for a
10 presentation of the State's case, therefore it should be
11 excluded under Julian and res gestae. Furthermore, it's
12 not 404B, and if it is 404B they can't just simply say it
13 is, they need to pick whether it's common scheme and plan,
14 identity, motive, lack of mistake of the other factors that
15 are involved there.

16 MS. HALL: The State's position is that it is res
17 gestae, is you part of the continuation, you can't tell the
18 story without telling the whole store, and we're not going
19 forward -- if Your Honor determines that it's not res
20 gestae I will address the Lyle issues, but the State
21 submits that it is res gestae.

22 THE COURT: I agree with the State on that.

23 MS. HALL: And I want to be clear on that about the
24 motion to sever, are you talking about severing the
25 indictment from the trial in this case or severing the

PRETRIAL MOTIONS

1 defendant from being tried with Quinton McClinton?

2 MR. FRICK: No, to sever the indictments.

3 MS. HALL: Okay, to not try them together.

4 MR. FRICK: Yes, not McClinton, but the indictments
5 themselves.

6 MS. HALL: The State -- we'll just not elect to go
7 forward on it and that would keep Mr. Frick from having to
8 go forward on the motion right now.

9 THE COURT: Settles that.

10 MR. FRICK: I'm fine with that. I still would like
11 the Court to consider to quash that indictment.

12 THE COURT: Got you.

13 MR. FRICK: Your Honor, another motion I have, a
14 motion I had in the previous hearing I'm sure you're
15 familiar with, pursuant to 404 -- 403, to exclude the
16 mention of my clients rifle as an assault rifle. I think
17 we heard testimony last time from Agent DeFreeze that the
18 gun did not qualify under law as an assault rifle, so
19 calling it such is simply vernacular. I do think it's much
20 more prejudicial than probative. They're certainly going
21 to introduce it, it is certainly prejudicial enough without
22 having to add monikers to it that are not necessary, so I
23 would ask them to be prohibited from referring to that gun
24 as an assault rifle.

25 THE COURT: Refresh my memory, didn't I agree with you

PRETRIAL MOTIONS

1 on this before and it got out anyway?

2 MR. FRICK: No, sir. I believe you denied my motion
3 on that one but you agreed with my next motion.

4 MS. HALL: And I believe what happened initially was
5 when Mr. Moore got up to testify about the -- on the stand
6 your ground hearing, and it would be in that transcript,
7 that he himself refers to it as an assault rifle. And
8 since that is the common name it's called on the street it
9 would be difficult to direct the lay witnesses as well as
10 Mr. Moore himself from not using the term assault rifle
11 since he's already used it in a hearing.

12 THE COURT: What's throwing me off is that DeFreese
13 did get on the stand and testify to that. Let's clean that
14 up. Let's don't mess this trial up over something that the
15 appellate court would have a problem with.

16 MS. HALL: I will direct the witnesses. I just don't
17 have any control over what they say and I obviously don't
18 have any control over what the defendant says.

19 MR. FRICK: And, of course, we start a clean slate as
20 of today so I will speak to my client.

21 THE COURT: But if you open the door it's open, okay?

22 MR. FRICK: Yes, sir, I understand. Your Honor, one
23 more motion in similar lines under 403, I ask that the
24 State be excluded from referring to my client as being a
25 member of any gang or any of their witnesses being a member

PRETRIAL MOTIONS

1 of a gang. I don't want any mention of gangs. I think
2 that opens up a can of worms, I think that paints things in
3 pictures that are not necessary and I don't think it is
4 relevant and it's certainly unfairly prejudicial to my
5 client. This is the motion that you granted last time and
6 would ask you to follow suit. I think the State did a fine
7 job in the last trial of not having that come out so I
8 would just ask the same thing here.

9 MS.. HALL: The State acquiesced to this last time, we
10 acquiesce to it again. I don't think it's necessary and I
11 will again direct the witnesses to refer to this as that.

12 THE COURT: And once again, opening the door on your
13 side --

14 MR. FRICK: I understand. Your Honor, one final
15 motion just to put on the record, I don't know that we need
16 to address it at this time but I do want to make you aware
17 of it. Your Honor, the State has a witness that I will
18 refer to as a jailhouse informant. There is a man who was
19 incarcerated, Mr. Breland, who was incarcerated in Chester
20 County for a hit and run death results, he was denied bond
21 on that. In fact, he had a prior record of two convictions
22 that I believe he went to the department of corrections on,
23 they are old however. Your Honor, I am asking to be able
24 to use those against Mr. Breland. Of course, I say that
25 saying that that might not be ripe until Mr. Breland is

PRETRIAL MOTIONS

1 here but I do want to put that out there. I made the State
2 aware of my motion, served them -- or provided them a copy
3 of my motion that I do seek to inquire about those prior
4 convictions that he has.

5 MS. HALL: Well, let's talk about the prior
6 convictions first, I think that would be the easiest way to
7 do this. In 1979 Mr. Breland was convicted of assault and
8 battery with intent to kill, he received a five year
9 sentence to run concurrent with the house breaking,
10 basically a burglary conviction, he received it at the same
11 time. I believe he started that sentence in 1980. In 1987
12 he was convicted of fraudulent checks, or one fraudulent
13 checks. In 1987 receiving stolen goods and an ABHAN. Also
14 possession of a stolen pistol, which the State would submit
15 that even doesn't count because it doesn't carry more than
16 a year -- possession of a stolen pistol, not unlawful
17 carrying, driving under suspension. 1992 a fraudulent
18 check. 1995 a fraudulent check. 1997 solicitation for
19 prostitution, which I have no idea what that carries.

20 MR. FRICK: I think that was 30 days.

21 MS. HALL: I don't think that counts either. And
22 that's it. He's been clean in terms of his rap sheet ever
23 since then with the exception of this recent arrest which
24 he has not yet been convicted. The State would submit that
25 these are not crimes that can be brought up under the rule

PRETRIAL MOTIONS

1 because they -- they are way back. I think Mr. Breland --
2 I was trying to find -- I think he's like 60 years old and
3 he has not been in any trouble whatsoever since any of
4 these happened with the exception of his recent arrest.
5 The State would submit that those do not fall under the
6 rule and would ask that Mr. Frick not be allowed to go into
7 those.

8 THE COURT: Anything else?

9 MR. FRICK: Your Honor, obviously they're old, that's
10 why I filed the motion. I'm asking to go outside the
11 normal rule of 609A, 609B does allow to do that if it is
12 probative. I think if you've got a person on the stand
13 that's going to give a statement as Mr. Breland will give,
14 he has potential for motivation for making that statement.
15 My issue is you've got a person who has been to the
16 department of corrections twice, it has been a long time
17 but he's been there and may not be interested in going
18 again and might be interested in making a statement, and I
19 think it's important for the jury to be aware of any
20 potential motives for Mr. Breland to make the statement he
21 made.

22 MS. HALL: Your Honor, the fact that he has been,
23 that's not motivation. The motivation would be has the
24 State promised you anything and I think that is going to be
25 and -- I intend to ask him that myself and I'm sure Mr.

PRETRIAL MOTIONS

1 Frick intends to go into that. I think that addresses it
2 without having to go into like the 30 year old criminal
3 history.

4 THE COURT: This is within my sound discretion on
5 this, it's just too remote and too old so the motion is
6 denied on that one.

7 MS. HALL: Thank you.

8 THE COURT: That's all of the motions I have at this
9 time.

10 MS. HALL: And back -- I'm trying to find the one that
11 was filed because I only have one copy myself. The State
12 made a motion. There was some indication from Mr. Frick at
13 one time that he'd intended to go into an incident that
14 occurred in Chester between the chief of police, Andre
15 Williams and the victim in this case, Odell Williams. They
16 had gotten into some sort of a verbal argument after a city
17 council meeting, and that Mr. Williams as a result was
18 charged with threatening the life of a public official.
19 And the State makes the motion at this time to have that --
20 motion in limine to have any testimony regarding that,
21 excluding that from this trial as it has absolutely nothing
22 to do with it.

23 THE COURT: And I ruled with the State in the previous
24 trial, right?

25 MS. HALL: Yes, sir.

PRETRIAL MOTIONS

1 THE COURT: Anything in addition?

2 MR. FRICK: Yes, sir, Your Honor. I would ask you to
3 reconsider State versus Day. State versus Day is probably
4 the most relevant case on point. Essentially what State
5 versus Day says is that the two factors that have to come
6 in; one, the prior incident needs to be directed towards my
7 client, which is not the case here. If it is not directed
8 towards my client, then my client, one, needs to be aware
9 of it, which he was, and two it cannot be too remote. Now,
10 we're talking about -- honestly we're specifically talking
11 about an incident that occurred in March of 2014, and of
12 course, this incident occurred in November of 2014, that is
13 further than Day, but I would say that's not too remote.
14 Your Honor, I'm also going to pass you up a copy of the
15 warrants and the statements of Gilmore, Andre Williams and
16 Odell Williams himself, I think it's relevant for you to
17 consider that. What I'm trying to do is show the state of
18 mind of the victim at the time, which I think is relevant.
19 In this he says to the chief of police during a city
20 council meeting, "I've got a gun, I'm not afraid to use it,
21 I'll take a whole lot of people out. I've lived my life, I
22 ain't afraid to die." I think that's relevant to his state
23 of mind saying he carries a gun and is prepared to use, and
24 quite frankly has a quick temper. I think that is relative
25 and probative to go to the state of mind of the victim at

PRETRIAL MOTIONS

1 the time and it is relevant for me to be able to get that
2 testimony in.

3 THE COURT: Solicitor?

4 MS. HALL: Thank you, Your Honor. In Day it is very
5 clear that any kind of prior threats are allowed, and it's
6 clear throughout case law and we talked about some cases
7 the last time. Whenever this type of testimony has been
8 allowed in it has been in close relation either to the
9 actual person themselves or to somebody who they were so
10 intricately involved with and related to that there was no
11 way that they would have felt threatened as a result of the
12 threat to the third party. I just don't believe that that
13 situation exists here. If Mr. Moore has heard about this
14 it has been simply through rumors. And Mr. Williams also
15 was never convicted of it, it never came to trial, he
16 denies having had any real intent, this was just something
17 that had come up as an argument -- it was like a long
18 professional and personal history between these two people
19 and it had come up -- and Mr. Williams said it -- or said
20 what he allegedly said and walked out the door to the
21 bedroom. He never acted on it, he never did anything to
22 anybody and the State would say that it is absolutely not
23 relevant to anything having to do with this case.

24 MR. FRICK: And, Your Honor, just along those lines, I
25 would ask you to look at the statements. Mr. Williams gave

PRETRIAL MOTIONS

1 a statement that says specifically what his intent was, and
2 I would ask you to consider that.

3 MS. HALL: And Your Honor, the other thing was there
4 was testimony during the last trial by the defendant
5 himself that he didn't know who was following him, so how
6 would that -- even if he was scared to death of Mr.
7 Williams just through this rumor, if he didn't know who was
8 following him why would that relate to this case anyway?

9 MR. FRICK: I think it's pretty clear he did become
10 aware who was following him. In fact, they said that after
11 they said she stopped at the barbershop they were aware who
12 it was and he said he was aware of Mr. Williams through
13 newspaper articles that detailed this, and he was also
14 aware of the situation because Chester is a small place.

15 THE COURT: Once again, I have discretion into the
16 matter and, as I did before, I'm going to grant the State's
17 motion. We're going to make sure, from the bench's point
18 of view, that we keep this trial confined to the issues at
19 hand. None of the threats were issued toward the victim
20 here, and I do remember that testimony that the solicitor
21 just alluded to. We're not going to be trying somebody
22 else here, this trial concerns Mr. Moore. That motion is
23 granted. Solicitor?

24 MS. HALL: The only other things -- we have gone
25 through some stuff -- stipulations last time and I don't

PRETRIAL MOTIONS

1 know if there are going to be anymore but there might be
2 based on what happened during the last trial. But the one
3 we have agreed on the last time and I wanted to make sure
4 that we are still clear on that, there was a toxicology
5 report that will be put in through the pathologist and
6 that's what we intend to do again. We stipulated to the
7 maps coming into evidence. We stipulated to the affidavit
8 of a lady named a Haley Quam who did the major case prints,
9 took the case prints from the defendant at the jail. Mr.
10 Frick had indicated to me last week that he would be fine
11 with her coming to court and just submitting the affidavit
12 again and we intend to do that. Tiffany Hezel, she did
13 independent analysis through peer review of fingerprints
14 that were found on the truck, and she testified last time
15 due to the fact that the lady who actually did the original
16 analysis was on maternity leave and we would ask that she
17 be allowed to testify. And then we had a transcript of a
18 bond hearing which we did not use last time but I would
19 still like to stipulate that it will come into evidence --

20 MR. FRICK: I won't stipulate.

21 MS. HALL: I'm not intending to use that so we don't
22 need to talk about that. And I've given you all of the
23 witness' rap sheets, I just wanted to clear all of that up
24 before --

25 THE COURT: Any disagreement?

PRETRIAL MOTIONS

1 MR. FRICK: I don't have any disagreement on that, no,
2 sir.

3 MS. HALL: The Denno hearing. Mr. Frick had not
4 requested a Denno hearing. There is a video statement of
5 the defendant that we do intend to show, it was showed
6 during the last trial and Your Honor has actually seen it
7 already. We just wanted to put on the record that as we
8 stipulate to the fact that it's admissible I would like to
9 put on the record that it was given freely, voluntarily and
10 I would like to have the defendant agree to these things --
11 or the defense agree to these things rather than just
12 stipulating that it comes in because I don't think that's
13 safe.

14 MR. FRICK: Your Honor, I've reviewed it, I've
15 reviewed it with my client, we've gone over it. Obviously
16 he was in custody, had been in custody for I believe about
17 nine days, he was advised of his rights, I believe he
18 waived his rights, I don't have any dispute that he gave an
19 intelligent, knowing -- he was advised that he had the
20 right to have an attorney present, he waived that and gave
21 the statement, so I don't think that there is anything to
22 cause an issue as far as that particular statement is
23 concerned regarding the Denno. So I have no problem with
24 agreeing that he intelligently and voluntarily waived his
25 rights to counsel and his 5th Amendment rights in the

PRETRIAL MOTIONS

1 statement.

2 THE COURT: All right. Settles that on the record.

3 MS. HALL: I believe that covers it.

4 THE COURT: Recess for lunch until 2:15.

5 (A lunch break was taken.)

6 THE COURT: Let's clear the record up, we've got that
7 outstanding motion to quash. I'll deny that at this time,
8 it's sort of a moot issue anyway at this time as far as
9 this case. Anything before we bring the jury in?

10 MS. HALL: No, I'm fine. Thank you.

11 (The jury returned to the courtroom.)

12 THE COURT: Ladies and gentlemen, juror 34, Ms. Evans.

13 THE JUROR: Yes.

14 THE COURT: I am going to appoint you foreperson of
15 the jury, you can just keep that seat for now but later on
16 we will get you reseated.

17 THE JUROR: Okay.

18 THE COURT: All right. Madam Clerk, if you will put
19 them under oath.

20 (The jury was sworn.)

21 THE COURT: All right, ladies and gentlemen, we're
22 ready to begin the trial. I want to thank you for your
23 patience with us especially over the lunch hour, we sent
24 y'all out earlier and we handled some matters of law. This
25 preliminary statement to you is just to basically explain

PRETRIAL MOTIONS

1 how we're going to proceed with this trial and then I'll
2 turn it over to the attorneys to actually start the
3 testimony. The various phases of a trial, and I'll remind
4 you now, this is a criminal case in the court of general
5 sessions. The first thing I need to point out to you is
6 the burden of proof is on the State. The State is required
7 to prove guilt beyond a reasonable doubt. All defendants
8 in this country, once they are charged are presumed
9 innocent of the charges that may be placed against them and
10 that presumption of innocence stays with them throughout
11 the trial right until the end when the jury deliberates and
12 reaches a verdict, so therefore the State will begin with
13 their witnesses first. But before we get to the actual
14 evidentiary portion of the case we will have opening
15 statements. They're not mandatory but both sides will be
16 allowed to make opening statements to you to basically
17 outline their position in this case. Whatever the
18 attorneys say to you is not necessarily evidence, they may
19 quote evidence that they know may be coming and they may
20 refer to it, but the evidence is actually what is received
21 here on the witness stand from any exhibits. The evidence
22 comes in the evidentiary portion of the trial, which is the
23 next phase. Once again, the State has the burden of proof,
24 therefore they will call their witnesses first. They will
25 direct examine their witnesses and then there will be cross

PRETRIAL MOTIONS

1 examination by the defense. Whatever the evidence is,
2 whether it's testimony or other physical type items,
3 photographs, whatever, it is crucial that you listen and
4 observe the evidence because you are the finders of the
5 facts in this case. No one else, including myself, will be
6 allowed to find the facts in this case. In South Carolina
7 the jury is the finder of the facts, the Judge is the judge
8 of the law. The end result of any case is to reach a
9 verdict, it's a Latin derivative word which means search
10 for the truth or true saying. So how do you reach a
11 verdict? You find the facts, which you find to be
12 believable facts, and apply to those facts the charge of
13 the law that I give to you and thus reach a verdict. The
14 evidentiary portion of the case will be the most lengthy
15 part of this trial because you've got to listen to all of
16 the evidence, so in saying that please don't fall asleep on
17 me, okay? In the afternoons after you've had lunch that
18 can be tempting, sometimes you can doze off on me, please
19 don't do that. If you feel like you need some coffee or a
20 Coca Cola or something, call my attention or let the
21 bailiff know and we will take a break. As far as
22 note-taking, I'll leave that up to you. There's one rule
23 you have to go by, if you take notes you've got to keep
24 them to yourself, you can't share them with other jurors.
25 Personally, if I was on a jury remembering my college days,

PRETRIAL MOTIONS

1 I wouldn't take notes because I remember being in class
2 with the professor instructing, giving a lecture, if I
3 tried to keep a note my mind would be on recording what was
4 just said and then I would miss what he said next, so I
5 just found it better off not to keep notes. But some
6 people can keep up with three things at one time, so that's
7 up to you. After the evidentiary portion of the case will
8 come the time for closing arguments where both sides will
9 be given ample opportunity to argue their position in the
10 case and try to persuade you to see the evidence as they
11 see it. Once again, that's not evidence, they can quote
12 evidence and they can refer back to what was presented to
13 you. Only after all of those phases will I then go into
14 the Judge's charge where I will give you the charge on the
15 law and then you will be asked to deliberate. So once
16 again, don't deliberate the case until the end of it and
17 when I ask you to begin your deliberations. I'm going to
18 ask you at this time when we do break overnight, please
19 avoid any local press coverage unless this case is over.
20 It's all right to watch the national news but just avoid
21 any local press, whether it be TV, radio or newspaper,
22 because this case has got to be tried on what is presented
23 here. No independent research. All of the counties are
24 different about how they handle cellphones. When you go
25 into deliberate sometimes we will take up the cellphones,

PRETRIAL MOTIONS

1 whatever the policy is here I try to go along with each
2 county as to what they have set. But don't do any
3 independent research and don't be using your cellphone to
4 call anybody, in fact, if you've got a cellphone please set
5 them on silent and don't be attempting any calls. Once
6 again, if you need a break for anything let me know and we
7 will do that, we will take a break. Now, we want to take
8 our time to justly deliberate this case, I don't foresee we
9 will be working real late any night, we will certainly try
10 to finish up no later than 5:30, I can't promise you that,
11 but generally that's what we try to do. We usually begin
12 either at 9:30 or 10:00 and finish up around 5:00. There's
13 a reason why in South Carolina we start at 9:30 or 10:00
14 because other states start a little earlier and then a lot
15 of states like California, sometimes they don't start until
16 11:00 or 12:00, but there's a reason for it, one is
17 geographics. South Carolina in its geographics has very
18 large counties, any of you that are familiar with Georgia
19 know that the counties over there are very small. So like
20 in my county if you live in the Wolfe Pond section it takes
21 almost an hour to drive to the courthouse, and if you have
22 to drive all the way across the county you're talking about
23 well over an hour, Fairfield is a fairly large county, too,
24 so that's one reason we traditionally do that. But the
25 main reason is the attorneys have other interests and

PRETRIAL MOTIONS

1 clients they have to attend to and that gives them a time
2 in the morning to go in and check in with their office and
3 catch up with any office work or any other clients they
4 have to check in with. So that's the basic two reasons why
5 we always start at 9:30 or 10:00, because I've had jurors
6 ask me about that. Lunch hour. We will try to break
7 anywhere from an hour to an hour and a half, and we will
8 take breaks every hour or so to give you time to stretch.
9 That's basically all I need to tell you at this time,
10 except when you are asked to deliberate, whatever your
11 verdict is, ladies and gentlemen, will have to be a
12 unanimous verdict. All 12 deliberating jurors will have to
13 be in agreement on the verdict, okay? All right.
14 Solicitor?

15 MS. HALL: Yes, sir. Good afternoon, ladies and
16 gentlemen. As I told you earlier today, my name is Julie
17 Hall, and this is a Chester County case, it's being brought
18 before jurors of Fairfield County. But I am a prosecutor
19 in Chester County and I will be -- along with Riley Maxwell
20 who is the deputy solicitor here, will be trying this case.
21 It's going to be a little bit of a ride. I would estimate
22 to have about 33 witnesses and about 80 pieces of evidence
23 to put in, so we're going to ask that you be patient but we
24 will do it as expeditiously as we can without skipping
25 anything. The defendant -- I think it's helpful -- and His

OPENING STATEMENTS

1 Honor has told you, you guys are the triers of the facts.
2 You were put on this jury because you have common sense
3 life experience and you come here to determine what the
4 facts of the case truly are, and as he told you earlier
5 too, we want a verdict that speaks the truth. We very
6 happily accept the fact that we have a reasonable doubt
7 burden and I would submit to you that we intend to meet
8 that here this week. I think it helps, though -- and once
9 you've figured out what the facts are you have got to take
10 the law as he gives it to you and you've got to apply it to
11 the facts and that's how you reach a verdict. I think it
12 helps knowing what the defendant is charged with going in,
13 so kind of know what you're looking for as we go through
14 this process. He's charged with two things, he's charged
15 with murder, and that's basically defined in the law as
16 acting with malice aforethought, it doesn't have to be like
17 premeditated for weeks on end, malice can develop in an
18 incident of a second, that's all it takes. But it's acting
19 with a depraved heart bent on mischief where you just
20 really don't care about the consequences of the actions,
21 you're going to do whatever it is you want to do without
22 regard for anything else, that's malice aforethought. And
23 that he kills or murders someone, in this case by means of
24 shooting them, and I will -- with this gun, and that he
25 died, the victim, Odell Williams, died as a proximate

OPENING STATEMENTS

1 result of that gunshot wound. You're also going to be
2 presented with a charge of possession of a weapon during
3 the commission of a violent crime. This is the weapon,
4 possession of a firearm during the commission of murder.
5 It says the commission of a violent crime, violent crimes
6 in South Carolina are defined by statute and I will just go
7 ahead and tell that you murder is a violent crime, so if
8 you find him guilty of murder and you find that he had this
9 gun and that's how he committed it then he's guilty of that
10 charge as well. You're going to hear evidence from lots of
11 witnesses like I said before. You're going to hear
12 evidence that this defendant, along with four other people,
13 borrowed a truck, went to a location in Chester County to
14 commit a crime, they were trying to commit armed robbery,
15 they set up on a house. Mr. Williams -- the victim's
16 house, was right across the way from that house. They
17 parked this truck that nobody knew where -- it was a
18 borrowed truck, parked it there. This defendant was a
19 passenger in the back right seat so he's in the back seat
20 on the passenger side of the truck, and he's got this gun.
21 There were I think a total of four or five -- and that will
22 all come out -- other handguns in the car. They got out of
23 truck, walked across the grass a little ways, set up on
24 this house intending to rob these people and they never
25 came home. Ms. Williams, who you will hear from in a

OPENING STATEMENTS

1 little bit, who is Mr. Williams' wife, pulled out of her
2 driveway and started to go down the street -- and it was in
3 November of 2014 so it was getting dark early, the lights
4 kind of shined, they get spooked, they leave because the
5 people don't come home, whatever reason they give, they get
6 back in the car to leave. Well, in the meantime Ms.
7 Williams has called her husband and said, "Hey, you've got
8 to come check this out." He's ex-cop, retired 27 years,
9 veteran of the police force, comes to check this out,
10 because he's told her, "Don't ever go check it out
11 yourself, call me, I'll come see what is going on." So he
12 shows up, he sees this truck pulling out, doesn't know who
13 the people are and he falls in behind them, and you're
14 going to hear testimony that he followed them through
15 Chester about two and a half miles. And there will be
16 testimony and evidence that he did at some point fire a .38
17 caliber handgun two times, and there are two spent shell
18 casings in that gun and that he had gunshot residue on both
19 of his hands, because they took that off of him when they
20 did the autopsy. You're also going to hear testimony from
21 different people that this defendant rolls out of the car
22 with this gun after he's been followed by Mr. Williams
23 while they're in a chase, at some point he decides to leave
24 the safety of that vehicle, roll out of the car and shoot
25 Mr. Williams with this gun. And that's basically the whole

OPENING STATEMENTS

1 case. You'll hear from a medical expert who will testify
2 that he dies -- the proximate cause of his death as
3 required in that indictment that we just talked about, was
4 a gunshot wound from this gun right here, and that's
5 basically the case. And so I ask that you pay very close
6 attention, and I know you will, to all of the testimony
7 that comes from that witness stand and all of the evidence
8 that we've put in here. I know this is a very important
9 trial for the defendant, it is a very, very important trial
10 for the State, and it's a very, very important trial for
11 that victim's family who are here in the courtroom today
12 some of whom who you will hear from. As I stated before,
13 we gladly accept the burden that we are saddled with, a
14 beyond a reasonable doubt burden which we will discuss more
15 in the closing and I know Your Honor will charge you about
16 that. But I would submit to you that once you've heard all
17 of the evidence from the witness stand and the physical
18 things that are put in you will have no choice but to find
19 him guilty beyond a reasonable doubt of both murder and
20 possession of a weapon during the commission of a violent
21 crime. Thank you.

22 THE COURT: Thank you, Solicitor. Mr. Frick?

23 MR. FRICK: Thank you, Your Honor, Solicitor, ladies
24 and gentlemen of the jury. Good afternoon. My name is
25 William Frick and it is my pleasure to represent

OPENING STATEMENTS

1 Christopher Moore who, as the State has told you, is
2 charged with the crime of murder and possession of a weapon
3 during a crime of violence, and she also told you murder is
4 classified as that violent crime. She explained what
5 murder is, she left one thing out, it is the unlawful
6 killing of someone with malice aforethought. What that
7 means is if somebody is chasing you, shooting at you and
8 you're trying to get away from them and they still trying
9 to shoot you, you can shoot them, and it don't make a bit a
10 difference whether you've got a .22 pistol or you've got
11 this rifle. So the State can stand up here and show you
12 this gun all they want and go, "Look at this big ole gun,
13 doesn't that scare you?" That has nothing to do with
14 whether or not Christopher Moore was within his rights of
15 defending himself. You also heard that he went over to
16 this property and they were going to do some bad stuff to
17 some other people and these other guys are bad guys. Maybe
18 or maybe not that happened, I don't know, but that's not
19 what he's on trial for. What he's on trial for is whether
20 or not he intended to kill, unlawfully, Odell Williams.
21 And you'll hear where this whole case really begins, and
22 it's not at the end of Featherstone, which you have no idea
23 where that is right now, it's on York Road, the
24 intersection of York Road and Featherstone, that's where
25 this case begins. That's where Odell Williams decides to

OPENING STATEMENTS

1 take matters into his own hands, follow the vehicle that
2 Christopher Moore is in and chase them, not follow, chase
3 them in a circuitous path through downtown Chester
4 sometimes at high rates of speed. You will hear testimony
5 that there were gunshots, you're going to hear testimony
6 that those gunshots came from Odell Williams before anyone
7 fired upon him. Now folks, you may determine that
8 Christopher Moore was involved with some stuff he shouldn't
9 have been involved with that night, maybe he was doing some
10 bad things, maybe he had guns he wasn't supposed to have,
11 maybe he smoked a little bit of marijuana, maybe he went to
12 go do something, but none of that was directed toward Odell
13 Williams and no one was going to do anything to Odell
14 Williams. It was Odell who decided to follow somebody and
15 chase them and take matters into his own hands. Now, as
16 the State told you and the Judge told you and you're going
17 to hear time and time and time again and I'm going to tell
18 you, the State has got to prove that Christopher Moore
19 committed murder, the unlawful killing of Odell Williams
20 with malice aforethought beyond a reasonable doubt. Now
21 what does that mean? Well, it's kind of a vague term, but
22 I tell you what it means to me, it means there's no other
23 reasonable explanation but that Christopher Moore did what
24 the State says he did. And ladies and gentlemen, I'm going
25 to tell you, this is not one of those cases that there's

OPENING STATEMENTS

1 going to be a whole lot of dispute about facts that you
2 hear, about things that happened, this is not a who done
3 it. This is a why done it. Why did this happen. And the
4 simple fact of the matter is this happened because Odell
5 Williams decided to follow the car, then chase it and then
6 shoot at it and then to continue to shoot at it. That's
7 what it's about. Stay focused on what we're here about.
8 You're going to hear about this gun and you're going to
9 hear about other stuff, the trial is about the murder case,
10 not the other extraneous facts, stay focused on that. Now,
11 how they're going to do that, ladies and gentlemen, people
12 are going to get on this stand and they're going to testify
13 and you're to see pictures, there will be reports, there
14 may even be a video or so, all kinds of neat stuff is going
15 to come in through this witness stand. And then y'all as
16 the judge of the facts probably have the most difficult job
17 of anybody in this courtroom, real easy for me to stand up
18 here and talk, that's what they pay me to do. Y'all come
19 here, listen to the case and get to decide what happened
20 that night on November 4th of 2014, and you do that by
21 listening to the facts, by weighing the evidence, you get
22 to decide whether you want to believe what people get on
23 this stand and tell you. You get to decide whether you
24 want to believe all of it, part or it or not a blame thing
25 that they tell you, that is entirely your province and your

OPENING STATEMENTS

1 province alone. You also will get to decide whether people
2 have motivation to say what they're saying up here on the
3 stand and you get to weigh that as well. All in all, it's
4 going to take a little bit of time but it's not going to
5 take that great deal of time. I kind of debated telling
6 this story but I do want to go into it. Couple of years
7 ago there was a project at my daughter's school. Points of
8 Extension came in and decided to give everybody -- they had
9 little chickens and they raised them up, the eggs started
10 to hatch, raise them up, our appointed day comes and the
11 little chicken comes home with us. It turns out it's a
12 rooster. That's the meanest bird I ever seen in my life,
13 that bird hated me and I hated him. And for the last
14 couple of years we have fought each other, and about every
15 month we would have to have a little scrap. Now, we still
16 raised this bird, he was a pet, he was part of the family,
17 we might disagree but still part of the family. One day as
18 I'm going out in the yard the bird comes up and attacks me.
19 Now he's attacked me before, he's got spurs this big, drawn
20 blood on me before, I know what he's capable of. Bird
21 flies up almost into my face, I grab the nearest thing I
22 could, which was about an inch and a quarter PVC pipe, a
23 plastic pipe but a little thick, not quite as heavy as a
24 metal pipe but still quite as thick. I swing it, I'm not
25 trying to hurt the bird, I'm simply trying to protect

OPENING STATEMENTS

1 myself and get him away from me, I hit the bird, it killed
2 the bird. Did I mean to kill the bird? No, and I sure
3 didn't want to explain it to my daughter. But it happened
4 and there was a reason for it. Now, why am I telling you
5 this story about a chicken? The reason why I'm telling you
6 about it is the same thing I told you before, you can stand
7 up here and show this gun all you want, when you are
8 confronted with difficulty and you feel you need to defend
9 yourself the law does not say, "Oh, you can't use that gun,
10 you can only use this gun. Oh, you can't use this, you can
11 only do this." No. If you are right in exercising your
12 right to defend yourself you use whatever means you have
13 available. And it doesn't matter how many times you shoot
14 that gun either, because you're going to hear there were a
15 lot of shots that came from this gun, but if someone is on
16 the other side shooting at you or you've got reason to
17 believe that they have shot at you and are going to
18 continue to shoot at you, you've got every right in the
19 world to defend yourself. Now, another part on that is if
20 we can establish that there is self-defense in this case,
21 the State has to disprove that Chris Moore had to kill in
22 self-defense beyond a reasonable doubt. Again, is there
23 any other reasonable explanation other than he acted the
24 way he did because of what he did? And I submit to you no.
25 The real reason we're here is because the actions of Odell

OPENING STATEMENTS

1 Williams. Chris Moore had no intention to do what he did.
2 He did not go out there that night seeking trouble with
3 Odell Williams but it happened, and he was faced with a
4 choice and it was a choice that he didn't want, but he used
5 the right that we all have and that is the right to self
6 preservation. So in the end I submit that you will
7 conclude that Christopher Moore did not unlawfully kill
8 Odell Williams, he was acting within his rights of
9 self-defense and he is not guilty of murder and not guilty
10 of possession of a weapon during a crime of violence.
11 Thank you for your time, your attention and your service.

12 MS. HALL: Your Honor, State calls Kyle Cummings.
13 The witness, KYLE CUMMINGS, was first duly sworn and
14 testified as follows:

15 DIRECT EXAMINATION

16 BY MS. HALL:

17 Q Your name is Kyle Cummings?

18 A That's correct.

19 Q Where are you currently employed?

20 A I'm employed by the York Police Department.

21 Q On November 4th of 2014 where were you employed?

22 A By the Chester County Sheriff's Office.

23 Q And what were your duties with the Chester County
24 Sheriff's Office at that time?

25 A On November the 4th I was a patrol lieutenant.

KYLE CUMMINGS - DIRECT

1 Q And what does that mean?

2 A A patrol lieutenant is when you're the supervisor of
3 the shift. The way the shift is structured you have a
4 lieutenant, sergeant and deputies, I'm over the whole
5 shift, I report to the captain of patrol.

6 Q Okay. So did you -- on November the 4th of 2014, did
7 you receive a call in relation to this case?

8 A I did.

9 Q And what was the call and what did you do as a result
10 of the call you got?

11 A The call came out shots being fired, I believe two
12 vehicles were reported as being involved. When the
13 initial call came out I don't believe the vehicle
14 description was readily available, I had to keep asking
15 questions, what type vehicles were involved. During the
16 process of communicating with my dispatcher I was informed
17 that a vehicle had struck a residence on Roundtree Circle,
18 which is inside of Chester County and I proceeded to
19 respond.

20 Q So they gave you an address where the vehicle was
21 struck, or do you remember?

22 A I do not remember, I don't believe they did.

23 Q And what area did you respond to?

24 A I was on Saluda Street, which is also inside of
25 Chester County when the call to service came out. At that

KYLE CUMMINGS - DIRECT

1 time I turned onto Parkway Drive, which from my location
2 was a left-hand turn --

3 Q Let me stop you right there and show you what's been
4 marked as State's Exhibit 15. Can you tell the jury what
5 this is?

6 A Yes, this is a blown-up view, a satellite view of
7 Parkway Drive, Hillcrest, Roundtree Circle, and the area
8 that the incident happened.

9 Q And does it accurately depict the area on November the
10 4th of 2014?

11 A It does.

12 MS. HALL: Your Honor, at this time the State would
13 move 15 into evidence.

14 MR. FRICK: No objection, Your Honor, it was
15 previously entered in.

16 THE COURT: In without objection.

17 (The blowup photo was received as State's 15.)

18 Q Can you show us where you went, or show the jury where
19 you went? You might have to step down.

20 A As I stated, I was on Saluda Street which is inside
21 Chester County. This is Parkway Drive, Parkway Drive runs
22 through Old York Road, it also runs through Saluda, it
23 goes on down and then you make a left or right onto
24 Saluda. I was on Saluda in this area right here, so my
25 response to call -- I make a left-hand turn onto Parkway

KYLE CUMMINGS - DIRECT

1 and I was coming toward Roundtree Circle. There are two
2 entrances to Roundtree Circle so as the name suggests it
3 circles around, there was one street in the middle,
4 Hillcrest Drive, however Roundtree is one circle with two
5 entrances. As I was coming down Parkway Drive I was
6 advised of two vehicles, one vehicle struck a residence,
7 so what I did was instead of turning onto the first
8 entrance of Roundtree Drive, I turned onto the second
9 entrance of Roundtree and I made a left-hand into
10 Roundtree in the attempt that the other vehicle was
11 speeding away I could catch it, identify a subject,
12 perform a traffic stop on the vehicle, hopefully get
13 someone into custody but that was not the case, I did not
14 pass a second vehicle. However, I did locate Odell
15 Williams' Cadillac against the residence on Roundtree
16 Circle.

17 Q Could you show the jury where that was?

18 A (Witness complies.) I don't recall the exact
19 numerics, so --

20 Q Which end of Roundtree Circle was it on if you
21 remember?

22 A It was close in the first entrance I believe in this
23 area right in here, the exact numerics of the residence I
24 forgot.

25 Q If you want to have a seat. I want to show you a

KYLE CUMMINGS - DIRECT

1 series of photos that have been marked as 5A, 5B, 5C and
2 5D. Do you recognize those?

3 A I do.

4 Q And what are they?

5 A These are pictures taken of Odell Williams' vehicle
6 after it had crashed into the residence on Roundtree
7 Circle.

8 Q Do they accurately depict the car as you found it when
9 you responded?

10 A They do.

11 MS. HALL: And Your Honor, at this time the State
12 would move 5A, 5B, 5C and 5D into evidence.

13 MR. FRICK: No objection.

14 THE COURT: In without objection.

15 (The photos were received as States 5A-D.)

16 MS. HALL: Ask permission to publish them to the jury.

17 Q And that area on the map that I showed and the place
18 that you responded to, was all of that located within
19 Chester County?

20 A It is.

21 Q So once you got to the residence, did you approach the
22 vehicle?

23 A I did.

24 Q And what did you observe once you got to the vehicle?

25 A When I approached the vehicle Odell Williams was

KYLE CUMMINGS - DIRECT

1 still inside of the vehicle, he was located on the --
2 behind the steering wheel in the driver's seat in the
3 vehicle.

4 Q And what was his condition?

5 A It was obvious that Mr. Williams had been shot,
6 obvious trauma to his face. The left-hand side of his
7 face around the bottom line of his jaw was a large hole,
8 as he breathed and as he tried to communicate the hole
9 would gape open and close.

10 Q Was he attempting to talk to you, or what did he do if
11 anything?

12 A He was trying to talk but due to his injury he could
13 not muster a word, he was making gargling like noises.

14 Q And did he at any point in time -- did he stay in the
15 car the whole time you were there?

16 A No. He actually exited the vehicle under his own
17 power. I did not take him from the vehicle, he actually
18 was able to get out of the vehicle himself.

19 Q And when he got out of the vehicle where did he go?

20 A We sat him down in a lawn chair that we pulled from
21 underneath the carport.

22 Q I'll show you again what's been placed into evidence
23 as 5A and 5B. Is that chair located in this photograph?

24 A Yes. I believe it was this chair right here, the one
25 that we actually grabbed and brought up.

KYLE CUMMINGS - DIRECT

1 Q And is it located in that photograph as well?

2 A Yes.

3 Q So you've told the jury, Mr. Williams got out of the
4 car and went and sat in that chair; is that correct?

5 A When he get out of the vehicle we assisted him to the
6 chair.

7 Q When you say we, who was with you?

8 A The first responding units to the scene. I was the
9 first one on the scene, Sergeant Jonathan Carrington and
10 Deputy Jason Newton also responded and arrived shortly
11 after I did there.

12 Q Did an ambulance come eventually?

13 A That is correct.

14 Q And at some point in time did they move Mr. Williams
15 from the chair to the ambulance?

16 A They did.

17 Q Did Mr. Williams get up and do that himself or did
18 they have to carry him, or what happened?

19 A I don't know the manner of how he got onto the
20 stretcher. Once EMS started to triage Mr. Williams I
21 started performing other duties such as ensuring crime
22 scene tape was in place and make sure we had containment
23 of the crime scene.

24 Q And were there other people on the scene besides the
25 police officers?

KYLE CUMMINGS - DIRECT

- 1 A Police, fire and EMS is all I recall seeing at the
2 time. There were people in the area, I mean people were
3 outside, but as far as being able to pinpoint exact
4 proximity to where I was it was kind of difficult with the
5 people out and about.
- 6 Q And did you know Odell Williams?
- 7 A I did.
- 8 Q If you'll move that microphone down to your mouth a
9 little bit. You did know him?
- 10 A I did.
- 11 Q At the time of this incident did you know that was
12 him?
- 13 A Not as the incident was unfolding, it took a little
14 bit before I actually realized it was Odell Williams. I
15 didn't instantaneously recognize him as being Odell.
- 16 Q Okay. Do you remember what time the call came to you
17 and what time you responded?
- 18 A I don't remember the exact time it came in, it was
19 early at night.
- 20 Q Was it dark outside or light?
- 21 A It was dark outside.
- 22 Q I'm going to show you this document. Do you know what
23 this is?
- 24 A This is the incident report that I typed up.
- 25 Q All right. Looking at that, can you tell exactly what

KYLE CUMMINGS - DIRECT

1 time you got a call and what time you responded?

2 A Yes, ma'am. I was dispatched at 20:19 hours, which
3 is 8:19 p.m., I arrived on scene at 8:20, or 20:20 hours.

4 Q So it was around 8:20 at night that this all happened.

5 Okay. You said you secured the crime scene and put the
6 tape up, and once EMS came did you have anymore contact
7 with Mr. Williams?

8 A I did not. Once EMS start treating him I did not
9 have anymore contact with him.

10 Q And did you have any -- did you make any traffic stops
11 or do anything else as a result during the course of the
12 investigation of this case?

13 A I did. Once our command staff and our investigators
14 started to arrive on scene we were BOLO'd to be on the
15 lookout for a white in colored GMC Yukon sport utility
16 vehicle. At that point in time it is unsure what kind of
17 connection the Yukon had, however it was sought as
18 being -- as could have some interest in the case. I
19 located the vehicle on Saluda Street close to the J. A,
20 Cochran Bypass, which is still inside of Chester County
21 which was my jurisdiction at the time. I made a traffic
22 stop on the vehicle, I identified Rico (phonetically)
23 Jackson as the operator of the vehicle. Upon further
24 investigation of the vehicle there was blood on the
25 passenger's side door of the GMC Yukon.

KYLE CUMMINGS - CROSS

1 Q What did you do when you saw the blood?

2 A When I saw the blood I contacted our investigators,
3 Captain Perry and Investigator Taffe responded and took a
4 swab of the blood that was actually on the vehicle.

5 Q And beyond that did you collect any evidence in this
6 case?

7 A No, I did not.

8 Q Did you have any further involvement?

9 A No.

10 MS. HALL: I don't have anything further. Please
11 answer any questions Mr. Frick may have.

12 CROSS EXAMINATION

13 BY MR. FRICK:

14 Q Lieutenant, I think you were working patrol on
15 November 4th of 2014?

16 A That's correct, sir.

17 Q Before you got the shots fired call, were you -- what
18 were you doing?

19 A I was on a traffic stop actually. I was just
20 clearing up the traffic stop when the call came out.

21 Q Where was that traffic stop?

22 A On Saluda Street.

23 Q Do you know about where you were on Saluda Street,
24 landmark or --

25 A I was close to the intersection of First Street, I

KYLE CUMMINGS - CROSS

1 was in close proximity, the exact distances is hard to
2 determine.

3 Q Okay. Not trying to get into details of the traffic
4 stop, but was it a long stop? Were you there for awhile or
5 was it is quick stop?

6 A It was routine. There was nothing out of the
7 ordinary with it, I would say I was on a traffic stop no
8 longer than ten minutes total.

9 Q And was it as you were clearing up from that?

10 A That's correct.

11 Q Okay. And it comes over the radio?

12 A It does.

13 Q And the call is shots fired.

14 A I'm trying to remember exactly how the call came out.
15 I don't want to say improperly how the call was given,
16 however I do recall that it was shots fired and I was told
17 there were vehicles involved, but exact specifics of what
18 was said to me is --

19 Q That's fine, I certainly understand.

20 A I don't recall the information.

21 Q Okay. About how far was it from where you were
22 clearing up on the traffic stop to where this call was?

23 A I would say no more than maybe a mile at best.

24 Q So you were the very first responding officer on the
25 scene?

KYLE CUMMINGS - CROSS

- 1 A I was.
- 2 Q Okay. Were there any other people on the scene when
- 3 you got there, civilian or otherwise?
- 4 A I believe when I pulled up I didn't see anyone else
- 5 around the actual vehicle. As I told Ms. Hall, there
- 6 were -- I do believe there were people out and about, I
- 7 think there were people in the residence on either side
- 8 watching and wondering what happened, but I don't believe
- 9 there was anyone else around the actual Cadillac when I
- 10 arrived on scene.
- 11 Q Okay. When you got there was Mr. Williams still in
- 12 the car?
- 13 A He was.
- 14 Q Okay. And you said at some point he exited the car.
- 15 A He did.
- 16 Q Is that because you asked him to?
- 17 A No, I did not. I wanted him to stay inside the
- 18 vehicle.
- 19 Q Why did you want him to stay inside?
- 20 A Due to the extent of his injury I didn't want him to
- 21 cause any further injury to himself by moving. I'm not a
- 22 medical trained professional so I don't want to -- but I
- 23 do enough to not want to cause any further damage
- 24 especially an injury to the face, I don't know what
- 25 secondary injuries are present, so --

KYLE CUMMINGS - CROSS

1 Q But he did not remain.

2 A No.

3 Q Did you ask him to remain?

4 A I asked him to stay in the vehicle.

5 Q Did you try to keep him in the vehicle?

6 A No, that's one thing I didn't do. I did not attempt
7 to restrain Mr. Williams -- I don't know what his mindset
8 was at the current time and I don't want to have to
9 struggle with him, I don't want to cause any further
10 injury to Mr. Williams, you have to kind of weigh your
11 options. Is he able to get out of the vehicle? We sat
12 him down on the chair, what secondary injury would we
13 cause by trying to physically restrain him, I wasn't going
14 to take a chance on that, sir.

15 Q I understand. Did you call the paramedics or had they
16 been called by somebody else, or do you recall?

17 A Somebody called EMS. It may have been me because I
18 was with Odell Williams, however I'm not going to say
19 definitively it was without having the CAD sheet in front
20 of me, but EMS was called, though.

21 Q At that time y'all had no other information then what
22 you had about this car crashed into this house, correct?

23 A Right. As far as suspect information I did not have.
24 I believe I was told about a gray vehicle but that kind of
25 paints a broad spectrum of a gray vehicle.

KYLE CUMMINGS - CROSS

1 Q Okay. Did you conduct any search of the Cadillac or
2 any of the area?

3 A No.

4 Q Did someone else come out and do that then?

5 A Yeah. Our investigators and their team actually did
6 the searching and things of that nature, that was outside
7 the scope of my responsibility at that point.

8 Q Give me one second, Lieutenant Cummings, I may be
9 done.

10 (Break in proceedings.)

11 MR. FRICK: Thank you, sir, that's all of the
12 questions I have.

13 REDIRECT EXAMINATION

14 BY MS. HALL:

15 Q Just briefly two quick things. When Mr. Williams got
16 out of the car and got to the chair, was he settled at that
17 point, could you tell?

18 A Are you asking me was he settled?

19 Q You said he wanted to get out of the car and you
20 didn't want to restrain him and then he went and sat in the
21 chair is what you testified to on direct.

22 A When he sat in the chair he was still excited, in an
23 excited state. He was still trying to communicate but due
24 to his injury he was unable to actually talk, he was still
25 in an excited state.

KYLE CUMMINGS - CROSS

1 Q Okay. And did you ever see a gun or anything in the
2 car or in his hand or anything like that?

3 A I didn't look for a gun in the vehicle. I understand
4 there was one in there, however I didn't look for a gun.
5 My concern was Odell Williams and not so much of what was
6 inside of his vehicle.

7 Q I understand that, but when he got out of the car did
8 he have a gun in his hand or did he have a gun on his
9 person as far as you know?

10 A I didn't see it, but again, like I said, I wasn't
11 looking inside of his car.

12 MS. HALL: Thank you, that's all.

13 MR. FRICK: Nothing further, thank you.

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

15 MS. HALL: State calls Louise Williams.

16 The witness, LOUISE WILLIAMS, was first duly sworn and
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MS. HALL:

20 Q Your name is Louise Williams?

21 A Annie Louise.

22 Q You go by Annie? Is your real name Louise?

23 A That's my real name.

24 Q But you go by Annie.

25 A Louise will do.

LOUISE WILLIAMS - DIRECT

- 1 Q And how do you know the victim in the case, Odell
2 Williams?
- 3 A I didn't understand you.
- 4 Q How do you know the victim in the case, Mr. Williams,
5 Odell Williams?
- 6 A He was my husband..
- 7 Q How long had y'all been married?
- 8 A About 46 or 47 years.
- 9 Q All right. And do you know whether Mr. Williams was
10 left or right-handed?
- 11 A He was right-handed.
- 12 Q And where were you living on November the 4th of 2014?
- 13 A I lived at [REDACTED].
- 14 Q And is Featherstone Road a dead-end?
- 15 A It is.
- 16 Q And how long had you lived there?
- 17 A Forty-seven years probably. 47 years.
- 18 Q And at one point in time had Mr. Williams lived there
19 with you?
- 20 A He did.
- 21 Q At some point in time he moved out and you guys
22 established different residences; is that correct?
- 23 A Correct.
- 24 Q And where did he live?
- 25 A Raleigh Street in the City of Chester.

LOUISE WILLIAMS - DIRECT

1 Q What did your husband do for a living during his life?

2 A He had been a policeman for the City of Chester.

3 Q How long was a policeman for the City of Chester?

4 A About 23 years or 24 years.

5 Q And did he retire from that position or did he resign?

6 A He did, he retired.

7 Q And then once he retired what did you do?

8 A He poured cement.

9 MS. HALL: Ms. Williams, if you could step down and
10 point some stuff out for us.

11 Q Okay. I'm going to show you what has been marked as
12 State's 4. All right. So if you could, just show the jury
13 where your house is.

14 A (Witness complies.)

15 Q So that's your --

16 A This is Featherstone here.

17 Q And that is the dead-end street?

18 A Yeah.

19 Q It --

20 A I'm almost at the end.

21 Q Okay. You're almost at the end. Now, did Mr.

22 Williams, did he have --

23 A You're coming in this way, this is the dead-end here.

24 Q Did he have a business adjacent to your house or was
25 is just the house that you lived in?

LOUISE WILLIAMS - DIRECT

- 1 A It's like next door on the land right next to my
2 house.
- 3 Q Okay. So is it close to -- to get your bearings
4 straight, is it close to -- which way from your house was
5 the --
- 6 A The building?
- 7 Q Yes, ma'am.
- 8 A The business?
- 9 Q Yes, ma'am.
- 10 A Okay. This -- you've got -- this is the dead-end
11 right here, correct?
- 12 Q Yes.
- 13 A I'm almost at the dead-end.
- 14 Q Okay.
- 15 A So the building is right here?
- 16 Q Okay. And where is your house?
- 17 A You got it right here at the blue, so --
- 18 Q If this is Old York Road, is the business closer to
19 York Road than your house or is your house closer to York
20 Road than the business?
- 21 A My house is closer.
- 22 Q Okay. So your house is closer to York Road, and then
23 the business is closer to the dead-end; is that correct?
- 24 A Well, the house -- my house and the business is about
25 the same from York Road, is that what you're saying?

LOUISE WILLIAMS - DIRECT

1 Q Yes, ma'am. But if I was coming to York Road to go to
2 your house, would I pass the business on the way?

3 A Yeah. You would get to the business before you got
4 to my house.

5 Q Perfect, thank you very much. Okay. If you can just
6 go ahead and have a seat then back up here. Now, I want to
7 talk about November the 4th of 2014, okay? You said you
8 had lived in that neighborhood for 40 something years,
9 right?

10 A Correct.

11 Q And were you familiar with the people who lived on
12 your street?

13 A My street?

14 Q Yes, ma'am.

15 A Some of them. New people moving in, but some of
16 them, yeah, I guess I'm familiar with them.

17 Q All right. On November the 4th of 2014 sometime that
18 night, did you go outside and see something that was a
19 little bit odd to you?

20 A Well, yes.

21 Q What were you doing outside?

22 A Looking in the trunk of my car for something, I went
23 out to get a newspaper or something from the trunk.

24 Q And did you hear anything weird or see anything weird
25 at that time?

LOUISE WILLIAMS - DIRECT

- 1 A Well, I just thought I heard a door close or -- yeah,
2 something like a door closing.
- 3 Q All right. At that time was it dark outside?
- 4 A Yes, it was, it was dark.
- 5 Q And did you think anything odd of it at the time?
- 6 A No. Because I looked and I didn't see anything, so,
7 you know.
- 8 Q Did you go back inside?
- 9 A Yeah, I went back in my house.
- 10 Q At some point a little bit later did you leave your
11 house?
- 12 A I did.
- 13 Q Where were you going?
- 14 A My daughter and my granddaughter was going to
15 Wal-Mart, they told me they was getting ready to go to
16 Wal-Mart so I said I was going with them.
- 17 Q And did you get in the car with them?
- 18 A I did.
- 19 Q Where were you sitting in the car?
- 20 A I was sitting in my daughter's car behind her, behind
21 the driver.
- 22 Q And then you said your granddaughter was with you,
23 where was she sitting?
- 24 A Ashley was in the front with her mother.
- 25 Q Okay. And which way did y'all go?

LOUISE WILLIAMS - DIRECT

1 A We backed out of the driveway and went toward York
2 Road.

3 Q All right. And did you see anything at that time that
4 made you wonder what was going on?

5 A Well, it was a car parked right at the gate there at
6 Williams -- it's right there at Williams Concrete Road, it
7 was a truck parked there.

8 Q Which way was the truck facing?

9 A It was parked the same way toward York Road as we
10 were going.

11 Q And could you see anybody in the truck?

12 A No, I didn't see anyone in the truck.

13 Q Were there any lights on in the truck?

14 A Wasn't any lights on.

15 Q Okay. And so what were you thinking and what did you
16 do?

17 A Well, I'm saying I knew it was odd, a truck sitting
18 parked right there at that time of night. And so
19 people -- Odell had been having people stealing stuff from
20 down there at the business so I decided to call him.

21 Q Okay. And did you get him on the phone?

22 A Yeah, me or my granddaughter one got him. She passed
23 me the phone and I talked to him and I told him that there
24 was a truck parked there, and he said he would come check
25 it out.

LOUISE WILLIAMS - DIRECT

1 Q And then what did you do after -- did you see him at
2 any point in time?

3 A Well, we cruised on up the road and we slowed up and
4 then we stopped, I told my daughter to stop before we got
5 to the end of the road.

6 Q Okay.

7 A We stopped.

8 Q Did y'all pull over?

9 A Yes. You know, we just pulled over, stayed in the
10 lane and waited.

11 Q Were you waiting for Odell to come?

12 A Well, yeah, maybe. We were just seeing -- the
13 granddaughter was seeing how long it would take him to get
14 there, we just pulled over and was waiting, I guess, we
15 were waiting.

16 Q What was the next thing that happened or the next
17 thing that you saw?

18 A Well, I talked to him on the phone as I said and told
19 him what it was. And the truck was coming out kind of
20 right before Odell got there but then the truck was
21 sitting there at the end of the road heading out to York
22 Road and then Odell come in, Odell was coming but he had
23 to wait to the traffic was coming and he had to wait until
24 he was clear to come in, and they went out and then he
25 come in.

LOUISE WILLIAMS - DIRECT

1 Q Okay. Did you have any communication with him at that
2 time?

3 A Well, we told him that that was the truck.

4 Q So the truck that -- you said you were pulled over and
5 the truck passes around you, and that was the same truck
6 that you had seen sitting on the road with the lights off?

7 A Correct.

8 Q And you told Odell this, right?

9 A Yeah. He kind of had his window down as he was
10 coming in and we told him that that was the truck..

11 Q Did you -- could you see anybody in the truck?

12 A I couldn't even tell how many people was in it, I
13 couldn't.

14 Q When you pulled out did you follow Odell or did you
15 follow the truck as you were going to Wal-Mart?

16 A We made a left turn down York Road to go toward York
17 Road the way Odell went and the way the truck went. But
18 when we got to the light I think we got caught and we was
19 speculating which way he went or whatever, but we didn't
20 ever see him or see the truck or anything.

21 Q And did y'all go onto Wal-mart?

22 A Yes. We went on down York Road and turned on Broad
23 Street and we went on to Wal-Mart.

24 Q Okay. At some point in time did you try to call Odell
25 again?

LOUISE WILLIAMS - DIRECT

- 1 A Yeah, later on we tried to call.
- 2 Q Did you ever talk to him again?
- 3 A No, not after we talked to him about the truck being
4 up there and he come, no, I didn't. We didn't talk to him
5 anymore, no.
- 6 Q At some point in time that night did you get word that
7 something had happened?
- 8 A Yeah, we were in Wal-Mart.
- 9 Q And what happened?
- 10 A And someone called my granddaughter, Ashley, on her
11 phone and told her that they heard Odell got shot.
- 12 Q What did you do? What did you do?
- 13 A Well, I had to console my daughter, Elaina, and
14 Ashley both, I had to hold them together. And then we
15 left out of Wal-Mart and got in her car, and by that time
16 somebody was calling, but then I thought to call a
17 policeman I knew. Because when the call came in to us
18 that he had got shot, she said that he was in Rock Hill
19 and, you know, I'm not thinking then, and the
20 granddaughter said she know he hadn't got to Rock Hill
21 that quick. But anyway, that's what -- when we got the
22 word that's what she said.
- 23 Q And you mean she, is that your granddaughter you're
24 talking about?
- 25 A Ashley.

LOUISE WILLIAMS - DIRECT

1 Q And you said that you had thought about a policeman
2 you knew?

3 A Yes.

4 Q Who is that policeman?

5 A Burly McDaniel, detective.

6 Q And did you ever make any contact with him that night?

7 A Yes, I did. My daughter, I believe -- I drove from
8 Wal-Mart to the hospital. He said, yes, I needed -- we
9 needed to get to the hospital, that's what Burly said.

10 Q Who said --

11 A Burly McDaniel said.

12 Q Did y'all talk to him on the phone or in person?

13 A On the phone.

14 Q And did you go to the hospital?

15 A Yes, we went on to the hospital. When I'm talking to
16 him after we got to the car I went on to the hospital.

17 Q And were you able -- who did you meet at the hospital
18 and who did you see when you got there?

19 A A waiting room of people, nobody in authority come
20 told me anything right then.

21 Q All right. And did somebody eventually come talk to
22 you?

23 A Yes. We had a lot of black people running around
24 talking about "You can't see him, you can't see him." But
25 somebody in authority come along, I believe it was the

LOUISE WILLIAMS - DIRECT

1 coroner, it was.

2 Q And you said people were running around, were they
3 talking to you saying you can't see him?

4 A Yes, uh-huh.

5 Q When the coroner comes and talks to you, did he tell
6 you that Odell had died?

7 A Yes, he did.

8 MS. HALL: I don't have anything further for you, Ms.
9 Williams. If you would, answer some questions from Mr.
10 Frick.

11 CROSS EXAMINATION

12 BY MR. FRICK:

13 Q Afternoon, Ms. Williams. You said you and Mr.
14 Williams had not lived together for some time?

15 A No, I didn't say that, did I?

16 Q You said y'all were separated, right?

17 A I didn't say that either.

18 Q Well, you lived on Featherstone and he lived on
19 Brawley, right?

20 A Yeah. Just a different house situation, yes, we did.

21 Q Okay. Do you remember telling law enforcement that
22 y'all had been separated for 22 years?

23 A Yes, might have. It was a question they asked or
24 something and you've got to say that.

25 Q Well, I'm going to ask you if you can take a look at

LOUISE WILLIAMS - CROSS

1 that.

2 A Yeah.

3 Q Do you recognize that?

4 A Yes.

5 Q Is that your statement?

6 A Yes.

7 Q Is that your signature on that statement?

8 A Yes, it is.

9 Q Does it say on there that y'all had been separated 22
10 years?

11 A Yeah, something. I don't see it right now, but --

12 Q I think it's up near the top there.

13 A Uh-huh. Okay, yeah, here we go. Uh-huh.

14 Q That's fine, I just wanted to establish you'd given a
15 statement. All right. You said he had been with law
16 enforcement some 20 years as well, right?

17 A Yes. You probably know that better than me,
18 because --

19 Q Well, you're the one I'm asking the questions. Was he
20 also on city council?

21 A Yes, he was.

22 Q Do you know about how long he'd been on city council?

23 A I don't know.

24 Q If I would have said it would have been since about
25 1997 would that sound right, or do you know?

LOUISE WILLIAMS - CROSS

- 1 A I know. But yes, okay, yes.
- 2 Q All right.
- 3 A He done did about three or four terms, so --
- 4 Q Okay. The property that he had over on Featherstone,
- 5 what did he keep over there, some equipment and supplies
- 6 and stuff?
- 7 A Yes.
- 8 Q That's kind of -- can you see it from your house?
- 9 A Yes. The trees have grown up some now, but yes, I
- 10 can see some of it.
- 11 Q When you first went out to your car that night I
- 12 believe you said you had heard some kind of noise; is that
- 13 correct?
- 14 A Yes.
- 15 Q And then you didn't really -- you didn't notice
- 16 anything at that time; is that correct?
- 17 A No, I didn't. I looked up toward the Featherstone
- 18 Road toward York Road, I didn't see anything --
- 19 Q Okay.
- 20 A -- abnormal.
- 21 Q Okay. At what point did you notice a truck?
- 22 A When we got in the car to go to Wal-Mart.
- 23 Q Okay. So before then nothing drew your attention to
- 24 this truck.
- 25 A No.

LOUISE WILLIAMS - CROSS

1 Q And did you see anybody get in or out of this truck at
2 anytime?

3 A I did not.

4 Q Okay. Obviously you see the truck go down York Road
5 at some point, did that happen before or after y'all had
6 passed it?

7 A When it was going off of Featherstone Road?

8 Q Well, moving at all is what I mean while you're on
9 Featherstone. Did you see it moving Wiley it was on
10 Featherstone?

11 A Yeah, it come up the road past us.

12 Q At that point in time had you or anybody in your car
13 already called Odell?

14 A Yeah, we had called him when the truck come up. We
15 had called him when we passed by the truck.

16 Q Did anybody in that truck make any threats or comments
17 or do anything threatening towards you or anybody in your
18 car?

19 A No, they didn't.

20 Q Do you recall approximately, because I know you didn't
21 time it, do you recall how long it was from when y'all
22 called Odell to when he got to Featherstone?

23 A I don't know, six or seven minutes maybe.

24 Q And y'all were sitting in your car on Featherstone
25 just waiting for him to come by, right?

LOUISE WILLIAMS - CROSS

- 1 A Correct.
- 2 Q When he got there, did he know what truck to look for
3 or did y'all have to draw his attention to it?
- 4 A It wasn't like we drew no attention to it. When he
5 come in, you know, the truck was going out and he come in
6 and we told him that the truck was going out after he come
7 in and when he come in.
- 8 Q Okay. Do you recall telling law enforcement that
9 y'all started pointing at the truck saying "That's it?"
- 10 A I said that?
- 11 Q Yes, ma'am. I am asking, do you recall?
- 12 A Okay. I pointed then.
- 13 Q I mean, do you dispute that? I'm not trying to
14 testify for you, I'm just trying to ask questions, Ms.
15 Williams.
- 16 A Okay. All right then. There was three people in the
17 car, but anyway, yeah, I pointed.
- 18 Q Well, if it wasn't you was it somebody in the car that
19 pointed?
- 20 A No, I pointed.
- 21 Q You're the one that pointed. Okay, very good.
22 Anybody flash lights, anything like that?
- 23 A No, not to my knowledge.
- 24 Q Okay. Did you or anybody else in the car have a
25 conversation with Odell about what y'all had seen when he

LOUISE WILLIAMS - CROSS

1 pulled up? He pulled up to y'all, right?

2 A Yeah.

3 Q Did y'all communicate?

4 A No. I would say we talked to him, we told him that
5 was the truck and he said okay, and then went on and
6 pulled back off.

7 Q By the time he'd done that, was the truck still on
8 Featherstone or had it done gone on York?

9 A It was on York Road then.

10 Q Okay. On Featherstone -- you didn't follow the truck
11 or Odell when it turned onto York, is that correct, or did
12 you?

13 A No, we didn't. We were still right there on
14 Featherstone.

15 Q Did you see any interaction between Mr. Williams and
16 this truck on Featherstone?

17 A No.

18 Q Do you know whether Odell regularly carried a gun?

19 A Do I know that? I will say what do you mean by
20 regularly?

21 Q I mean, did he carry a gun on his person or in the car
22 normally? Would it be unusual?

23 A Well, sometimes. I wasn't with him all of the time
24 so I don't know that. He carried a gun sometimes.

25 Q Okay. You don't know what kind of gun he would have

LOUISE WILLIAMS - CROSS

1 carried, do you?

2 A No, I sure don't.

3 Q How long were y'all together? 40 something years,
4 right?

5 A Yes.

6 Q Would you say he had a temper?

7 MS. HALL: Objection, Your Honor, he's asking her to
8 testify regarding --

9 MR. FRICK: I'm asking her opinion under 405, she can
10 do that.

11 THE COURT: Overruled. Go ahead.

12 Q Would you say he had a temper?

13 A What is a temper?

14 Q Yes or no, Ms. Williams.

15 A No.

16 MR. FRICK: Okay. Thank you, ma'am.

17 REDIRECT EXAMINATION

18 BY MS. HALL:

19 Q Just a couple of things real quick, Ms. Williams.
20 Were you in pretty regular communication with Mr. Williams?
21 Even though you guys weren't living together, did y'all
22 talk fairly regularly?

23 A Yeah, we talked.

24 Q And you pointed at the truck just to show him "that's
25 what we called you about," right?

LOUISE WILLIAMS - REDIRECT

1 A Yeah, I guess you could say that. We was in the car,
2 it was dark, but it ain't like I raised up out of the car
3 out of the window pointing at the truck.

4 Q But you were just trying to convey to him that that
5 was the vehicle you had called him about, right?

6 A Uh-huh.

7 Q All right. And I think you stated earlier on
8 direct -- you stated there's your house and then there's
9 this shop and then there was a gate at the shop, right?
10 And it was like down into like a little driveway? I think
11 you told Mr. Frick that there was a building down there and
12 some equipment. Where was the truck parked in relation to
13 the gate?

14 A Just say this is the gate and the truck was right
15 here.

16 Q So it was parked at the gate?

17 A Yeah.

18 MS. HALL: All right. Thank you, I don't have
19 anything else.

20 THE COURT: Anything else?

21 MR. FRICK: No, sir, thank you.

22 MS. HALL: State calls Lana Akin.

23 The witness, LANA AKIN, was first duly sworn and
24 testified as follows:

25 DIRECT EXAMINATION

LOUISE WILLIAMS - REDIRECT

- 1 BY MS. HALL:
- 2 Q Your name is Lana Williams Akin; is that correct?
- 3 A Yes.
- 4 Q And are you the daughter of Odell Williams and Annie
- 5 Williams?
- 6 A Yes.
- 7 Q All right. And on November 4th of 2014 were you at
- 8 your mama's house on Featherstone Road?
- 9 A Yes.
- 10 Q And you heard her testimony just now, right?
- 11 A Yes.
- 12 Q And were you the person who was driving the car when
- 13 you guys left to go to Wal-Mart?
- 14 A Yes.
- 15 Q And your daughter, Ashley, was in the car with you; is
- 16 that right?
- 17 A Yes.
- 18 Q How old was Ashley at the time?
- 19 A Seventeen.
- 20 Q Okay. And you heard -- when you -- you heard your
- 21 mom's testimony. Did you see the truck parked on the
- 22 street as you guys were leaving to go to Wal-Mart?
- 23 A It was not parked on the street, it was parked on my
- 24 property.
- 25 Q And where in relation to your dad's, the entrance to

LANA AKIN - DIRECT

1 his business, was the truck parked?

2 A In front of the gate.

3 Q And do you remember if you were the first person to
4 notice it or who in the car was the first person to notice
5 it?

6 A I would say all of us.

7 Q And did you recognize the truck?

8 A No, I did not.

9 Q And did you grow up in that house?

10 A I did.

11 Q Did y'all call your dad to come check out a truck?

12 A Yes, I did.

13 Q Why did you call him?

14 A He's always told us to call him, it's also his
15 property so he would like to know the things that are
16 going on on his property. He's a ex-police officer so he
17 would know if we needed to call the police or not.

18 Q Okay. Do you remember what color the truck was?

19 A It was a tan Ford four door Ram truck. I'm sorry,
20 Dodge Ram truck, four door.

21 Q And were you able to tell how many people were in the
22 truck when they passed by?

23 A No, it was too dark.

24 Q Did y'all say anything else to your dad besides what
25 you heard your mom testify to just to indicate to him that

LANA AKIN - DIRECT

- 1 that was the truck that you had called him about?
- 2 A No. We said hey and that that was the truck. I
- 3 think she had already communicated to him so he was
- 4 already aware of what he was supposed to be coming to look
- 5 for. But it was just at the top of the road as he was
- 6 coming in and they had to wait for the traffic to go by,
- 7 and as they did he drove back -- he pulled off also and,
- 8 you know, followed them.
- 9 Q Okay. And how long had you been at your mom's house
- 10 that day?
- 11 A All day.
- 12 Q Had you -- where do you live or did you live at the
- 13 time, what town?
- 14 A Rock Hill.
- 15 Q And had you stayed at the house all day or had you
- 16 come in and out?
- 17 A I was there all day, early that morning.
- 18 Q At did you have any indication of how long that truck
- 19 had been there? Was it there when you got to the house?
- 20 A Okay. No. I did come in earlier that evening and
- 21 the truck was not there.
- 22 Q Where you had been earlier in the evening?
- 23 A Probably to the store or my grandmother's house, I'm
- 24 not really sure at that time.
- 25 Q And the truck wasn't there when you came back at that

LANA AKIN - DIRECT

1 point in time?

2 A No.

3 Q Do you recall how long -- about what time that was?

4 A What time what?

5 Q That you had gone to your grandmother's or to the
6 store or whatever, what time had you come back?

7 A During the day. It was still light out so the
8 vehicle was not there.

9 Q Okay.

10 MS. HALL: Thank you. Please answer any questions of
11 Mr. Frick.

12 CROSS EXAMINATION

13 BY MR. FRICK:

14 Q Ms. Akin, you were driving your mom's car or the car
15 that was on Featherstone? I don't know whose car it was.

16 A Yes.

17 Q Was it your car?

18 A Yes.

19 Q Who called your dad?

20 A My daughter and my mom, two calls were made.

21 Q You didn't call, you were driving.

22 A I was driving.

23 Q Where were y'all going?

24 A Wal-Mart.

25 Q When you get out of the house to go get in the car, do

LANA AKIN - CROSS

1 you notice anything?

2 A No, I do not.

3 Q Did you hear anything?

4 A No.

5 Q Okay. You just noticed the truck when you drive by,
6 right?

7 A Yes. You couldn't see it, you couldn't see it by
8 just driving at that particular time, it was off the road
9 parked in front of the gate.

10 Q Okay.

11 A And the gate is not on the road, it's off the road.

12 Q Okay. But you did see it.

13 A That's correct.

14 Q Okay. And nothing drew your attention to it so how
15 did you see it then?

16 A I could see it. I know -- I'm looking to see what's
17 on my property that shouldn't be, and there is a truck
18 that's there that should not be. It wasn't mine it,
19 wasn't any of my family members, so it was very strange
20 and odd.

21 Q Strange to see this truck parked there.

22 A Vehicle, correct.

23 Q Never seen a truck parked there before.

24 A No.

25 Q Never.

LANA AKIN - CROSS

1 A No.

2 Q Not the whole time that you've been going on
3 Featherstone?

4 A No, I've never seen the truck.

5 Q Not that particular truck, any truck.

6 A Yeah, any truck that I could identify the vehicles.

7 Q This particular one you didn't know?

8 A That's correct.

9 Q Did you see anybody go to it or come from it?

10 A No, I did not.

11 Q Did you see anything that appeared to be loaded in the
12 back of the truck like they were stealing something from
13 you?

14 A I did not.

15 Q Anybody make any threats, threatening comments towards
16 you or anybody in your vehicle?

17 A No, they did not.

18 Q Did y'all -- I'll say y'all -- did y'all -- because
19 y'all were all together, did y'all wait on Featherstone for
20 your dad to show up?

21 A Yes.

22 Q This truck pass you?

23 A Correct.

24 Q At that time did anybody roll down the window and say
25 anything to you?

LANA AKIN - CROSS

- 1 A No.
- 2 Q Nothing? Okay. Did they pass your dad as he was
3 coming onto Featherstone?
- 4 A Yes.
- 5 Q They did? Okay. There was no interaction between
6 them?
- 7 A No.
- 8 Q In fact, your dad came down to where y'all were
9 parked, right?
- 10 A We were just before the stop sign.
- 11 Q Okay.
- 12 A Uh-huh.
- 13 Q And then y'all communicated?
- 14 A Correct.
- 15 Q Without saying what anybody said, did y'all give him
16 some idea of that was the vehicle or --
- 17 A Yes.
- 18 Q Do you think he would have known if you wouldn't have
19 told him?
- 20 A No. I believe they communicated that earlier but we
21 also just said, you know, what we saw again.
- 22 Q You're the one on the stand now, I'm asking you, okay?
23 You said a couple of times this was your property. Is it
24 your property or your dad's property?
- 25 A It's the family's property so I am a part of him so

LANA AKIN - CROSS

1 it's therefore mine.

2 Q Okay. So it being your property you didn't feel it
3 necessary to call law enforcement yourself.

4 A I did not. Well, yes, I did. My dad is an ex-police
5 officer so therefore he has always told us to call him if
6 we see anything that is suspicious because he is also the
7 property owner.

8 Q Yes, ma'am.

9 A So anytime that you are a police officer -- a retired
10 police officer, you're never going to not continue to do
11 that, you're always suspicious of your surroundings and
12 everything.

13 Q Sure. But he wasn't a cop with the City of Chester at
14 that time, was he?

15 A Well, retired, no.

16 Q Ms. Akin, give me one second, I may be finished asking
17 you questions.

18 (Break in proceedings.)

19 Q One more kind of a quick question, Ms. Akin. The gate
20 that you're talking about on the property, how off the road
21 is it do you guestimate?

22 A It's not on the road.

23 Q How far off the road is it, Ms. Akin?

24 A I don't know.

25 Q Is it a half a mile?

LANA AKIN - CROSS

1 A No, it's not that far, no, it's not.

2 Q Is it 10 feet?

3 A I'm not sure.

4 Q But can you see --

5 A I could not see the truck from the house until I
6 drove up and looked on the property and it was parked at
7 the gate.

8 Q Okay. All right. So it's still visible from the road
9 then.

10 A Oh, people can see it but it's off the road, the gate
11 is off the road.

12 Q I got you. Is this a chain linked fence or it's
13 just --

14 A No, it's not chain.

15 Q -- bar gates or something like that?

16 A It's a gate.

17 MR. FRICK: That's all of the questions I have, thank
18 you, ma'am.

19 REDIRECT EXAMINATION

20 BY MS. HALL:

21 Q I'm just going to clear that up real quick. If you
22 had tried to pull over -- okay. So you're saying that the
23 truck is parked and pulled off the road by the gate; is
24 that right?

25 A Uh-huh.

LANA AKIN - REDIRECT

1 Q How many cars could you have fit on the grass before
2 you got to the truck?

3 A Probably one or two.

4 MS. HALL: Thank you, I don't have anything else.

5 MR. FRICK: Nothing further, Your Honor, thank you.

6 THE COURT: You can step down, thank you.

7 MR. MAXWELL: State calls Jason Binnall.

8 The witness, JASON BINNALL, was first duly sworn and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MAXWELL:

12 Q State your name for the record.

13 A Jason Binnall.

14 Q And spell your last name, Mr. Binnall.

15 A B-i-n-n-a-l-l.

16 Q Mr. Binnall, where are you from?

17 A I'm from Chester.

18 Q How long have you lived in Chester?

19 A About six and a half years, I'm originally from
20 Boston.

21 Q And were you living in Chester in November of 2014?

22 A Yes, sir.

23 Q What kind of vehicle did you own at the time?

24 A It was a gold Dodge Ram 1500 2004, it was an extended
25 cab.

JASON BINNALL - DIRECT

- 1 Q I'm going to show you what has been marked State's
2 Exhibits 1A, B, C. Does that appear to be your truck?
- 3 A It is.
- 4 Q All three of those pictures?
- 5 A Yes, sir.
- 6 Q On November the 4th of 2014, did you allow someone
7 else access to your truck?
- 8 A I did.
- 9 Q And who was that person?
- 10 A At the time I knew him as Trev.
- 11 Q Is that a nickname?
- 12 A Yes.
- 13 Q And when you say Trev, T-r-e-v?
- 14 A Yes, sir.
- 15 Q Was anybody with Trev when you gave him the car?
- 16 A It was two or three other people. I just dropped
17 myself off and got the tools out of my truck when we got
18 to the house and he was the only one I spoke to.
- 19 Q And did he drive off in your truck?
- 20 A Yes, sir.
- 21 Q Do you know what time of day that was?
- 22 A It was just getting dark, I just had gotten off work,
23 probably 5:30 or 6:00, so it was probably around 6:30 or
24 7:30, somewhere around in there.
- 25 Q When you gave Trev your truck, were you familiar with

JASON BINNALL - DIRECT

1 any defects or damage done to either the driver's side area
2 of the bed of the truck?

3 A I mean there was some scratches and stuff, but
4 nothing crazy. I mean, I took pretty good care of it.

5 Q I'll show you what has been marked for identification
6 purposes as State's 2A, B and C. Are those pictures of the
7 I guess the top side of the bed on the driver's side of
8 your truck? Do those pictures depict some damage to your
9 truck?

10 A Absolutely.

11 Q Now, when you provided your truck to Trev on November
12 4th of 2014, was that damage on your truck at that point in
13 time?

14 A Absolutely not.

15 Q When it left your possession?

16 A Absolutely not.

17 Q Have you ever seen your truck in person with that
18 damage?

19 A Yes, sir, I have. They allowed me to go and take
20 some stuff out of my truck, my personal belongings a few
21 weeks ago and I saw that there, and it definitely was not
22 there.

23 Q That was after all of this incident happened.

24 A Yes, sir.

25 Q Do you remember talking to investigators either late

JASON BINNALL - DIRECT

- 1 on November 4th or perhaps after midnight on November 5th
2 of 2014?
- 3 A Absolutely.
- 4 Q Did they come to you and talk to you?
- 5 A Yes, sir.
- 6 Q Do you remember who you met with?
- 7 A I believe and -- I thought it was Sheriff Underwood
8 that was at my front door but it was Chris Reynolds, and I
9 forget the other officer's name, but Chris Reynolds I knew
10 well.
- 11 Q Did they have some questions for you about your truck?
- 12 A Absolutely, yes, sir.
- 13 Q And did you provide the same information you provided
14 today?
- 15 A Yes, sir.
- 16 Q Did you ever look -- did you provide the information
17 involving Trev about him taking your truck that day?
- 18 A Yes, sir.
- 19 Q Did you ever look at any photo lineups, did they
20 provide any photo lineups to you?
- 21 A I did.
- 22 Q Did you pick someone who you identified as Trev out of
23 a photo lineup?
- 24 A Absolutely.
- 25 Q Do you know what his real name is?

JASON BINNALL - DIRECT

1 A Quinton.

2 Q Do you know what his last name is?

3 A Quinton, I think.

4 Q Quinton McClinton.

5 A It's something, I'm not sure.

6 MR. MAXWELL: Beg the Court's indulgence.

7 (Break in proceedings.)

8 MR. MAXWELL: No further questions.

9 CROSS EXAMINATION

10 BY MR. FRICK:

11 Q Mr. Binnall, do you recognize the guy sitting beside
12 me over there?

13 A I do not.

14 Q Did he come over that night with Trev?

15 A I can't say that he did.

16 Q Okay. All right. Did anybody else come over with
17 Trev that night?

18 A Yes, there was other people in the vehicle. But like
19 I said it was getting dark out when I had picked them up
20 and they were in the back seat and Trev was in the
21 passenger's seat and I have tinted windows. When I got
22 out of the truck to get my tools out of the back I didn't
23 see any faces.

24 Q All right.

25 A And I was driving when I picked them up so I wasn't

JASON BINNALL - CROSS

1 looking at my back seat.

2 Q I've got you. Let me show you, it has got four
3 pictures on it. Do you recognize those pictures?

4 A Yes.

5 Q Is that your truck?

6 A Yes.

7 Q It's probably in better shape than mine, but there are
8 some dents in the bed of the truck; is that correct?

9 A Yes, sir. I'm in construction and I used it for work
10 so it was stuff -- it's a tool box back there and
11 everything else.

12 Q So you did have some dents, scratches and stuff.

13 A Yes, sir.

14 Q Normal wear and tear that you would have in the bed of
15 a truck.

16 A Absolutely.

17 MR. FRICK: Your Honor, at this time I would move this
18 in as Defense 1.

19 THE COURT: Any objection?

20 MS. HALL: No, sir, Your Honor, that's fine.

21 THE COURT: In without objection.

22 (The photos were received as Defendant's 1.)

23 MR. FRICK: Thank you, sir, that's all of the
24 questions I have.

25 MR. MAXWELL: Your Honor, we would ask that this

JENNIFER LOWERY - DIRECT

1 witness be excused.

2 MR. FRICK: No objection.

3 THE COURT: The witness is excused.

4 The witness, JENNIFER LOWERY, was first duly sworn and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MAXWELL:

8 Q Will you state your name for the record?

9 A Jennifer Lowery.

10 Q Ms. Lowery, where are you from?

11 A Chester.

12 Q Have you grown up in Chester?

13 A I have.

14 Q Back in November of 2014 were you living in Chester?

15 A Yes.

16 Q Where exactly were you living?

17 A [REDACTED].

18 Q And on the evening of November the 4th of 2014, were
19 you home at that location?

20 A No, not that evening.

21 Q Did you end up there at some point?

22 A Yes.

23 Q But do you recall what time?

24 A Probably about 9:00 that night.

25 Q Is that when you arrived home?

JENNIFER LOWERY - DIRECT

- 1 A Yes.
- 2 Q Do you know if you went inside or stayed outside?
- 3 A I went inside.
- 4 Q Once you were inside did you hear some things that
- 5 drew your attention?
- 6 A Yes. Some tires screeching maybe like a take off or
- 7 something.
- 8 Q Did that sound appear to be coming from the road that
- 9 goes in front of your house?
- 10 A Yes.
- 11 Q What did you do when you heard the tires screeching?
- 12 A I turned to look out the window but I didn't see
- 13 anything, so I went out the front door and I seen two cars
- 14 coming up but I couldn't tell exactly who was driving or
- 15 nothing of that.
- 16 Q Can you describe the cars?
- 17 A One was a truck, maybe a big sized truck more like a
- 18 Ram or something, and the other one was a long burgundy
- 19 looking vehicle.
- 20 Q Who passed by your house first?
- 21 A The truck.
- 22 Q How far behind was the red burgundy red car?
- 23 A I couldn't give an estimate.
- 24 Q Did you know whose car it was, the red car?
- 25 A I knew it from a family member of someone I was

JENNIFER LOWERY - DIRECT

1 dating and it was -- the car was Odell's.

2 Q Odell Williams?

3 A Yes.

4 Q Did you know whose truck it was?

5 A No.

6 Q And could you see into either one of these cars?

7 A No.

8 Q Other than knowing that Mr. Williams drove that car or
9 a car like it, could you even see him?

10 A No.

11 Q When they passed by your house what would be the next
12 street that they would hit?

13 A To your left it would be Patrick Street.

14 Q And is there a stop sign at Patrick Street, do you
15 recall?

16 A Yes, there is.

17 Q How close are you to Patrick Street, that
18 intersection?

19 A Not sure but it's not far.

20 Q Any estimation of how many houses are between your
21 house and the intersection of Patrick and McClure?

22 A Two.

23 Q Did you see where the cars went after they passed by
24 your house?

25 A No, the road is not visible.

JENNIFER LOWERY - DIRECT

1 Q Did you hear or see anything else after the cars
2 passed by?

3 A After the cars passed by and when I heard them turn
4 off, or it seemed like turned off I heard a gunshot.

5 Q How many gunshots did you hear?

6 A Approximately two.

7 Q Could you tell which direction they came from?

8 A No.

9 Q Did you see anybody shooting a gun?

10 A No.

11 Q Do you recall if you called 911?

12 A No, I did not.

13 Q Is there a reason why you didn't call 911 by just
14 hearing shots?

15 A Because the area I lived in was more common for
16 gunshots and hearing fireworks and stuff in that area.

17 Q And when you went outside and saw the cars pass, do
18 you recall how light it was outside or how dark it was
19 outside?

20 A It was dark.

21 MR. MAXWELL: No further questions.

22 CROSS EXAMINATION

23 BY MR. FRICK:

24 Q You recognized one car but you didn't recognize the
25 other one?

JENNIFER LOWERY - CROSS

1 A Right.

2 Q You said you recognized the burgundy car as Odell.

3 A Yeah..

4 Q Was there anything specific that made you know it was
5 Odell's and it was not just another Cadillac?

6 A I knew his car because of the front of the tag.

7 Q What you mean by that?

8 A I knew the way the tag looked and it had Mandingo
9 (phonetically) on the front.

10 Q I'm going to show you a Defense Exhibit. Is that the
11 tag you're talking about?

12 A Yes.

13 MR. FRICK: Your Honor, at this time I would move it
14 in as Defense Number 2.

15 MR. MAXWELL: Objection as to relevance, Your Honor.

16 MR. FRICK: It's how she identified the car.

17 THE COURT: I'll overrule, it's in.

18 (The photograph was received as Defense 2.)

19 Q And I'm sorry, I know the solicitor just asked you
20 this question, but you said you heard some gunshots.

21 A Yes.

22 Q Whereabouts did they come from, or do you know?

23 A I don't know where they come from.

24 Q But whereabouts were you when you heard them?

25 A I was on the front porch of my house.

JENNIFER LOWERY - CROSS

- 1 Q On McClure Street?
- 2 A Yes.
- 3 Q What's the closest street --
- 4 A Patrick Street.
- 5 Q Did they kind of come from that direction or another
- 6 direction or can you say?
- 7 A There's no other road in the other direction.
- 8 Q The only one over there.
- 9 A Right.
- 10 Q You said in your neighborhood it's not unusual to hear
- 11 gunshots.
- 12 A Right.
- 13 Q You have heard many gunshots.
- 14 A Yes.
- 15 Q Did these gunshots sound unusual?
- 16 A No.
- 17 Q Did they sound like -- and I'm guessing you're not a
- 18 gun expert, am I correct on that?
- 19 A Right.
- 20 Q But in your guesstimation did it sound like a big gun
- 21 or a little gun?
- 22 A I couldn't tell.
- 23 Q But it wasn't unusual.
- 24 A No.
- 25 Q Two shots.

JENNIFER LOWERY - CROSS

1 A Right.

2 Q You're certain of that.

3 A Almost certain.

4 Q Okay. After those gunshots did you hear anymore
5 gunshots?

6 A No.

7 Q You didn't hear anymore?

8 A No.

9 MR. FRICK: Thank you, ma'am, that's all of the
10 questions I have.

11 MR. MAXWELL: No redirect, Your Honor.

12 THE COURT: You may step down.

13 MR. MAXWELL: We would ask that this witness be
14 excused, Your Honor.

15 MR. FRICK: No objection.

16 THE COURT: The witness is excused. Let's take ten
17 minutes and everybody stretch a little bit and a restroom
18 break. The jury may step back.

19 (The jury left the courtroom and a break was taken.)

20 THE COURT: Bring in our jury.

21 (The jury returned to the courtroom.)

22 THE CLERK: Pansy Burns. Ms. Burns, has anybody
23 contacted you about this case or attempted to discuss this
24 case with you up to this point?

25 THE JUROR: No.

JENNIFER LOWERY - CROSS

1 THE CLERK: Hazel Lumpkin. Ms. Lumpkin, has anybody
2 contacted you about this case or attempted to discuss this
3 case with you up to this point?

4 THE JUROR: No.

5 THE CLERK: William Muller. Mr. Muller, has anybody
6 contacted you about this case or tried to discuss this case
7 with you up to this point?

8 THE JUROR: No, ma'am.

9 THE CLERK: Jamilia Davis. Ms. Davis, has anybody
10 contacted you about this case or tried to discuss this case
11 with you up to this point?

12 THE JUROR: No, ma'am.

13 THE CLERK: Lacrishia Sampson. Ms. Sampson, has
14 anybody contacted you about this case or tried to discuss
15 this case with you up to this point?

16 THE JUROR: No, ma'am.

17 THE CLERK: Felicia Durham. Ms. Durham, has anybody
18 contacted you about this case or tried to discuss this case
19 with you up to this point?

20 THE JUROR: No.

21 THE CLERK: Deborah Carolina. Ms. Carolina, has
22 anybody contacted you about this case or tried to discuss
23 this case with you up to this point?

24 THE JUROR: No.

25 THE CLERK: Tiffany Boulware. Ms. Boulware, has

JENNIFER LOWERY - CROSS

1 anybody tried to contact you about this case or discussed
2 this case with you up to this point?

3 THE JUROR: No, ma'am.

4 THE CLERK: Willie Trapp. Mr. Trapp, has anybody
5 contacted you about this case or tried to discuss this case
6 with you up to this point?

7 THE JUROR: No, ma'am.

8 THE CLERK: Shanikkia Roseboro. Ms. Roseboro, has
9 anybody contacted you about this case or tried to discuss
10 this case with you up to this point?

11 THE JUROR: No, ma'am.

12 THE CLERK: Brandon Truesdale. Mr. Truesdale, has
13 anybody contacted you about this case or tried to discuss
14 this case with you up to this point?

15 THE JUROR: No.

16 THE CLERK: Tempestt Pearson. Ms. Pearson, has
17 anybody contacted you about this case or tried to discuss
18 this case with you up to this point?

19 THE JUROR: No, ma'am.

20 THE CLERK: Chameka Bagley. Ms. Bagley, has anybody
21 contacted you about this case or tried to discuss this case
22 with you up to this point?

23 THE JUROR: No.

24 THE CLERK: Rose Murphy. Ms. Murphy, has anybody
25 contacted you about this case or tried to discuss this case

JENNIFER LOWERY - CROSS

1 with you up to this point?

2 THE JUROR: No, ma'am.

3 THE COURT: Okay. Thank you, Madam Clerk. All right,
4 I'm going to issue this warning at this time. Anybody in
5 this courtroom gets within 10 feet of any of these jurors
6 when they're coming or going and any of this court staff
7 catches you at it, I don't believe you're going to
8 understand what's going to happen to you but it's not going
9 to be pleasant. I don't want to hear any further contact
10 whether it is verbal, laughter, eye communication or
11 anything with one of these jurors. Now, I hope I'm clear
12 about that. If you see a juror approaching or leaving this
13 courthouse you best go the other way, all right? Madam
14 Solicitor, call your next witness.

15 MS. HALL: State calls Richard Gray.

16 The witness, RICHARD GRAY, was first duly sworn and
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. MAXWELL:

20 Q Can you state your name for the record?

21 A Richard Gray.

22 Q And Mr. Gray, can you spell your last name?

23 A G-r-a-y.

24 Q And Mr. Gray, where are you from?

25 A Chester.

RICHARD GRAY - DIRECT

1 Q And where do you live in Chester?

2 A The corner of First and Patrick.

3 Q And what is that address there?

4 A [REDACTED]

5 Q The front of your house, which road does it face?

6 A It fronts on First Street. It has -- I think [REDACTED]

7 [REDACTED] and [REDACTED], but I get my mail on First Street.

8 Q And you were on your front porch and looking at First
9 Street, where is Patrick at in relation to that?

10 A Just off to the right.

11 Q And are you on the corner there?

12 A Yes, sir.

13 Q What kind of intersection is it?

14 A It's a T-intersection.

15 Q And do you know which street has a stop sign?

16 A Patrick Street does.

17 Q Do you have a camera system at your house?

18 A Yes, I do.

19 Q Back in November of 2014 was it operational?

20 A Yes.

21 Q Is there a camera on your front porch?

22 A Yes, there is.

23 Q On the night of November 4th or early morning hours of
24 November 5th of 2014, did you come into contact or have
25 some communication with some deputies with the sheriff's

RICHARD GRAY - DIRECT

1 office in Chester?

2 A Yes, I did.

3 Q Did they come to you?

4 A They came to me.

5 Q Is there a reason why they came to you?

6 A Because of the events of the night they wanted to
7 know if my camera system had caught the cars.

8 Q Were the investigators familiar with you and the fact
9 that you may have had a camera system?

10 A Yes.

11 Q Did you look into your system to see if there was
12 anything on there from that evening?

13 A I did with one of the investigators present.

14 Q Did you make a copy or recording of that video?

15 A I made a thumb drive of the data that my camera had
16 and one conversion to a Windows media file.

17 Q Did you provide that to the investigators?

18 A Yes, I did.

19 MR. MAXWELL: Your Honor, we have a disc we would
20 offer in as State's Exhibit 3, which is a recording from
21 Mr. Gray's surveillance system.

22 THE COURT: Any objection?

23 MR. FRICK: Your Honor, defense had an opportunity to
24 review it, no objection.

25 (The disc was received as State's 3.)

RICHARD GRAY - DIRECT

1 THE COURT: You may do so.

2 Q Mr. Gray, I don't know if you can see that TV very
3 well. Is that -- if you need to step off, please do. Is
4 that your front porch on that TV screen?

5 A Yes.

6 Q Is that image from your surveillance system?

7 A Yes.

8 Q Where is that camera pointed out towards?

9 A That is pointed towards the T-intersection. Parallel
10 to the front porch is First Street, and then Patrick
11 street T's into that. If you look past the trash can and
12 Adirondack chair that would be Patrick.

13 Q Just to be clear, out here, that would be First?

14 A Yes.

15 Q And the road coming this direction would be Patrick
16 Street?

17 A Yes.

18 MR. MAXWELL: Your Honor, permission for the State to
19 publish the video.

20 THE COURT: You may.

21 Q Mr. Gray, the timeframe on that says 20:16:47. Is
22 that time accurate as to the time of day?

23 A Yes, sir.

24 Q That would have been about 8:16 p.m. that evening?

25 A Yes.

RICHARD GRAY - CROSS

1 Q Was that -- again was that -- what was just shown, was
2 that something that you captured on your video camera of
3 two cars passing by that intersection?

4 A Yes, sir.

5 MR. MAXWELL: No further questions.

6 CROSS EXAMINATION

7 BY MR. FRICK:

8 Q Mr. Gray, were you aware that this had occurred?

9 A No.

10 Q Were you home at the time?

11 A I believe I was.

12 Q Okay. But until law enforcement had asked to look at
13 your video nothing seemed out of place to you.

14 A No.

15 Q Okay. And you took this directly off of your video
16 system and made a thumb drive and gave it to law
17 enforcement.

18 A Correct.

19 Q This is exactly what you gave them.

20 A Yes, sir.

21 MR. FRICK: Thank you, sir, that's all of the
22 questions I have.

23 MR. MAXWELL: Nothing further, Your Honor, ask this
24 witness be excused.

25 MR. FRICK: No objection.

KIRA BAGLEY - DIRECT

1 MS. HALL: State calls Kira Bagley.
2 The witness, KIRA BAGLEY, was first duly sworn and
3 testified as follows:

4 DIRECT EXAMINATION

5 BY MS. HALL:

6 Q And your name is Kira Bagley?

7 A Yes, ma'am.

8 Q Ms. Bagley, where do you live?

9 A [REDACTED].

10 Q In Chester?

11 A Yes, ma'am.

12 Q I'm going to show you a map that's been marked as
13 State's Exhibit 4 and entered into evidence. And just real
14 quick I want to -- if you can, can you point on this map to
15 where your house is?

16 A Right here.

17 Q And is that -- were you home the night of November the
18 4th of 2014?

19 A I had actually just pulled up at my house.

20 Q And where had you been?

21 A The laundry mat.

22 Q And you said you had pulled up at your house, what
23 were you doing there?

24 A Letting my boyfriend out to take the laundry into the
25 house.

KIRA BAGLEY - DIRECT

- 1 Q And what kind of car were you in?
- 2 A I believe at the time it was a gold Chrysler.
- 3 Q Did the car belong to you or was it --
- 4 A His.
- 5 Q And where were you seated in the car?
- 6 A Driver's seat.
- 7 Q And was the car -- you guys -- had you pulled over on
- 8 the side of the road just to let him out to take the
- 9 laundry in?
- 10 A Yes, ma'am.
- 11 Q And were you going to go into the house?
- 12 A No.
- 13 Q Were y'all going to leave there after he dropped it
- 14 off?
- 15 A Yes, ma'am.
- 16 Q When you were sitting in the car, did you notice
- 17 anything unusual?
- 18 A I heard two gunshots come from East Chester
- 19 direction.
- 20 Q Would that have been behind the car that you were
- 21 sitting in or in front of the car?
- 22 A To the left.
- 23 Q To the left of car you were sitting in?
- 24 A Uh-huh.
- 25 Q And then did you notice anything after that?

KIRA BAGLEY - DIRECT

1 A Two vehicles came down Patrick Street and turned left
2 onto First Street and flew past our car.

3 Q And what did the cars look like? Just if you could,
4 tell us in order that they we were coming by.

5 A The first one was what appeared to be a gray or
6 silver truck, and the second one was a burgundy Cadillac.

7 Q And could you see people in the truck or the car?

8 A No, ma'am.

9 Q Did you see where they went?

10 A No, ma'am, just towards the end of First Street.

11 Q And when they were coming by, were they going fast,
12 slow?

13 A Yes, ma'am, fast.

14 Q How far behind the truck was the Cadillac?

15 A Maybe a car or two length.

16 Q And when you heard these shots -- are you familiar
17 with gunshots, do you hear them regularly?

18 A No, ma'am. Well, we hear them often but I don't know
19 anything about guns.

20 Q When you heard these two shots when you were sitting
21 in the car later on did you hear any other gunshots?

22 A Yes, ma'am. After they had went passed maybe a
23 minute or two I heard bigger gunshots.

24 Q When you heard the gunshots coming -- you said they
25 were coming from East Chester before you saw the cars?

KIRA BAGLEY - DIRECT

- 1 A Yes, ma'am.
- 2 Q About how many gunshots, or if you know please tell me
- 3 definitely how many?
- 4 A Either two or three.
- 5 Q And once you heard what you classified just a minute
- 6 ago as the bigger gunshots, how many of those were there?
- 7 A Several.
- 8 Q Like 10, 20, five --
- 9 A More than ten.
- 10 Q Okay. How long did your boyfriend stay inside the
- 11 house?
- 12 A Just couple of minutes, it wasn't long.
- 13 Q So did he come out pretty fast after --
- 14 A Well, I was calling him. After I heard the gunshots
- 15 and the cars went by I actually called him and told him to
- 16 hurry up and come outside.
- 17 Q And did he come outside?
- 18 A Yes, ma'am.
- 19 Q And did he get in the car?
- 20 A Yes, ma'am.
- 21 Q And he was driving it.
- 22 A I was driving.
- 23 Q You were driving it. And did he -- where did you guys
- 24 go?
- 25 A Towards Roundtree.

KIRA BAGLEY - DIRECT

1 Q Why did you go in that direction?

2 A That's where he suggested.

3 Q The second set of gunshots that you heard you said
4 that there were several of them. Were they like bam, bam,
5 bam or were they bam, bam, bam? Were they fast or were
6 they --

7 A Faster, I don't really know. Just multiple gunshots,
8 I can't really say fast or slow.

9 Q Was it dark outside when this happened or light or do
10 you remember?

11 A Dark.

12 Q When you went toward Roundtree, did you see anything
13 or hear anything over there?

14 A After we went through Roundtree we saw the red car
15 crashed into a house.

16 Q And did you drive past the house where it was?

17 A Yes, ma'am.

18 Q And was that house on your left or your right as you
19 passed by?

20 A Left.

21 Q And did you go all of the way through Roundtree or did
22 you turn around and come back out?

23 A All of the way through.

24 Q At that point in time were there any police officers
25 there?

KIRA BAGLEY - CROSS

1 A No, ma'am.

2 Q Did you see any other car in the area?

3 A Just regular cars parked on the sides of the road in
4 the driveways.

5 MS. HALL: That's all. Please answer any questions of
6 Mr. Frick.

7 CROSS EXAMINATION

8 BY MR. FRICK:

9 Q Did you say what time all this happened, Ms. Bagley?

10 A Around eight.

11 Q About 8:00, okay. And you said you lived at that
12 house on First Street -- is it First or Patrick?

13 A First.

14 Q Okay. All right. And when you got there, about how
15 long was it before you --

16 A It wasn't long. We basically pulled up, he got the
17 basket of laundry out and went in the house.

18 Q You said the shots sounded like they came back from
19 East Chester, right?

20 A Right.

21 Q What would be the road that is closest in that
22 direction?

23 A Patrick Street.

24 Q Patrick Street. Okay. And I understand you are not a
25 gun expert, but you said you have heard gunshots before in

KIRA BAGLEY - CROSS

1 your area?

2 A Yes, sir.

3 Q Did those gunshots sound any different than any other
4 gunshots you've typically heard?

5 A No, sir.

6 Q After that you hear some gunshots, you said that they
7 were bigger gunshots?

8 A Sounded louder.

9 Q Okay. Do you recall giving a statement to law
10 enforcement? I'm going to show you -- is this --

11 A Yeah.

12 Q Is that it?

13 A Yes, sir.

14 Q Okay. Do you see anywhere where you described those
15 gunshots at that time?

16 A Yes, sir.

17 Q How did you describe them there?

18 A Machine gun type of shots.

19 Q Okay. Is that accurate?

20 A It was an assumption, like a big gun, a loud gun.

21 Q Right. But when you call them machine gun -- or why
22 do you call it a machine gun?

23 A It was multiple shots, loud.

24 Q Okay. Quick? Slow?

25 A I have no idea, multiple shots.

KIRA BAGLEY - CROSS

- 1 Q But it sounded different than the other gun.
- 2 A Yes, sir.
- 3 Q When the two cars go by, did you recognize either one
- 4 of them?
- 5 A No, sir.
- 6 Q You said they went by rather quickly.
- 7 A Yes, sir.
- 8 Q How do you know they were moving quickly?
- 9 A It actually shook the car.
- 10 Q At First and Patrick, is there a stop sign right
- 11 there?
- 12 A Yes, sir.
- 13 Q Were you watching them as they rounded that turn?
- 14 A When I heard the gunshots I started looking around
- 15 and saw headlights coming and then saw it as they passed
- 16 by my car.
- 17 Q Could you tell if they stopped for that stop sign?
- 18 A They didn't.
- 19 Q Clearly did not.
- 20 A Did not.
- 21 Q Did they slow down for it?
- 22 A I honestly don't know. I would assume they did to
- 23 make a turn but I don't know.
- 24 Q Don't know how fast they were on Patrick to start
- 25 with.

KIRA BAGLEY - CROSS

1 A No.

2 Q And then you and your boyfriend went towards the
3 Roundtree area?

4 A Yes, sir.

5 Q When you got there was police already there?

6 A No, sir.

7 Q And was it blocked off in any way?

8 A No, sir.

9 Q How did y'all come into Roundtree, what road did you
10 use?

11 A I don't know the name of the street, we turned right
12 on Saluda and took the next left.

13 Q But it's the one that -- I'll ask you to look at
14 State's Number 15. Is this Roundtree in this general area?
15 Can you see what I'm pointing at?

16 A Yes, sir.

17 Q Point out Roundtree.

18 A It's this circle.

19 Q What road would you have been on, do you know?

20 A We came in on this one way drive.

21 Q Did you come in from that direction down there, or do
22 you recall?

23 A Yes, sir.

24 Q You did come from that way?

25 A Yes, sir.

KIRA BAGLEY - CROSS

- 1 Q Okay. And I believe --
- 2 A And turned in the first entrance.
- 3 Q And you said you went all the way around the circle?
- 4 A Yes, sir.
- 5 Q Okay. Were there other cars out there?
- 6 A Parked cars, I didn't see any other --
- 7 Q No other moving cars?
- 8 A -- moving cars.
- 9 Q At anytime that you were out there did you see any
- 10 other moving cars?
- 11 A No.
- 12 Q Were you there when law enforcement got there?
- 13 A I was not.
- 14 MR. FRICK: Thank you, ma'am, that's all of the
- 15 questions I have.
- 16 MS. HALL: I don't have any other questions. State
- 17 calls Maurice James.
- 18 The witness, MAURICE JAMES, was first duly sworn and
- 19 testified as follows:
- 20 DIRECT EXAMINATION
- 21 BY MS. HALL:
- 22 Q Your name is Maurice James?
- 23 A Yes, ma'am.
- 24 Q And Ms. James, let me show you what has been marked as
- 25 State's 5. I want you to show me, what is your address?

MAURICE JAMES - DIRECT

1 A [REDACTED].

2 Q And is that close to Roundtree Circle?

3 A Yes, right across the street.

4 Q If you could just use that little stick right there,
5 and actually let me use this other map because I think it
6 may help you see a little bit better. This is what's been
7 marked as State's Exhibit Number 15. Take a second to get
8 your bearings and then show the jury where your house is on
9 this map.

10 A This is Roundtree and I'm right across the street.

11 Q What's your address?

12 A [REDACTED].

13 Q Parkway Drive?

14 A Yes.

15 Q Can you point to that? So that's your house?

16 A Yes.

17 Q Okay. Were you home the night of November the 4th of
18 2014?

19 A Yes, I was.

20 Q Did you notice anything odd that night?

21 A Yes. I heard shots but I thought it was fireworks,
22 but then it started getting louder and then I got up and
23 went to the hall and came out in the hallway and looked
24 through the window and I saw a young man running across
25 Parkway Drive.

MAURICE JAMES - DIRECT

1 Q If you would point on the map to about where you saw
2 the person running.

3 A Okay. This is Roundtree, this is mine, so he would
4 come out this way and come down this way.

5 Q Okay. You said this is Parkway and that's Roundtree?

6 A Uh-huh.

7 Q And you saw him running across this street right here
8 across Roundtree?

9 A Yes, ma'am.

10 Q Okay. And so you were looking out your window and you
11 could see down Roundtree; is that right?

12 A I beg your pardon?

13 Q You could see down Roundtree?

14 A Oh, yes.

15 Q And when he -- was there anything unusual that you
16 noticed about this person?

17 A Yes. He was running, I saw this young man running,
18 and so when I heard the gunshots and it started getting
19 louder then that's when I came out of the den, went into
20 the hallway to the living room and looked out the window
21 and saw this young man running.

22 Q Was it a tall man, short man, fat man, skinny --

23 A Tall man.

24 Q Did he appear to have anything in his hand or could
25 you see?

MAURICE JAMES - DIRECT

1 A No.

2 Q Okay. I want to show you -- did you give a statement
3 to law enforcement that night or early the next morning?

4 A It was that night.

5 Q And I'm going to show you what's been marked as
6 State's 90. Is this the statement that you gave to law
7 enforcement?

8 A Yes.

9 Q And is that your signature at the bottom of the
10 statement?

11 A Yes, that's mine.

12 Q And I want to draw your attention -- you state in here
13 you saw a tall black man wearing blue jeans and a red
14 jacket, and the tall black man had something in his right
15 hand.

16 A I couldn't tell when he was running, but when the
17 white SUV came in front of Roundtree and that's when the
18 young man came back. I couldn't see if he had anything,
19 but he was walking like he had something, you know, to the
20 side of his leg.

21 MS. HALL: Your Honor, I would just ask her stand up
22 because she's trying to demonstrate something and I would
23 like the jury to be able to see what she's doing with her
24 arm.

25 Q Ms. James, if you wouldn't mind standing up and just

MAURICE JAMES - DIRECT

1 showing the jury what you're talking about in terms of how
2 he was walking.

3 A He was walking like this, he was walking stiff like
4 he had something to the side of his leg.

5 Q Okay, thank you. All right. So you talk about a
6 white SUV.

7 A Yes.

8 Q I want to just back up a second. You said you looked
9 out the window and you saw the man run across Roundtree
10 into a yard; is that correct?

11 A Yes.

12 Q And then at what point do you see a white SUV?

13 A Well, maybe a few minutes after that. And the young
14 man ran back to the car walking stiffly and the SUV
15 stopped, and so he went over and I guess he was talking to
16 him and that's all I saw. The SUV stopped and then they
17 was talking, and then they left.

18 Q Could you see whether the man got in the truck?

19 A No. He didn't get into the truck, no.

20 Q He didn't get into the white SUV?

21 A No. He ran back towards Fieldcrest.

22 Q Okay. He ran back towards Fieldcrest?

23 A Yes.

24 Q And then did you see where the white SUV went?

25 A Yes. He made a right -- he came out, which would be

MAURICE JAMES - DIRECT

1 to the right, and went to Saluda Street.

2 Q About how many gunshots did you hear?

3 A At first it sounded like fireworks and then it
4 started getting louder.

5 Q And about how many were there?

6 A It was about maybe two or three, maybe more.

7 Q Okay.

8 A Uh-huh.

9 Q And did you -- at any point did you see the police
10 come to the area?

11 A Yes.

12 Q Did you see that in relation to the man running? When
13 did you see the lights on the police cars?

14 A After the SUV had left and that's when the police --
15 that looked like -- I saw some blue lights, that's when
16 they came. It was just about maybe 30 to 40 minutes
17 later.

18 Q Did you tell the -- did you go outside and talk to the
19 police?

20 A No.

21 Q Then how did you end up talking to the police?

22 A They came to my home.

23 Q And they knocked on your door?

24 A Beg your pardon?

25 Q Did they knock on your door and ask you if you had

MAURICE JAMES - CROSS

1 seen anything?

2 A Yes.

3 Q And then you told them what you've told us here today.

4 A Uh-huh.

5 MS. HALL: Please answer any questions Mr. Frick may
6 have.

7 CROSS EXAMINATION

8 BY MR. FRICK:

9 Q Hey, Ms. James.

10 A Hi, how are you?

11 Q I'm fine, how about you?

12 A I'm great, thank you.

13 Q Ms. James, do you happen to have any idea about what
14 time you heard these shots?

15 A It was about 10:45 -- almost 11:00.

16 Q All right. Had you just looked at a clock or do you
17 know?

18 A No. Because I was just waiting for the Golden Girls
19 to come on.

20 Q I've got you. Do you watch that every night or --

21 A Every night.

22 Q Good deal. Did anything happen -- did you notice
23 anything different prior to you hearing the gunshots?

24 A No. Because you hear so much in that neighborhood
25 and I just said, "Oh my God, hear we go again."

MAURICE JAMES - CROSS

1 Q The first ones you said sounded like fireworks.

2 A Yes, it sounded like fireworks.

3 Q Did that sound any different than gunshots that you've
4 heard before in your neighborhood?

5 A Not really no.

6 Q Okay. You said that they got louder.

7 A They got louder. Because it seemed like it was
8 coming from the left, like from Saluda, and it was just
9 lower, but as it was coming forward it got louder.

10 Q Could you tell if they were -- if they were different
11 or could you tell at all?

12 A Not really, because the only thing is that the shots
13 just got louder and louder.

14 Q Okay. Did you hear anymore that sounded like
15 fireworks?

16 A No.

17 Q Okay. Do you have any idea how many that you heard
18 that sounded like fireworks?

19 A It was about two or three.

20 Q And the louder ones, do you know how many you heard of
21 those?

22 A Oh my goodness, it was just multiple shots out.

23 Q Did they seem fast or slow?

24 A Faster.

25 Q Faster?

MAURICE JAMES - CROSS

- 1 A Faster.
- 2 Q Faster than the ones that you had heard?
- 3 A Yes.
- 4 Q Okay. You weren't looking out any windows when you
- 5 hear the shooting.
- 6 A No.
- 7 Q You were watching Golden Girls?
- 8 A They was just about ready to come on.
- 9 Q Interrupted your show.
- 10 A Yes, it did.
- 11 Q I'm sorry. After you heard the last shots, anything
- 12 happen, or what did you do, or just give me some ideas?
- 13 A Well, after the last shot that's when I got out of
- 14 the den into the hallway and went to the living room and
- 15 that's when I seen the young man running.
- 16 Q Okay.
- 17 A Uh-huh.
- 18 Q Which road was he on?
- 19 A He was on Parkway Drive.
- 20 Q Are you kind of on the corner of Parkway?
- 21 A No, right in the center.
- 22 Q So he's on Parkway.
- 23 A Yes.
- 24 Q What direction is he running?
- 25 A He was running like towards Fieldcrest.

MAURICE JAMES - CROSS

1 Q The SUV --

2 A Yes.

3 Q -- when does it show up?

4 A About three or four minutes after the young man was
5 running.

6 Q So you see him, then the SUV comes by.

7 A Yes.

8 Q Whereabouts is the SUV?

9 A The SUV was coming like from Saluda and it was
10 turning into a --

11 Q Your road or some other road?

12 A No, right across the street from me. I can't even
13 think of it.

14 Q Did anybody go up to the car, did it stop? What
15 happened with that car?

16 A Well, after that, that's when the young man turned
17 around and came back to the SUV.

18 Q Then what? Any --

19 A After a few minutes the young man ran back towards
20 Fieldcrest.

21 Q He didn't get in that car.

22 A No, he did not, no.

23 Q You were standing at the window and saw this.

24 A Yes.

25 Q Was there anybody else with him?

MAURICE JAMES - REDIRECT

1 A No.

2 Q Ms. James, give me one second, I may not have too much
3 more.

4 (Break in proceedings.)

5 MR. FRICK: Ms. James, thank you, that's all I have.

6 REDIRECT EXAMINATION

7 BY MS. HALL:

8 Q Just real quick, I have one more question for you
9 before you go. The man that you saw when you first went to
10 the window, you said you saw a tall young black man
11 running.

12 A Yes.

13 Q And you said he was running like around Parkway.

14 A Yes.

15 Q And then you saw -- was it the same man that you saw
16 talking to the people in the SUV?

17 A Yes.

18 Q Okay. So that was the same guy.

19 A Uh-huh. It was same the guy, yes.

20 MS. HALL: Your Honor, that's all I have.

21 MR. FRICK: Nothing further.

22 THE COURT: Your Honor, we would ask that she be
23 excused as well.

24 MR. FRICK: No objection.

25 THE COURT: Excused without objection, thank you.

RAFAELL JACKSON - DIRECT

1 The witness, RAFAELL JACKSON, was first duly sworn and
2 testified as follows:

3 DIRECT EXAMINATION

4 BY MS. HALL:

5 Q Mr. Jackson, your full name is Rafael Jackson?

6 A Yes.

7 Q And on November 4th of 2014, where did you live?

8 A Roundtree.

9 Q On Roundtree Circle?

10 A Uh-huh.

11 Q Is that in Chester?

12 A Yes.

13 Q And do you remember where you had been that night some
14 time around 8:00?

15 A Yes, I was at my barbershop.

16 Q And were you coming -- at some point did you drive
17 towards your house from the barbershop?

18 A Yes, I was coming home.

19 Q And who was in the car with you, if anyone?

20 A It was me and a friend of mine, Steve Caldwell and
21 Cornell Johnson.

22 Q Cornell Johnson? Okay. And did you -- what kind of
23 car were you driving?

24 A Yukon.

25 Q What color is it, or was it?

RAFAELL JACKSON - DIRECT

- 1 A It was white.
- 2 Q Did you at some point in time come into contact with
- 3 the defendant in this case, Christopher Moore?
- 4 A Yeah.
- 5 Q Is that while you were on the way home from the
- 6 barbershop that night?
- 7 A On my way home.
- 8 Q Do you know Christopher Moore? Like before this did
- 9 you have any kind of knowledge about him or were you
- 10 friends with him or anything like that?
- 11 A I know he used to play football and stuff in high
- 12 school and I know him in the neighborhood sometimes.
- 13 Q Did you live close to him at some point in time?
- 14 A Yes. They stayed beside me for a little while.
- 15 Q He did with his mom or something?
- 16 A Yes.
- 17 Q Did you know him by a nickname?
- 18 A Quay.
- 19 Q And so the night of November 4th of 2014 when you are
- 20 coming home from the barbershop, did you see Quay somewhere
- 21 along the route on the way home?
- 22 A Yes, I seen him.
- 23 Q Where did you see him?
- 24 A Well, when I turned in when I was headed home and I
- 25 could hear a yell or something and he was trying to stop

RAFAELL JACKSON - DIRECT

1 me.

2 Q What street were you on at the time?

3 A I was on Roundtree.

4 Q Had you just turned from Parkway onto Roundtree when
5 you heard him yell?

6 A Yes.

7 Q And what did you do?

8 A I made a brief stop.

9 Q Were you driving the car?

10 A Yes.

11 Q And where was Cornell Johnson sitting?

12 A In the back.

13 Q On the driver's side or the passenger side?

14 A Passenger side.

15 Q And who was sitting in the front passenger side?

16 A Steve.

17 Q And you said you made a brief stop. What did you see?

18 Did you stop because he yelled? Did you stop to talk to

19 him? Why did you stop?

20 A I stopped because I heard a voice yelling and he told
21 me to stop.

22 Q When you stopped at what point did you see Quay?

23 A Like right when I turned.

24 Q Did you see him before you stopped or did you not see
25 him until after you stopped?

RAFAELL JACKSON - DIRECT

- 1 A I don't think I seen him when I turned, but when I
2 heard the voice then I seen him.
- 3 Q Did he come up to your car?
- 4 A Yes, he did.
- 5 Q And where was he coming from?
- 6 A He was like more like on the side right there by the
7 road.
- 8 Q Was he coming from the passenger side?
- 9 A Passenger side.
- 10 Q So he came up to the passenger side of your car.
- 11 A Uh-huh.
- 12 Q And did you talk to him?
- 13 A Briefly, he was asking me for a ride.
- 14 Q Did you see anything in his hand?
- 15 A Yeah. It looked like he had a stick or something in
16 his hand.
- 17 Q How long or big was this thing that you saw in his
18 hand that looked like a stick?
- 19 A It was just like a stick.
- 20 Q About that? Okay. And where was he holding it?
- 21 A I think he was holding it in his right hand.
- 22 Q Was he waiving it around or how was he holding it?
- 23 A No, he wasn't waiving it around.
- 24 Q How was he holding it?
- 25 A Like in his hand.

RAFAELL JACKSON - DIRECT

1 Q All right. And do you see the person you know as Quay
2 in the courtroom today?

3 A Yeah, I know him.

4 Q Can you point him out for the jury, please?

5 A (Witness points.)

6 MS. HALL: Please let the record reflect he's pointing
7 to the defendant, Chris Moore.

8 Q And when Quay came up to your car you said he was
9 coming from the side of the road, was he standing on the
10 side of the road or was he back in the yards, by houses
11 or --

12 A Like I say I pulled in, like I said, I was going home
13 and I hadn't realized what was going on, it was kind of
14 dark so I just kind of see him and briefly stopped.

15 Q And did you give a statement to law enforcement at
16 some point in time?

17 A Yes.

18 Q I show you what's been marked as State's 9. Is that
19 the statement you gave to law enforcement?

20 A Yes, it is.

21 Q Okay. When they asked you up here, "Where was Quay
22 standing when you turned onto Roundtree," what was your
23 answer?

24 A "I first spotted him in the middle of the first and
25 second house on the right in the yard."

RAFAELL JACKSON - DIRECT

1 Q All right. And you said he was trying to get a ride
2 from you?

3 A Uh-huh.

4 Q Did he ask you for a ride?

5 A Uh-huh.

6 Q And what did you say?

7 A I told him no, actually I had done left the shop and
8 I was going home.

9 Q Is that the reason you didn't give him a ride because
10 you were going home?

11 A Well, pretty much. And then I figured -- he had a
12 stick in his hand so I figured he'd probably been in a
13 fight or something like that.

14 Q And how was he acting when he waved you down?

15 A Just like he was wanting to get a ride or something,
16 maybe somebody was following him or he was -- had been
17 about to fight or something like that, so I just went on
18 home.

19 Q Okay. I'll show again what's been marked as State's
20 9. When law enforcement asked you, "How was Quay acting
21 when he waved you down," what was your answer?

22 A "He was acting scared."

23 Q And when you turned onto Roundtree Circle, did you see
24 a red car that had been wrecked into a house?

25 A Yes. I noticed the car was in the yard but I didn't

RAFAELL JACKSON - DIRECT

1 know if nobody was in it, and then it was dark so I

2 couldn't tell whether it was crashed or not.

3 Q Had you seen the red car there before?

4 A No.

5 Q And that's your street, right?

6 A Right.

7 Q And so you go by that house a lot?

8 A Yeah.

9 Q Did you go home?

10 A Uh-huh, I went home.

11 Q Before you got home were you pulled over by law

12 enforcement?

13 A Before I got home, no. I was pulled over by law

14 enforcement after I left back out.

15 Q So you went home and then you left again.

16 A Uh-huh.

17 Q And then did a police officer pull you over?

18 A Yes.

19 Q Did they -- but you weren't in trouble for anything,

20 right?

21 A Right.

22 Q Do you recall them taking some swabbings from the back

23 door of your car?

24 A I don't recall them taking no swabbings.

25 Q Do you know Quay to go by any nicknames? Do you know

RAFAELL JACKSON - DIRECT

- 1 Quay to go by any nicknames?
- 2 A Yeah, Quay.
- 3 Q Anything else?
- 4 A They call him Diesel sometimes.
- 5 Q And I want to show you what has been marked as State's
- 6 Exhibit Number 9. And this again is the statement you gave
- 7 to law enforcement, right?
- 8 A Uh-huh.
- 9 Q And isn't it true on that night you gave this
- 10 statement you said, "Diesel had a big rifle in his hand and
- 11 wanted me to give him a ride."
- 12 A I didn't say that.
- 13 Q Is that your handwriting?
- 14 A No.
- 15 Q That's not your handwriting? You didn't write that?
- 16 A No.
- 17 Q That's your statement that you signed.
- 18 A Yes.
- 19 Q Okay. And when you signed it it says, "I read each
- 20 page of that statement consisting of however many pages,
- 21 each page bears my initials, I certify the facts contained
- 22 herein are true and correct." And that's your signature
- 23 correct?
- 24 A Yes.
- 25 Q And that's the statement you gave to law enforcement,

RAFAELL JACKSON - DIRECT

1 that he had a big rifle in his hand, wanted me to give him
2 a ride and you said "no," and pulled off and you went on
3 home, right?

4 A Yes.

5 Q You want to be here, do you, Mr. Jackson?

6 A No, ma'am.

7 Q And the only reason you're here is because the State
8 subpoenaed you, right?

9 A Right.

10 Q And, in fact, law enforcement had to come to your job
11 today to remind you to come to court this morning; is that
12 correct?

13 A They came to my house.

14 Q To your house?

15 MS. HALL: Thank you, please answer any questions of
16 Mr. Frick.

17 CROSS EXAMINATION

18 BY MR. FRICK:

19 Q Mr. Jackson, you said you know the guy sitting over
20 there beside me?

21 A Uh-huh.

22 Q How long have you known him?

23 A Several years.

24 Q Several years or seven years?

25 A I said several years.

RAFAELL JACKSON - CROSS

1 Q I just want to make sure we're clear on that, that's
2 all right. I think in your statement you said he and his
3 mom used to stay near you or beside you?

4 A Uh-huh.

5 Q So you've seen him many times over the years.

6 A Yeah.

7 Q Okay. When you saw him that night when he came up to
8 your car, was he acting different than he normally acted?

9 A I can't say he acted too much differently.

10 Q But he was acting scared in your words.

11 A Yeah. That's why I was thinking he was being chased
12 or something like that.

13 Q In your knowledge of him is that his normal demeanor?

14 A No.

15 Q Something was different, wasn't it?

16 A Yes, something different.

17 Q Okay. Kind of made you nervous, too, didn't it?

18 A Yeah.

19 Q I mean, you didn't want to give him a ride, did you?

20 A No.

21 Q Didn't know what he was involved with but you didn't
22 want to be a part of it.

23 A Right.

24 Q Did you get a look at him when he came up to your car?

25 A Like I said, it was so brief, you know.

RAFAELL JACKSON - CROSS

1 Q Right. I mean, is he -- I know it's November, but is
2 he sweating? Is he -- give us something that you recall,
3 if you recall anything, about how he looked.

4 A I couldn't tell whether he was sweating or not.

5 Q In fact, y'all didn't conversate very long at all, did
6 you?

7 A No.

8 Q Give me one second, Mr. Jackson, we may be done here.

9 (Break in proceedings.)

10 MR. FRICK: Thank you, Mr. Jackson, that's all I have.

11 MS. HALL: That's it. We would ask that Mr. Jackson
12 be excused.

13 MR. FRICK: No objection.

14 THE COURT: Thank you, sir, you're excused.

15 MS. HALL: State calls Cornell Johnson.

16 The witness, CORNELL JOHNSON, was first duly sworn and
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MS. HALL:

20 Q Your name is Cornell Johnson?

21 A Yes, ma'am.

22 Q Do you live in Chester?

23 A Yes, ma'am.

24 Q And were you living in Chester on November 4th of
25 2014?

CORNELL JOHNSON - DIRECT

- 1 A Yes, ma'am.
- 2 Q And do you sometimes go by the nickname of Hook?
- 3 A Yes, ma'am.
- 4 Q And are you friends with Rafael Jackson?
- 5 A Yes, ma'am.
- 6 Q Do you know him by a nickname?
- 7 A Dove.
- 8 Q Have you ever heard him called Ray Ray?
- 9 A Yes.
- 10 Q And were you in the car with him -- you heard his
- 11 testimony just now, right?
- 12 A Yes, ma'am.
- 13 Q And were you in the car with him leaving the
- 14 barbershop going to his house that night?
- 15 A Yes, ma'am.
- 16 Q And do you recall approximately what time that was?
- 17 A Not really, I knew it was dark.
- 18 Q Okay. And did you hear him say that he was coming
- 19 down Parkway and took a left onto Roundtree Circle?
- 20 A Yes. When you come off of Vance and turn into
- 21 Roundtree.
- 22 Q And were you sitting in the back seat of the passenger
- 23 side of the car?
- 24 A Yes, ma'am.
- 25 Q At some point did you see the defendant in this case,

CORNELL JOHNSON - DIRECT

1 Christopher Moore, did you see him come toward the car?

2 A Yes, ma'am.

3 Q All right. Was this a white Yukon that you are
4 sitting in?

5 A Yes, ma'am.

6 Q And did y'all stop the car?

7 A He stopped briefly for a few minutes.

8 Q When he came towards the car where was he coming from?

9 A From the right.

10 Q And where did he come to to the car?

11 A To the passenger side.

12 Q Okay. Was your window up or down?

13 A Mine was up.

14 Q Was the front passenger window down?

15 A Yes, ma'am.

16 Q Did y'all roll it down, or did somebody roll it down?

17 A There was a guy in the front seat on the passenger
18 seat, Steve.

19 Q Did you see him roll it down when the defendant came
20 toward the car?

21 A I was in the back and it went down, I know I heard
22 the voices.

23 Q Did you know Christopher Moore prior to that night
24 before that?

25 A No, ma'am. I just know of him, that's all.

CORNELL JOHNSON - DIRECT

- 1 Q Okay. When you say "I just know him, that's all,"
2 does that mean you've seen him around?
- 3 A I have seen him before, I just don't really know him
4 by name.
- 5 Q Did you hear what he was saying to Ray Ray?
- 6 A Yes. He wanted a ride and Ray let him know he was
7 going home.
- 8 Q How was the defendant, Moore, acting?
- 9 A Well, I couldn't really see the face but I could hear
10 like he was kind of jittery and nervous or something.
- 11 Q After Ray Ray told him he was not going to give him a
12 ride, what did he do?
- 13 A Who, Ray Ray?
- 14 Q No, what did Moore do?
- 15 A Oh, he went back to the side where he walked out to.
- 16 Q Did he come -- he went back the way he came from?
- 17 A He went back by the house that was on the corner,
18 went back there.
- 19 Q Did you see where he went?
- 20 A No, ma'am, because we pulled on off.
- 21 Q Did you go to Ray Ray's house on Roundtree Circle?
- 22 A Yes.
- 23 Q Did you see the red car?
- 24 A On my way back up it was on the left side going down,
25 on our way back out I seen it.

CORNELL JOHNSON - DIRECT

1 Q How long did you stay at Ray Ray's house?

2 A Just a few seconds. We dropped Steve off, he stayed
3 right below Ray, and dropped him off and so he went to
4 take me home.

5 Q Okay. So he was just dropping Steve off and then he
6 was -- y'all left right back out to take you home.

7 A Yes.

8 Q Did you guys come back out Roundtree Circle the way
9 that you had gone in?

10 A Came back the same way.

11 Q At that point in time was law enforcement there?

12 A No, ma'am.

13 Q Were you in the car with him when he got stopped by
14 the police?

15 A Yes, ma'am.

16 Q Did you -- and when the one police officer stopped
17 you, did any other police officers later come to the scene?

18 A Yeah. It was several officers pulled up where we
19 was.

20 Q And do you recall them swabbing the back door of the
21 car?

22 A No, ma'am.

23 Q Were you in the car or did you get out?

24 A I didn't get out.

25 MS. HALL: Please answer any questions Mr. Frick may

CORNELL JOHNSON - CROSS

1 have.

2 CROSS EXAMINATION

3 BY MR. FRICK:

4 Q Mr. Johnson, you say the guy that came to your car was
5 nervous?

6 A Yeah, from what I could hear. I couldn't see his
7 face, they had the window down.

8 Q Just the way his voice -- give me some idea of what
9 you mean.

10 A Pretty much if a person nervous you can pretty much
11 hear the tone in his voice, like something may have
12 happened or whatever.

13 Q And that's what it sounded like to you?

14 A Yeah. I couldn't see his face but I heard it.

15 Q So you couldn't tell what he looked like.

16 A I could see a picture of a person because I was in
17 the back, the windows were tinted in the SUV and I could
18 hear a voice and I could see the shadows.

19 Q He didn't converse with you any.

20 A No.

21 Q You didn't roll your window down either.

22 A No.

23 Q Whatever was going on you didn't want to be a part of
24 it, did you?

25 A You got that right.

CORNELL JOHNSON - CROSS

1 Q And you recognize that young man but you don't really
2 know him.

3 A No.

4 Q Okay. You said that you dropped someone off and then
5 y'all went back out.

6 A Steve Caldwell, he was riding in the front. He was
7 Ray's neighbor, he stayed right below him, he dropped him
8 off and then he took me home.

9 Q Where did y'all drop him off at?

10 A Who, Steve?

11 Q Yeah.

12 A On Roundtree.

13 Q And then y'all --

14 A Turned right back out, he was going to the store and
15 then bring me home.

16 Q Go back up Roundtree the same way you came in?

17 A Same way we came in.

18 Q Which way did you turn it?

19 A Turned right on Parkway.

20 Q Back towards the railroad tracks?

21 A Yes.

22 MR. FRICK: Thank you, sir, that's all of the
23 questions I have.

24 MS. HALL: Just real quick.

25 REDIRECT EXAMINATION

CORNELL JOHNSON - CROSS

1 BY MS. HALL:

2 Q When you dropped Steve off, did you get out of the car
3 and get in the front seat or you just stayed in the back?

4 A No, just stayed in the back where I was.

5 MS. HALL: Okay, thank you. We would ask that Mr.
6 Johnson be excused as well.

7 MR. FRICK: No objection.

8 THE COURT: Thank you, sir, you're excused.

9 MS. HALL: State calls Lashonda Wray.

10 The witness, LASHONDA WRAY, was first duly sworn and
11 testified as follows:

12 DIRECT EXAMINATION

13 BY MS. HALL:

14 Q Your name is Lashonda Wray?

15 A Correct.

16 Q And do you live in Chester?

17 A Yes, ma'am.

18 Q Are you friends with the defendant in this case, Chris
19 Moore?

20 A Not friends but I know him.

21 Q How do you know him?

22 A Through family members.

23 Q What family members?

24 A People that he be around, I see him around and be
25 with him.

LASHONDA WRAY - DIRECT

1 Q I'm going to try to fix this microphone real quick,
2 hold on. But you know him you said through your family
3 members?

4 A Uh-huh.

5 Q Who in your family is friends with him?

6 A His name is Derrick.

7 Q What's his last name?

8 A Dixon.

9 Q Does he have a nickname?

10 A He does.

11 Q What do they call him?

12 A They call him Hatchet.

13 Q Hatchet? On November the 4th of 2014 what kind of car
14 did you have?

15 A A white Honda.

16 Q Was it common for to you give people rides in your
17 white Honda?

18 A Not just anybody.

19 Q On that date, November 4th of 2014, did you give
20 somebody a ride in your white Honda?

21 A I did.

22 Q Tell the jury how that came about.

23 A I got a phone call for a ride and I went and gave him
24 a ride.

25 Q Who called you?

LASHONDA WRAY - DIRECT

- 1 A Christopher Moore.
- 2 Q Was he calling from his phone?
- 3 A No.
- 4 Q From whose phone was he calling?
- 5 A Derrick.
- 6 Q Is that Derrick Dixon, your cousin, Hatchet?
- 7 A Uh-huh.
- 8 Q And had you been around IGA in Chester before getting
- 9 that phone call?
- 10 A Correct.
- 11 Q What were you doing?
- 12 A Getting kerosene for my mom.
- 13 Q Getting kerosene for your mom? Did you hear anything
- 14 unusual at that time?
- 15 A I heard something usual, which was gunshots.
- 16 Q And that wasn't uncommon for that area?
- 17 A No, ma'am.
- 18 Q How many gunshots did you hear?
- 19 A I mean, I can't say how many but it was some.
- 20 Q Was it a lot, a few?
- 21 A I mean, I guess a few if there's a difference.
- 22 Q And could you tell from what area they were coming
- 23 from?
- 24 A The Roundtree area.
- 25 Q And did you have somebody in the car with you?

LASHONDA WRAY - DIRECT

1 A I did.

2 Q Who was in the car with you?

3 A A friend of mine.

4 Q Was it a girlfriend?

5 A Yes.

6 Q And did you make a decision at that point in time to
7 go ride through Roundtree Circle?

8 A Correct.

9 Q So you got back in the car and when you drove through
10 what did you see?

11 A When I got on Roundtree?

12 Q Uh-huh.

13 A It was, I think, one police out there on the front
14 end.

15 Q Did he give you any directions?

16 A I just went -- I think I turned around and went on
17 around.

18 Q Did the policeman stop you and tell you anything?

19 A I believe so, I can't remember. You can't just read
20 the statement off?

21 Q That's okay, if you don't remember it's okay to say
22 you don't remember. So when you turned around did you stop
23 or did you just keep on driving away?

24 A I stopped.

25 Q Did you get out of the car?

LASHONDA WRAY - DIRECT

- 1 A Uh-huh.
- 2 Q Did your friend in the front seat, did she get out of
3 front car too?
- 4 A No, ma'am.
- 5 Q When you got out of the car were there other people
6 standing around?
- 7 A Yes, ma'am.
- 8 Q What did you see?
- 9 A As I was talking to people?
- 10 Q Yeah.
- 11 A I mean, I was talking to them first and then I had
12 walked up and seen a car wreck.
- 13 Q What car is that?
- 14 A The burgundy Cadillac.
- 15 Q Did you see it wrecked in the house?
- 16 A Uh-huh.
- 17 Q And about how long did you stay there?
- 18 A Not long.
- 19 Q Did you get back in your car in the driver's seat and
20 drive away?
- 21 A Uh-huh.
- 22 Q About how long after that did you get a call from
23 Diesel, or from Chris Moore?
- 24 A Like two minutes or so.
- 25 Q About two minutes after you left. And you said it

LASHONDA WRAY - DIRECT

1 came from Derrick Dixon's phone?

2 A Correct.

3 Q And what did Chris Moore say to you?

4 A Nothing, he just asked for a ride, which was normal.

5 Q Did he tell you where to pick him up?

6 A They was at their friend's house.

7 Q What is the friend's name?

8 A Rosae (phonetically.)

9 Q And what street does Rosae live on?

10 A York Street.

11 Q I show you what's been marked as State's Exhibit 4.

12 I'm actually going to give you a pen. I'm going to give

13 you a sticker and I will give you a pen I'm going to ask

14 you to point out -- just take a minute to look at it

15 because it's a little confusing. Where does Rosae live?

16 A On York Road.

17 Q Can you tell from this map about where you picked

18 Chris Moore up that night?

19 A I really can't tell, but it's on York Road.

20 Q Is it close to Roundtree Circle?

21 A Yes.

22 Q So if you could, if you could try to find Roundtree

23 Circle on this map.

24 A It's right there, but I can't really point out where

25 his house is because it's so little.

LASHONDA WRAY - DIRECT

- 1 Q If you can just give as you general idea then.
- 2 A I mean, it's on York Road but I can't really point at
- 3 it because I can't see it like that.
- 4 Q But somewhere around in here, is that fair to say?
- 5 A Right.
- 6 Q All right. So when you got there to pick up Chris
- 7 Moore, who was with him?
- 8 A Derrick and another person.
- 9 Q Did you know the other person?
- 10 A I knew of him.
- 11 Q Did you know his name?
- 12 A They call him Debo (phonetically.)
- 13 Q Did all three of them get in your car?
- 14 A Uh-huh.
- 15 Q How long did y'all stay at Rosae's house?
- 16 A I just picked him up and left.
- 17 Q So you didn't go in or go out or anything.
- 18 A No.
- 19 Q When they got in the car, where were they sitting in
- 20 the car?
- 21 A In the back.
- 22 Q Who was in the -- did they all get in one door, or how
- 23 did they get in?
- 24 A They got in on the back driver's side door.
- 25 Q Who got in first?

LASHONDA WRAY - DIRECT

1 A I think Diesel got in first.

2 Q And Diesel, was that Chris Moore?

3 A Uh-huh.

4 Q And when he got in did he scooch all the way over?

5 A Right.

6 Q When he stopped scooching where did he end up, where
7 was he sitting in the car?

8 A By the back side passenger door.

9 Q Okay. Who got in next?

10 A Debo.

11 Q And you don't know his real name, you just know him by
12 Debo. Did he end up in the middle of the back seat?

13 A Correct.

14 Q And then who got in last?

15 A Derrick.

16 Q And then he was behind you.

17 A Yeah.

18 Q And so did they -- was there any conversation in the
19 car between y'all?

20 A None, just hey, and where we was going, which was to
21 Derrick's house. And I took them there and I left and
22 after a little while I spoke with the kids and that was
23 it.

24 Q So you said you took him over to Derrick Dixon's
25 house?

LASHONDA WRAY - DIRECT

- 1 A Correct.
- 2 Q And you said you stopped and got out.
- 3 A Uh-huh.
- 4 Q Did all four of y'all go inside?
- 5 A Correct.
- 6 Q Did the lady in the car with you go inside?
- 7 A I think so.
- 8 Q Do you remember where those three guys went once you
- 9 got inside?
- 10 A In the living room.
- 11 Q So did they hang out with you for a few minutes?
- 12 A No, I was dropping them off. I was speaking to the
- 13 kids, there really wasn't no hang out.
- 14 Q And then you said you left.
- 15 A Correct.
- 16 Q And you left and your girlfriend left with you.
- 17 A Correct.
- 18 Q At some point in time a little bit later did you have
- 19 anymore -- did you contact Derrick Dixon or did he contact
- 20 you?
- 21 A I told him to stay out of the street because I didn't
- 22 want to see nothing happen to him.
- 23 Q Did you do that through a text message or a phone
- 24 call?
- 25 A A text.

LASHONDA WRAY - DIRECT

1 Q And do you remember exactly what you texted to him?

2 A What I had just said.

3 Q Okay. And this is your statement that you gave to law
4 enforcement?

5 A Correct.

6 Q And you gave it to them that night or the next day?

7 A It was next day, night, one of them.

8 Q I'll draw your attention to "I stated to Derrick," and
9 what did you say to him?

10 A I said, "12:00, stay out of street, I don't want to
11 see nothing happen to you."

12 Q What does that mean?

13 A The police is 12.

14 Q Okay. Did you contact law enforcement or did they
15 contact you?

16 A They contacted me.

17 Q And you gave a statement to them obviously because we
18 just talked about that statement, correct?

19 A Correct.

20 Q At some point in time did they serve a search warrant
21 on your car?

22 A After they surrounded they went and got it, they
23 didn't have it when they first came.

24 Q But somebody waited with your car and they went and
25 got a search warrant to search your car?

LASHONDA WRAY - DIRECT

- 1 A Correct.
- 2 Q How did they get in touch with you?
- 3 A We was at Derrick's house when I had went over there.
- 4 Q So they were at Derrick Dixon's house and you just
- 5 happened to stop by?
- 6 A Uh-huh.
- 7 Q What street does Derrick Dixon live on?
- 8 A Woodham.
- 9 Q Do you know the house number?
- 10 A No, ma'am.
- 11 Q You said there was no talking in the car?
- 12 A I mean they told me, "What's up?"
- 13 Q And did you -- what does what's up mean? When you say
- 14 they said what's up, did they talk about where they had
- 15 been or what they had been doing?
- 16 A It's a hey.
- 17 Q I'm sorry?
- 18 A It's a hey.
- 19 Q It's just like saying hey?
- 20 A Yes.
- 21 Q So did y'all have any conversation about where they
- 22 had been or what they'd been doing?
- 23 A No, ma'am. I wasn't concerned really because I
- 24 normally give them rides.
- 25 Q About how long does it take you to get from Rosea's

LASHONDA WRAY - DIRECT

1 house to Derrick Dixon's house?

2 A A couple of minutes.

3 Q When they got in the car, did you see anybody with any
4 weapons?

5 A No, ma'am.

6 Q And do you remember what time it was when they called
7 you?

8 A No, ma'am.

9 Q And you don't want to be here either, do you, Ms.
10 Wray?

11 A Correct.

12 MS. HALL: Please answer any questions Mr. Frick has
13 for you.

14 CROSS EXAMINATION

15 BY MR. FRICK:

16 Q Did you get the phone call before or after you heard
17 the gunshots?

18 A After.

19 Q Any idea how long after? I know you didn't time it.

20 A Correct.

21 Q Okay. But had you already gone through Roundtree at
22 that time?

23 A I was on Roundtree when he called, leaving off.

24 Q Leaving off. Where were you if you remember?

25 A It was just like right up the street.

LASHONDA WRAY - DIRECT

- 1 Q Okay.
- 2 A It was like walking distance.
- 3 Q If I show you the map do you think you can find it?
- 4 A I was just explaining her the same thing, I really
- 5 can't point out Rosae's house, but it's on --
- 6 Q I'm talking about when you got the phone call. What I
- 7 heard you say was that you was on Roundtree when you got --
- 8 A I was about to leave.
- 9 Q You were about to leave?
- 10 A Uh-huh.
- 11 Q Were you back on the Parkway or still on Roundtree?
- 12 A I was still on Roundtree.
- 13 Q Okay. Did you go all of the way around Roundtree?
- 14 A Yes, sir.
- 15 Q Which part did you go in, do you know?
- 16 A When I left the store or when I first went in in the
- 17 Parkway?
- 18 Q When you first went in?
- 19 A Uh-huh.
- 20 Q Which way did you go in? There's two parts, right?
- 21 A You talking about when I came in to make a left?
- 22 Q I'm talking about when you went onto Roundtree.
- 23 A Right.
- 24 Q I think this is State's 15, I don't know. Do you see
- 25 Roundtree on this map?

LASHONDA WRAY - CROSS

- 1 A Yeah.
- 2 Q Can you just kind of show where it is?
- 3 A When I came in I was coming in this way.
- 4 Q So you came on Parkway. Are there some railroad
- 5 tracks back that way?
- 6 A Correct.
- 7 Q You came through that way?
- 8 A Uh-huh.
- 9 Q And then turned here?
- 10 A Uh-huh.
- 11 Q Okay. Please say yes or no, they've got to take it
- 12 down.
- 13 A Oh, yeah.
- 14 Q So that's where you turned. And then how far did you
- 15 get down Roundtree?
- 16 A Like maybe -- I really can't remember but it was
- 17 right there.
- 18 Q And did somebody make you turn around and go back or
- 19 what happened?
- 20 A I really can't remember if I turned around or went
- 21 all of the way around, but I know there was one police out
- 22 there.
- 23 Q But you're certain that's the way you came in to
- 24 Roundtree.
- 25 A Uh-huh.

LASHONDA WRAY - CROSS

- 1 Q Did you run in to any people out there?
- 2 A Yes. Where I had stopped at, my friend girl's house.
- 3 Q Where was that?
- 4 A On Roundtree.
- 5 Q Whereabouts on Roundtree? I'm just trying to get my
- 6 bearings, that's all. You want me to get the map?
- 7 A Yeah, it's like right here.
- 8 Q All right. So after you go onto Roundtree that's when
- 9 you get this phone call, correct?
- 10 A Correct.
- 11 Q Did they tell you where they were?
- 12 A At their friend Rosae's house.
- 13 Q And you know where to go obviously.
- 14 A Uh-huh.
- 15 Q And that's where you went.
- 16 A Uh-huh.
- 17 Q Picked him up.
- 18 A Correct.
- 19 Q And where did y'all go?
- 20 A To Derrick's house on Saluda Street.
- 21 Q And when folks got in the car you didn't see no
- 22 weapons.
- 23 A No, sir.
- 24 Q Do you know if anybody had anything or you didn't see
- 25 anything?

LASHONDA WRAY - CROSS

1 A I wasn't looking to see if they had anything, but I
2 didn't see anything.

3 Q Ain't nobody had something that looked like that, did
4 they?

5 A No.

6 Q You would have remembered that, wouldn't you?

7 A Correct.

8 Q No real conversation other than just general what's
9 up?

10 A Uh-huh.

11 Q Was it unusual for these folks to call and ask for a
12 ride?

13 A No, sir.

14 Q So you didn't think anything about it, did you?

15 A No, sir.

16 Q So they don't say anything, you don't say anything,
17 right?

18 A That's how it goes.

19 Q Give me one second, Ms. Wray.

20 (Break in proceedings.)

21 Q Do you know that guy sitting beside me over here?

22 A Correct.

23 Q Who is that?

24 A Christopher Moore.

25 Q How long have you known him?

LASHONDA WRAY - CROSS

- 1 A Like --
- 2 Q I don't need an exact date.
- 3 A I don't know, like maybe two years or so.
- 4 Q So you know --
- 5 A I don't really know him know him, but knowing of him.
- 6 Q Okay. All right. When he got in your car that night,
- 7 did he seem any different than you normally seen him?
- 8 A They just got in and what's up, I took them to their
- 9 destination.
- 10 Q Is that his normal demeanor?
- 11 A Uh-huh.
- 12 MR. FRICK: Thank you, ma'am, that's all of the
- 13 questions I have.
- 14 MS. HALL: Nothing further, we would ask that she be
- 15 excused.
- 16 MR. FRICK: No objection, Your Honor.
- 17 MS. HALL: I believe that's it for the day, if we
- 18 could I would like to get started about 9:30 in the
- 19 morning.
- 20 THE COURT: No problem about that?
- 21 MR. FRICK: No problem.
- 22 THE COURT: Ladies and gentlemen of the jury, remember
- 23 all of my instructions, don't let anybody contact you.
- 24 There's all kind of ways to communicate. When I say don't
- 25 let anybody contact you that means directly or indirectly,

1 so don't let any third party try to communicate with you
2 whether it be in person, by telephone, by email and report
3 any attempt to the Fairfield County Sheriff's Department.
4 Now, if that happens during the court term y'all let me
5 know, okay? Y'all have a good evening and I need you back
6 here at 9:30 in the morning.

7 (The jury left the courtroom.)

8 THE COURT: All right. We can recess until 9:30.

9 (Court recessed for the evening and resumed on
10 Tuesday, June 28, 2016, at 9:30 a.m.)

11 THE COURT: As I just said, we're missing a juror but
12 we had a situation yesterday that gave me some concern that
13 caused me to poll the jury about possible improper
14 influence or contact on them. At this time I'm going to
15 have Mr. Bailiff come and tell us exactly what he witnessed
16 yesterday so I can further ponder what I'm going to do.
17 Mr. Bailiff, if you will raise your right hand.

18 (The bailiff was sworn.)

19 THE COURT: Yesterday you let me know that you saw
20 some contact between a member of the gallery out here and
21 one of our jurors. Would you tell us on the record,
22 please, exactly what you witnessed?

23 THE BAILIFF: Okay. I was on the main floor of the
24 courthouse sending jurors up by the elevator and three
25 people came in, one I later knew as the juror and two other

1 people, one was a -- I later saw in the courtroom here
2 sitting on the right side, and a lot of laughter and
3 chatting going on between the three people, which at that
4 point I felt like was inappropriate given the Judge's
5 orders. And I like I said, I identified one later as the
6 juror and then one as a member of the court here on the
7 right-hand side and so I relayed that to the clerk of court
8 and then on to the Judge.

9 THE COURT: Is that person that had that contact with
10 the juror in the courtroom at this time?

11 THE BAILIFF: Not at this point. I saw them earlier
12 this morning but not at this point.

13 THE COURT: Have you determined on your own which
14 juror it was?

15 THE BAILIFF: I don't know their number, but she's a
16 slender lady, yesterday she had the scarf like thing
17 wrapped around her head.

18 THE COURT: Okay. I know which one you're talking
19 about. Counsel, do y'all have any questions of him?

20 MR. FRICK: I just -- did you -- were you able to
21 ascertain what any of the conversation was or --

22 THE BAILIFF: No, sir. That was the first time that I
23 had dealt with the jury since they were selected, and so I
24 did not realize later until she walked over to me and said,
25 "I'm a juror." The other two had left the area and then it

1 just clicked that, you know, that was sort of
2 inappropriate, especially when we come back and the
3 afternoon session started, 'I was sitting over there and saw
4 one of gentlemen sitting on the right side over there and
5 recognized him.

6 MR. FRICK: So this was after lunch that you saw this?

7 THE BAILIFF: It was after lunch, yes.

8 MR. FRICK: And they were coming back in. Do you
9 remember which side they were coming in from?

10 THE BAILIFF: Like I said, the lady identified herself
11 as a juror, and then when I come back in and sat over there
12 then I saw the other gentleman -- one of the other
13 gentlemen sitting back there on the right-hand side.

14 MR. FRICK: The other person, did you ever see them in
15 the courtroom?

16 THE BAILIFF: I don't think I -- not yesterday, no,
17 sir.

18 MR. FRICK: Okay. They're not in the courtroom at
19 this time either, that other person. I know --

20 THE BAILIFF: The third person resembles the gentleman
21 on the left-hand side back in the back there but I could
22 not swear to it.

23 MR. FRICK: Okay. Once she identified herself as a
24 juror, did the contact cease?

25 THE BAILIFF: Well, the contact had ceased at that

1 point. I didn't put two and two together until after the
2 afternoon session started and I was sitting there and
3 noticed the individual sitting on the right-hand side back
4 in the courtroom.

5 MR. FRICK: All right. Do you know which door they
6 came in? You were by the elevator, right?

7 THE BAILIFF: The juror came up the elevator, the
8 other gentleman, he was asking about how to come in and I
9 told him he would need to go around and come up the steps
10 because I was sending jurors up.

11 MR. FRICK: Right. But which door did they come in?
12 That door --

13 THE BAILIFF: The main door off of the street.

14 MR. FRICK: I'm just trying to get the logistics.
15 Okay. Thank you.

16 THE COURT: From your independent analysis or research
17 of this, have you determined who the individual was that
18 was over here on the right side as to who he is?

19 THE BAILIFF: Not by name. Like I said, the
20 appearance I know but not by name.

21 THE COURT: Do you know if he's related to anybody?

22 THE BAILIFF: I don't, no, sir. It just triggered
23 something when I saw him sitting back there on the
24 right-hand side.

25 THE COURT: Do I have any court officer in here that's

1 familiar with what happened in this incident that knows who
2 that individual was? I was led to believe it was the
3 gentleman sitting over here on the right with the longer
4 cut hair; is that correct?

5 THE BAILIFF: Yes, sir.

6 THE COURT: He is not here today or is he?

7 MR. FRICK: The person that's been explained to me,
8 no, I don't believe he's present in the courtroom.

9 THE COURT: All right. As an officer of the court
10 then I am asking, you who was that individual?

11 MR. FRICK: I inquired of my client, he tells me the
12 person that's described to me sounded like his brother.

13 MS. HALL: Okay. Your Honor, if I could just ask him
14 a question and then I would have something I would like to
15 say if the Court would allow me to do so. The only thing I
16 will ask you is were they coming in from the yard into the
17 courthouse together or --

18 THE BAILIFF: They were coming from the main entrance
19 down that long hallway and congregated over there by the
20 gum machines that were there.

21 MS. HALL: Okay. So did it appear that they had been
22 outside together and entered together or could you tell?

23 THE BAILIFF: I couldn't tell. Like I said, I was
24 sitting there -- or standing there waiting on the jurors to
25 come in so I can't say that they all three came in at the

1 same time, but when -- my first notice they were all three
2 standing there laughing and talking and so forth. I did
3 not pay attention to what they were saying.

4 MS. HALL: Thank you. And Your Honor, I just have
5 some brief comments to make if you --

6 MR. FRICK: Well, Your Honor, and one additional
7 thing. My client's brother is present in the courtroom and
8 that's him sitting there, if you would stand up, please,
9 sir.

10 THE BAILIFF: That's the gentleman.

11 MR. FRICK: Is that who you saw?

12 THE BAILIFF: Yes.

13 MR. FRICK: So a moment ago you said you didn't see
14 him. Did he come in after we were talking?

15 THE COURT: No. He was sitting behind the gentleman
16 out here, I couldn't see either.

17 MR. FRICK: Okay.

18 MS. HALL: And, Your Honor, just briefly. I had some
19 investigation done last night trying to figure out who
20 these people are. Obviously, one of the people is the
21 defendant's brother. My understanding that gentleman
22 seated in the back who the bailiff just identified as the
23 third individual is the boyfriend of the juror and is also
24 on Mr. Maxwell's docket, and my understanding is friends
25 with the defendant's brother. That's all I was going to

1 say.

2 THE COURT: Okay. This situation is one of the
3 reasons why we have alternates, we're going to make sure --
4 I'm going to make sure to the best of my ability that we
5 have a fair and impartial trial here, that's why we have
6 alternates. This contact, whatever it was, should not have
7 ever happened. I don't know what was said. It does give
8 the appearance of impropriety, I've already warned
9 everybody about what is going to happen if there's been any
10 contact whatsoever from here on, there best not be. So
11 Madam Clerk, you will place the two alternates' names back
12 in the computer or either, with the consent of both sides,
13 we can do it by placing pieces of paper in a basket.

14 MR. FRICK: Your Honor, before we proceed to that I
15 have two issues I would like to address if I may?

16 THE COURT: Yes, sir.

17 MR. FRICK: One -- and I know it's a technicality but
18 I do believe that as we were coming back from lunch the
19 case in chief had not started, we had done motions, the
20 jury had not been sworn, whether that makes any difference
21 or not I don't know, but I think that that is important to
22 note. The other part is I would ask you before we remove
23 the person to bring her in and voir dire her about the
24 situation, I think that would be appropriate to find out
25 what the contact was.

1 THE COURT: I have no problem with that.

2 MR. FRICK: It may be something, it may not be
3 anything, I have no idea.

4 THE COURT: Would you go fetch the juror and bring her
5 in here, please?

6 (The juror entered the courtroom.)

7 THE COURT: Madam Juror, which number are you?

8 THE JUROR: 144.

9 THE COURT: Madam Juror, we had a report yesterday
10 from the court staff that when you came back to the
11 courthouse at lunchtime that you were communicating
12 specifically with the defendant, Christopher Moore's
13 brother, there were three of you together. Do you admit
14 that you had verbal contact with Christopher Moore's
15 brother coming into this courthouse?

16 THE JUROR: Who is that?

17 THE COURT: Sir, would you please stand?

18 THE JUROR: No, sir.

19 THE COURT: Did you come in with the gentleman back
20 there in the left?

21 THE JUROR: Yes, sir.

22 THE COURT: Do you deny that you --

23 THE JUROR: I didn't talk to him. He did, I didn't.

24 THE COURT: But you were with them?

25 THE JUROR: No. When I came out of the car he was

1 coming down and he was coming down too, I didn't say
2 nothing to him.

3 THE COURT: But that's your boyfriend?

4 THE JUROR: Uh-huh.

5 THE COURT: And he's friends.

6 THE JUROR: No, we don't know him, just conversation.

7 THE COURT: Your boyfriend does not know him?

8 THE JUROR: No, sir.

9 THE COURT: So you deny you were with the other two
10 when you come in?

11 THE JUROR: Yes. I came out the back way when he was
12 already on the steps.

13 THE COURT: Okay. Well, I have no choice here, I
14 mean, I've got conflicting reports, I have to back up my
15 court officers, she's obviously not relating the truth to
16 me and I so find you're dismissed. You can leave the
17 courthouse.

18 THE JUROR: And go home?

19 THE COURT: You can go home.

20 (The juror left the courtroom and was dismissed.)

21 THE COURT: Counsel's consent to draw it from the box
22 or do you want it done on the computer?

23 MS. HALL: I don't have a problem with the box.

24 MR. FRICK: The box is no problem, Your Honor.

25 THE CLERK: That's juror 120, Rose Murphy.

1 THE COURT: All right. Juror 120, Ms. Murphy moves
2 up. All right, counsel, concerning the other juror who
3 obviously does not own or possess a watch or cellphone,
4 there may be a legitimate reason why she was late for the
5 second time, I am not going to question her on that at this
6 time since it was no harm or foul this morning since we had
7 the delay on the other incident, but if she comes in
8 late -- I will admonish all of them again about promptly
9 reporting and we'll just see where it goes from there,
10 okay?

11 MR. FRICK: And, Your Honor, obviously I don't know
12 anything about her situation but there is an election this
13 morning so she made not have gone by there.

14 THE COURT: That is very true because the parking I
15 know is very crowded behind us here. In fact, if I didn't
16 have my place I wouldn't have a place to park this morning.

17 MR. FRICK: Judge, I don't mean to cause anymore
18 difficulty in this situation but I do want -- I don't know
19 if the Court wants to inquire on this, but Ms. Murphy and
20 her family operate many rental properties in Fairfield
21 County. Since the State is interested in inquiring as to
22 people's Facebook status and who they're friends with I
23 would be concerned as to whether anybody on the jury is
24 currently renting from Ms. Murphy, it's a large amount of
25 property that she rents. I would just bring that concern

1 to the Court.

2 MS. HALL: I'm sorry, was the concern about whether
3 who is renting from them?

4 MR. FRICK: About whether any of the current jurors
5 are renting from her.

6 MS. HALL: From the other juror?

7 MR. FRICK: Yes.

8 MS. HALL: Oh, okay. What relevance is that? Maybe
9 I'm missing something.

10 MR. FRICK: Well, Facebook friends are relevant I
11 think whether you're paying rent to the person that you're
12 on the jury with is relevant.

13 THE COURT: I'll ask.

14 (The jury returned to the courtroom.)

15 THE COURT: Good morning. I hope everybody had a
16 restful night. Before we get started again I need to note
17 on the record that Ms. Rose Murphy, juror 120, will now
18 step up to serve as one of the first 12 jurors. What we
19 have to do when we replace a juror, we have to go back to
20 the drawing box and draw to see who steps up. It's not --
21 the numerical order does not count under our statutory
22 setup for replacing jurors, and since Ms. Murphy has moved
23 up court officials have noted to me that Ms. Murphy owns
24 some rental property here in Fairfield County. Do any
25 other jurors rent from Ms. Murphy or have any business

BURLY MCDANIEL - DIRECT

1 connection with Ms. Murphy? Okay. Thank you. All right,
2 Solicitor, we're ready to get started.

3 MS. HALL: State calls Burly McDaniel.

4 The witness, BURLY MCDANIEL, was first duly sworn and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MS. HALL:

8 Q Mr. McDaniel, where are you currently employed?

9 A I'm employed with the Chester County Sheriff's
10 Office.

11 Q And were you employed there on November 4th of 2014?

12 A I was.

13 Q What do you do at the Chester County Sheriff's Office
14 now?

15 A I'm lead in investigations.

16 Q Were you working the same capacity on November 4th of
17 2014?

18 A I was.

19 Q Okay. Did you get a call that night regarding this
20 case?

21 A Yes.

22 Q Okay. Could you tell the jury about that, please?

23 A Well, first got a call that shots were fired,
24 somebody was possibly shot on Roundtree Circle. Well, I
25 quickly assembled my team and got them to Roundtree Circle

BURLY MCDANIEL - DIRECT

1 where we discovered that somebody had, in fact, been shot.

2 Q And were you able to determine who that person was?

3 A Yes.

4 Q Who?

5 A Odell Williams.

6 Q Did you request assistance from SLED in this
7 investigation?

8 A We did.

9 Q Did you actually -- were you the person who requested
10 the -- or that your agency requested the assistance?

11 A Our sheriff did, yes.

12 Q And did you also request the York County K-9 Unit come
13 out to assist in the investigation?

14 A That's correct.

15 Q And were you able to -- through the investigation were
16 you able to determine -- when -- let me ask you this, were
17 you the lead investigator on the case?

18 A I am the supervisor but I'm not the case agent.

19 Q Who is the case agent?

20 A Investigator Randy St. Clair.

21 Q So you were supervising this investigation; is that
22 right?

23 A Yes.

24 Q What would the process be as the supervisor, what
25 would you expect people to do?

BURLY MCDANIEL - DIRECT

1 A You instruct everybody what to do, in other words you
2 tell people where to go and do, and they generally know
3 their job pretty good so I instruct them to go and do
4 their job.

5 Q I'm going to show you what's been marked as State's
6 Exhibit 4. Do you recognize this document?

7 A Yes.

8 Q What is it?

9 A That is the actual route taken.

10 MS. HALL: And Your Honor, at this time I believe
11 without objection the State moves 4 into evidence.

12 MR. FRICK: No objection.

13 THE COURT: In without objection.

14 (The map was received as State's 4.)

15 Q So through the course of investigation, could you
16 explain to the jury what you determined happened with
17 regard to this route, or how you established the route?

18 A Well, during the investigation we discovered that the
19 first initial contact came on Featherstone Road, that's
20 where the -- Mr. Williams turned on Featherstone and the
21 vehicle passed him. He turned around on Featherstone and
22 got behind the vehicle. So they came from Featherstone,
23 turned left onto Old York Road, traveled down Old York
24 Road and got into town where they turned onto Broadway
25 Street, turned left on Broadway Street, followed that road

BURLY MCDANIEL - DIRECT

1 out to the stop sign where you would take another left
2 that's on Saluda Street. Went up Saluda Street, went up
3 to McClure Street where they turned right on to McClure
4 Street, drove up to Patrick Street, turned left on
5 Patrick, followed Patrick out, turned left onto First
6 Street. Followed First Street out back to Saluda Street
7 where they took a right, crossed over the railroad tracks
8 down, turned left onto Parkway Drive. Followed Parkway
9 out, crossed over another railroad track, got to the first
10 entrance of Roundtree Circle, and the vehicle turned left
11 onto Roundtree circle, and that's where the vehicle
12 stopped on Roundtree Circle at 588, I'm sorry, Roundtree
13 Circle.

14 Q When you say the vehicle stopped, is that where Odell
15 Williams car stopped?

16 A Yes.

17 Q All right. Thank you. All right. Were you able to
18 determine -- well, were you able to determine the distance
19 that was driven?

20 A It's 3.3 miles.

21 Q The total route from Featherstone all the way around
22 through all of those turns to where the red Cadillac came
23 to rest, that's 3.3 miles?

24 A Yes.

25 Q And were you able to determine how far from that --

BURLY MCDANIEL - DIRECT

- 1 how far it is from Featherstone to Brawley where that first
2 turn was made?
- 3 A I'm not sure, it should be less than a mile.
- 4 Q All right. During the course of your investigation,
5 were you present when a search warrant was executed on
6 Lashonda Wray's car?
- 7 A Yes.
- 8 Q Was that a white Honda Accord?
- 9 A Yes, it was a Honda.
- 10 Q I show you what's been marked as State's Exhibit 11.
11 Do you recognize that?
- 12 A Yes.
- 13 Q What is it?
- 14 A It's a swab that was taken from her vehicle, that
15 swab was actually taken from the vehicle, the actual
16 samples taken from the vehicle.
- 17 Q And did you take those samples?
- 18 A I did.
- 19 Q And what did you do with them after you took them?
- 20 A I turned them over to the case agent.
- 21 Q Who is?
- 22 A Investigator Randy St. Clair.
- 23 Q Is that all documented on the envelope you just pulled
24 out of the envelope?
- 25 A I think -- this is the wrong one.

BURLY MCDANIEL - DIRECT

1 Q Hang on a second, I might have handed you the wrong
2 one. I show you what's been marked as State's 17, and I
3 want you to look at it and tell you if you recognize it?

4 A Yes.

5 Q Okay. What is it?

6 A It is the sample that came from Ms. Wray's car which
7 I collected.

8 Q Did you take it?

9 A Yes.

10 Q And is that documented on that envelope?

11 A Yes.

12 Q When did you take it?

13 A 11/5/2014 at 09:13.

14 Q Does it show on that envelope where you turned it over
15 to Randy St. Clair like you stated before?

16 A Yes.

17 Q Okay. And what day did you do that?

18 A Also on 11/5.

19 Q Now, what else did you do with regard to this
20 investigation? Did you collect any other evidence or
21 secure the scene or do anything else?

22 A Actually I didn't do a whole lot more on that other
23 than supervise.

24 Q When you swabbed this car, what were you swabbing for?
25 Why did you do this?

BURLY MCDANIEL - DIRECT

1 A Well, during the search warrant there was what
2 appeared to be blood on the back seat.

3 Q Where on the back seat?

4 A Back passenger side, on the front side of the back
5 seat.

6 Q Is that what the swab -- that's what you swabbed?

7 A Yes.

8 Q Are those the swabs that you put into this envelope
9 and turn over to Detective St. Clair?

10 A Yes.

11 MS. HALL: Thank you, please answer any questions that
12 Mr. Frick may have.

13 CROSS EXAMINATION

14 BY MR. FRICK:

15 Q What's an on-call investigator?

16 A The investigator who is on call.

17 Q Is that what your role was in this case?

18 A Yes.

19 Q You got the phone call that said that something had
20 happened.

21 A Yes.

22 Q And go out to the scene, assess the situation?

23 A Correct.

24 Q And then get other folks in place to secure the scene
25 and collect whatever needs to be collected, correct?

BURLY MCDANIEL - DIRECT

1 A Yes.

2 Q All right. I'm going to show you this map that we
3 keep showing everybody, this is State's Number 4. All
4 right. You said you were able to determine that this was
5 the route, correct?

6 A Correct.

7 Q Okay. All right. When y'all secured the scene where
8 did y'all go?

9 A Secured the scene right here on Parkway and
10 Roundtree.

11 Q Okay.

12 A And the scene was secured pretty much this entire --

13 Q Okay. All right. Did y'all -- yes, sir, go ahead.

14 A Well, we also discovered another truck that the
15 defendant was supposed to have been riding in, we
16 discovered it on around the curve so we secured that
17 actual spot as well. We also discovered from the K-9 that
18 it was some firearms over here on Fieldcrest and in this
19 area, so that area was secured as well. It was actually
20 discovered back -- it appeared to be blood on the fence,
21 in the white car and that area was actually secured as
22 well.

23 Q Okay. And all of that is in this -- is this the
24 Roundtree Circle area?

25 A Yes.

BURLY MCDANIEL - CROSS

1 Q Okay. And that -- all of the stuff you talked about
2 is within the Roundtree Circle area, right?

3 A Yes.

4 Q Did y'all go over to Featherstone or any of these
5 other places?

6 A No, sir. We actually went to Patrick Street and we
7 actually walked Patrick Street with the metal detectors.

8 Q All right. Was that scene secured?

9 A No. That scene was not secured because we later
10 discovered that.

11 Q Any of these other areas, were they secured scenes
12 other than Roundtree?

13 A No.

14 Q What is this road?

15 A It's old York Road.

16 Q What is this road?

17 A That's Parkway Drive.

18 Q Okay. Does Parkway go through to York?

19 A Yes.

20 Q Okay. And it goes back around to Saluda; is that
21 correct?

22 A Correct.

23 Q So it goes straight through, right?

24 A Yes.

25 Q And off of Parkway is Roundtree, right?

BURLY MCDANIEL - CROSS

- 1 A Correct.
- 2 Q What is this road?
- 3 A That's the bypass.
- 4 Q Okay. Is that a road? I'm trying to --
- 5 A I think that's railroad tracks.
- 6 Q I can't tell, it's got something up there. Can you
- 7 tell whether that's on --
- 8 A Yeah, that's the actual railroad track. The railroad
- 9 track crosses over the bypass and goes through town.
- 10 Q What is this road?
- 11 A That's the (inaudible) route.
- 12 Q Do you know where it goes?
- 13 A Yes.
- 14 Q Where does it go?
- 15 A It goes into Parkway Drive.
- 16 Q Well, it intersects it, right?
- 17 A Yes.
- 18 Q So if I came off of the bypass and down Vance I could
- 19 get right on Parkway, right?
- 20 A Yes.
- 21 Q Other than collecting the swab out of Ms. Wray's
- 22 vehicle, did you secure any other evidence in this case?
- 23 A No.
- 24 Q Okay. You were just making sure everybody else got
- 25 stuff secured, correct?

BURLY MCDANIEL - CROSS

1 A Correct.

2 Q Okay. And I'm not going to make you stare at this
3 thing again, but you said this whole route, you clocked it
4 and it's 3.3 miles?

5 A Yes.

6 Q As the supervisory agent in this case, I'll call it
7 that if that's fair, is that a fair statement?

8 A Yes.

9 Q Are you aware of all of the reports and evidence that
10 gets turned in in this case?

11 A Supposed to, yes.

12 Q You're going over to Patrick Street with the metal
13 detectors, are you aware whether there was a report done of
14 that?

15 A Well, it was information that came in to us and we
16 was actually trying to run that lead down to -- yes.

17 Q But as far as that being documented whether or not you
18 found anything, it was not, was it?

19 A No.

20 MR. FRICK: Thank you, sir, that's all of the
21 questions I have.

22 MS. HALL: I don't have anything else for this
23 witness.

24 THE COURT: You may step down, thank you.

25 MS. HALL: The State calls Detective Randy St. Clair.

BURLY MCDANIEL - CROSS

1 The witness, RANDY ST. CLAIR, was first duly sworn and
2 testified as follows:

3 DIRECT EXAMINATION

4 BY MS. HALL:

5 Q Your name is Randy St. Clair?

6 A Yes, ma'am.

7 Q And you heard Major McDaniel speaking a little bit
8 ago. Were you the case agent in this case?

9 A Yes, ma'am.

10 Q You're a detective with the Chester County Sheriff's
11 Department?

12 A I am.

13 Q And you were working in that capacity on November the
14 4th of 2014; is that correct?

15 A Yes, ma'am.

16 Q Okay. Did the entire course of your investigation in
17 this case occur within Chester County?

18 A Yes, ma'am.

19 Q Could you explain to the jury what your involvement
20 was, how you initially became involved and what you did
21 during the course of your investigation?

22 A On the date of November the 4th of 2014 I was
23 contacted by Captain Perry in the evening hours and
24 advised of shots fired in the area of Roundtree Circle,
25 the subject was hit. I arrived at the Roundtree Circle

RANDY ST. CLAIR - DIRECT

1 area, was immediately advised by Major McDaniel who
2 arrived at the Chester County Regional Medical Center
3 Emergency Room where Odell Williams was, had been declared
4 deceased. At that time it was afterward -- interviewing
5 people, speaking to people, trying to make contact with
6 people, just trying to gather evidence in a joint effort
7 of the investigation.

8 Q And during the course of that investigation, did you
9 have occasion to talk with the defendant in this case at
10 all?

11 A I'm sorry?

12 Q Did you have occasion to talk to the defendant in this
13 case at all, Mr. Moore, did you talk to him? Did he ever
14 make any statements to you?

15 A No, ma'am, not to me.

16 Q Were you sitting in the jail -- did you serve the
17 warrant on him?

18 A Detective Reynolds did.

19 Q Were you present when that occurred?

20 A Yes, ma'am.

21 Q Would you describe to the jury where you were and how
22 that happened, or what you observed?

23 A The way the detention center is set up is you have a
24 booking desk where people arriving with an officer and the
25 information is given, and I would say that's four or five

RANDY ST. CLAIR - DIRECT

1 feet away are a set of four holding cells where people who
2 are just brought in are held until processed and if not
3 released then put into detention center population. I was
4 at the booking desk maybe -- if I had to guess, maybe five
5 feet away from the holding cell that Christopher Moore was
6 in.

7 Q At that time did you hear Mr. Moore make any
8 statements? Just answer yes or no.

9 A Yes, ma'am.

10 MR. FRICK: Your Honor, may we approach at this time?

11 THE COURT: Yes.

12 (A bench conference was held.)

13 THE COURT: Ladies and gentlemen, will y'all step back
14 to your room just a minute or two, I need to handle a
15 matter of law, please.

16 (The jury left the courtroom.)

17 MS. HALL: I believe the testimony I was getting ready
18 to elicit from him was what did you hear the defendant say?

19 THE WITNESS: "I ain't going down for this shit by
20 myself."

21 MS. HALL: Okay.

22 MR. FRICK: Your Honor, I would object to that
23 testimony; one, it is hearsay, two, I don't think it really
24 is an admission, I know that's how the State is intending
25 to do that. If it is an admission I do believe that it was

RANDY ST. CLAIR - DIRECT

1 custodial in nature and I would ask you to inquire as far
2 as the -- whether it comports with Denno.

3 MS. HALL: Well, Your Honor, first of all it's not
4 hearsay because it was made by the defendant. Secondly, it
5 was an excited utterance so I don't think -- if it were
6 hearsay I don't think it would fall within the hearsay
7 exception. Yes, he was in custody. They weren't
8 questioning him. They served him with a warrant and he
9 made the statement, so it was not a custodial
10 interrogation. It may have been custodial but there was no
11 interrogation involved here, so I think that takes it
12 outside of Mr. Frick's objection, and it's a statement
13 against interest as well, so --

14 THE COURT: I'll agree with the State on that except I
15 would not necessarily rule it was an excited utterance at
16 that time because there was a delay in time between the
17 actual incident and that. But the other arguments put
18 forth by the State I will have to overrule your objection
19 on that.

20 MR. FRICK: I understand, Your Honor.

21 MS. HALL: And let me just say this, the other --
22 before we bring them back just so we're all clear. The
23 only other thing, and I showed Mr. Frick, there's going to
24 be witness who testifies later who did not -- has not
25 testified in the past and he had sent a letter to Detective

RANDY ST. CLAIR - DIRECT

1 St. Clair asking to talk with someone, and I gave that -- I
2 showed that to Mr. Frick this morning, I just got it this
3 morning.

4 MR. FRICK: That's the note from Breland?

5 MS. HALL: Right. I'm going to move to put that into
6 evidence and I just wanted to be clear about that and if he
7 had anything he needed to talk about regarding that.

8 MR. FRICK: Judge, I don't think I have any standing
9 to object to Mr. Breland's note. I object to Mr. Breland
10 but I will do that at the appropriate time.

11 (The jury returned to the courtroom.)

12 BY MS. HALL:

13 Q So you described the way that the jail was set up.
14 Were you in earshot of Mr. Moore when Detective Reynolds
15 served with him the warrant?

16 A Yes, ma'am.

17 Q And was the -- did he make any statements at that
18 time?

19 A He did.

20 MR. FRICK: Objection as previously stated, Your
21 Honor.

22 THE COURT: So noted.

23 Q I'm talking about the defendant making any statements.

24 A Yes, ma'am.

25 Q What did he say?

RANDY ST. CLAIR - DIRECT

- 1 A He said, "I ain't going down for this shit by
2 myself."
- 3 Q Okay. And at that point in time did he -- where did
4 he go?
- 5 A Back to the doorway of the holding cell.
- 6 Q Okay. During the course of your investigation you
7 heard detective -- or Major McDaniel earlier testify
8 regarding the swabs that were taken from the Honda?
- 9 A Yes, ma'am.
- 10 Q He stated that he gave those to you. Did you receive
11 them from him?
- 12 A Yes, ma'am.
- 13 Q And what did you do with them after you received them?
- 14 A I received the swabs from the '91 Honda Accord from
15 Major McDaniel, I then left Second Street, I believe it
16 was [REDACTED], arrived at the Chester County
17 Sheriff's Office and then placed them and secured them
18 into an evidence locker.
- 19 Q And for what reason did you do that?
- 20 A To keep them secured to keep from any contamination.
- 21 Q And what was your intention for those things to happen
22 with them at some point in time?
- 23 A To have them logged into evidence and be examined by
24 SLED at a future time.
- 25 Q And so you put them into the evidence locker?

RANDY ST. CLAIR - DIRECT

1 A Yes, ma'am.

2 Q I show you what's been marked as State's 16A, B, C and
3 that's it. Do you recognize these?

4 A Yes, ma'am.

5 Q Would you look at all three of them, please?

6 A Yes, ma'am.

7 Q And what are they?

8 A They are photographs of Christopher Moore inside of
9 the Chester County Detention Center.

10 Q All right. Were you present when those photographs
11 were taken?

12 A Yes, ma'am.

13 Q Do they truly and accurately depict the condition of
14 Chris Moore at the time that you observed the photographs
15 being taken?

16 A Yes, ma'am.

17 MS. HALL: At this time State would move 16 A, B and C
18 into evidence.

19 MR. FRICK: No objection, Your Honor.

20 THE COURT: In without objection.

21 (The photos were received as State's 16A-C)

22 Q Was there anything you noted with regard to Mr.
23 Moore's hand during the course of these photographs or
24 during the course of your investigation?

25 A Yes, ma'am. He appeared to have an injury on his

RANDY ST. CLAIR - DIRECT

1 right middle finger at the fingernail.

2 MS. HALL: Your Honor, the State would ask permission
3 to publish these to the jury?

4 THE COURT: Yes.

5 Q When were those pictures taken? Who took them?

6 A They were taken by SLED Special Agent Haley Quam. As
7 far as the exact date, I can't recall specifically what
8 date it was. It was several days.

9 MS. HALL: Your Honor, I would move the affidavit of
10 Haley Quam into evidence at this time, it's State's Number
11 67. I believe Mr. Frick had stipulated it would come in as
12 evidence.

13 MR. FRICK: No objection, Your Honor, that's correct.

14 (The affidavit was received as State's 67.)

15 Q I'll show you what's been marked as State's 67, the
16 affidavit of Haley Quam. Does that refresh your memory as
17 to when these were taken?

18 A Yes, ma'am.

19 Q When were they taken?

20 A November 6th of 2014 at 3:28 p.m.

21 Q Okay. At some point in time later on just recently
22 did you get a note from an inmate at the Chester County
23 Detention Center by the name of Stevie Breland?

24 A Yes, ma'am.

25 Q I show you what's been marked as State's Exhibit 91.

RANDY ST. CLAIR - DIRECT

1 Is this the note that you received from Stevie Breland?

2 A Yes, ma'am.

3 Q And without us necessarily going into what it says
4 what did you do in response to the note?

5 A I was given the note by Captain Odom with the Chester
6 County Detention Center. I advised the solicitor's office
7 of inmate Breland wishing to speak with someone concerning
8 the case of Christopher Moore.

9 Q And you called the solicitor's office and told the
10 solicitor's office that Mr. Breland wanted to talk with
11 somebody.

12 A Yes, ma'am.

13 MS. HALL: I don't have anything further, please
14 answer any questions that Mr. Frick may have.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q Investigator St. Clair, when you served -- you were
18 the one that served him with the warrant, right?

19 A No, sir.

20 Q Okay. You were present when he got served?

21 A Yes, sir.

22 Q And you heard him say, "I ain't going down for this
23 shit."

24 A Yes, sir, by myself.

25 Q Who was with you?

RANDY ST. CLAIR - DIRECT

- 1 A Detective Reynolds.
- 2 Q Did y'all inquire any further?
- 3 A No, sir, not at that time.
- 4 Q Did he say anything else at that time?
- 5 A No, sir.
- 6 Q Where did he go, just back to the holding cell?
- 7 A Yes, sir.
- 8 Q State's Number 16A, you don't know exactly when they
- 9 were taken?
- 10 A November 6th of 3:28 p.m. from the affidavit of
- 11 Special Agent Quam.
- 12 Q But you didn't know that until you read the affidavit,
- 13 right?
- 14 A As far as a specific date, yes, sir.
- 15 Q Or recall. I'm sorry, I'm not trying to put words in
- 16 your mouth, okay? Were you present when these pictures got
- 17 taken?
- 18 A Yes, sir.
- 19 Q I note in these pictures that -- basically what were
- 20 y'all trying to get in this picture? Just tell me your
- 21 general idea. I see a dude standing there in a jumpsuit,
- 22 why do we have a picture of that?
- 23 A The first picture that was taken was a full profile
- 24 of Christopher Moore, the second picture being a picture
- 25 of his hands, both hands, and the third picture being a

RANDY ST. CLAIR - CROSS

1 picture of his right hand with the injury to his middle
2 finger.

3 Q Why was that important?

4 A With the blood that was collected from the Honda and
5 other areas it was -- we wanted to see if it was noted
6 that he had an injury and if it would have appeared to
7 have bled.

8 Q Okay. I see in that picture he's got a long sleeved
9 shirt on, did y'all ask him to roll up his sleeves?

10 A No, sir.

11 Q Anybody look at his arms?

12 A I can't recall.

13 Q Was anybody else with you other than -- it was Agent
14 Quam that took the pictures, right?

15 A Yes, sir.

16 Q You, Agent Quam, anybody else there?

17 A The detention center personnel at the desk, I can't
18 recall specifically.

19 Q Reynolds wasn't with you?

20 A No, sir.

21 Q Lee Blackmon wasn't with you?

22 A No, sir.

23 Q No other investigators involved with this case?

24 A No, sir.

25 Q All right. I believe you said you got a swab from Mr.

RANDY ST. CLAIR - CROSS

1 Moore, is that what you said? Cheek swab, you got a cheek
2 swab from him, didn't you?

3 A Eventually one was taken by Captain Perry from
4 Christopher Moore.

5 Q Do you know when that got taken?

6 A February of 2015.

7 Q Okay. Was that a result of a court hearing?

8 A Yes, sir.

9 Q Okay. Had y'all not collected anything when he got
10 there?

11 A I can't recall, I can't recall specifically.

12 Q Okay. But y'all were looking for DNA back in November
13 of '15, right?

14 A Yes, sir.

15 Q And, in fact, I think -- did you look through that
16 affidavit? Are you familiar with the rest of the contents
17 of that affidavit?

18 A Vaguely familiar. I believe his clothing was
19 collected for evidence.

20 Q Uh-huh. And it looks like a sporke and a cup; is that
21 correct.

22 A Yes, sir.

23 Q Okay. Have you got any idea why they collected that?

24 A For DNA.

25 Q And that was -- does it say on there? I don't want

RANDY ST. CLAIR - CROSS

1 you -- I want you to say it, not me, does it say on there
2 when that got collected?

3 A November 6th, 2014 at 3:28 p.m.

4 Q Okay. The note that the State showed you here from
5 Mr. Breland, was this given to you?

6 A Yes, sir.

7 Q Who brought it to you?

8 A Captain Odom of the detention center.

9 Q And he got it from?

10 A I assume Inmate Breland.

11 Q When did you get this note?

12 A I guess about a month ago.

13 Q A month ago?

14 A Yes, sir.

15 Q 2016?

16 A Yes, sir.

17 Q Okay.

18 A Four or five weeks ago if had I to estimate.

19 Q And to your knowledge had Mr. Breland contacted
20 anybody before that note?

21 A Not to my knowledge.

22 Q Do you know Mr. Moore outside of law enforcement?

23 A Not personally, no, sir.

24 Q Are you aware how old he was when he got arrested?

25 A Yes, sir, 18, I believe.

RANDY ST. CLAIR - CROSS

1 Q Eighteen? Okay.

2 MR. FRICK: Thank you, that's all of the questions I
3 have.

4 MS. HALL: I don't have anything further from this
5 witness?

6 THE COURT: You may step down, thank you.

7 MR. MAXWELL: State calls Phillip Perry.

8 The witness, PHILLIP PERRY, was first duly sworn and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MAXWELL:

12 Q State your name for the record.

13 A Brian Phillip Perry.

14 Q And Captain Perry, where are you employed?

15 A The Chester County Sheriff's Office.

16 Q How long have you been employed there?

17 A Since 2000.

18 Q What's your current position?

19 A I'm a captain in the investigations division.

20 Q Did you respond to this incident that took place on
21 November the 4th of 2014?

22 A Yes, sir, I did.

23 Q Were you tangentially involved in parts of the
24 investigation?

25 A Yes, sir.

PHILLIP PERRY - DIRECT

1 Q Did you take a buccal swab from Christopher Moore?

2 A Yes, sir, I did.

3 Q When did you take that swab?

4 A That swab was collected on February 12th of 2015.

5 Q What is a buccal swab?

6 A It is a swab of the lining of the mouth that's
7 intended to collect DNA evidence.

8 Q What instrument do you use to collect the swab?

9 A A cotton tipped Q-tip.

10 Q Is there a -- is there a specifically made Q-tip made
11 to do this particular job?

12 A Yes, sir. It's a Q-tip that's sealed in a sterile
13 container so that it's not contaminated before we use it.

14 Q And was the swab taken pursuant to a court order?

15 A Yes, sir it was pursuant to a court order.

16 Q And where were you when you took the swab from Mr.
17 Moore?

18 A We were at the Chester County Detention Center.

19 Q When you take the swab, what do you do next to secure
20 it?

21 A Well, first of all you cover your hand with latex
22 gloves so you don't contaminate the sample, you swab the
23 lining of the suspect's mouth in this case, Mr. Moore's
24 mouth with the Q-tip. There is a carton container that we
25 have, we put the Q-tip inside of that container and close

PHILLIP PERRY - DIRECT

1 both ends and seal it for evidence to ensure that it's not
2 disturbed or altered in any way and then it's secured in
3 the evidence folder.

4 Q In the evidence where?

5 A Folder.

6 Q Where does it then go?

7 A Then it's taken to the evidence drop at that time.

8 Q And is that a secure compartment?

9 A Yes, sir.

10 Q It keeps it secure?

11 A It's a secure location at the sheriff's office.

12 Q Do you sign the paperwork that say you're the one
13 whose logging it in and securing it?

14 A Yes, sir.

15 Q Is it -- what is the purpose for taking the buccal
16 swab for DNA?

17 A It is to provide a known standard for Mr. Moore to be
18 compared to other evidence in this case.

19 Q I show you what's been marked as State's 11. Can you
20 tell me what's in that bag?

21 A This is the evidence folder.

22 Q Is your signature on there?

23 A Yes, sir.

24 Q Is there a date on there?

25 A Yes, sir.

PHILLIP PERRY - DIRECT

1 Q What date is that?

2 A February 12th of 2015.

3 Q And again, is that the date that you took the swab and
4 sealed it?

5 A Yes, sir.

6 MR. MAXWELL: No further questions, Your Honor.

7 CROSS EXAMINATION

8 BY MR. FRICK:

9 Q Investigator Perry, when did you get that swab?

10 A February 12th of 2015.

11 Q 2015. Okay.

12 MR. FRICK: Thank you, sir, that's all of the
13 questions I have.

14 MR. MAXWELL: Nothing further.

15 THE COURT: Thank you, you may step down.

16 MR. MAXWELL: The State calls Chris Kinsey.

17 The witness, CHRISTOPHER KINSEY, was first duly sworn
18 and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MAXWELL:

21 Q State your name for the record.

22 A Christopher Kinsey.

23 Q Deputy Kinsey, where are you employed?

24 A York County Sheriff's Office.

25 Q What's your position with York County?

PHILLIP PERRY - CROSS

- 1 A I'm a K-9 handler.
- 2 Q How long have you been a K-9 handler?
- 3 A Since December of 2004.
- 4 Q How long have you been with the York County Sheriff's
- 5 Office?
- 6 A January of 2002.
- 7 Q And how long have you been a law enforcement officer?
- 8 A Since July of 1999.
- 9 Q And were you a K-9 handler in November of 2014?
- 10 A Yes, I was.
- 11 Q And did you have a partner at the time, a K-9 partner?
- 12 A Yes.
- 13 Q And who was that?
- 14 A His name is Dex.
- 15 Q And how old was Dex at the time?
- 16 A Seven and a half to eight years old.
- 17 Q And what kind of dog is Dex?
- 18 A He is a blood hound.
- 19 Q Is there a specific reason why you use a blood hound
- 20 for tracking?
- 21 A Basically because they're bred hunting dogs and they
- 22 then over time are honed to track human scent.
- 23 Q And how long was Dex used as a blood hound dog for the
- 24 sheriff's department?
- 25 A From 2007 until the end of 2015.

CHRISTOPHER KINSEY - DIRECT

1 Q And can you describe the types of thing he would do?

2 A As far as --

3 Q What would he be allowed out to do?

4 A We search for missing persons, we search for missing
5 Alzheimer's patients, any crime that the person leaves on
6 foot we can utilize a blood hound for that. He's been on
7 murder cases, he's been on robberies, like I said, missing
8 children, missing adults, any time the person leaves on
9 foot.

10 Q How is he trained to do those activities?

11 A He was trained since he was a puppy. You start out
12 playing hide and seek with them when they're younger and
13 over time we do not let him see the person leave and, you
14 know, we may wait 30 minutes to an hour before we go look
15 for them. It's just a gradual process over time. He was
16 trained -- once every week religiously for however long --
17 the eight years that I worked with him.

18 Q What kind of training do you receive?

19 A I was trained through the department and we also have
20 a training seminar that we host every December up at Kings
21 Mountain State Park where we have agencies all over the
22 country that come in and train.

23 Q Do you train with Dex?

24 A At that time, yes.

25 Q And had Dex performed human odor detection prior to

CHRISTOPHER KINSEY - DIRECT

1 November 4th of 2014?

2 A Yes.

3 Q Do you have any idea how many times or how often he
4 got called out?

5 A On a low estimate, 750 to 1,000 times.

6 Q And on prior occasions both real or situation and
7 training did Dex prove reliable in tracking human odor?

8 A Yes.

9 THE COURT: Your Honor, at this time I would offer
10 Master Deputy Kinsey as an expert in K-9 human odor
11 detection.

12 MR. FRICK: No objection.

13 THE COURT: So qualified.

14 Q Can you talk about what is human odor, how a dog
15 tracks it?

16 A Basically human odor is inherent to your person, it's
17 from your DNA. Each person in this room has a specific
18 odor and, you know, if you went missing we could either
19 obtain like a piece of clothing or the point where you
20 were last seen to detect which direction you actually
21 left.

22 Q How does a person leave so the dog can pick it up?

23 A Every time you move your body is constantly shedding
24 skin cells. Those skin cells hit the ground, bacteria
25 begins to eat them, basically they digest them -- I call

CHRISTOPHER KINSEY - DIRECT

1 it a burp, I don't know that technical term for it, but it
2 releases a small amount of gas which contains your scent,
3 your DNA basically.

4 Q And how long does that scent remain in certain
5 locations?

6 A With the weather conditions, you know, if there's
7 ideal weather conditions it could remain there for days,
8 possibly weeks. But generally most of the work that we do
9 is within an hour to 24 hours old, so --

10 Q Were you called out to aid the Chester County
11 Sheriff's Office on November the 4th of 2014?

12 A I was.

13 Q And what location did you go to?

14 A I responded to Roundtree Circle and Parkway.

15 Q Do you know what time you were dispatched?

16 A I was dispatched around I think it was 10:20 in the
17 evening and I arrived on scene around 11:15.

18 Q What did you do in this case when you arrived at that
19 location?

20 A When I arrived on scene they had the scene secured
21 and had it taped off with crime scene tape, so I initially
22 went to -- I don't remember exactly who it was, but one of
23 the investigators that was on the scene, I go through a
24 series of questions that I ask them, is there anything
25 that we can use as a scent article, or do we know exactly

CHRISTOPHER KINSEY - DIRECT

1 where the person went? Do we have any kind of starting
2 point? And they said that a witness has possibly seen the
3 suspect run behind a residence right at the intersection
4 of Roundtree and Parkway.

5 Q And is Dex with you when you went to this location?

6 A Yes.

7 Q So once you had that information what do you do next?

8 A I take the dog out and I go to that area and we do
9 what we call cutting the area, which you let the dog just
10 kind of do his natural search pattern across that area and
11 when he detects a human odor, which in a lot of these
12 situations is adrenaline based, he knows that that person
13 that left there is probably running and he's releasing a
14 lot of adrenaline, we call that a hot track and he's
15 trained to pick up on those hot tracks. So he actually
16 found the track leading behind that area and continued
17 along that fence line to a residence, and he changed his
18 body language at a shed, and I shined my light down and he
19 showed a lot of interest around the shed. Usually if the
20 person is there his tail will start wagging and he will
21 get real excited and he began to get excited and I shined
22 my light -- because there was a crawl space underneath the
23 shed, I shined my light down and I could see the butt
24 stock of a rifle sticking out.

25 Q I show you what's been marked as State's Exhibit 14.

CHRISTOPHER KINSEY - DIRECT

1 Can you describe what's in that picture?

2 A There's a rifle.

3 Q What is it under?

4 A It's underneath the shed door.

5 Q Does that appear to be in the same condition as you
6 came upon it that night?

7 A Yes.

8 Q Had it been located as far as you were aware prior to
9 you and the dog --

10 A No.

11 Q -- tracking that area?

12 A No.

13 MR. MAXWELL: Your Honor, I would offer State's 14
14 into evidence.

15 MR. FRICK: No objection.

16 THE COURT: In without objection.

17 (The photo was received as State's 14.)

18 Q Once you find the rifle underneath the shed, do you
19 notify anybody else?

20 A Yes. I notify -- well, I had the officer from
21 Chester County with me, Major Randy Marsh was with me, he
22 had radio communications with Chester County and he
23 notified their detectives and we stayed put until someone
24 from their department arrived on the scene to secure that
25 weapon.

CHRISTOPHER KINSEY - DIRECT

1 Q Once somebody else arrives, do you leave the gun to
2 them and then you --

3 A Correct, we do not touch it, we didn't move it. We
4 just notified them as to where it was and we waited until
5 they got there and we continued on with their trail.

6 Q Can you describe what Dex picked up after the gun was
7 located?

8 A We continued -- we made a left out of that yard, went
9 I think it was to Fieldcrest into the cul de sac, and we
10 went down the cul de sac back to Roundtree Circle and we
11 made a right and we kind of make it a loss right there, we
12 lost the trail. And we started cutting the area again and
13 we continued down Roundtree and that's when we found a
14 gold pickup truck in the driveway which Major Marsh
15 related to me that that was the one that was possibly
16 BOLO'd as part of a vehicle involved in this situation
17 earlier.

18 Q What does BOLO mean?

19 A Be on the lookout.

20 Q And did you put together a trail on a map of where Dex
21 took you that evening?

22 A Yes, I did.

23 Q Let me show you what has been marked as State's
24 Exhibit 15. Is that your map of the area and your trail of
25 the path that you and Dex took that night?

CHRISTOPHER KINSEY - DIRECT

1 A Yes.

2 MR. MAXWELL: Permission -- or I offer State's 15 into
3 evidence.

4 MR. FRICK: No objection.

5 THE COURT: In without objection.

6 (The map was received as State's 15.)

7 MR. FRICK: Permission for deputy to step down.

8 THE COURT: Sure.

9 Q First, Deputy Kinsey, can you talk about where
10 Roundtree Circle is?

11 A This is Roundtree.

12 Q And where is Parkway?

13 A Parkway would be here. I'm not real familiar with
14 all the streets, but this is Parkway.

15 Q And when you arrived, where did you and Dex start with
16 the information provided to you about where the person is?
17 Make sure these jurors can make it a point to see you.

18 A I'm sorry. When we arrived we pulled up into this
19 area here and stopped and I met with the officers. This
20 was all -- had crime scene tape around it like I said
21 earlier. I met with the officers there just to kind of
22 get our initial game plan as to what we were going to try
23 to do, and they informed me that a witness had possibly
24 seen someone run in this area. So we started the dog --
25 there's a wooden fence right here that splits the property

CHRISTOPHER KINSEY - DIRECT

1 and they said they saw him go around the wooden fence so
2 that's where we started, because I asked the officers on
3 scene if anybody else had been in that area and they said
4 no one since they had been there had been anywhere around
5 this area, so that was the opportunity that I had to start
6 a trail. We continued the trail. We went to the shed
7 right here and that's where the rifle was located, and
8 once the detectives from Chester secured it we continued
9 down Fieldcrest, like I said, we made a loss in this area
10 here.

11 Q What do you mean by that?

12 A Well, the dog lost the trail for multiple reasons.
13 There could be contamination in this area that nobody knew
14 about or a lot of times it's a vehicle pick up, if the
15 person we're looking for gets in a vehicle and he just
16 loses the trail. Like I said, we just kept cutting this
17 area kind of back and forth across the road to see if we
18 could resume that track, and while we were doing that
19 that's when we located the gold pickup truck in this
20 driveway that Randy -- Major Marsh advised that fit the
21 description of one that they had a BOLO on. And he ended
22 up running the tags on it and confirmed that that was the
23 vehicle that they had BOLO'd out.

24 Q And at that point in time was the Chester County
25 Sheriff's office taking over looking into that truck?

CHRISTOPHER KINSEY - DIRECT

1 A Well, we stayed with the truck until Chester County
2 officers arrived. They asked me to scent the dog on the
3 driver's seat of the truck at that point, but the dog
4 smelled the driver's seat and picked up the human scent
5 that was there, and we established another trail that went
6 behind the houses and went back to the area of Fieldcrest
7 and Roundtree. And when the dog loses a trail he begins
8 to circle and he began to circle in here as he had lost
9 the trail again.

10 Q Did you locate anything else at that point?

11 A No.

12 Q And does it matter whether somebody is cutting across
13 grass or pavement how the scent was left and whether the
14 dog could pick it up.

15 A If it's on the grass it will stay a lot longer just
16 because there's something there to hold the scent down.
17 When it gets on asphalt that's when your weather
18 conditions kick in a lot more, asphalt is generally a lot
19 warmer than the grass so it can cause it to burn off a lot
20 quicker. And also the wind affects it more on the
21 asphalt, like I said, because there's nothing to hold it
22 down, so it can blow all over the roads here and cause the
23 dog to have some trouble at times.

24 Q You can have a seat.

25 MR. MAXWELL: No further questions, Your Honor.

CHRISTOPHER KINSEY - DIRECT

1 CROSS EXAMINATION

2 BY MR. FRICK:

3 Q I didn't catch your title, what is it?

4 A It's master deputy two.

5 Q Master deputy two. How do you get to be a master
6 deputy?

7 A It's a long process.

8 Q It sounds like it.

9 A It's about a six year process.

10 Q And you've been running dogs how long?

11 A Since December of 2004 is when I became a full-time
12 handler, before then I was on our county response team.
13 We have a team of deputies that assists full-time
14 handlers.

15 Q And you work in York County?

16 A Correct.

17 Q Have you always worked in York County?

18 A Except when we get called to other agencies to
19 assist.20 Q I mean you specifically, you haven't worked in Chester
21 County as a deputy, right?22 A No. The only other agency I worked for was
23 Orangeburg County.

24 Q Okay. All right. Do you get called to Chester often?

25 A It kind of comes and goes. I've probably been there

CHRISTOPHER KINSEY - CROSS

1 40 or 50 times since I started as a full-time handler.

2 Q Well, that's a few times, right?

3 A It's a good many.

4 Q Are you familiar with the area here?

5 A I've been in that area on separate incidents, yes.

6 Q Did you know where you were going that night?

7 A For the most part.

8 Q When you got there I believe you said that the scene
9 had been secured; is that correct?

10 A It was taped off with crime scene tape.

11 Q Do you remember -- and I know I got it sideways to
12 you, but can you see this kinda-sorta?

13 A Yes.

14 Q Do you remember about where it was taped off, if you
15 remember the road specifically here?

16 A I know right around Parkway and the first entrance to
17 Roundtree, yes, in that area.

18 Q Right there?

19 A Yeah. Specifically I don't recall that.

20 Q Okay. That's fine. Did you go to the other entrance
21 of Roundtree at any point?

22 A After we found the truck we did, but we were just
23 kind of walking -- we walked back out that way and went
24 back to our vehicles that way. As far as specifically
25 running a trail, no.

CHRISTOPHER KINSEY - CROSS

- 1 Q And I'm sorry, you may have already covered this, did
2 you start tracking up here? Is this where you started
3 cutting the dog?
- 4 A Yes.
- 5 Q So you basically just covered this entire Roundtree
6 area.
- 7 A No, I did not cover the whole area. I specifically
8 focused on that area where she said that -- or the witness
9 said that she saw someone run behind the residence.
- 10 Q And picked up some trail, right?
- 11 A Yes.
- 12 Q Now, sometimes y'all have something that y'all can --
13 like a piece of clothing or something like that from a
14 suspect.
- 15 A Correct.
- 16 Q And they can key off that and follow a trail.
- 17 A Right.
- 18 Q Did you have that in this case?
- 19 A No, sir.
- 20 Q So that's why you're taking the dog and just trying to
21 hit on something.
- 22 A Correct.
- 23 Q Do you have any idea who you hit on?
- 24 A I do not, no.
- 25 Q Is there any way -- and I think you said that the dog

CHRISTOPHER KINSEY - CROSS

1 lost the trail somewhere around in this area?

2 A Yes, sir.

3 Q I know I'm not pointing at exactly the right spot.

4 A Yeah.

5 Q And then it picked up on a trail again, correct?

6 A I don't know if it was the same person, we rescinded
7 the dog off the seat of the truck.

8 Q That's what I was getting at, do you know whether the
9 two trails are the same person or different or not?

10 A No. Once -- you can stop the dog and once -- you can
11 restart him on a second scent. He won't -- there's ways
12 of doing it. Basically if I make a big loss and I feel
13 they possible left in a vehicle or something the dogs are
14 taught -- they wear a tracking harness and they also have
15 a collar on, and when you take the lead from the collar to
16 the tracking harness they know it's time to go to work,
17 it's almost like flipping on a light switch, they know
18 they're going to work. Likewise when you remove it from
19 the harness and go back to the collar they know they're
20 not working and they're becoming a dog again. I switched
21 him over after we made the big loss because I wasn't sure
22 what we were going to do at that point and I just let him
23 calm down and settle and then I switched him back over
24 after we scented off the seat of the truck.

25 Q But there's no way to determine whether that was the

CHRISTOPHER KINSEY - CROSS

- 1 same scent or not.
- 2 A No.
- 3 Q The dog just picks up a human scent and follows it.
- 4 A Correct.
- 5 Q Was anybody found on the scene? Civilians? I know
- 6 there was a lot of cops out there.
- 7 A No. I think we spoke to one person in a garage that
- 8 was in his carport or something, he asked what was going
- 9 on. But other than finding anybody on the trail, no.
- 10 Q Okay. And once the trail is done and you've written
- 11 your report and, of course, here to testify, you weren't
- 12 involved anymore with this case, right?
- 13 A No, sir.
- 14 Q No one brought you down to Chester County to see if
- 15 the trail could match up, right, to the person they found,
- 16 right?
- 17 A No. Once we left there we were done with it.
- 18 Q Okay. Do you recall about when you got there? And if
- 19 you got your report you can look at it.
- 20 A It was around 11:15ish.
- 21 Q 11:15 in the evening, right?
- 22 A Correct.
- 23 Q And when you got there at 11:15 it had been taped off
- 24 on this one end and the scene was secure, correct?
- 25 A As far as I could tell it was roped off, there were

CHRISTOPHER KINSEY - CROSS

1 deputies everywhere, investigators everywhere.

2 Q Put it this way, you felt comfortable enough to run
3 the dog.

4 A Correct, yes.

5 Q In this case you were an assisting agency, correct?

6 A Right.

7 Q Which means Chester asked you to come down basically
8 because they don't have their own blood hounds, correct?

9 A At that time they did not.

10 Q Or didn't at that time, yeah. Other than the
11 Roundtree area, did you go check out any other scenes that
12 night?

13 A No.

14 Q Were you asked to go check any other scenes?

15 A No.

16 MR. FRICK: Thank you, sir, that's all of the
17 questions I have.

18 MR. MAXWELL: No redirect, Your Honor.

19 THE COURT: You may step down. Thank you. Let's take
20 a ten minute recess and give everybody a chance for a
21 restroom break, Coke or whatever, refreshments. The jury
22 may step back to their room.

23 (The jury left the courtroom.)

24 MR. MAXWELL: State calls Cindy Taaffe.

25 The witness, CINDY TAAFFE, was first duly sworn and

CHRISTOPHER KINSEY - CROSS

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MAXWELL:

4 Q State your name for the record.

5 A Cindy Henry Taffe.

6 Q Taffe, I'm sorry. Ms. Taffe, can you spell your last
7 name?

8 A T-a-a-f-f-e.

9 Q Thank you. And back in November of 2014, where were
10 you employed?

11 A I was employed with the Chester County Sheriff's
12 Office.

13 Q And what was your position there?

14 A I was a lieutenant investigator.

15 Q Did you respond to an incident that took place on
16 Roundtree Circle on November 4th of 2014?

17 A I did.

18 Q Did you go there that night?

19 A Yes.

20 Q And once you arrived there, did you get some
21 information about a white Yukon being at least something of
22 interest to the case?

23 A Yes.

24 Q Did you know about an officer stopping a white Yukon?

25 A Yes.

CINDY TAAFFE - DIRECT

1 Q Do you know who that was?

2 A Seems like it was Officer Cummings.

3 Q And did you go to see the white Yukon?

4 A Yes, I did.

5 Q And where was that at?

6 A It was at the red light on Saluda Street.

7 Q And was it taken into custody for examination or did
8 you examine it there?

9 A Yes.

10 Q Out on the street.

11 A Yes.

12 Q And what did you do there? What did you notice about
13 it first?

14 A There was blood on the vehicle. Consent was given by
15 the owner of the vehicle and it was swabbed.

16 Q And was the owner Rafael Jackson?

17 A Yes, it was.

18 Q And where was the blood at?

19 A It was on the rear passenger door.

20 Q Was it on the outside?

21 A Yes.

22 Q And you said this was a white car?

23 A It was a white SUV.

24 Q And did you have the kit necessary to take swabs from
25 the vehicle?

CINDY TAAFFE - DIRECT

- 1 A Yes.
- 2 Q Did you swab the blood smeared on the outside of the
- 3 exterior of the vehicle?
- 4 A Yes.
- 5 Q What did you use to take the swab?
- 6 A We have what you call a swab kit, the kit is used,
- 7 it's sterile. When you open it, you take the swab and you
- 8 swab what you know the evidence is, you put it into a
- 9 container and seal it, it is then sealed with evidence
- 10 tape and logged into evidence.
- 11 Q Did you -- again, you swabbed that blood off on that
- 12 white Yukon?
- 13 A Yes, I did.
- 14 Q And was it again the night of the 4th of 2014?
- 15 A Yes.
- 16 Q Or early morning hours of the 5th?
- 17 A Yes. I can't tell you exactly what time.
- 18 Q I show you what's been marked as State's Exhibit 13.
- 19 Take a second and look at that. What is that?
- 20 A That is the -- inside is the swab kit that was taken
- 21 and was sealed, and then it was placed in an evidence
- 22 envelope and sealed again, and then it is sealed with my
- 23 initials, that way it's --
- 24 Q Is your signature on the front of that envelope?
- 25 A Yes, it is.

CINDY TAAFFE - DIRECT

1 Q And is there a date next to your signature?

2 A Yes, there is.

3 Q And what date is that?

4 A 11/5/14.

5 Q And is that when you took the swab or logged it into
6 evidence?

7 A Logged into evidence.

8 Q Can you describe, what does logging into evidence mean
9 and what do you do?

10 A All of the paperwork is done, it's placed into
11 evidence, it is logged, it is signed over to the evidence
12 tech. that takes the evidence for safe keeping.

13 Q And is that for later analysis?

14 A Yes.

15 MR. MAXWELL: Nothing further, Your Honor.

16 THE COURT: Mr. Frick?

17 CROSS EXAMINATION

18 BY MR. FRICK:

19 Q Other than collecting that swab, were you involved in
20 the collection of any other evidence in this case?

21 A No, sir.

22 Q Any other involvement at all?

23 A No, sir.

24 MR. FRICK: Thank you, ma'am, no questions.

25 THE COURT: You may step down.

MELINDA WORLEY - DIRECT

1 MS. HALL: Your Honor, we would ask that she be
2 excused.

3 THE COURT: May the witness be excused?

4 MR. FRICK: Yes, sir, no objection.

5 MS. HALL: State calls Melinda Worley.

6 The witness, MELINDA WORLEY, was first duly sworn and
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MS. HALL:

10 Q Your name is Melinda Worley?

11 A Yes.

12 Q And where are you employed?

13 A The South Carolina Law Enforcement Division, SLED.

14 Q And were you employed there on November 4th of 2014?

15 A Yes, I was.

16 Q And what were your duties at that time?

17 A I'm in the crime scene unit.

18 Q And in the crime scene unit what do you do?

19 A We respond to crime scenes anywhere in the state when
20 requested to do so. We document, collect and preserve
21 evidence at the scene.

22 Q And you requested to come in and assist in this case?

23 A Yes, I was.

24 Q And did you respond to the scene on the night of
25 November 4th of 2014?

MELINDA WORLEY - DIRECT

1 A I did.

2 Q And once you got there, what did you observe?

3 A The area was Roundtree Circle. There was a red
4 Cadillac and had struck the front of the residence, pieces
5 of a mailbox were laying in the streets between -- I'm not
6 sure what road that was leading to Roundtree Circle, but
7 between that intersection and where the car was there was
8 pieces of a mailbox, pieces of parts of the car itself.

9 Q And as you -- as part of your -- did you have somebody
10 when you came there?

11 A Yes, I did.

12 Q Who was that?

13 A Special Agent Brittany Burke.

14 Q And was she there to help you, or to help you process
15 the scene?

16 A Yes.

17 Q And were photographs taken as a part of this
18 procedure?

19 A Yes, they were.

20 Q Were diagrams -- did you ultimately go back and make
21 diagrams that documented what you had observed and what you
22 had recovered?

23 A I drew a diagram on the scene, yes.

24 Q You drew one diagram or two?

25 A I believe on scene I drew one.

MELINDA WORLEY - DIRECT

1 Q I show you what has been marked as State's Exhibit 92.

2 Do you recognize this?

3 A I do.

4 Q Is that the diagram you were just referring to that
5 was drawn on scene?

6 A It's the newer version, yes.

7 Q Could you explain the process of that?

8 A On scene I hand draw with a pencil or pen the
9 diagram, and then back at the office I will do a computer
10 version using a software program.

11 Q And that's what you're referring to here on State's
12 Exhibit 92?

13 A Yes.

14 Q And is this the diagram that you made once you got
15 back to the office on the computer program?

16 A Yes, ma'am.

17 MS. HALL: The State would move 92 into evidence at
18 this time.

19 MR. FRICK: No objection.

20 THE COURT: In without objection.

21 (The diagram was received as State's 92.)

22 MS. HALL: And Your Honor, I would ask for permission
23 for the witness to step down.

24 THE COURT: Yes.

25 Q With regard to your diagram -- and I'm also showing

MELINDA WORLEY - DIRECT

1 you what has been marked and entered into evidence as
2 State's Exhibit 15. Do those diagrams correlate with one
3 another?

4 A Yes.

5 Q Okay. Can you tell us what they are?

6 A My diagram here is basically this area right here,
7 Vance Drive, the intersection of Roundtree Circle to where
8 the residence is here at 588.

9 Q And referring to your diagram, could you explain to
10 the jury what you found going letter by letter and then
11 stop after each letter?

12 A Okay. Markers A, B and C here were pieces of the
13 mailbox that were struck -- mailboxes struck by the car as
14 it came through. Marker D was presumably a piece of
15 vehicle itself, just a black piece of plastic. Marker E,
16 there was a plastic chair sitting on the carport right
17 here that had suspected blood on it, so E was suspected
18 blood. F was on top of the vehicle, there was a bullet
19 defect in the vehicle. And G is fluid suspected to be
20 from the vehicle, possibly radiator fluid. And H, metal
21 jacket laying here in the road. I is a cartridge case
22 from -- it was an assault rifle type cartridge case here
23 in the road. And J was another cartridge case from a .40
24 caliber projectile.

25 Q Now, let me go back through these one by one, this

MELINDA WORLEY - DIRECT

1 will get a little bit tedious. I want to show you what has
2 been entered into evidence as State's 5A, B, C and D.
3 Could you tell us what that is? It's a photograph of the
4 car that has been published to the jury, but how does that
5 correlate with your map?

6 A This is -- looking -- let's see, the back of the
7 vehicle -- it's taken from around in here to the back of
8 vehicle.

9 Q And referring to 5C, you had indicated earlier that
10 marker F was the car. Is that indeed marker F that's on
11 top of the car in this photograph?

12 MS. HALL: Your Honor, again I would ask to publish it
13 to the jury.

14 THE COURT: Sure.

15 Q So that's your F and that's how that correlates with
16 this photograph, correct?

17 A Yes.

18 Q And then you stated that marker H, could you go back
19 to that, please?

20 A Uh-huh.

21 Q And what was that?

22 A It was the cartridge case.

23 Q Okay. And I'm going to show you what's been marked as
24 54A and B. And is that where you put the markers to
25 correlate with that map?

MELINDA WORLEY - DIRECT

1 A The markers were actually already in place before
2 when we got there, yes.

3 Q Do those pictures truly and accurately depict the
4 conditions of that when you guys found that?

5 MS. HALL: State would offer 54A and B into evidence
6 at this time.

7 MR. FRICK: No objection.

8 (The photos were received as State's 54A and B.)

9 MS. HALL: Permission to publish?

10 THE COURT: Yes. Y'all are going to have to speak up.
11 Solicitor, if you will angle that diagram just a little bit
12 more this way where the court reporter can see y'all.

13 MS. HALL: Yes, sir.

14 THE COURT: It's a lot easier on him. Can everybody
15 on the jury see?

16 Q All right. With regard to mile marker H and that
17 bullet fragment, did you collect that bullet fragment when
18 you found it?

19 A Yes, we did.

20 Q I show you what has been marked as State's Exhibit 44.
21 Do you recognize that?

22 A This was the metal jacket of marker H.

23 Q Okay. And did you collect it?

24 A Agent Burke collected it.

25 Q Did you receive it from Agent Burke?

MELINDA WORLEY - DIRECT

- 1 A Yes.
- 2 Q What did you do with it once you received it from
- 3 Agent Burke?
- 4 A Transported it to the lab at SLED and logged it in as
- 5 evidence.
- 6 Q And was that for purposes of requesting further
- 7 analysis on it by SLED analysts?
- 8 A Yes.
- 9 Q I show you what's been marked as 55A through D. And
- 10 tell me if you recognize that.
- 11 A This is marker I.
- 12 Q Referring to your diagram, what does that correlate
- 13 with?
- 14 A It's taken right here at the intersection.
- 15 Q And the photographs, do they truly and accurately
- 16 depict what was found at mile marker I at the time of your
- 17 investigation?
- 18 A Yes.
- 19 Q And you stated to the jury before what this was.
- 20 Could you tell them again, please?
- 21 A I is a cartridge case.
- 22 Q I'll show you what has been marked as State's 45. Do
- 23 you recognize that?
- 24 A This is that cartridge case for marker I.
- 25 Q And did you collect that?

MELINDA WORLEY - DIRECT

1 A I did.

2 Q And did you place that into evidence at SLED as well?

3 A Yes, I did.

4 Q And was that for the purpose of firearm analysis, or
5 further analysis by SLED analysts?

6 A Yes.

7 MS. HALL: At this time State would move the
8 photographs 55A, B, C and D into evidence.

9 MR. FRICK: No objection.

10 MS. HALL: And ask permission to publish it to the
11 jury.

12 THE COURT: In without objection and you may do so.

13 (The photos were received as State's 55A-D.)

14 Q Before I do that I want to flip back to -- refer to
15 55D. What marker is in that area?

16 A That one is marker G here in the road.

17 Q And what did you believe that to be at the time?

18 A We believed it to be fluid from the vehicle.

19 Q Okay. I show you what has been marked as 56A, B and
20 C. Can you tell us what that is?

21 A This is a marker J up here at Vance Drive.

22 Q And what -- do these pictures accurately depict the
23 conditions and the placement of where it was found?

24 A Yes.

25 Q And what is it?

MELINDA WORLEY - DIRECT

- 1 A It is a .40 caliber cartridge case.
- 2 Q And I'll show you what has been marked as State's 42.
- 3 Do you recognize that?
- 4 A Yes.
- 5 Q What is that?
- 6 A It is the cartridge case from marker J.
- 7 Q Did you collect that at the scene?
- 8 A I did.
- 9 Q And did you place it into evidence at SLED?
- 10 A Yes, I did.
- 11 Q And that was the purpose for further analysis by SLED
- 12 analysts?
- 13 A Yes.
- 14 MS. HALL: Your Honor, at this time I would move 56A
- 15 through C into evidence -- I am sorry 56A through D.
- 16 MR. FRICK: No objection.
- 17 MS. HALL: And ask permission to publish them to the
- 18 jury.
- 19 THE COURT: In without objection, and you may.
- 20 (The photos were received as 56A-D.)
- 21 Q And I don't know if you were in the room when the
- 22 K-9 -- well, hang on, let me start with the car. Did you
- 23 process the red vehicle that was involved in this
- 24 situation?
- 25 A I did.

MELINDA WORLEY - DIRECT

1 Q I show you what's been marked as 53A, B and C. Were
2 those photographs of that vehicle?

3 A Yes.

4 Q And do they truly and accurately depict the condition
5 of the vehicle and the contents therein once you arrived at
6 the scene?

7 A Yes.

8 Q And were those photographs actually taken at the
9 scene?

10 A Yes, they were.

11 Q The car was ultimately moved but these photographs
12 were taken prior to that?

13 A That's right.

14 MS. HALL: Your Honor, at this time we move 53A, B and
15 C into evidence.

16 MR. FRICK: No objection.

17 MS. HALL: And I would ask to publish them to the
18 jury.

19 THE COURT: In without objection, and you may.

20 (The photos were received as State's 53A-C.)

21 Q In referring to photograph 53A, is that -- is the gun
22 pictured in that photograph, was it ultimately recovered?

23 A Yes, it was.

24 Q And was it placed into evidence?

25 A Yes.

MELINDA WORLEY - DIRECT

- 1 Q And was it recovered by you?
- 2 A Yes.
- 3 Q I'm going to show you what's been marked as State's
- 4 Exhibit 18. Is this the gun?
- 5 A Yes.
- 6 Q And this was picked up by you and placed in this
- 7 evidence box?
- 8 A Actually Agent Burke actually collected it, but yes.
- 9 Q Was it given to you?
- 10 A Yes.
- 11 Q Did you actually place it into evidence for SLED
- 12 analysis to be performed on it?
- 13 A I did.
- 14 Q And did you also collect the -- or at some point
- 15 receive these other parts of State's 18, which you can tell
- 16 the jury what these are. This is I guess 18 subcategory
- 17 one.
- 18 A These were all removed from the revolver.
- 19 Q Okay.
- 20 A This is an unfired cartridge from the revolver.
- 21 Q And are you able to tell by documentation on this box
- 22 how many of the cartridges inside the gun were fired and
- 23 how many were unfired?
- 24 A Two were fired and four unfired.
- 25 Q Would you have actually taken them out of the gun

MELINDA WORLEY - DIRECT

1 prior to submitting them for analysis?

2 A Yes.

3 Q Okay. And I'll also show you State's 53B. What is
4 that a photograph of?

5 A A cellphone.

6 Q Okay. And this has already been entered into
7 evidence. Were you able to determine whose cellphone that
8 was and was it collected and placed in evidence?

9 A I did not collect that.

10 Q Was it on that floorboard when you found the car?

11 A Yes.

12 Q And I'm going to show you, on 53C, is that a bullet
13 fragment?

14 A It is.

15 Q And was that collected and placed into evidence for
16 analysis?

17 A Yes, it was.

18 Q I show you what has been marked as State's 41. Is
19 that that bullet fragment?

20 A Yes, it is.

21 Q And did you collect it and place it into evidence at
22 SLED for further analysis?

23 A Yes.

24 Q I'm going to show you what's been marked as 49A, B, C
25 and D, if you would look at those real quick and tell me if

MELINDA WORLEY - DIRECT

1 you know what they are.

2 A These are photographs of the vehicle after it had
3 been moved to the sheriff's office to process it there.

4 Q Is that the red Cadillac?

5 A Yes, it was.

6 Q And you were present during the processing of this at
7 the sheriff's department?

8 A Yes.

9 Q And do these photos truly and accurately depict the
10 car's condition at the time that you were processing it?

11 A Yes.

12 MS. HALL: Your Honor, at this time State would move
13 49A, B, C and D into evidence.

14 MR. FRICK: No objection.

15 MS. HALL: And ask permission to publish it.

16 THE COURT: In without objection and you may.

17 (The photos were received as State's 49A-D.)

18 Q While I'm doing this, could you explain what the dowel
19 odds are?

20 A We use dowel rods to try to determine trajectory, the
21 path that a bullet took as it struck the vehicle and where
22 it went in the vehicle to try to show the direction that
23 it came from.

24 Q And referring to this diagram where you placed the
25 dowel rods, how many bullet defects did you find on this

MELINDA WORLEY - DIRECT

1 side of the car?

2 A I believe there were six.

3 Q Okay. And in order to place a dowel rod in it, could
4 you explain how the bullet has to go in or -- did you place
5 dowel rods in all of them?

6 A No.

7 Q And why did you place it in this?

8 A You have to have at least -- where the bullet is
9 struck two surfaces in order for the rod to run through
10 it, you can't just have one hole and put a rod in it, it
11 wouldn't show you the direction where the bullet actually
12 came from, you have got to have at least two defects in
13 order to use the rods. The one that struck the tire, it
14 only struck that and nowhere else so we weren't able to
15 run a rod.

16 Q And in the other one -- you said there were six but
17 there's only two dowel rods on the side, were the other
18 four, were you able to put the dowel rods in these other
19 four?

20 A Yeah, they were in the windshield.

21 Q But did you put tape next to them?

22 A We did.

23 Q Could you point those out to the jury?

24 A Here, here and here.

25 Q But since you didn't have anything for the dowel rod

MELINDA WORLEY - DIRECT

1 to attach to in the back you didn't put dowel rods in that;
2 is that correct?

3 A Correct.

4 Q I'm going to show you what has been marked State's 58.
5 Do you recognize this?

6 A I do.

7 Q Is this a document that you generated?

8 A Yes.

9 Q And was this based on information that Agent Burke
10 gave you at some point in time?

11 A Yes.

12 Q And was this on November 4th or was it later?

13 A I believe it would have been the morning of November
14 5th.

15 Q Okay. And if you could just briefly -- she's going to
16 testify later and I'll just get her to talk about it more
17 in detail, but this was all based on information that she
18 gave you, right?

19 A Yes.

20 Q And you weren't there.

21 A I wasn't.

22 Q I show you what has been marked and entered into
23 evidence as State's 7 -- if it hasn't been entered -- do
24 you recognize this?

25 A I do.

MELINDA WORLEY - DIRECT

1 Q What is it?

2 A This is Roundtree Circle in here, then Fieldcrest
3 Circle.

4 Q Okay.

5 MS. HALL: Your Honor, at this time I would move
6 State's 7 into evidence.

7 MR. FRICK: No objection.

8 THE COURT: In without objection.

9 (The diagram was received as State's 7.)

10 Q At some point in time were you called over to an area
11 because a firearm had been found there?

12 A Yes.

13 Q Could you explain that to the jury?

14 A A weapon had been found under a shed at 528
15 Fieldcrest Circle.

16 Q And do you remember who called you over there?

17 A I don't remember specifically.

18 Q But you responded to that area?

19 A Yes.

20 Q And let me show you what's been entered into
21 evidence -- I'll show you first what has been marked as
22 52A -- this is 52A through J. So if you would just take a
23 minute to look at those and tell us what those are.

24 MR. FRICK: Your Honor, can we approach for a minute?

25 (Bench conference was held.)

MELINDA WORLEY - DIRECT

1 Q Have you had a chance to review those photographs?

2 A Yes, I did.

3 Q And what do they show?

4 A They are pictures from the front of the house at 528

5 Fieldcrest around to the shed in the back.

6 Q And do they truly, all of them, accurately and truly

7 depict the condition of the house and the placement of the

8 firearm when you found it?

9 A Yes.

10 Q And does some of them depict actually once you took

11 the firearm out from under the shed and removed the

12 magazine, all of that's depicted in this photograph?

13 A It is.

14 MS. HALL: Your Honor, at this time the State would

15 move exhibits 58A through J into evidence.

16 MR. FRICK: No objection.

17 MS. HALL: And we would ask permission to publish them

18 to the jury.

19 THE COURT: In without objection, and you may.

20 (The photos were received as State's 52A-J.)

21 Q What color was that shed if you recall?

22 A It was a dark reddish color.

23 Q When you found the gun was the magazine in it?

24 A I believe it was next to it.

25 Q Okay. I'll show you what has been entered into

MELINDA WORLEY - DIRECT

1 evidence as K -- I mean as 14. Is that the same gun that
2 is pictured in these photographs?

3 A Yes.

4 Q And actually is it also -- there was a marker beside
5 it in your photographs?

6 A Yes.

7 Q And I show you what has been marked as State's 12. Do
8 you recognize this box?

9 A I do.

10 Q And is this the gun that was found at the marker K as
11 depicted in these photographs?

12 A Yes.

13 Q And did you collect it and submit it to the evidence
14 locker at SLED for further analysis by firearms or any
15 other analyst department at SLED?

16 A Yes, I did.

17 Q Okay. And that's also part of this -- was that on the
18 gun at the time you found it?

19 A I believe so, yes.

20 Q Okay. Do you know what that is?

21 A A light.

22 Q And is that the magazine that was depicted in these
23 photographs I just showed you?

24 A Yes.

25 Q And are those the cartridges that were in there?

MELINDA WORLEY - DIRECT

1 A Yes.

2 Q Did you take them out before you put them in here?

3 A I don't believe I took them out.

4 Q Did you take them out, though, before you put it into
5 evidence, or do you recall?

6 A I think I did to count, I'm not certain.

7 Q Okay. And how many were in there, do you know?

8 A I don't know.

9 MS. HALL: Begging the Court's indulgence for just a
10 second.

11 THE COURT: Sure.

12 (Break in proceedings.)

13 Q As the crime scene analyst or crime scene investigator
14 in this case, did you receive what I'm going to show you is
15 marked as State's Exhibit 46, did you take that into
16 evidence or put it in evidence?

17 A Yes.

18 Q What is that?

19 A It is a fragment -- bullet fragment that was
20 collected inside of the Cadillac.

21 Q And did you take that out and place it into evidence
22 at SLED for further analysis by SLED analysts?

23 A Yes.

24 Q And did you -- at some point in time did you take
25 other firearms and put those into evidence as well?

MELINDA WORLEY - DIRECT

1 A Yes.

2 Q I'm going to show you what has been marked as State's
3 Exhibit 18. Do you recognize -- State's 19. Do you
4 recognize this?

5 A Yes.

6 Q Where did you receive that?

7 A From Agent Burke.

8 Q What is it?

9 A A 9-millimeter weapon that was recovered.

10 Q And could you tell, was it recovered the night that
11 you were there or was it recovered when you weren't there?

12 A It was recovered when I was not there.

13 Q And did you receive it from Agent Burke, and then did
14 you place this into evidence at SLED as well?

15 A Yes, ma'am.

16 Q All right. I'll show you what has been marked as
17 State's 20. Do you recognize this?

18 A Yes.

19 Q And what is it?

20 A It is a revolver that was found at the same time.

21 Q And were those bullets found with it?

22 A Yes.

23 Q And did you receive this from Agent Burke as well?

24 A I did.

25 Q And was it recovered at a time when you were not

MELINDA WORLEY - DIRECT

- 1 present?
- 2 A That's right.
- 3 Q And did you receive it from her as the crime scene
4 agent and place it into the evidence locker at SLED and
5 request further analysis?
- 6 A Yes, I did.
- 7 Q Okay. I show you what has been marked as 61. Do you
8 recognize that?
- 9 A It's a magazine.
- 10 Q Was this collected by you or in your presence?
- 11 A No.
- 12 Q Where did you get it?
- 13 A From Agent Burke.
- 14 Q And did you place it into evidence at SLED and request
15 further analysis on that as well?
- 16 A I did.
- 17 Q And I'm going to show you what has been marked as
18 State's Exhibit 60, is that a magazine as well?
- 19 A Yes, it is.
- 20 Q With bullets that were inside of it?
- 21 A It is.
- 22 Q And did you receive this from Agent Burke?
- 23 A I did.
- 24 Q Were you present when it was collected?
- 25 A No.

MELINDA WORLEY - DIRECT

1 Q Did you take it as the case agent and put in into
2 evidence at SLED and request further analysis on it?

3 A I did.

4 Q I show you what has been marked as State's 39. Did
5 you get that from Agent Burke as well?

6 A Yes, I did.

7 Q Did you place that into evidence and ask for analysis
8 on it?

9 A I did.

10 Q And is the same true with State's 40?

11 A Yes, that's right.

12 Q You got it from Burke and you put it into evidence and
13 asked for analysis on that?

14 A That's right.

15 Q And referring back to this document that you
16 generated, okay? You stated that all of -- all of this
17 information has been related by information given to you by
18 Agent Burke?

19 A Yes.

20 Q Is this the bullet collected from marker one on that?

21 A Yes.

22 Q Marker two?

23 A Yes.

24 Q Marker three?

25 A Yes.

MELINDA WORLEY - DIRECT

- 1 Q Four?
- 2 A Yes.
- 3 Q Five?
- 4 A Yes.
- 5 Q Six?
- 6 A Yes.
- 7 Q Seven?
- 8 A Yes.
- 9 Q Eight?
- 10 A Yes.
- 11 Q Nine?
- 12 A Yes.
- 13 Q Ten?
- 14 A Yes.
- 15 Q Eleven?
- 16 A Yes.
- 17 Q Twelve?
- 18 A Yes.
- 19 Q Thirteen?
- 20 A Yes.
- 21 Q Fourteen?
- 22 A Yes.
- 23 Q Fifteen?
- 24 A Yes.
- 25 Q Sixteen?

MELINDA WORLEY - DIRECT

1 A Yes.

2 Q Seventeen?

3 A Yes.

4 Q And 18?

5 A Yes.

6 Q Now, were all of these pieces of evidence given to you
7 by Agent Burke?

8 A Yes, they were.

9 Q Were all of these pieces of evidence submitted by you
10 to the evidence locker at SLED for further analysis?

11 A Yes, they were.

12 MS. HALL: Your Honor, let me go through this real
13 quick. What I referred to as marker one is State's 21,
14 marker two is State's 22, marker three is State's 23,
15 marker four is State's 24, marker five is State's 25,
16 marker six is State's 26, marker seven is State's 27,
17 marker eight is State's 28, marker nine is State's 29,
18 marker ten is State's 30. Marker 11 is State's 31, marker
19 12 is State's 32, marker 13 is State's 33, marker 14 is
20 State's 34, marker 15 is State's 35, marker 16 is State's
21 36, marker 17 is State's 37, marker 18 is State's 38.

22 Q I show you what has been marked as State's 66. What
23 is that?

24 A Swabs of suspected blood collected from the vehicle.

25 Q And were you present when that was collected?

MELINDA WORLEY - DIRECT

- 1 A No, I was not.
- 2 Q Could you tell from looking at that who collected it?
- 3 A Agent Burke.
- 4 Q Did she submit it to you?
- 5 A Yes.
- 6 Q As the case agent, did you put it into evidence for
- 7 further analysis from SLED analysts?
- 8 A Yes, I did.
- 9 Q I show you what has been marked as State's 43. Can
- 10 you tell us what that is?
- 11 A This is a cartridge case that was collected from 639
- 12 Parkway by Agent Burke.
- 13 Q Did she give it to you?
- 14 A Yes.
- 15 Q Did you put it into the evidence locker at SLED?
- 16 A Yes, I did.
- 17 Q And did you do that so that you could have it analyzed
- 18 by SLED analysts?
- 19 A Yes.
- 20 Q And then State's 62, what is that?
- 21 A Swabs of suspected blood collected from fence by
- 22 Agent Burke.
- 23 Q Did she give the swabs to you?
- 24 A Yes.
- 25 Q Did you place them into evidence at SLED and request

MELINDA WORLEY - DIRECT

1 further analysis on these?

2 A Yes, I did.

3 Q Now, I show you what's been marked as State's 1A
4 through C. Do you recognize that?

5 A Yes, I do.

6 Q What are those photographs of?

7 A A Dodge Ram pickup truck.

8 Q Do you know where that Dodge Ram was located at the
9 time the photographs were taken?

10 A I believe at [REDACTED].

11 Q If you need to, do you need to refer to your crime
12 scene summary?

13 A Yes. That's right, 557.

14 Q And these photographs were taken while the truck was
15 at [REDACTED]?

16 A Yes.

17 Q And do they truly and accurately depict the condition
18 of the truck and the placement of the truck at the time you
19 found it?

20 A Yes, they do.

21 Q All right.

22 MS. HALL: Your Honor, at this time the State would
23 move 1A, B and C into evidence.

24 MR. FRICK: No objection.

25 MS. HALL: We would ask permission to publish it.

MELINDA WORLEY - DIRECT

- 1 THE COURT: In without objection, you may.
- 2 (The photos were received as State's 1A-C.)
- 3 Q Did you attempt to -- what other things did you do to
- 4 this truck while it was there?
- 5 A We photographed it and placed it in impound and then
- 6 had it towed to the sheriff's office for process.
- 7 Q Once you towed it to the sheriff's office to have it
- 8 processed what did you do?
- 9 A We collected swabs for touch DNA from the steering
- 10 wheel, gearshift and all of the interior. Collected a hat
- 11 from inside and processed it for latent prints, and black
- 12 powder on the outside of the vehicle.
- 13 Q Let me show you what's been marked as State's 79.
- 14 Were those the prints that were lifted off the exterior
- 15 door?
- 16 A Yes, they are.
- 17 Q And were those lifted by yourself?
- 18 A No, they were not.
- 19 Q Who did it?
- 20 A Agent Burke.
- 21 Q Once she lifted them, did she give them to you to
- 22 place them into evidence at SLED?
- 23 A Yes, she did.
- 24 Q And did you do that with them?
- 25 A Yes.

MELINDA WORLEY - DIRECT

1 Q And was the purpose for having further analysis
2 performed on them?

3 A Yes.

4 Q I'll show you what has been marked as State's 2A, B
5 and C. Do you recognize these?

6 A I do.

7 Q What are they?

8 A A suspected bullet defect on the rail of the bed of
9 the truck.

10 Q And do these accurately depict the condition of the
11 truck and the defect that you found at the time that the
12 truck was -- was the truck at the scene or was the truck at
13 the sheriff's department at this time?

14 A At the sheriff's office.

15 Q But that truly and accurately depicts the condition of
16 it?

17 A Yes, they do.

18 MS. HALL: Your Honor, at this time the State would
19 move 2A, B and C into evidence.

20 MR. FRICK: No objection.

21 THE COURT: In without objection.

22 MS. HALL: And we would ask permission to publish it.

23 THE COURT: Okay.

24 (The photos were received as State's 2A-C.)

25 Q You stated they were lifted off the back rail of the

MELINDA WORLEY - DIRECT

1 truck. Referring to State's Exhibit 1B, would you indicate
2 to the jury from where they would be lifted so it will be a
3 little clearer?

4 A On the driver's side on the edge of the bed of the
5 truck.

6 Q As far as you know were there ever any other guns
7 recovered in this case?

8 A No.

9 Q And were there ever any shell casings or bullet
10 defects or anything else recovered in this case?

11 A No.

12 MR. FRICK: Your Honor, can we approach for a minute?

13 THE COURT: Yeah.

14 (A bench conference was held.)

15 MS. HALL: All right. If I haven't already at this
16 time the State would move Exhibit 58 into evidence.

17 MR. FRICK: No objection.

18 THE COURT: In without objection.

19 (The diagram was received as State's 58.)

20 Q I'll show you what has been marked as State's 59.
21 What is that?

22 A This is the chain of custody for all of the evidence
23 that was submitted to SLED for this case.

24 Q So does that document track each piece of evidence as
25 it goes into the SLED evidence locker, comes out and is

MELINDA WORLEY - DIRECT

1 analyzed, and goes back to the department?

2 A Yes.

3 Q And is that a document that's kept in the ordinary
4 course of business at SLED?

5 A It is.

6 MS. HALL: State would move 59 into evidence at this
7 time.

8 MR. FRICK: No objection.

9 THE COURT: In without objection.

10 (The chain of custody was received as State's 59.)

11 MS. HALL: I don't have any further questions, please
12 answer any questions that Mr. Frick may have.

13 MR. FRICK: If she wants to have a seat I will try to
14 do my questioning of her there.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q Agent Worley, how long have you been at SLED?

18 A Almost five years.

19 Q And SLED is referred to as an assisting agency; is
20 that correct?

21 A That's correct.

22 Q Can you tell me what that means?

23 A We are requested by law enforcement agencies
24 throughout the state when needed. When they process a
25 scene they will call and request us to assist them.

MELINDA WORLEY - CROSS

- 1 Q So y'all don't just show up at scenes, y'all have to
2 be asked.
- 3 A That's right.
- 4 Q And do y'all decide where y'all go when you get there?
- 5 A Somewhat. It's based on information that we're
6 provided as to incident and what's occurred.
- 7 Q And the information you get is from the agency who
8 calls you, right?
- 9 A Typically.
- 10 Q In this case who called you?
- 11 A Major McDaniel with the sheriff's office.
- 12 Q Specifically it was the Chester County Sheriff's
13 Department?
- 14 A Yes, that's right.
- 15 Q You were actually more specific than I needed, but
16 thank you. And they told you to go to the Roundtree Circle
17 area of Chester?
- 18 A That's right.
- 19 Q At some point the solicitor asked you to refer to a
20 crime scene summary, do you have that with you?
- 21 A I do.
- 22 Q I know it's a summary, but tell me what it summarizes.
- 23 A It includes my notes from the crime scene and my
24 diagrams, chains of custody, autopsy documents if we have
25 them.

MELINDA WORLEY - CROSS

1 Q Okay. Now, you were not the only crime scene person
2 from SLED in this case; is that correct?

3 A That's right.

4 Q Agent Burke was the other one?

5 A Yes.

6 Q Were there other crime scene investigators that
7 assisted you in this from SLED?

8 A You mean specifically at the scene?

9 Q Yes, ma'am.

10 A Not at the scene, no.

11 Q Specifically when did you get to Roundtree Circle?

12 A An exact time?

13 Q Yes, ma'am, as specific as you can get, please to
14 whatever you need.

15 A At approximately 11:33 p.m.

16 Q On what date?

17 A November 4th.

18 Q And do you note in there anywhere how long you were
19 there?

20 A I have the time that we cleared the scene.

21 Q Yes, ma'am, what was that?

22 A 2:55 a.m. on the 5th.

23 Q Okay. And that's when you left Roundtree Circle,
24 right?

25 A No.

MELINDA WORLEY - CROSS

- 1 Q Is that when you left Chester?
- 2 A That was when we left [REDACTED].
- 3 Q The cars were taken back to the sheriff's department,
- 4 right?
- 5 A That's right.
- 6 Q Were they taken back that night?
- 7 A Yes.
- 8 Q And when you cleared from Roundtree, did you go to the
- 9 sheriff's department?
- 10 A We did.
- 11 Q Do you know about when you got over to the sheriff's
- 12 department?
- 13 A We arrived there at 3:24 a.m.
- 14 Q Do you have when you cleared?
- 15 A From the sheriff's office?
- 16 Q Yes, ma'am.
- 17 A At approximately 8:13 a.m.
- 18 Q And when you cleared from the sheriff's department at
- 19 8:13 a.m. I'm guessing it's now the 5th, right?
- 20 A That's right.
- 21 Q Where did you go?
- 22 A I went back to the lab at SLED.
- 23 Q Okay. Which is in Columbia, correct?
- 24 A Yes, that's right.
- 25 Q Did you come back to Chester at any point on this

MELINDA WORLEY - CROSS

1 case?

2 A Not on this case.

3 Q So your dealing with this case was from the 4th to the
4 morning hours of the 5th, correct?

5 A That's right.

6 Q Of course you worked on it but you worked on it from
7 Columbia.

8 A That's right.

9 Q Who compiles that document that you have been
10 referring to?

11 A I did.

12 Q And is it basically a summation of everything in the
13 investigation?

14 A No.

15 Q Okay. Again, I'm sorry, you answered my question
16 before, I'm going to ask it again, what does it summarize
17 then?

18 A It summarizes times that we arrived and cleared from
19 scenes and what we did at the scene, evidence that was
20 collected, evidence that was arriving and processed.
21 Anything that we did at the scene was documented.

22 Q Does it include information from other officers, stuff
23 that you needed for background?

24 A Yes.

25 Q Does it include information of any evidence that's

MELINDA WORLEY - CROSS

- 1 discovered?
- 2 A That I was aware of, yes.
- 3 Q So if you weren't made aware of it it wouldn't be in
4 that report.
- 5 A Right.
- 6 Q Where in that report does it talk about Patrick
7 Street?
- 8 A I don't believe I have it in there at all.
- 9 Q Okay. In fact, you didn't go to Patrick Street.
- 10 A No, I didn't.
- 11 Q Other than going to Roundtree Circle and then
12 processing cars at the sheriff's department, did you see
13 any other areas in investigating this case?
- 14 A Just Fieldcrest Circle also.
- 15 Q But that's the road right here in the middle, right?
- 16 A Yes.
- 17 Q When I'm referring I mean the whole area.
- 18 A That's right.
- 19 Q So other than there and at the sheriff's department
20 you didn't go nor were you asked to go anywhere else.
- 21 A That's right.
- 22 Q Now, let's look at a couple of charts here. You got
23 your diagram up there just in case you can't see what I'm
24 pointing at, don't you?
- 25 A Yes, I do.

MELINDA WORLEY - CROSS

1 Q All right. Can you tell me this specific one here,
2 which is State's 92, what shell casings were found?

3 A At markers I and J.

4 Q I and J. Okay. And are they different?

5 A They are.

6 Q What was the one at J?

7 A J was a .40 caliber cartridge case.

8 Q What was the one at I?

9 A It's a 7.6239.

10 Q You mentioned something about something being found at

11 [REDACTED]. Where is it on this chart?

12 A It's not.

13 Q This particular diagram, you prepared it but you were
14 not on the scene, correct?

15 A That's right.

16 Q So as far as items that were A, B, C and D, you're
17 just recording that they were found, is that fair to say?

18 A That's right.

19 Q You did not -- you were not at the scene in collecting
20 those.

21 A Right.

22 Q Let's go to the processing of the car. Quickly, can
23 you tell me what processing the car means?

24 A We photograph the outside and inside of the vehicle
25 and all compartments of the vehicle; the trunk, the glove

MELINDA WORLEY - CROSS

- 1 box, center console, under the visors, under the seats.
- 2 And then depending on the case, which in this case we
- 3 collected swabs for touch DNA from inside of the
- 4 vehicle -- or I'm sorry, are you talking about the
- 5 Cadillac?
- 6 Q I am.
- 7 A The Cadillac we collected projectile, bullet
- 8 fragments from inside the car.
- 9 Q And I think I'm looking at State's 49A, B, C and D.
- 10 This reflects what you're talking about there, right?
- 11 A Yes, sir.
- 12 Q And the dowels are placed through -- you said you had
- 13 to have at least two points to put a dowel through
- 14 something?
- 15 A That's right.
- 16 Q Why do you do that?
- 17 A To help -- I mean, you can't put the rod through just
- 18 one hole in one direction, it was supposed to --
- 19 Q I'm sorry, I wasn't clear in my question, I'm sorry.
- 20 What does putting the dowel in there tell you?
- 21 A Direction of the -- the path of the bullet basically,
- 22 where it came from and where it was going to.
- 23 Q Okay. And you were unable to do that on the stuff
- 24 with the windshield, right?
- 25 A Right.

MELINDA WORLEY - CROSS

1 Q So on that one you can't determine which direction
2 anything was coming.

3 A No.

4 Q I'm going to hand you a stack of pictures. Just kind
5 of look through them quickly and see if they look familiar
6 to you. They probably look extremely familiar right now.

7 A I recognize them.

8 Q Can you tell me what they are?

9 A Photos from the scene and the area of the vehicles.

10 Q Okay. And the vehicles are the truck and the
11 Cadillac?

12 A Yes.

13 Q Are these -- did you take these pictures?

14 A No.

15 Q Okay. Do you know who took these pictures?

16 A I'm not sure if the sheriff's office may have taken
17 them or if Agent Burke may have taken them.

18 Q Okay. All right. They look kind of similar to some
19 of the ones the State has introduced here though; is that
20 correct?

21 A Yes.

22 Q May be the same ones, in fact?

23 A Maybe.

24 MR. FRICK: Your Honor, at this time I would move
25 these pictures into evidence.

MELINDA WORLEY - CROSS

1 MS. HALL: No objection.

2 THE COURT: Without objection.

3 (The photos were received as Defense Exhibits 3-6.)

4 Q I'll hand you what has been marked as Defendant's
5 Exhibit Number 7. What's that?

6 A This is a picture of a bullet defect on the side of
7 the truck.

8 Q You know that's a bullet defect?

9 A Suspected defect.

10 Q What makes you think it's a suspected bullet defect?

11 A It shows kind of the direction of a bullet striking a
12 flat surface.

13 Q And which direction was that bullet traveling?

14 A It appears to be traveling towards the rear of the
15 vehicle.

16 Q And what caliber was it?

17 A That I couldn't tell you.

18 Q And you said it appears to be, you can't say that with
19 any certainty.

20 A Right.

21 Q That's just looking at it and kind of making an
22 educated guess, right?

23 A That's correct.

24 Q And just so I'm clear, when we talk about being in the
25 Roundtree Circle area, I'm talking about from this entrance

MELINDA WORLEY - CROSS

1 to this entrance and around in this area, okay? Did you go
2 any further down Parkway back towards the railroad track or
3 any further down Parkway back towards Saluda?

4 A Only towards Vance, the next street down.

5 Q And Vance is right there?

6 A Yes.

7 Q Is it fair to say the railroad track would be
8 somewhere off this picture?

9 A Yes.

10 Q And you did not go there.

11 A No.

12 Q And no one asked you to go there.

13 A Right.

14 MR. FRICK: Give me one second, we may be done.

15 (Break in proceedings.)

16 MR. FRICK: Thank you, ma'am, that's all of my
17 questions.

18 MS. HALL: Very briefly.

19 REDIRECT EXAMINATION

20 BY MS. HALL:

21 Q You said the bullet -- the car had been shot six times
22 that from these pictures and what you're processing, that's
23 what you discovered to be the case; is that correct?

24 A Correct.

25 Q Three times through the windshield; is that correct?

MELINDA WORLEY - CROSS

- 1 A Yes.
- 2 Q And that's depicted -- the windshield is depicted in
3 State's 49C. Okay. And then when you looked at the
4 photograph of the interior of the car, which is 53A, we
5 talk about the gun being on the floor, is that glass down
6 there in the floor board as well?
- 7 A Yes, ma'am.
- 8 Q Was there anything remaining in the driver's side car
9 window?
- 10 A I don't believe so.
- 11 Q So if the bullet would have gone through that you
12 wouldn't have been able to tell, correct?
- 13 A Right.
- 14 Q Do you know the difference between windshield glass
15 and window glass and what happens to it when it's hit by a
16 hard bullet?
- 17 A A little bit, I wouldn't consider myself an expert.
- 18 Q But in this case the windshield broke but the window
19 itself has completely shattered and was absent; is that
20 correct?
- 21 A That's correct.
- 22 Q And again if a bullet had gone through that window you
23 wouldn't have been able to tell, correct?
- 24 A Right.
- 25 Q Could you just explain to the jury so we're not

MELINDA WORLEY - REDIRECT

1 confused about it, the difference between a projectile and
2 a shell casing?

3 A The projectile is the actual bullet that comes
4 through the gun. A cartridge case or casing is the part
5 that ejects from the gun out the side of the gun as the
6 gun is shot.

7 Q Okay. And looking -- so the projectile is what comes
8 out and would hit whatever it hits and the shell casing is
9 what the projectile comes out of and that would hit the
10 ground; is that correct?

11 A That's correct.

12 Q But if it was a revolver such as State's 18, which I
13 believe we identified as the gun that came out of the
14 Cadillac -- that's a revolver, correct?

15 A Right.

16 Q And the difference between that and something like
17 State's 19 -- is that an automatic?

18 A Yes.

19 Q Okay. And the revolver, do the shell casings come out
20 of the gun and hit the ground?

21 A No, ma'am.

22 Q Do they remain in the gun in the revolving part of it?

23 A They do.

24 Q But the projectile does come out; is that correct?

25 A Yes.

MELINDA WORLEY - REDIRECT

1 Q But in an automatic such as this and this, the shell
2 casings would come out and fall on to the ground?

3 A That's right.

4 Q But the projectiles all come out the same way for all
5 of them.

6 A Right.

7 Q Okay. Very briefly, I want to talk about agents such
8 as yourself who process scenes, and that's one division
9 within the South Carolina Law Enforcement Division; is that
10 correct?

11 A That's correct.

12 Q And are you the investigator assigned to the case?

13 A Yes.

14 Q Are there other investigators assigned to cases who
15 don't necessarily process scenes?

16 A Yes.

17 Q To your knowledge do those investigators look for
18 evidence as well?

19 A Sometimes they do, yes.

20 Q And if that evidence was found, would it be submitted
21 to you for --

22 A We would be -- we would be aware of evidence if they
23 found some at the scene so we could document it and
24 collect it.

25 Q But if they go out and look for evidence and don't

MELINDA WORLEY - RECROSS

1 find anything you may or may not be aware of that; is that
2 correct?

3 A That's true.

4 MS. HALL: Thank you, I don't have anything further.

5 MR. FRICK: Very, very quickly.

6 RECROSS EXAMINATION

7 BY MR. FRICK:

8 Q How far you were was the driver's side window then?

9 A I do not know.

10 Q Can't tell, can you?

11 A No.

12 Q The revolver the State was talking about, did you find
13 it or did you collect it, or was that Agent Burke?

14 A I believe Agent Burke collected it.

15 MR. FRICK: Thank you, ma'am, that's all of the
16 questions I have.

17 MS. HALL: I don't have anything else. We would ask
18 that she be excused.

19 MR. FRICK: No objection.

20 THE COURT: The witness is excused. Unless you have a
21 very briefly witness we can break.

22 MS. HALL: I don't think she's brief enough.

23 THE COURT: All right. Let's break for lunch, it's
24 now 25 until 1:00, let's be back ready to go at 2:00, okay?
25 See you at 2:00.

MELINDA WORLEY - RECROSS

1 (The jury left the courtroom and a lunch recess was
2 taken.)

3 THE COURT: Solicitor, are you ready for the jury?

4 MS. HALL: Yes, sir.

5 THE COURT: Are you ready to go forward, Counsel?

6 MR. FRICK: Yes, sir.

7 (The jury returned to the courtroom.)

8 MS. HALL: State calls Brittany Burke.

9 The witness, BRITTANY BURKE, was first duly sworn and
10 testified as follow:

11 DIRECT EXAMINATION

12 BY MS. HALL:

13 Q Your name is Brittany Burke?

14 A Yes, it is.

15 Q Where are you currently employed?

16 A I'm currently employed with the Tennessee Bureau of
17 Investigation.

18 Q Back on November 4th of 2014, where were you employed?

19 A I was employed with the South Carolina Law
20 Enforcement Division.

21 Q And what were your duties with the South Carolina Law
22 Enforcement Division at that time?

23 A My duties at the time were working in the crime scene
24 unit and responding to crime scenes across the state at
25 the request of other agencies.

BRITTANY BURKE - DIRECT

1 Q And did you receive such a request from Chester County
2 with regard to this case on November the 4th of 2014?

3 A Yes, I did.

4 Q And did you come to Chester as a result of that call?

5 A I did.

6 Q And did you come here with Melinda Worley?

7 A Yes.

8 Q And did you assist her or work with her during the
9 course of this investigation?

10 A Yes, I did.

11 Q I'm going to show you what's been entered into
12 evidence as State's Number 92. Does this document or map
13 or diagram, is this familiar to you?

14 A Yes, ma'am, it is.

15 Q All right. I show you what has been marked as State's
16 Exhibit 42. Will you tell me if you recognize that?

17 A Yes, ma'am, I do.

18 Q Okay. What is it?

19 A It is a cartridge case collected from marker J.

20 Q And is that marker J on this diagram?

21 A Yes, it is.

22 Q Okay. And did you collect that cartridge case?

23 A Yes, I did.

24 Q Did you turn it over to Melinda Worley once you
25 collected it?

BRITTANY BURKE - DIRECT

- 1 A Yes.
- 2 Q And what caliber of bullet did it come from, or could
- 3 you tell?
- 4 A It came from a .40 caliber bullet.
- 5 Q Did you ever collect a .40 caliber gun in this case?
- 6 A No, I did not.
- 7 Q I'm going to show you what has been marked as State's
- 8 45. Tell me if you recognize that.
- 9 A Yes, I do.
- 10 Q What is it?
- 11 A It is a cartridge case collected from marker I.
- 12 Q And does that correspond with marker I here on this
- 13 diagram?
- 14 A Yes, it does.
- 15 Q Did you collect that?
- 16 A Yes, ma'am.
- 17 Q And what caliber bullet is that?
- 18 A It's a 762 by 39.
- 19 Q And once you collected that, did you give it to
- 20 Melinda Worley?
- 21 A Yes, ma'am.
- 22 Q I'm going to show you what has been marked as State's
- 23 46. And tell me if you recognize that, please.
- 24 A Yes, I do.
- 25 Q And what is it?

BRITTANY BURKE - DIRECT

1 A It is a fragment or projectile collected from the
2 compartment area in the back window.

3 Q Of what car?

4 A Of the vehicle -- the red vehicle depicted in the
5 diagram there.

6 Q Would that be the car that is wrecked into this house
7 right here on this diagram?

8 A Yes, that's correct.

9 Q And did you collect that?

10 A Yes, ma'am.

11 Q And did you give it to Melinda Worley?

12 A I did.

13 Q I am going to show you what has been marked as State's
14 40. Could tell me if you recognize that?

15 A Yes. It is a fired projectile collected from the
16 ground at [REDACTED].

17 Q Okay. And with regard to that I'm going to show you
18 what's been marked as State's 58 and entered into evidence.

19 Do you recognize this diagram?

20 A Yes, ma'am, I do.

21 Q Okay. And referring back to the piece of evidence
22 that you have in your hand you said it was a projectile
23 collected from where?

24 A The ground.

25 Q And does it bear a marker number that would correlate

BRITTANY BURKE - DIRECT

1 to this diagram on that box?

2 A It does not.

3 Q So you collected that from the ground. Can you tell
4 which day you did it?

5 A On November the 5th, 2014.

6 Q Okay. And that's a projectile -- could you explain to
7 the jury again what a projectile is versus a cartridge
8 case?

9 A A projectile is actually the bullet part of the
10 cartridge. It's what when you fire a gun comes out of the
11 barrel and travels a distance, it's actually what most
12 people refer to as the bullet of the cartridge. The
13 cartridge case is the part that the bullet comes out of,
14 that ejects out of the side of the gun.

15 Q And where did you collect this? Where did you get it?

16 A I collected it from the ground at [REDACTED]

17 Q I'm going to show you -- I will bring it over to
18 you -- what has been marked as State's 15. If you are able
19 on this map, would you please indicate to the jury where
20 [REDACTED] is?

21 A It is this residence right here.

22 Q Does that also refer -- on State's 92, does that
23 correspond with this house?

24 A Yes, it does.

25 Q So you got this out of the yard at this house; is that

BRITTANY BURKE - DIRECT

1 correct?

2 A That is correct.

3 Q And you get that -- and this again is State's 40, did
4 you give that to Melinda Worley?

5 A Yes, I did.

6 Q And I'm going to show you what has been marked as
7 State's 43. Can you tell me what that is?

8 A Yes. This is a cartridge case, that was collected
9 from [REDACTED].

10 Q And again referring to State's 15, can you indicate to
11 the jury or point on the map to where that was found?

12 A It was found up here in front of this residence.

13 Q And what is it again, what did you say it is?

14 A It's a cartridge case.

15 Q What caliber gun did it come from?

16 A I would have to refer to my notes for that if I may.

17 It's a .40 caliber cartridge case.

18 Q And again, was a .40 caliber gun ever recovered in
19 this case as far as you know?

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

21 Q And when you responded to that residence on November
22 the 4th of 2014, did you assist in the processing of the
23 vehicle --.

24 A Yes, ma'am.

25 Q -- the red vehicle? I'm going to show you what's been

BRITTANY BURKE - DIRECT

- 1 marked as State's 18. And do you recognize these items?
- 2 A Yes, ma'am.
- 3 Q And what are they?
- 4 A It is a revolver that was recovered.
- 5 Q Where was it recovered from?
- 6 A From the vehicle.
- 7 Q All right. Was this also given to Melinda Worley?
- 8 A Yes, ma'am, it was.
- 9 Q And recovered by you, correct?
- 10 A Yes, ma'am.
- 11 Q I'm going to show you what is marked State's 39, and
- 12 tell me if you recognize that.
- 13 A Yes, ma'am, I do.
- 14 Q Okay. What is it?
- 15 A It's a fired projectile collected from the ground at
- 16 [REDACTED].
- 17 Q And is that again -- is this [REDACTED] on this
- 18 diagram?
- 19 A Yes, ma'am.
- 20 Q And you recovered that?
- 21 A Yes, ma'am, I did.
- 22 Q On what date?
- 23 A On November the 5th of 2014.
- 24 Q Okay. And did you give it to Melinda Worley?
- 25 A I did.

BRITTANY BURKE - DIRECT

1 Q Now, with regard to these cartridge cases that were
2 fired projectiles that were recovered at [REDACTED], were
3 these recovered the night that you were called there or did
4 you have occasion to go back another the time?

5 A No, they were recovered the next day. I was called
6 to come back so that we could search the ground in the
7 daylight at that time.

8 Q And did you go back alone or did you go with Agent
9 Worley at that time?

10 A I went back alone at that time.

11 Q Okay. And are these two projectiles, are they on any
12 of these diagrams? Are they indicated on any of these
13 diagrams that were prepared?

14 A Yes, ma'am. They were indicated by markers C and D
15 on the diagram there.

16 MS. HALL: And let the record reflect that she is
17 referring to State's 58 that's been entered into evidence.

18 Q And you stated they are shown as C and D on that
19 diagram; is that correct?

20 A Yes, ma'am, that's correct.

21 Q And those were fired projectiles. Could you describe
22 to the jury where you found them?

23 A The four A, B, C, and D represented defects that we
24 knew in the ground that looked like a projectile had
25 entered the ground at that time or at that location. We

BRITTANY BURKE - DIRECT

1 then ran a metal detector over that area and dug into the
2 ground to attempt to retrieve a projectile from the
3 ground, and marker C and D are where we were able to
4 locate a projectile from within the ground there.

5 Q Ms. Burke, I show you what has been marked as States's
6 Exhibit 21. Do you recognize that?

7 A Yes, ma'am.

8 Q What is it?

9 A It is a cartridge case collected from marker one.

10 Q And is that the same cartridge case that was collected
11 from marker one on this diagram?

12 A Yes, ma'am, it is.

13 Q And what type of cartridge case is it?

14 A The head stamp on it is Flammo, I believe that's how
15 you pronounce it, it's 762 by 39.

16 Q And did you give at that to Melinda Worley?

17 A I did.

18 Q With regard to State's 22?

19 A It's a cartridge case collected from marker two.

20 Q And does that correspond with this marker two on this
21 diagram?

22 A Yes, ma'am.

23 Q And go ahead and tell what kind it is.

24 A It bears the same stamp as the first one.

25 Q And did you give it to Melinda Worley?

BRITTANY BURKE - DIRECT

- 1 A I did.
- 2 Q With regard to State's 23?
- 3 A This is a cartridge case collected from marker three.
- 4 Q Is that the same marker three that's indicated on this
- 5 diagram here?
- 6 A Yes, ma'am.
- 7 Q What head stamp does it bear?
- 8 A The same one as the previous two.
- 9 Q And did you give it to Melinda Worley.
- 10 A Yes, ma'am.
- 11 Q That's State's 24. Can you tell us what that is?
- 12 A It's a cartridge case collected from marker four.
- 13 Q Does that marker four refer to the same marker on this
- 14 diagram?
- 15 A Yes, ma'am.
- 16 Q And what is the head stamp on that one?
- 17 A It is also the same.
- 18 Q Did you give it to Melinda Worley?
- 19 A I did.
- 20 Q I'll show you what has been marked as State's 25.
- 21 A It's cartridge case recovered from marker five.
- 22 Q And does it correspond with this marker five on this
- 23 diagram?
- 24 A Yes, ma'am, it does.
- 25 Q And what head stamp does it bear?

BRITTANY BURKE - DIRECT

- 1 A Also the same.
- 2 Q And did you give it to Melinda Worley?
- 3 A Yes, ma'am.
- 4 Q Thank you. And with regard to State's 26?
- 5 A Cartridge case collected from marker six.
- 6 Q Okay.
- 7 MS. HALL: And for the matter of record every time I'm
- 8 referring to a diagram as State's 58.
- 9 Q Does that correspond with number six here?
- 10 A Yes, ma'am.
- 11 Q And what head stamp does it bear?
- 12 A The same one.
- 13 Q Did you give it to Melinda Worley?
- 14 A Yes, ma'am.
- 15 Q With regard to State's 27?
- 16 A It's a cartridge case collected from marker seven.
- 17 Q And does that correspond with this marker seven here
- 18 on 58?
- 19 A Yes, ma'am.
- 20 Q And what head stamp does it bear?
- 21 A Also the same one.
- 22 Q And it was collected by you?
- 23 A Yes, ma'am.
- 24 Q Was it given to Melinda Worley?
- 25 A Yes, ma'am.

BRITTANY BURKE - DIRECT

- 1 Q With regards to State's 28?
- 2 A It's a cartridge case collected from marker eight.
- 3 Q And that's this number eight here?
- 4 A Yes, ma'am, it is.
- 5 Q Okay. What head stamp does that bear?
- 6 A Again the same.
- 7 Q And was that given -- it was collected you by you?
- 8 A Yes, ma'am.
- 9 Q And given to Melinda Worley?
- 10 A Yes, ma'am.
- 11 Q All right. With regard to State's 29?
- 12 A It's a cartridge case collected from marker nine.
- 13 Q Does that correspond with marker nine here on this
- 14 diagram?
- 15 A Yes, ma'am, it does.
- 16 Q Okay. What head stamp does it bear?
- 17 A Again, the same.
- 18 Q Was it collected by you?
- 19 A Yes, ma'am.
- 20 Q Was it given to Melinda Worley?
- 21 A Yes, it was.
- 22 Q With regard to State's 30?
- 23 A Cartridge case collected from marker ten.
- 24 Q All right. And that corresponds with marker ten here
- 25 on this diagram?

BRITTANY BURKE - DIRECT

- 1 A Yes, ma'am, it does.
- 2 Q All right. And was it collected by you?
- 3 A Yes, it was.
- 4 Q And what head stamp does it bear?
- 5 A Also the same.
- 6 Q And was it given to Melinda Worley by you?
- 7 A Yes, ma'am.
- 8 Q States 31?
- 9 A It's cartridge cases collected from marker 11.
- 10 Q Does that correspond with the marker 11 on this
- 11 diagram?
- 12 A Yes, ma'am.
- 13 Q And what head stamp does it bear.
- 14 A Also the same.
- 15 Q And was it collected by you as well?
- 16 A Yes, ma'am.
- 17 Q And given to Melinda Worley?
- 18 A Yes, ma'am.
- 19 Q State's 32?
- 20 A It's cartridge case collected from marker 12.
- 21 Q And does that correspond with marker 12 here?
- 22 A Yes, ma'am, it does.
- 23 Q And what head stamp does it bear?
- 24 A Again, the same.
- 25 Q And was it collected by you?

BRITTANY BURKE - DIRECT

- 1 A Yes, ma'am.
- 2 Q And given to Melinda Worley?
- 3 A Yes, ma'am.
- 4 Q State's 33?
- 5 A It's a cartridge case collected from marker 13.
- 6 Q And does that correspond with marker 13 here on this
- 7 diagram?
- 8 A Yes, it does.
- 9 Q And was it collected by you?
- 10 A Yes, ma'am.
- 11 Q And was it given to Melinda Worley?
- 12 A Yes, ma'am.
- 13 Q What is State's 34?
- 14 A Cartridge case collected from marker 14.
- 15 Q And that corresponds with marker 14 here on this
- 16 diagram?
- 17 A Yes, ma'am.
- 18 Q And what head stamp does it bear?
- 19 A Again, the same.
- 20 Q And was it collected by you?
- 21 A Yes, ma'am.
- 22 Q And did you give it to Melinda Worley?
- 23 A Yes, ma'am.
- 24 Q With regard to State's 35?
- 25 A It's a cartridge case collected from marker 15.

BRITTANY BURKE - DIRECT

- 1 Q Does that correspond with marker 15 here on this
2 diagram?
- 3 A Yes, ma'am.
- 4 Q And what head stamp does it bear?
- 5 A HMC 7.62 by 39.
- 6 Q So all of these that we've gone over together are the
7 same caliber, 7.62 by 39, but now we're getting to
8 something that has a different brand stamp on it?
- 9 A Yes, it's just a different manufacturer.
- 10 Q And was that collected by you?
- 11 A Yes, ma'am.
- 12 Q And was it given to Melinda Worley?
- 13 A It was.
- 14 Q With regard to State's 36?
- 15 A Cartridge case collected from marker 16.
- 16 Q Does that correspond with 16 on this diagram?
- 17 A Yes, it does.
- 18 Q What head stamp does it bear?
- 19 A The HMC 7.62 by 39.
- 20 Q And was it collected by you?
- 21 A Yes, ma'am.
- 22 Q And was it given to Melinda Worley?
- 23 A Yes, ma'am.
- 24 Q State's 37.
- 25 A It's a cartridge case collected from marker 17.

BRITTANY BURKE - DIRECT

- 1 Q And that corresponds with marker 17 here?
- 2 A Yes, ma'am, it does.
- 3 Q And what head stamp does it bear?
- 4 A Flammo 7.62 by 39.
- 5 Q And that was collected by you?
- 6 A Yes, ma'am.
- 7 Q And given to Melinda Worley?
- 8 A Yes, ma'am.
- 9 Q With regard to State's 38?
- 10 A It's a cartridge case collected on marker 18.
- 11 Q And does that correspond with marker 18 here on this
- 12 diagram?
- 13 A Yes, ma'am, it does.
- 14 Q And what head stamp is that?
- 15 A Flammo 7.62 by 39.
- 16 Q And was that collected by you?
- 17 A Yes, ma'am.
- 18 Q And given to Melinda Worley?
- 19 A Yes, ma'am.
- 20 Q I'm going to show you what's marked as 65A, B and C.
- 21 A Okay.
- 22 Q Can you tell us if you recognize that?
- 23 A Yes, ma'am, I do.
- 24 Q What are they?
- 25 A This is photographs of the markers that are depicted

BRITTANY BURKE - DIRECT

1 in the diagram.

2 Q And those are actual photographs that were taken on
3 scene with these markers out in place?

4 A Yes, ma'am, that is correct.

5 Q And did you take those photographs?

6 A I did not.

7 Q Do they truly and accurately depict the condition of
8 the markers and the condition of the ground and area on the
9 day that they were taken?

10 A Yes, ma'am, they do.

11 Q And you were present in that area on that day; is that
12 correct?

13 A Yes, ma'am.

14 MS. HALL: State would move those into evidence at
15 this time.

16 MR. FRICK: No objection.

17 MS. HALL: We would ask permission to publish them.

18 THE COURT: In without objection, you may publish.

19 (The photos were received as State's 65A-C.)

20 Q And if you could on 65A, with that pointer, could you
21 just point to the area where C and D were collected?

22 A I can. C and D were located in this ridge line back
23 here, it was kind of like a drainage ditch and it goes --
24 it's kind of a drainage ditch and the ground slopes back
25 up to the road in that area right here along the road

BRITTANY BURKE - DIRECT

1 there and that's the area in which they were found.

2 Q Okay. I'm probably going to have to ask you to come
3 down. I'm going to have to ask you to come down. We're
4 going to refer to State's Exhibit 4, which has been entered
5 into evidence, and give you this pointer. Actually, I
6 think it's going to be easier to refer to State's 7.
7 During the course of your investigation -- I show you
8 what's been marked as State's 19.

9 A Okay.

10 Q What is that?

11 A That is a 9-millimeter handgun that was collected.

12 Q Was it collected by you?

13 A Yes, ma'am.

14 Q Was it ultimately given to Melinda Worley?

15 A Yes, it was.

16 Q Can you tell the jury the circumstances by which it
17 was collected and where it was found?

18 A It was collected -- or it was found in this yard
19 right back here and it was found laying in the yard next
20 to a dog kennel that was there as we searched the area
21 again on November 5th in the daylight hours the day after
22 this had happened. They were located, like I said, in
23 this yard here and were collected.

24 Q Okay. Let me show you what's been marked as State's
25 51. Do you recognize that?

BRITTANY BURKE - DIRECT

- 1 A Yes, ma'am, I do.
- 2 Q What is it?
- 3 A It is a picture depicting the location of the guns
- 4 that were found at the residence.
- 5 Q Okay. And so when we referred just now to State's 19
- 6 which is this gun --
- 7 A Yes, ma'am.
- 8 Q -- and you talked about finding that, did you find it
- 9 with a clip in it and with these bullets in it?
- 10 A Yes, ma'am.
- 11 Q And you took it into evidence and gave it to Melinda
- 12 Worley?
- 13 A That is correct.
- 14 Q And is it depicted in that photograph?
- 15 A It is.
- 16 Q And then with regard to State's 20 you said there were
- 17 two guns, do you recognize this?
- 18 A Yes, ma'am.
- 19 Q Was it collected by you?
- 20 A It was.
- 21 Q And was it found in that same location?
- 22 A It was found in the same location loaded with all
- 23 five cartridges.
- 24 Q And does this photograph 51, does it accurately and
- 25 truly depict the placement of those guns at the time that

BRITTANY BURKE - DIRECT

1 you found them?

2 A Yes, ma'am, it does.

3 MS. HALL: Your Honor, at this time the State would
4 move 51 into evidence?

5 MR. FRICK: No objection.

6 MS. HALL: And ask permission to publish it to the
7 jury?

8 THE COURT: In without objection, you may.

9 (The photo was received as State's 51.)

10 Q Talk about the dog pen. Could you explain that a
11 little bit better?

12 A I can. This area here is a chain link fence that
13 went around the back yard. This chain link here you can
14 see it kind of has two sides to it, it was a chain link
15 dog kennel that was located in the back corner of the
16 yard, the placement of the guns was between the dog kennel
17 and the back portion of the fence.

18 Q You stated those guns were what caliber?

19 A One was a 9-millimeter and one was a .38.

20 Q Let me show you what has been marked as State's
21 Exhibit 60. Do you recognize this?

22 A Yes, ma'am.

23 Q What is it?

24 A It's a magazine clip and cartridges.

25 Q Did you find it?

BRITTANY BURKE - DIRECT

- 1 A Yes, ma'am.
- 2 Q Were the cartridges inside the magazine clip when you
- 3 found it?
- 4 A Yes, ma'am.
- 5 Q And once you found it did you give it to Agent Worley?
- 6 A Yes, I did.
- 7 Q I show you what's been marked as 50A and 50B. Do you
- 8 recognize it?
- 9 A Yes, I do.
- 10 Q What is it?
- 11 A This is a photograph showing the location of the
- 12 magazine that we were -- and cartridges that we were just
- 13 speaking about.
- 14 Q So that would be State's 60 and then a photograph of
- 15 State's 60.
- 16 A Yes, ma'am.
- 17 Q And does it truly and accurately depict it as you
- 18 found it that day?
- 19 A It does.
- 20 MS. HALL: The State would move 50A and B into
- 21 evidence at this time.
- 22 THE COURT: No objection.
- 23 MS. HALL: We ask permission to publish it.
- 24 THE COURT: In without objection, and you may.
- 25 (The photos were received as State's 50A-B.)

BRITTANY BURKE - DIRECT

1 Q Is that the same dog pen that you were talking about a
2 minute ago.

3 A Yes, ma'am. A minute ago we were looking at the back
4 side of it and this would be in front of it.

5 Q That was again found in the same vicinity?

6 A Yes, ma'am.

7 Q And we show you what has been marked as State's 61.
8 Do you recognize this?

9 A Yes, ma'am.

10 Q And what is that?

11 A It is a rifle magazine.

12 Q And was that rifle magazine found -- where was it
13 found, or did you find it?

14 A Yes, ma'am.

15 Q Where did you find it?

16 A May I point it out? I found it underneath this bush
17 right here.

18 Q And once you found it, did you recover it to give it
19 to Agent Worley?

20 A Yes, I did.

21 Q I'm going to show you what has been marked as 48A
22 through F. If you would just look at those a second. What
23 do those depict?

24 A They depict the location which the rifle magazine was
25 found and collected from.

BRITTANY BURKE - DIRECT

1 Q And they truly and accurately depict the condition and
2 the place were you found it?

3 A Yes, sir.

4 MS. HALL: Your Honor, we move 48A through F into
5 evidence.

6 MR. FRICK: No objection.

7 MS. HALL: We would ask permission to publish them?

8 THE COURT: In without objection and you may.

9 (The photos were received as State's 48A-F.)

10 Q Is this the shed that -- where is the -- is this
11 corner of the shed? If you could show the jury where it
12 is.

13 A The shed is the little red building that was located
14 right here.

15 Q And this was found in -- that actual rifle magazine
16 was found where?

17 A Underneath the bush located right here on the map.

18 Q When you found that magazine, did it have anything in
19 it or was it empty?

20 A No, it was empty.

21 Q And I apologize, I can't remember if I asked you, did
22 you recover the gun from Odell Williams' car?

23 A Yes.

24 Q I'll show you what's been marked as State's 18, is
25 that it?

BRITTANY BURKE - DIRECT

1 A Yes, it is.

2 Q And are these the cartridges that came from?

3 A Yes, that is correct.

4 Q Or the bullets.

5 A I believe there were some cartridges and some

6 bullets, I believe.

7 Q And did you turn all of this in to Melinda Worley?

8 A Yes, I did.

9 Q I'm going to show you what has already been entered
10 into evidence as State's 1A through C. Do you recognize
11 that?

12 A Yes, I do.

13 Q What is it?

14 A It is a Dodge Ram pickup truck that was processed the
15 night of the incident.

16 Q And did you process the truck?

17 A Yes, I did.

18 Q I'm going to show you what's been marked as State's
19 Exhibit 79. Do you recognize this?

20 A Yes, I do.

21 Q What is it?

22 A It is a latent lift that was collected from the rear
23 passenger side exterior door of that truck.

24 Q Who collected it?

25 A I did.

BRITTANY BURKE - DIRECT

1 Q All right. And did you submit that to Agent Worley?

2 A Yes, I did.

3 Q Was that for comparison or analysis later on in the
4 case?

5 A Yes, it was.

6 MS. HALL: Your Honor, at this time the State would
7 offer 79 into evidence.

8 MR. FRICK: No objection.

9 Q And where was that truck found?

10 A It would have been found at one of these residences
11 over here. I would have -- I don't know exactly which one
12 it is on there.

13 Q Let me show you what's been marked as State's -- or
14 entered into evidence as State's 15, and if you need to
15 refer to your notes that's fine just to get the address, I
16 just want to make sure we could point out where you guys
17 found the truck and where you processed that.

18 THE COURT: That last exhibit is in without objection.

19 MS. HALL: I'm sorry?

20 THE COURT: I didn't say that that last exhibit is in,
21 we need to get that on the record.

22 (The latent print card was received as State's 79.)

23 MS. HALL: I think that was 79.

24 THE COURT: If I missed any others they're all in too.

25 A It's going to be right down here at this residence.

BRITTANY BURKE - DIRECT

1 Q Okay. That's where the truck was found?

2 A Yes.

3 Q So did you process it while it was there?

4 A We took photographs of it there and then had it towed
5 to the Chester County Law Enforcement Center for
6 processing.

7 Q With regard to 79, the lifts that you took off of the
8 fingerprints, that was done at the law enforcement center?

9 A Yes.

10 Q Okay. And I'll go back to State's 7. And I want to
11 show you what has been marked as State's 63A and B. Tell
12 me if you recognize that, please.

13 A I do.

14 Q What is it?

15 A It's a depiction of suspected blood that was located
16 on a fence in that area of the crime scene.

17 Q I show you what has been marked as 64A and B. Do you
18 recognize these?

19 A I do.

20 Q What is that?

21 A It is a Ford Crown Victoria that was located in the
22 vicinity of the crime scene near the fence that also had
23 suspected blood in it.

24 Q Did both of these sets photographs, 63A and B and 64A
25 and B, do they accurately depict the fence and the car at

BRITTANY BURKE - DIRECT

1 the time you were called over to them to look at the blood?

2 A Yes, they do.

3 Q And was this on November 5th of 2014?

4 A Yes, it was.

5 MS. HALL: The State would move 64A and B and 63A and
6 B into evidence at this time.

7 MR. FRICK: No objection.

8 THE COURT: In without objection.

9 (The photos were received as 63A-B and 64A-B.)

10 Q With regard to this fence, did you take swabbings from
11 this fence?

12 A Yes, I did.

13 Q Were you swabbing the blood on the fence?

14 A Yes, I was.

15 Q And did you submit those through Agent Worley?

16 A Yes, I did.

17 Q With regard to the car, did you swab the suspected
18 blood from the car as well?

19 A Yes, I did.

20 Q And did you submit that to Agent Worley as well?

21 A Yes.

22 Q Could you show the jury where those items, or the car
23 and the fence on this map, could you show where they were
24 located?

25 A I can. The white car was located right here about --

BRITTANY BURKE - DIRECT

1 right about where this black car and this is parked, and
2 the fence was located running this way parallel to
3 Roundtree Circle straight here in that vicinity.

4 Q If you would have a seat for me.

5 A Yes, ma'am.

6 MS. HALL: Your Honor, can we approach real quick?

7 (A bench conference was held.)

8 THE COURT: Ladies and gentlemen, we'll take a brief
9 recess, take about ten minutes, the jury may step back.

10 Bailiff staff, make sure they've got some refreshments,
11 I've seen some yawning going on and I've been tempted too.

12 (The jury left the courtroom and a recess was taken.)

13 THE COURT: Ready?

14 MS. HALL: Yes, sir.

15 (The jury returned to the courtroom.)

16 BY MS. HALL:

17 Q I'm going to show you what has been marked as State's
18 Exhibit 66. Can you tell me what that is?

19 A These are swabs of suspected blood taken from the
20 Crown Victoria.

21 Q Is that the Crown Victoria that was pictured in 64A
22 and 64B?

23 A Yes, ma'am, it is.

24 Q Did you take those swabs?

25 A Yes, ma'am, I did.

BRITTANY BURKE - DIRECT

- 1 Q Did you give them to Melinda Worley?
- 2 A Yes.
- 3 Q I'm going to show you what's been marked as State's
- 4 Exhibit 2. Can you tell me what that is?
- 5 A These are two swabs of suspected blood from the fence
- 6 at [REDACTED].
- 7 Q Okay. And was that depicted -- is that the blood that
- 8 was taken from the fence depicted in 63A and 63B, these
- 9 photographs?
- 10 A Yes, it is.
- 11 Q And did you take those swabs?
- 12 A I did.
- 13 Q Did you give them to Melinda Worley?
- 14 A Yes, I did.
- 15 Q And with regard to this magazine, the rifle magazine,
- 16 smaller magazine that you found and these guns that were
- 17 found between the dog pen and the fence, were those -- how
- 18 long -- could you tell how long those items had been there?
- 19 A No, ma'am.
- 20 Q Did it look like they had been placed there recently
- 21 or had they been there for a long time?
- 22 A They were laying on top of the grass, there was not
- 23 grass growing up around them, there was not much debris on
- 24 them suggesting that they had not been there for an
- 25 extended period of time.

BRITTANY BURKE - DIRECT

1 Q And how many -- with regard to the diagram 58 that we
2 looked at earlier, how many total shell casings were found
3 in the yard at [REDACTED]?

4 A Eighteen were.

5 Q And when you count those 18 casings, are you including
6 the CND, the bullet fragments that were found?

7 A No, ma'am, I am not.

8 Q So those were just the shell casings.

9 A That is correct.

10 Q And with regard -- you were present when the car was
11 processed, Odell Williams' car?

12 A Yes, I was.

13 Q And you actually were involved with the processing of
14 vehicle; is that correct?

15 A Yes, that's correct.

16 Q And I showed you the .32 caliber gun that you
17 recovered from the car, which was State's 18?

18 A Yes, ma'am.

19 Q Were there any -- we talked about the fact that you
20 recovered this gun and you recovered these six bullets --
21 or two shell casings and four live ammunition rounds.

22 A That is correct.

23 Q Were there any other shell casings or live rounds
24 found in that vehicle?

25 A No, ma'am.

BRITTANY BURKE - DIRECT

1 Q I'm going to get you to step down just one more time
2 and just overview this and that will be it. I just want to
3 run through really quickly -- we were doing it the broken
4 way when they were doing it per exhibit. So if you could,
5 will you run through for the jury and show where the rifle,
6 the two guns, all of the items that were collected were
7 found.

8 A I can.

9 MR. FRICK: Your Honor, I would object, this has been
10 asked and answered.

11 MS. HALL: Your Honor, I'm just trying to summarize
12 it. This was very disjointed the way that we did it and I
13 just feel like a clearer smoother picture needs to be
14 painted .

15 THE COURT: I am going to let her do it because
16 extensive exhibits have been put in.

17 MR. FRICK: I understand.

18 A The vehicle was located over here at this residence.
19 The guns that were in the yard that the dog pen and the
20 magazine that was in the yards with the dog pen were right
21 here behind this bush. The rifle was under this shed.
22 And the suspected blood was located on a fence here, and
23 the vehicle located in this yard.

24 Q And with regard to -- I don't know if you said it, but
25 with regard to all of the 18 shell casings?

BRITTANY BURKE - DIRECT

1 A I'm sorry, the 18 shell casings were located in this
2 yard here.

3 Q And what about bullet defects, the ones that you've
4 referred to as C and D and A and B?

5 A They were also located in this yard here along the
6 bank along the fence line.

7 Q And how far -- the magazine, could you show us where
8 the magazine was found, the empty magazine?

9 A Right here underneath this bush.

10 Q And where was the actual rifle itself found?

11 A Underneath the shed right here.

12 MS. HALL: Okay. Thank you very much. I don't have
13 any further questions for you, answer anything Mr. Frick
14 may have.

15 CROSS EXAMINATION

16 BY MR. FRICK:

17 Q Agent Burke, you said you came up with Agent Worley?

18 A Yes, sir.

19 Q The evening of the 5th?

20 A The 4th.

21 Q The 4th, I'm sorry, okay.

22 A Yes, sir.

23 Q You were present in the courtroom when she testified,
24 weren't you?

25 A Yes, sir.

BRITTANY BURKE - DIRECT

- 1 Q And you heard the time she testified to?
- 2 A Yes, sir.
- 3 Q Was that accurate?
- 4 A Yes, it was.
- 5 Q Okay. Now, you came back another time; is that
- 6 correct?
- 7 A That is correct.
- 8 Q So you left the morning of the 5th?
- 9 A Yes, sir.
- 10 Q About 8:30 or so we'll call it?
- 11 A Yes.
- 12 Q When did you come back?
- 13 A I was just down the road -- if I can refer to my
- 14 notes I can give you an exact time.
- 15 Q Please, yes, ma'am.
- 16 A I arrived back at approximately 8:27 a.m. on the
- 17 morning of November 5th.
- 18 Q Okay. And you came by yourself at that time?
- 19 A Yes, sir, that is correct.
- 20 Q And where did you go?
- 21 A I went to [REDACTED].
- 22 Q That was the house we're talking about where the shell
- 23 casings were found in front of, right?
- 24 A Yes, sir, that is correct.
- 25 Q Okay. The markers that were put down, those little

BRITTANY BURKE - CROSS

1 yellow markers, I think they're in some of the pictures and
2 they were indicated here, who put those down?

3 A I did along with the sheriff's office.

4 Q Okay. Were some of them already down when y'all got
5 there, do you recall?

6 A I do not believe any of them were already down when I
7 got there.

8 Q All right. Do you recall what you marked that
9 evening?

10 A The previous evening?

11 Q I'm sorry, yes, ma'am, the night of the 4th, do you
12 recall what that was?

13 A Yes, sir.

14 Q What was it?

15 A We marked two cartridge cases, some broken car parts,
16 a broken mailbox and some suspected fluid from the
17 vehicle.

18 Q Okay. So essentially is it fair to say it was
19 essentially the stuff that was in this diagram?

20 A Yes, sir, that's correct.

21 Q And that's State's 92. Okay. Is that all y'all
22 marked that evening?

23 A We also marked the rifle that evening that is not
24 depicted in that diagram.

25 Q And that was due to the dog track?

BRITTANY BURKE - CROSS

- 1 A That's correct.
- 2 Q Did you go collect that rifle? I can't remember.
- 3 A I was present at the time it was collected, yes.
- 4 Q It had a magazine in it?
- 5 A It had a magazine next to it.
- 6 Q Next to it?
- 7 A I believe it was next to it.
- 8 Q Okay. Did you see that magazine?
- 9 A Yes, sir.
- 10 Q Did it have live ammo in it?
- 11 A Yes, sir, it did.
- 12 Q Did anybody take them out that night or was it
- 13 collected and sent on?
- 14 A I believe it was collected, we did count them. I'm
- 15 not sure if that was on the same or upon packaging at the
- 16 lab.
- 17 Q Do you know how many bullets -- I will call them
- 18 bullets -- bullets were in that clip?
- 19 A I believe there were 28.
- 20 Q Twenty-eight? Okay. And then you didn't return back
- 21 to that scene -- well, let me make sure I'm clear, okay?
- 22 You go there that night with Agent Worley, y'all process
- 23 the scene on Roundtree, do you go to the sheriff's
- 24 department --
- 25 A Yes, sir.

BRITTANY BURKE - CROSS

1 Q -- and assist in the processing of the cars? Or you
2 may have been the person processing the cars.

3 A Yes, sir.

4 Q And then y'all leave for the evening or morning, I
5 guess, and then you're back shortly?

6 A Yes, sir.

7 Q And go back out to Roundtree Circle?

8 A Yes, sir.

9 Q This area right here, is that -- or do you have any
10 idea where this is?

11 A Yes, sir.

12 Q Okay. Y'all were able to find some things but you
13 didn't find everything that night. What did y'all do
14 differently the next day?

15 A The only thing we did different was run the metal
16 detector. The difference was the amount of lighting that
17 was available. It was dark while we were there and we did
18 search -- it's dark and the flashlights and things and
19 grass, cartridge cases are little and things of that
20 nature, it's much easier to search in the daylight which
21 is why the investigators went back out the next day.

22 Q And you went out there with a metal detector you said?

23 A Yes, sir.

24 Q Whose metal detector was it?

25 A It was mine, it was issued to me.

BRITTANY BURKE - CROSS

- 1 Q How long were you out there on the 5th?
- 2 A May I refer?
- 3 Q Yes, ma'am.
- 4 A I arrived at approximately 8:27 and left at
- 5 approximately 11:31, so approximately --
- 6 Q A.m. or p.m.?
- 7 A A.m. So approximately three hours.
- 8 Q Okay. And where all specifically did you look in
- 9 those three hours?
- 10 A During those three hours we looked at the 646 up
- 11 there, back down the road to the location where the
- 12 vehicle was located the night before.
- 13 Q Okay. So if we're still on --
- 14 A On the --
- 15 Q Over here.
- 16 A Yes, on that road.
- 17 Q We're still on Roundtree. All right.
- 18 A And then we went across to where the rifle was
- 19 located.
- 20 Q Which is in this general vicinity?
- 21 A Yes, in that general vicinity, which is where the two
- 22 handguns were located.
- 23 Q Got you.
- 24 A And then we continued further on that way, which is
- 25 where the suspected blood was located at, I believe that's

BRITTANY BURKE - CROSS

1 622 there further --

2 Q Okay.

3 A -- that way.

4 Q Back this way?

5 A Yes, sir. And then a further search was also
6 conducted along that main road. I do not know the name of
7 it, I apologize.

8 Q Over here?

9 A Yes, that one.

10 Q Okay.

11 A A search was conducted up that way of the road and
12 the surrounding area there as well.

13 Q So basically the intersection of Roundtree and
14 Parkway.

15 A Between those, yes.

16 Q Did you go any further than that intersection?

17 A Not at that time, I did the night before previously.

18 Q Do you know how far down you went?

19 A I went just past the intersection of -- what's the
20 name of that road?

21 Q That one? I believe it says Vance.

22 A Okay. Just past that intersection which is located
23 on that map.

24 Q Right there.

25 A Yes.

BRITTANY BURKE - CROSS

- 1 Q Didn't go down here to the railroad tracks?
- 2 A No, I did not go that far. I just walked down the
- 3 road what was just past that intersection and then back.
- 4 Q Okay. How about back down this way, did you go any
- 5 further down that way?
- 6 A No, sir.
- 7 Q Okay. Did you have the metal detector the whole time
- 8 that you were doing all of this walking?
- 9 A No, sir.
- 10 Q Where did you use the metal detector there?
- 11 A It was used in the yard of -- the yard where all of
- 12 the cartridge cases and fired projectiles were found.
- 13 Q So you only searched the area of 646?
- 14 A It was there and in the area immediately surrounding
- 15 that, but it was not used for the whole block of houses,
- 16 no.
- 17 Q Is that how y'all found the casing at 639?
- 18 A No, sir. That was found on a visual search, just
- 19 walking and we found it.
- 20 Q The night of the 4th or on the 5th?
- 21 A I believe it was on the 5th.
- 22 Q And the one at J here, the .40 caliber J, that was
- 23 found the night of the 4th?
- 24 A That was found the night of the 4th.
- 25 Q While you're out there, did you ever go to Patrick

BRITTANY BURKE - CROSS

1 Drive?

2 A No, sir.

3 Q Did anybody ask you to go to Patrick Drive?

4 A No, sir.

5 Q Did you go to any other location besides what you've
6 covered here on Roundtree?

7 A No, sir.

8 Q And the sheriff's department, you went out there,
9 right?

10 A Yes.

11 Q Other than those two places no one requested you to go
12 nor did you go?

13 A No, sir.

14 Q Okay. Did you loan out your metal detector to
15 anybody?

16 A No, sir.

17 MR. FRICK: Thank you, ma'am, that's all of the
18 questions I have.

19 REDIRECT EXAMINATION

20 BY MR. FRICK:

21 Q Ms. Burke, were you actually the one operating the
22 metal detector?

23 A No, ma'am, I was not.

24 Q Do you recall who was?

25 A Special Agent Blackmon was.

BRITTANY BURKE - RECROSS

1 Q That was your metal detector that you gave him to use
2 there at the scene that day?

3 A That is correct.

4 MS. HALL: I don't have any further questions.

5 RECROSS EXAMINATION

6 BY MR. FRICK:

7 Q I'm just slightly confused. I asked you if you loaned
8 out your metal detector and you just said that you weren't
9 the one operating it. Is it your metal detector or
10 somebody else's?

11 A It's my metal detector. They used it on scene but I
12 did not loan it to anybody to use in any other capacity
13 than with me there. It's common for us to enlist help
14 especially with a large area, it's common for us to enlist
15 help but it was only used in my presence there is what --
16 I misunderstood the question.

17 Q No, that's fine. So you had him doing all the walking
18 and carrying around the metal detector, right?

19 A Yes.

20 Q Agent Blackmon.

21 A Yes.

22 Q But your metal detector did not leave that scene.

23 A That is correct.

24 MR. FRICK: Thank you, ma'am.

25 THE COURT: Is that it?

TIFFANY HEZEL - DIRECT

1 MS. HALL: I don't have anything else. We would ask
2 that she be excused, she's got to drive out of town.

3 THE COURT: You're excused.

4 MS. HALL: State calls Tiffany Hezel.

5 The witness, TIFFANY HEZEL, was first duly sworn and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MS. HALL:

9 Q You said your name is Tiffany Hezel?

10 A Yes. Tiffany, H-e-z and in zebra, e-l.

11 Q Where are you employed?

12 A I'm employed at the South Carolina Law Enforcement
13 Division which is commonly referred to as SLED.

14 Q And were you employed there on November the 4th -- how
15 long have you been there?

16 A I have been employed for SLED for five years, I began
17 in June of 2011.

18 Q And what are your responsibilities at SLED.

19 A At SLED I work in the capacity of the crime scene
20 department as a crime scene agent. I also work as a
21 latent prints examiner within the latent print department.
22 May I give my background of education?

23 Q Yes, please?

24 A I have a Bachelor of Science Degree from the
25 University of Wisconsin at Platteville. I have a Master's

TIFFANY HEZEL - DIRECT

1 of Science Degree in Forensic Science from the University
2 of Central Oklahoma. I am also a certified medical legal
3 death investigator, a certified crime scene analyst and
4 I've been proficient in conducting latent print
5 comparisons since 2012.

6 Q All right.

7 MS. HALL: Your Honor, at this time the State would
8 offer Tiffany Hezel as an expert in latent print analysis.

9 MR. FRICK: No objection.

10 THE COURT: So qualified.

11 Q So did you have occasion to become involved with
12 fingerprint analysis in this case that we're trying here
13 this week?

14 A Yes, ma'am, I did. I completed a technical review on
15 this case. May I explain what a technical review is for
16 the jury?

17 Q Yes, please.

18 A The way the analysis works within the latent print
19 department at SLED is an examiner will work a case, either
20 processing evidence to obtain latent evidence or to
21 perform a latent print comparison. All of our work
22 undergoes a peer review in which the processing sequence
23 documentation is examined to verify that it has followed
24 protocol, and comparisons are then worked secondly
25 independently by another certified examiner. In this case

TIFFANY HEZEL - DIRECT

1 Kimberly Mere's completed the initial processing and
2 comparison, I then completed the technical review and I
3 verified her findings by completing independent
4 comparisons on the latent print evidence.

5 Q Where is Kimmy Meres?

6 A Kimberly Meres has just returned from maternity leave
7 so she's been out for some time taking care of a new baby.

8 Q But all of the analysis that you performed in this
9 case was done in the wake of her performing the exact same
10 thing.

11 A Yes, it was.

12 Q I'm going to show you what's been entered as State's
13 Exhibit 79 into evidence. Did you receive that in the
14 course of your analysis in this case?

15 A Yes, I did. And the reason I can verify that is all
16 evidence that we receive bears the lab number, item number
17 and initials of the examiner that examined the evidence.
18 So up here in the top corner you can see the lab number
19 that is given, that is a unique lab number to SLED for
20 this case specifically, the item number, which was item 52
21 at the time for SLED, and both bears Kimberly's initials
22 as well as my initials.

23 Q And I am going to show you what's been marked as 70 --
24 I will just go ahead and show you what has been marked as
25 70. Can you identify this, please?

TIFFANY HEZEL - DIRECT

1 A This is a portion of major case prints that bears the
2 name of Christopher Moore. And again, these contain lab
3 number, item number and initials. Major case prints, may
4 I explain what those are for the jury?

5 Q Yes.

6 A Major case prints are known impressions. And let me
7 back up one step further and explain what a fingerprint
8 is. Along the hands and soles of your feet you have tiny
9 raised portions of skin that have all of these unique
10 little designs. Their function is to allow you to grasp
11 so you don't drop things and to create friction, however
12 these ridges have a unique pattern to every specific
13 person. It has never been found that two people share
14 fingerprints. So when we collect known standards we apply
15 into those ridges, we apply your hand to paper, we get
16 what resembles an inked impression just like you would use
17 a Christmas stamp and Christmas envelope in sending out
18 cards. So this is a stamped replication of ridges that
19 are on your hand, and that is a known impression.

20 Q And what is on the back side of that?

21 A The front is the palm area and the fingers, the back
22 just shows the individual fingers that were placed upon
23 the paper to give just more exemplars for us to use during
24 examination.

25 Q You stated that that known standard or print or

TIFFANY HEZEL - DIRECT

1 impressions came from Christopher Moore?

2 A Yes, ma'am. The paper that contains this print bears
3 the name of Christopher Moore.

4 Q And is that his right hand or his left hand? I am
5 going to show you what has been marked as State's 72. Can
6 you tell us what that is, please?

7 A Again, this is a known standard of both of palm and
8 fingers and the individual fingers on the back. This is
9 the left hand with the paper bearing the name of
10 Christopher Moore.

11 Q And did you receive that as part of your analysis as
12 well?

13 A Yes, I did.

14 Q I'll show you what has been marked as State's 71. And
15 tell me if you recognize that.

16 A This is a fingerprint card, which is commonly
17 referred to as ten print cards, this just contains the
18 very end portion of the finger which is commonly referred
19 to as fingerprints. This card again bears the name of
20 Christopher Moore.

21 Q And did you receive that as part of the things that
22 were submitted to you for analysis?

23 A Yes, I did.

24 Q And did you perform analysis using these items?

25 A Yes, I did. I received Kimberly Mere's report,

TIFFANY HEZEL - DIRECT

1 however as I explained prior to complete a technical
2 review I have to complete an independent comparison and
3 reach my own findings to verify that her findings are
4 indeed correct.

5 Q And I show you what has been marked as State's 68. Do
6 you recognize that?

7 A This is the latent print that was issued by Special
8 Agent Meres over the comparison portion of her latent
9 print assignment.

10 Q All right. And I also want to show you what's been
11 marked as State's 80. Do you recognize this?

12 A Yes, ma'am. That is a comparison chart that was
13 prepared for work purposes to show and explain the science
14 of our finger print comparison.

15 MS. HALL: And with that being said, if Your Honor, I
16 would ask her to step down.

17 Q Did you prepare this chart, or this Exhibit 80?

18 A Yes, I did.

19 MS. HALL: Your Honor, at this time I would move 80
20 into evidence.

21 MR. FRICK: No objection.

22 THE COURT: In without objection.

23 (The chart was received as State's 80.)

24 Q All right. And if you would using -- or incorporate
25 as part of your explanation the lifts and the standards

TIFFANY HEZEL - DIRECT

1 that are submitted to you for analysis and what you do with
2 those?

3 A The latent lift that I showed you prior that was
4 lifted off the card shows kind of a black and white
5 replication of a fingerprint. However, to explain what
6 that is let me explain what a latent print is. All of
7 those ridges that you have behind your hand that you
8 explained earlier, you have sweat pores along those ridges
9 so you sweat naturally all day long. You touch your hair,
10 you touch your face, you touch other items, oils and sweat
11 build up on those ridges, therefore when you touch an item
12 there is a chance you're going to leave a stamped
13 impression of your fingerprints or a palm print in sweat
14 on that item. It's not going to be necessarily seen to
15 the naked eye, it's going to need some sort of enhancement
16 or development, that's where that powder comes in to play.
17 That powder adheres to that moisture and it creates the
18 latent to be visible to an examiner, and then it's lifted
19 off and it comes to our office. So that is the unknown
20 impression that you see here on the right hand side. You
21 can tell it's not real pretty, it's kind of broken where
22 the tape was and powder isn't going to adhere perfectly
23 because your print isn't going to replicate perfectly.
24 Your sweat isn't going to be even on your ridges, the
25 surface isn't always going to be even, so it's kind of

TIFFANY HEZEL - DIRECT

1 leaving it by chance and the quality is again by chance.
2 So this is our latent impression, this is our known
3 standard, this one is very clean, it's very pretty.
4 Again, this was the ink applied directly to the known or
5 individual's hand, that hand placed on paper so there's no
6 unknown to handle there, it's just a stamped duplication.
7 When we do a comparison we're going to look at every known
8 standard that is submitted, in this case there were
9 fingerprints submitted from three persons. This unknown
10 standard was compared to fingerprints from all three of
11 those submitted persons. We're always looking at the
12 unknown in comparison to a known, we're never matching,
13 we're comparing. So within the course of doing a
14 comparison we look for three levels of characteristics of
15 a fingerprint, and I'm just going to be real basic.
16 Within the first level we're looking for an overall
17 pattern. In the finger, the end joint there's three basic
18 patterns, there is an arch pattern where the ridges flow
19 in, they come up and they exit out the opposite side,
20 obviously not what this one is doing. The second pattern
21 is a loop. It's going to enter one side, it's going to go
22 up, recurve, exit that same side, possible that that is
23 what this one is doing, can't really see what's happening
24 down here. So we are going to look at all the loops for
25 all three people that were submitted. The third pattern

TIFFANY HEZEL - DIRECT

1 type is a whirl, it's going to look kind of like a
2 bulls-eye. It will start little in the middle and get
3 bigger all of the way around. Very possible that's what's
4 happening here, again the bottom portion isn't real clear.
5 So we know we're looking for loops and whirls, so we're
6 going to start going through each of our three known
7 individuals, so within the first level that's what we're
8 looking for. Now, within each of these ridges
9 specifically they do three unique things. A ridge can
10 flow along and stop, which is an ending ridge; it can flow
11 along and break into two, which is bifurcation; or a ridge
12 can look like a period at the end of a sentence, just a
13 little dot. So those are the characteristics we're
14 looking for within this big pattern of ridges that make up
15 the overall pattern, and that's where we're going to begin
16 to make our comparison. So may I approach the jury with
17 this? The minutia are very small, and I can kind of stand
18 in the middle. So in this known impression here you can
19 clearly see like where this one forks, that's going to be
20 a bifurcation just so you can see a minutia. So again, we
21 always start with our unknown. So in our unknown we have
22 a little ending ridge, he flows and then he stops, so
23 we're going look over here, we are going to see if we have
24 a similar ridge that is the same way. In this finger it
25 does, it flows and then it stops. Now we have a starting

TIFFANY HEZEL - DIRECT

1 point, we have one point in common. We don't base
2 identifications on points, we look for overall ridge flow
3 and similarities in the characteristics and their
4 relationship to each other. So from this ending ridge
5 we're going to go up five ridges, so one, two, three,
6 four, five, we have a another ridge that matches this one.
7 And this is what you're going to do throughout the entire
8 print, you are going to make sure that there are no
9 inconsistencies. So in case this unknown impression from
10 the exterior part of the door was found to match the
11 finger of Christopher Moore based on our comparison. It
12 did not match a finger from any other person that it was
13 compared to. And then there are other points that I did
14 not mark in here just so you can follow our methodology
15 with how we do our comparisons.

16 Q You can have a seat, thank you. So when you did the
17 comparison with the lift that was taken off of the Dodge
18 Ram with Christopher Moore's known -- the prints that were
19 submitted to you for comparison, for analysis purposes,
20 were you able to determine within a reasonable degree of
21 scientific certainty that the prints on the Dodge Ram were
22 Christopher Moore's fingerprints?

23 A Yes, ma'am. The print in that lift was Christopher
24 Moore's print.

25 Q And is that reflected in State's 68?

TIFFANY HEZEL - DIRECT

1 A Yes, ma'am, it is. And the way the report reads is
2 that the latent print is identified with the known
3 fingerprint of Christopher Moore.

4 Q And there are other items that are also included in
5 this report as well, correct?

6 A Yes, ma'am, there are.

7 Q But that specifically refers to the -- one of the
8 items within that report specifically, do you know which
9 item number it is that --

10 A It is SLED's item 52.1, but it's going to be State's
11 Exhibit 79, but it's going to be the impression that's
12 indicated with the .1. There's multiple impressions on
13 this card, the .1 impression is the impression that's
14 identified with Christopher Moore.

15 Q And that's indicated in the report under item 51; is
16 that correct?

17 A Yes, ma'am, 52.1.

18 THE COURT: Your Honor, at this time the State would
19 move 68 into evidence. State's 68 into evidence, the
20 report.

21 MR. FRICK: No objection.

22 THE COURT: In without objection.

23 (The report was received as State's 68.)

24 MS. HALL: We would also move 71 into evidence which
25 is the print card.

TIFFANY HEZEL - DIRECT

1 MR. FRICK: No objection.

2 THE COURT: In without objection.

3 (The fingerprint card was received as State's 71.)

4 MS. HALL: 72, which is the major case print card.

5 MR. FRICK: No objection.

6 THE COURT: In without objection.

7 (The major case print card was received as State's
8 72.)

9 MS. HALL: And 70, which is also a major case print
10 card.

11 MR. FRICK: No objection.

12 THE COURT: In without objection.

13 (The major case print card was received as State's
14 70.)

15 Q I am going to show you what is marked as State's
16 Exhibit 69. Can you tell me what that is?

17 A This is a supplemental latent print report issued by
18 Special Agent Meres, and this covers her processing result
19 for evidence that she processed for latent evidence.

20 Q Okay. And with regard to the defendant in this case,
21 Christopher Moore, was there any evidence that was --
22 anything that she processed that was significant in this
23 report? She was processing for fingerprints or for
24 something else?

25 A When we process within the latent print department we

TIFFANY HEZEL - DIRECT

1 will also collect swabs for DNA and then we will send
2 those swabs to the DNA department for further analysis,
3 but we -- after collecting any potential DNA evidence we
4 process for latent prints. I do not believe she recovered
5 any latent prints of value for additional comparison off
6 of the evidence.

7 Q But did she swab items for DNA?

8 A Yes, she did.

9 Q And was that submitted to the DNA case work
10 department?

11 A Yes, it was.

12 Q And specifically did she swab item eight?

13 A Yes, ma'am. She collected two swabs from the top and
14 bottom seams of item 8, and item 8 is referenced as one
15 magazine.

16 Q If I show you what's been marked as State's 61, can
17 you tell us if this is indeed item eight?

18 A Yes, I can. As I explained earlier, within the
19 latent print department all pieces of evidence that we
20 receive, we place the lab, item number and the initials,
21 this magazine within the packaging that was sealed by
22 Kimberly Meres contains lab number item number eight which
23 was applied as the item number by SLED and Kimberly's
24 initials.

25 MS. HALL: Your Honor, at this time the State would

TIFFANY HEZEL - CROSS

1 move State's 69 into evidence as well, this report that
2 she's referring to.

3 MR. FRICK: No objection.

4 THE COURT: In without objection.

5 (The report was received as State's 69.)

6 MS. HALL: I don't have any further questions for this
7 witness, please answer any questions of Mr. Frick.

8 CROSS EXAMINATION

9 BY MR. FRICK:

10 Q So y'all's role was really two-fold, to swab for
11 potential DNA and then see if there's any latent prints?

12 A Yes, sir. Within the latent print department
13 whenever we process some of the chemicals that we use
14 could potentially alter the quality of potential DNA, so
15 we will swab areas less likely to hold fingerprints detail
16 for touch DNA and then process for latent evidence.

17 Q Okay. Now, when you were swabbing for the DNA y'all
18 are simply collecting to send on for analysis, correct?

19 A Yes, sir. We're just simply swabbing the item and
20 placing it in a sealed envelope and sending it off to the
21 DNA analysis department.

22 Q Do you have your report so you can tell me what got
23 swabbed for the DNA?

24 A I have a copy that I can refer to.

25 Q That will be fine.

TIFFANY HEZEL - CROSS

1 A How do you wish me to provide that information?

2 Would you like the item -- just the description of the
3 item that was swabbed?

4 Q Yes, ma'am, do that, that will be fine.

5 A She collected three sets of swabs from H and R
6 Revolver along with associated ammunition with SLED item
7 three. Swabs were collected from SLED item four, the
8 Charter Arms Revolver with five cartridges, actually I
9 apologize, there were two sets of swabs -- three sets of
10 swabs from that revolver. There were two sets of swabs
11 taken from a handgun with associated cartridges. There
12 was one set of swabs taken from a rifle, I apologize, two
13 sets of swabs taken from a rifle.

14 Q And could you -- on that rifle, does it tell you
15 specifically where those swabs were taken?

16 A Yes, it does.

17 Q Can you tell us what that was?

18 A Yes, sir. There were two swabs taken from the
19 trigger, both grips and the stock of item six. Item six
20 refers back to the GP Wasr Rifle. There were also two
21 swabs taken from the head stamps of item six, and the head
22 stamps were contained in the item description with that
23 rifle from the 28 cartridges contained within the
24 magazine.

25 Q Okay.

TIFFANY HEZEL - CROSS

- 1 A Continue on?
- 2 Q Well, let's see, I might can expedite a little here.
- 3 Did y'all receive a whole bunch of spent shell casings?
- 4 A Yes. Each one has a different item number within the
- 5 SLED numbers.
- 6 Q Okay. Was each one swabbed then?
- 7 A Yeah. Each head stamp from head cartridge case was
- 8 swabbed.
- 9 Q And can you tell me how many there were?
- 10 A When I find where they begin I certainly can. I
- 11 count 21 cartridge cases that were swabbed independently,
- 12 not to include cartridge cases as part as a full item
- 13 description with a gun.
- 14 Q Okay. So in total those 21 spent cartridge casings,
- 15 right?
- 16 A If I can count correctly, yes, sir.
- 17 Q I'll take your word for it, that sounds about right.
- 18 Okay. Did you also check -- all of the items that you
- 19 swabbed for DNA, were they also checked for latent?
- 20 A Yes, sir. After she swabbed the head stamp, which is
- 21 the flat portion of that cartridge case that holds the
- 22 bullet, after the base part was swabbed then the entire
- 23 item was then processed for latent print evidence.
- 24 Q Were any fingerprints found?
- 25 A There were no fingerprint evidence observed.

TIFFANY HEZEL - CROSS

1 Q Okay. So of the stuff that was examined by y'all,
2 what specifically did y'all find any fingerprint matches
3 on?

4 A The latent lifts from the vehicle.

5 Q Do you know which vehicles those were? Are those
6 indicated there?

7 A The description on my worksheet is the latent lift
8 coming from -- and then it's a location of the vehicle.
9 My description doesn't say exactly what vehicle.

10 Q That's fine. What does the location say?

11 A The latent lift that we identified or produced an
12 identification on was indicated as coming from the rear
13 passenger side exterior door. We also have a latent lift
14 indicated as coming from the right edge of driver door
15 102.

16 Q Okay. But it doesn't go into detail of which
17 particular vehicle those would have been?

18 A No, sir. It may be indicated on the latent lift
19 factor that's been submitted into evidence more
20 specifically.

21 MR. FRICK: All right. Thank you, ma'am, that's all
22 of the questions I have.

23 REDIRECT EXAMINATION

24 BY MS. HALL:

25 Q Let me show you what's been entered into evidence as

TIFFANY HEZEL - CROSS

1 State's 79. And that's the actual lift card itself.

2 A Yes, ma'am.

3 Q And is that where you get the information to put on

4 the report itself?

5 A Yes, ma'am, it is.

6 Q And does it draw a picture or a diagram from where it

7 have taken?

8 A Yes, ma'am. The X shows where the lift was taken off

9 the vehicle, and it bears the date of 11/5, and the agent

10 who lifted it was Agent Burke and again it gives the

11 general location of where the lift was obtained.

12 MS. HALL: Thank you. I don't have anything further.

13 MR. FRICK: Nothing further, thank you.

14 MS. HALL: Your Honor, we would ask that she be

15 excused.

16 MR. FRICK: No objection.

17 MS. HALL: Your Honor, the State calls Whitney Berry.

18 THE COURT: We need to take a brief recess.

19 MS. HALL: Okay, I'm sorry.

20 THE COURT: The jury may step back.

21 (The jury left the courtroom and a break was taken.)

22 (The jury returned to the courtroom.)

23 THE COURT: All right. Solicitor.

24 The witness, WHITNEY BERRY, was first duly sworn and

25 testified as follows:

TIFFANY HEZEL - REDIRECT

1 DIRECT EXAMINATION

2 BY MS. HALL:

3 Q All right. Your name is Whitney Berry?

4 A Yes, ma'am.

5 Q Are you employed with the South Carolina Law
6 Enforcement Division?

7 A Yes, ma'am.

8 Q And have you been employed there since on or before
9 November the 4th of 2014?

10 A Yes, ma'am.

11 Q How long have you been with SLED?

12 A I've been with SLED for approximately three years.

13 Q And what is your background and education?

14 A I have a Bachelors of Science Degree in Chemistry
15 from the University of South Carolina. I've also attended
16 classes at Cook College of the Applied Sciences in
17 Westmont, Illinois that specializes in electron microscopy
18 and the analysis of gunshot residue using electron
19 microscopy.

20 Q And what are your responsibilities at SLED?

21 A I'm a gunshot residue examiner within the trace
22 evidence department.

23 Q And how many years have you worked in that capacity?

24 A Approximately three years.

25 Q And how many analyses would you say that you have

WHITNEY BERRY - DIRECT

1 done?

2 A I believe the last time I counted was near close to
3 800.

4 MS. HALL: Your Honor, at this time I would offer
5 Whitney Berry as an expert in gunshot residue analysis.

6 THE COURT: Any objection?

7 MR. FRICK: No objection.

8 THE COURT: So qualified.

9 Q And during the course of this case did you receive a
10 gunshot residue kit from the victim in the case?

11 A Yes, ma'am.

12 Q And was that -- is that to be performed during the
13 course of an autopsy?

14 A I personally do not collect the GSR kits nor am I
15 present during the collection of GSR kits. In most cases
16 that where we have a victim that is deceased they are
17 collected in autopsy.

18 Q But regardless at the end of the day you actually
19 received a GSR kit that was collected from the victim; is
20 that correct?

21 A Yes, ma'am.

22 Q And did you perform analysis on that gunshot residue
23 kit?

24 A Yes, ma'am.

25 Q Could you explain to the jury what you get and how the

WHITNEY BERRY - DIRECT

1 analysis is performed?

2 A A gunshot kit is a kit that is a collection kit for
3 gunshot residue. Gunshot residue is microscopic particles
4 that will land on your hand if you fire a gun or if you're
5 in the vicinity to discharge a weapon. So these are
6 microscopic particles. So if you pull out one of the
7 hairs on your head, approximately 1000 GSR particles would
8 fit across the diameter of your hair. The GSR kits that
9 are given out by the State are given out free of charge,
10 and we perform a QA on every lot that comes through.
11 They're composed of four collection samples like this.
12 They're labeled for different areas of the hand, so they
13 come with right palm, right back, left palm, left back.
14 This is to represent the areas that we want samples, so
15 palm would start here and go up through the fingers and
16 the back would again start at the wrist and go up through
17 the fingers. Every kit comes with an instructions sheet
18 as well as a diagram to explain how to sample properly.
19 When the kit comes to the lab we verify that it has been
20 sealed and the integrity of the evidence has been
21 preserved. We then open the containers and we put what
22 you see as a black dot on here, it's called a particle
23 lift and we put it in a scanning electron microscope.
24 When we put it on the microscope we use a computer program
25 that automates the analysis. So a beam of electrons is

WHITNEY BERRY - DIRECT

1 going to shoot down to the top of this black stub, and
2 every time it comes across something it's going to take a
3 picture. So it's going to take a picture every time it
4 sees a particle, every time it sees a piece of dust or a
5 piece of dirty or anything else that's microscopic on this
6 list. It's also going to take an x-ray, and that x-ray is
7 going to tell me what that particle is made of, so what
8 element components are there. In gunshot residue what
9 we're interested in are three elements; lead, barium and
10 antimony, those are indicative of gunshot residue.

11 Q And you received such a kit in this case from the
12 victim, Odell Williams, correct?

13 A Yes, ma'am.

14 Q And I am going to show you what's been marked as
15 State's 75. Do you recognize this document? Do you
16 recognize this document?

17 A Yes, ma'am. It's an electronic copy of my gunshot
18 residue report in this case.

19 Q And you prepared that document?

20 A Yes, ma'am.

21 Q And does it bear the results of analysis that you
22 performed on the gunshot residue kit that you received
23 from the victim?

24 A Yes, it does.

25 Q And what were the results? Could you explain them as

WHITNEY BERRY - DIRECT

1 you go through?

2 A Yes, ma'am. So I received one GSR kit from Odell
3 Williams which was marked as SLED item 47. The right palm
4 particle lift we have found particles of gunshot residue,
5 we also found round particles associated with gunshot
6 residue. So a particle of gunshot residue is a single
7 component -- or a single particle that contains lead,
8 barium and antimony. So these three elements are metals,
9 and when they come under the high heated pressure of
10 gunfire they all vaporize into the air and then they
11 recondense as they hit the atmosphere and they can land on
12 your hand or your clothes. The round particles associated
13 with gunshot residue would be a single component particle,
14 so it would be just a round lead particle, or just a round
15 barium or just round antimony. Those are elements we see
16 in gunshot residue, but by themselves they can also come
17 other sources of the environment. On the back of the
18 right hand we found one particle of gunshot residue, one
19 round particle consistent with gunshot residue, and
20 multiple round particles associated with gunshot residue.
21 So that is one pre-component particle, that is one round
22 particle consistent, which is a two component particle,
23 so -- and again it's very indicative of gunshot residue,
24 however there is a possibility it came from something
25 else. And then we have round particles associated with

WHITNEY BERRY - DIRECT

1 gunshot residue, which would again be single particles.

2 On the left particle lift we found round particles
3 associated with gunshot residue, and on the left back
4 particle we found round particles associated with gunshot
5 residue.

6 Q Now, can you state with a reasonable degree of
7 scientific certainty whether Odell Williams fired a gun?

8 A No, ma'am.

9 Q But you just said you found gunshot residue -- or a
10 particle of gunshot residue on both palms and the backs of
11 his hands. Could you explain that to us?

12 A Yes, ma'am. We expect to find gunshot residue on the
13 victim of a gunshot wound. Gunshot residue, as I
14 mentioned a bunch of microscopic particles and when they
15 discharge from the firearm they come out of the cylinder
16 back area on a revolver, or out of the ejection slide on a
17 semiautomatic, that's how someone would get it on their
18 hands while they're firing. The majority of the GSR, or
19 gunshot residue, is going to follow the bullet projectile
20 towards the intended target, so the majority of that
21 gunshot residue is going to go towards the victim or
22 towards where the person is shooting at. So it is not
23 unusual to find gunshot residue or particles consistent or
24 associated with gunshot residue on the victim of a gunshot
25 wound and we have no way to distinguish whether or how it

WHITNEY BERRY - DIRECT

1 got there. We can't say -- in many cases we're asked does
2 this mean a person fired a gun, we can't tell that, we
3 just know that it's there.

4 MS. HALL: Your Honor, at this time the State would
5 move item 75 into evidence.

6 MR. FRICK: No objection.

7 THE COURT: In without objection.

8 (The GSR report as received as State's 75.)

9 Q I would like you to explain real quick this timeframe
10 with how gunshot residue kits are collected, the timeframe
11 and how that affects the kit?

12 A Yes, ma'am. It is our policy at SLED that we will
13 not test a gunshot residue kit if it's collected six hours
14 after an incident off of a living person. So if you have
15 a living person and they are believed to have fired a
16 weapon, if it has been more than six hours then you
17 believe from when they fired that weapon we will not test
18 that GSR kit. It is because at that point in time we
19 expect any gunshot residue that may have been posited on
20 the hands from that incident will be gone. Gunshot
21 residue is very fragile, very much like flour in your
22 kitchen. So if you get flour on your hands every time you
23 clap your hands a little bit that have flour come off,
24 every time you touch something a little bit of that flour
25 comes off. And we expect that everyday activity for

WHITNEY BERRY - DIRECT

1 someone who had gunshot residue on their hand would lose
2 it within six hours either by washing their hands, wiping
3 hands off, putting them in their pockets, touching various
4 objects.

5 Q But you said that that was with a live person. Could
6 you address that as to a deceased person?

7 A There is no time limit on a deceased person, they are
8 no longer performing any of those functions. They are no
9 longer sweating or no longer moving, they're no longer
10 absorbing anything through their skin, so it can stay on
11 there indefinitely until it's removed by an outside
12 source.

13 Q So if a suspect in a case is believed to have fired a
14 gun but he is not arrested until the next day, would you
15 accept a gun shot residue kit that was performed on that
16 person?

17 A We would not accept a -- well, no. We probably would
18 not accept it at all due to the fact we couldn't tie it to
19 the incident.

20 Q And does that refer back to the six hour policy that
21 you don't accept it if it's done six hours after the gun
22 was supposedly fired?

23 A Yes, ma'am.

24 MS. HALL: Thank you, please answer any questions from
25 Mr. Frick.

WHITNEY BERRY - DIRECT

1 CROSS EXAMINATION

2 BY MR. FRICK:

3 Q Ms. Berry, other than the kit that you received, did
4 you receive any other items to examine?

5 A No, sir.

6 Q Okay. And the summation of your report is Odell
7 Williams had gunshot residue on the palm of his right hand?

8 A On the palm of his left hand.

9 Q And on the back of his left hand.

10 A Yes, sir. He had one particle of gunshot residue on
11 the back of his right hand.

12 Q On the palm of his left hand?

13 A He had associated particles on his left palm, yes.

14 Q And on the back of his left hand?

15 A Yes, sir. He had associated particles on the back of
16 his left hand.

17 MR. FRICK: Thank you, ma'am, that's all of the
18 questions I have.

19 MS. HALL: I don't have anything further, we would ask
20 that this witness be excused.

21 MR. FRICK: No objection, Your Honor.

22 MS. HALL: State calls Jennifer Clayton.

23 The witness, JENNIFER CLAYTON, was first duly sworn
24 and testified as follows:

25 DIRECT EXAMINATION

WHITNEY BERRY - CROSS

- 1 BY MS. HALL:
- 2 Q Your name is Jennifer Clayton?
- 3 A Correct.
- 4 Q Are you also employed at the South Carolina Law
5 Enforcement Division?
- 6 A Yes, I am.
- 7 Q How long have you been employed there?
- 8 A Approximately 14 years.
- 9 Q And what were your duties at the South Carolina Law
10 Enforcement Division?
- 11 A I am currently a DNA analyst.
- 12 Q How long have you been working in that capacity?
- 13 A Approximately 12 years.
- 14 Q And what is your educational background that enables
15 you to do that?
- 16 A I have a Bachelor's of Science in Biology from the
17 University of North Carolina at Chapel Hill. I've also
18 taken class at NC State and USC. My course works includes
19 biology, molecular biology, genetics, biochemistry and
20 statistics. I completed an internship with the North
21 Carolina State Bureau of Investigations molecular genetics
22 department, that's the equivalent of SLED's DNA
23 department. I originally hired on with SLED as a forensic
24 technician in the DNA department and I worked as a
25 technician for two years before I was hired as an analyst.

JENNIFER CLAYTON - DIRECT

1 And once I was hired as an analyst I completed a one year
2 training program under another qualified analyst and did
3 casework under his supervision before I was allowed to do
4 casework on my own.

5 Q And approximately how many cases would you say that
6 you have performed DNA analysis in?

7 A I would have to estimate, it's probably around 700
8 cases.

9 MS. HALL: Your Honor, at this time the State would
10 offer Jennifer Clayton as an expert in DNA analysis.

11 MR. FRICK: No objection, Your Honor.

12 THE COURT: So qualified.

13 Q Did you have an opportunity to perform DNA analysis in
14 the trial we are having this week?

15 A Yes, I did.

16 Q I'm going to show you what's been marked as State's
17 Exhibit 11. Would you tell me what that is, please?

18 A State's Exhibit 11 is SLED item 77, and that is
19 buccal swabs taken from Christopher Moore.

20 Q Okay. And is that known to you as -- what do you
21 refer to that as?

22 A This is what is referred to as a known standard.
23 It's a sample that is taken directly from an individual so
24 that I know the DNA profile developed from that item came
25 from that particular individual. A DNA profile is

JENNIFER CLAYTON - DIRECT

1 developed from DNA and is reported as a sequence of
2 numbers. DNA is inherited from our parents. We inherit
3 half of our DNA from our mother and half of our DNA from
4 our father, and we're able to develop DNA profiles from
5 our DNA. And with the exception of identical siblings no
6 two individuals are born with the same DNA profile.

7 Q I show you what's been marked as State's Exhibit 17,
8 and tell me what that is.

9 A Yes. It contains SLED items 1.1, 1.2 and 1.3. And
10 those are swabs from a Honda Accord.

11 Q Where did you receive that item?

12 A May I refer to my chain of custody?

13 Q Yes.

14 A I received those items from Courtney Thompson.

15 Q Is that indicated on the verified chain of custody
16 from SLED?

17 A Yes, it is.

18 Q Ad these items were submitted to you through the SLED
19 evidence locker; is that correct?

20 A In this particular instance I received it from
21 another employee, a forensic technician in the DNA
22 department.

23 Q Okay.

24 A Or serologist, I apologize, it was a serologist in
25 the DNA department.

JENNIFER CLAYTON - DIRECT

1 Q And using item number -- SLED's item number 77,
2 State's Exhibit 11, which is the known standard for
3 Christopher Moore, did you perform analysis for comparison
4 with those swabs from that Honda accord?

5 A Yes, I did.

6 Q I show you what's been marked as State's 77. Can you
7 tell me what that is?

8 A This is a copy of one of the reports that I issued in
9 this case.

10 Q Does it include the conclusions that you found, if
11 any, on item one, which was the swabs from the passenger
12 seat of the Honda Accord?

13 A Yes, it does.

14 Q Okay. What conclusions did you reach regarding whose
15 DNA that was?

16 A The DNA profile developed from item 1.1, which was a
17 swab from the back seat of the passenger seat of the Honda
18 Accord, and 1.2, which was the swab from the passenger
19 side of the Honda Accord matches the DNA profile of
20 Christopher Moore. The probability of randomly selecting
21 an unrelated individual having a DNA profile matching
22 these items is approximately a 1 in 220 sextillion. What
23 that means is that if you were to go out into the
24 population anywhere and choose one individual at random
25 the probability of just by chance they would happen to

JENNIFER CLAYTON - DIRECT

1 have the same DNA profile as the DNA profile in the
2 evidence is approximately one in 220 sextillion, meaning
3 it's very very unlikely that you could go out in the
4 population and chose an individual at random that would
5 have this same DNA profile.

6 Q How many people are in the world?

7 A The current estimate is approximately seven billion.

8 Q And how many more zeros would be on a sextillion?

9 A So one billion is one with nine zeros behind it. One
10 sextillion would be one with 21 zeros behind it.

11 Q Is it safe to say that you can say within a reasonable
12 degree of scientific certainty that the blood from the back
13 of that Honda Accord belonged to Christopher Moore?

14 A In my opinion assuming he doesn't have an identical
15 sibling, the DNA profile developed from items 1.1 and 1.2
16 are from Christopher Moore.

17 Q And I show you what's been marked --

18 MS. HALL: Your Honor, at this time I would move to in
19 item 17, which are the swabs from the Honda into evidence.

20 MR. FRICK: No objection.

21 (The swabs were received as State's 17.)

22 Q I'll show you what has been marked as item one. If
23 you can, tell me what that is.

24 A This is SLED item two, which is swabs taken from back
25 passenger door of the Yukon.

JENNIFER CLAYTON - DIRECT

1 Q And did you perform a comparison with the known
2 standard that you had gotten from Christopher Moore?

3 A Yes, I did.

4 Q And what were the results of those comparisons?

5 A The DNA profile developed from item two matches the
6 DNA profile of Christopher Moore. And again, the
7 probability of randomly selecting an unrelated individual
8 from the population having the same DNA profile is one in
9 220 sextillion.

10 Q So it is your opinion that that blood on the outside
11 of that Yukon back passenger rear door was Christopher
12 Moore's blood?

13 A Assuming he does not have an identical sibling the
14 DNA profile developed from items 1.2 and 1.2 in my opinion
15 came from Christopher Moore.

16 Q Is that -- I'm sorry, is that item two? You said 1.1
17 and 1.2.

18 A I apologize, item two, correct.

19 Q And those again are the swabs from the Yukon, correct?

20 A Correct.

21 MS. HALL: Your Honor, at this time the State would
22 move 13 into evidence, which are the swabs.

23 MR. FRICK: No objection.

24 THE COURT: That and the last exhibits are in without
25 objection.

JENNIFER CLAYTON - DIRECT

- 1 (The swabs were received as State's 13.)
- 2 Q I show you what has been marked as State's Exhibit 62.
- 3 If you can tell me, do you recognize that?
- 4 A Yes. That's SLED item number 43, which is swabs from
- 5 a fence at [REDACTED].
- 6 Q And did you get those swabs and perform a comparison
- 7 against the item -- the buccal swabs of the known standards
- 8 from Christopher Moore?
- 9 A Yes, I did.
- 10 Q And what were the results of that analysis?
- 11 A The DNA profile developed from SLED item number 43
- 12 matches the DNA profile of Christopher Moore.
- 13 Q And what is the probability of selecting a random
- 14 individual with regard to that piece of evidence.
- 15 A Again, the probably of randomly selecting a
- 16 non-related individual having a DNA profile matching this
- 17 item is approximately one in 220 sextillion.
- 18 Q So is it your scientific opinion that the blood that
- 19 was swabbed from item 43, or from that fence at 622
- 20 Parkway, did that belong to Christopher Moore?
- 21 A In my opinion assuming he doesn't have an identical
- 22 sibling that profile came from Christopher Moore.
- 23 MS. HALL: I will at this time move 62 into evidence,
- 24 which are the swabs from the fence.
- 25 THE COURT: Any objection?

JENNIFER CLAYTON - DIRECT

1 MR. FRICK: Oh, I'm sorry, no objection.

2 THE COURT: In without objection.

3 (The swabs were received as State's 62.)

4 Q I'm going to show you what has been marked as State's
5 Exhibit 66. Can you identify that?

6 A Yes. This is SLED item number 42 which is swabs from
7 a Crown Victoria.

8 Q And did you receive those swabs and compare them with
9 a known standard from Christopher Moore?

10 A Yes, I did.

11 Q And what were the findings?

12 A Again, the DNA profile developed from item 42 matches
13 the DNA profile of Christopher Moore, and the probability
14 of randomly selecting an unrelated individual from the
15 population having a DNA profile matching this item is
16 approximately one in 220 sextillion. So again, in my
17 opinion assuming he does not have an identical sibling the
18 DNA profile developed from that item came from Christopher
19 Moore.

20 MS. HALL: Your Honor, at this time the State would
21 move Exhibit 66 into evidence.

22 MR. FRICK: No objection.

23 THE COURT: In without objection.

24 (The swabs were received as State's 66.)

25 Q I show you what has been marked as State's Exhibit 61.

JENNIFER CLAYTON - DIRECT

1 And if you could, just tell me what SLED item number that
2 would be.

3 A I did not receive this item, but according to the
4 markings on the packing it would be SLED item number
5 eight.

6 Q Did you receive an item that was related to that
7 object?

8 A Yes, I did.

9 Q And what did you receive?

10 A I received SLED item number 8.1, which is the swabs
11 from bottom of item eight, the rifle magazine.

12 Q So those swabs would have come from that rifle
13 magazine?

14 A That's correct.

15 Q And did you perform a comparison with the known
16 standard from Christopher Moore on those swabs?

17 A Yes, I did.

18 Q And what were the results of your analysis?

19 A The DNA profile developed from item 8.1 is a mixture
20 from at least three individuals, and the DNA profile
21 developed from the major component is a mixture of two
22 individuals. Christopher Moore cannot be excluded as a
23 possible contributor to the major component. The
24 probability of randomly selecting an unrelated individual
25 who could have contributed to the major component is

JENNIFER CLAYTON - DIRECT

1 approximately one in 19 million. So multiple individuals
2 can handle an item and so multiple -- DNA from multiple
3 individuals can be posited, in that case a mixture can be
4 developed, meaning the DNA profile is made up from DNA
5 results from more than one individual. In this case at
6 least three individuals contributed DNA to the item,
7 however the major component refers to the fact that the
8 majority of the DNA was deposited by two individuals,
9 however I wasn't able to determine that these numbers
10 specifically and the sequence of numbers of the profile
11 belonged to one individual and these sequence of numbers
12 belonged specifically to this individual, it's a mixture
13 of numbers. So for that comparison I looked at the
14 numbers in the DNA profile and from the evidence and the
15 numbers in the DNA profile from the known standard to
16 determine if the individual could have contributed DNA to
17 that mixture. It can't be a match because it's a mixture
18 of the DNA, but I can determine could this individual have
19 contributed DNA to the item or be excluded as a
20 contributor, and in this case Christopher Moore can't be
21 excluded or is included as possible contributor. It
22 doesn't say definitively that he did contribute DNA but
23 that he is included as a possible contributor. And the
24 probability of randomly selecting an unrelated individual
25 that could have contributed to this mixture is . . .

JENNIFER CLAYTON - DIRECT

1 approximately one in 19 million.

2 Q I'll show you what has been marked as State's Exhibit
3 Number 41. Can you tell the jury what that is?

4 A Yes. I did not receive this item, however it is
5 marked with a SLED lab number and the item number, it is
6 SLED item number 31, and that is one fired projectile
7 collected from the front passenger floorboard of the
8 Cadillac.

9 Q I want to back up for just one second. With regard to
10 State's 77, which is the report that you referred to
11 earlier, and without talking about this one item I just
12 handed you, are your conclusions that you've talked about
13 up until this point all included within that report?

14 A Up to this point, yes, they are all included on that
15 report.

16 MS. HALL: At this time State would move 77 into
17 evidence.

18 MR. FRICK: No objection.

19 THE COURT: In without objection.

20 (The report was received as State's 77.)

21 Q And you stated that the item I just gave you, which
22 you said bears SLED lab number 31.

23 A SLED item number 31.

24 Q Thank you, SLED item number 31. Did you receive a
25 swabbing from that item?

JENNIFER CLAYTON - DIRECT

1 A Yes, I did.

2 Q And what item numbers is that reflected on? I'm
3 sorry, let me give you the report. I show you what has
4 been marked as State's 78. Can you tell me what that is?

5 A It's a copy of an additional report that I issued in
6 this case.

7 Q Since you say it's an additional report of an item
8 that -- did somebody request that you do some additional
9 analysis on that item?

10 A Yes. After my initial report that I referred to
11 previously was issued a request was made for item 31.1,
12 which is swabs from the fired projectile, there was a
13 request for analysis on that.

14 Q I'll show you what has been marked as State's 93. Do
15 you recognize that?

16 A Yes. This is SLED item number 31.1.

17 Q And is that the swabbing that you're referring to?

18 A That's correct.

19 Q Okay. So you received the 31.1, and did you also have
20 a -- whose DNA were you looking for if anyone?

21 A When I develop DNA profiles I first develop a profile
22 from the evidence and then I compare it to any standards
23 that are submitted, so I'm not looking for a particular
24 one, I just do a comparison to every standard that I have
25 available to determine if there's a possible match or if

JENNIFER CLAYTON - DIRECT

1 that individual could have contributed DNA to the item.

2 Q And did you have a standard from the victim in this
3 case, Odell Williams?

4 A Yes, I did.

5 Q Did you compare item 31.1 from that projectile? Did
6 you compare that with the known standard from Odell
7 Williams?

8 A Yes, I did.

9 Q And what were your findings?

10 A The partial DNA profile developed from item 31.1
11 matches the DNA profile of Odell Williams. The
12 probability of randomly selecting an unrelated individual
13 having a DNA profile matching this item is approximately
14 one in 720 trillion. The partial profile refers to the
15 fact that in this particular instance there was very small
16 amount of DNA present on the item, and as a result of the
17 testing incomplete results were obtained. So a partial
18 DNA profile was developed and that partial profile was
19 compared to the standard.

20 Q Did you perform analysis on items 3.1, 3.2 and 3.3?

21 A I performed analysis on item 3.1 and 3.2, I did not
22 perform analysis on 3.3.

23 Q What are these items that are with this analysis?

24 A Item 3.1 was swabs from the trigger group and hammer
25 of item three, which is a .32 Smith and Wesson revolver.

JENNIFER CLAYTON - DIRECT

1 Item 3.2 is the swabs from the frame of item three on the
2 opposite side of the make and model information. And item
3 3.3 was a swab from the head stamps of item three, which
4 I'm assuming is the ammunition from the .32 Smith and
5 Wesson.

6 Q And did those items, did you get a match -- that was a
7 .32 revolver, State's 18; is that correct? I'll show you.

8 A I did not receive this item, but yes, it is labeled
9 as SLED item three.

10 Q So would these swabbings have come from that gun?

11 A Yes.

12 Q The analysis that you performed, were you able to
13 determine that the DNA on that gun actually did belong to
14 Odell Williams?

15 A I analyzed item 3.1 and 3.2, and the DNA profile
16 developed from items 3.2 and 3.2 matches the DNA profile
17 of Odell Williams, and the probability of randomly
18 selecting an unrelated individual from the population
19 having a DNA profile matching this item is approximately
20 one in 98 quadrillion.

21 MS. HALL: Your Honor, at this time the State would
22 move the report dated August 28, 2015, which is State's
23 Exhibit 78 into evidence.

24 MR. FRICK: No objection.

25 THE COURT: In without objection.

JENNIFER CLAYTON - DIRECT

1 (The report was received as State's 78.)

2 Q And all of the findings that we talked about with
3 regard to 3.1 and the 3.2, all of those findings are within
4 that report; is that correct?

5 A That's correct.

6 Q And you've received many other items during the course
7 of your analysis in this case; is that correct?

8 A I did receive a number of items, correct.

9 Q And many of those you did not perform analysis on?

10 A That's correct.

11 Q Why do you make a determination not to perform an
12 analysis?

13 A When numerous items are submitted on a case we look
14 at the items and determine which items are most likely to
15 give us the DNA profile and it's going to be suitable for
16 comparison. So if some items are likely to give a profile
17 suitable for comparison and other items are not likely to
18 give an item a profile suitable for comparison, we start
19 with the items that are most likely to give us the use of
20 the profile. Some items such as cartridge cases or
21 cartridges, they have a very small surface area, they are
22 not typically handled for a very large amount of time,
23 fired cartridge cases are exposed to high heat. So in
24 that particular circumstance our ability to develop a DNA
25 profile is limited and there's not a high likelihood we

JENNIFER CLAYTON - DIRECT

1 will develop a DNA profile, so those would not be our
2 highest priority, seeing if it could be developed. We
3 would attempt to develop other profiles from other samples
4 first, and if probative profiles are develop from those
5 samples we typically don't do analysis on other items
6 unless there is an additional request made to analyze
7 those items.

8 MS. HALL: Your Honor, at this time the State would
9 move Exhibit 11 -- well, Exhibit 11, which is the known
10 standard from Christopher Moore, into evidence.

11 MR. FRICK: No objection.

12 MS. HALL: And also State's Exhibit 93, which is the
13 swabbing from item 31, into evidence.

14 THE COURT: Both of them are in without objection.

15 (The known standard was received as State's 11, and
16 the swabbing was received as State's 93.)

17 MS. HALL: And I believe I've already put 78 in. I
18 have no further questions, please answer anything Mr. Frick
19 may have.

20 CROSS EXAMINATION

21 BY MR. FRICK:

22 Q Ms. Clayton, the report the solicitor was talking
23 about and introduced into evidence, was that -- it's dated
24 August 28th of 2015, right?

25 A Correct.

JENNIFER CLAYTON - DIRECT

1 Q Okay, making sure we're talking about the same one
2 here.

3 A That is the second report that she referred to, yes.

4 Q So you did at least two reports in this case. How
5 many reports did you do total?

6 A I apologize, I apparently have temporarily misplaced
7 the other reports, I believe it was four reports.

8 Q Okay. And you did different reports as new stuff was
9 presented to you?

10 A There were -- I did some initial analysis, and I
11 believe the first report had some typographical errors on
12 it so an amend report was issued, they corrected those
13 typographical errors. And then additional reports were
14 issued when additional evidence was submitted.

15 Q Now, to clarify, you don't go out in the field so to
16 speak, you are working in the lab in Columbia, correct?

17 A That's correct.

18 Q And you did not participate in the collection of any
19 of this evidence, correct?

20 A No, I did not.

21 Q Even the swabs themselves, they are collected and
22 presented to you, correct?

23 A That's correct. In this particular case the swabs
24 that were collected were collected by another individual
25 and then I received those swabs for analysis.

JENNIFER CLAYTON - CROSS

1 Q So you are simply -- I guess are you looking at stuff
2 to see that there is DNA to even do an analysis with?

3 A That's correct. I will -- the initial step -- in our
4 analysis one of the initial steps is to test for the
5 presence of DNA, depending on those results we will
6 typically move forward if we begin the DNA analysis even
7 if our initial analysis indicates that there's no DNA
8 present on that item.

9 Q Okay. And then if you do find something then you go
10 forward to see if you've got a match with anything?

11 A Yes. Once a DNA profile is developed, the next step
12 is to determine if the profile is suitable for comparison
13 or not. Some samples give a poor quality result that
14 makes them not suitable for comparison with standards, at
15 that point no initial comparisons are done with that item.
16 However, if the sample is suitable for comparison
17 comparisons are done with every standard that is submitted
18 in the case.

19 Q Okay. And so in your report here assuming Christopher
20 Moore does not have an identical twin out there, the DNA
21 that was collected from two swabs on the Honda Accord, a
22 back passenger door of a Yukon, a Crown Vic. and a fence at
23 [REDACTED] are pretty conclusively his DNA.

24 A Yes. In my opinion they came from him assuming he
25 doesn't have an identical sibling.

JENNIFER CLAYTON - REDIRECT

1 Q And then in items regarding a .32 Smith and Wesson
2 revolver, I think you had two swabs on that, those --
3 assuming he does not have an identical twin out there those
4 pretty conclusively match Odell Williams.

5 A That's correct.

6 MR. FRICK: Give me one second.

7 (Break in proceedings.)

8 MR. FRICK: Thank you, ma'am, that's all of the
9 questions I have.

10 MS. HALL: Very briefly.

11 REDIRECT EXAMINATION

12 BY MS. HALL:

13 Q Mr. Frick, he touched on an initial report that you
14 did on this case?

15 A Yes, that's correct.

16 Q Do you have a copy of that?

17 A I was not able to locate it. I thought I had a copy
18 but I seemed to have misplaced it.

19 Q I'll show you a document, and if you would, tell me
20 that would be the report that he is referring to.

21 A Yes, this would be a copy of that report.

22 Q What is the date on it?

23 A It's November 12th of 2014.

24 Q So would that have been the preliminary report that
25 you did?

JENNIFER CLAYTON - REDIRECT

1 A Yes. This would be the first report that I issued in
2 the case.

3 Q Would this have been the one with the typographical
4 errors or this would be the corrected one?

5 A No. This would be the one with the typographical
6 errors.

7 Q And the second report would be the one that was
8 corrected; is that correct?

9 A Yes. The typos present in the report would have been
10 corrected in the amended report that was issued.

11 Q So when you did this report did you have item 77,
12 which was a known standard from Christopher Moore?

13 A No, I did not.

14 Q All right. And when you do the initial report, at
15 some point do you issue a letter to someone saying, "I need
16 a known standard from the defendant in order to complete
17 this?"

18 A In this particular case that was not stated. It was
19 stated that unidentified profile was developed and that is
20 an indication that a standard from any possible suspects
21 or other individuals that could have contributed DNA to
22 the items should be submitted for analysis.

23 Q And so ultimately after that report was issued did you
24 receive a known standard?

25 A Yes, I did.

JENNIFER CLAYTON - REDIRECT

1 Q And so did you repeat all of the analysis that you had
2 done or take all of those DNA profiles that you had
3 developed in this November the 12th report and compare them
4 to the known standards from Christopher Moore?

5 A Yes. I did not repeat the DNA analysis because the
6 results would have been the same for the items of
7 evidence, so the previously developed DNA profiles from
8 the evidence were compared to the DNA profile developed
9 from the standard for Christopher Moore once his standard
10 was received.

11 Q So make sure I understand, so you developed profiles
12 and you held onto them and you said "I don't really know
13 who these are;" is that right?

14 A That's correct. For some of the items they did match
15 individuals, there were some standards originally
16 submitted, however there were some items unidentified
17 profiles. Initially the DNA profile developed from items
18 1.1 and 1.2, 42 and 43 for instance, were reported from
19 being from an unidentified male individual.

20 Q And then when you got item 77 you were able to compare
21 that with being Christopher Moore's standard, correct?

22 A Correct.

23 Q You were able to develop DNA profile from that and
24 compare it to these things that you didn't know who they
25 came from; is that right?

JENNIFER CLAYTON - REDIRECT

1 A That's correct.

2 Q And those items that you just ran through, and I think
3 it's 1.2 and 1.2 being the swabs from the Honda Accord; is
4 that right?

5 A That's correct.

6 Q Whatever other items did you say you weren't able to
7 develop a profile from?

8 A Item two, which is the swab from the back passenger
9 door of the Yukon; 42, which is swabs from a Ford Crown
10 Victoria; and 43, which is swabs from a fence at 62 (sic)
11 Parkway Drive. They were originally reported as being
12 from an unidentified individual, however once the standard
13 was submitted from Christopher Moore it was determined
14 that that profile matched the DNA profile from Christopher
15 Moore.

16 Q So is it safe to say that all of the things in your
17 report from June 12th of 2015, are all of the things from
18 the November 12th of 2014 report, all of those items are
19 included in the June 12th report; is that correct?

20 A Yes. The June 12th report includes all of the items
21 originally analyzed on the report done on the November the
22 12, 2014 report, however it's with the updated conclusions
23 due to the additional standard being submitted.

24 MS. HALL: Your Honor, I don't have anything further.

25 MR. FRICK: Nothing further, thank you, Your Honor.

JENNIFER CLAYTON - REDIRECT

1 MS. HALL: Your Honor, we would ask that Ms. Clayton
2 be excused.

3 MR. FRICK: No objection.

4 MR. MAXWELL: State calls Phil Gregory.

5 MS. HALL: And Your Honor, just so the Court knows and
6 everyone else knows, we have Phil Gregory and one
7 additional witness after this one and we don't anticipate
8 either of them being very long.

9 THE COURT: Y'all get the job done now or we're going
10 to be in violation of the Supreme Court's previous order.
11 I don't want to rush anybody but cut out an extraneous
12 stuff you really don't need.

13 MS. HALL: Yes, sir.

14 The witness, PHILLIP GREGORY, was first duly sworn and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MAXWELL:

18 Q State your name for the record.

19 A Phillip Thomas Gregory.

20 Q Mr. Gregory, where were you employed back on November
21 of 2014?

22 A Chester County EMS.

23 Q And did you respond to an incident on Roundtree Circle
24 on the evening of November 4th of 2014?

25 A Yes, sir.

JENNIFER CLAYTON - REDIRECT

1 Q And when you got there what was going on, what did you
2 observe?

3 A Car parked against a house and law enforcement
4 officials coming in saying a councilman had been shot.

5 Q And did you go up to where the car was?

6 A Yes, sir.

7 Q And what did you see when you got up close to that
8 area?

9 A A chair sitting beside the car and Mr. Williams was
10 sitting in the chair beside the car.

11 Q And can you tell what his condition was?

12 A No, sir, not from there I could not.

13 Q When you got closer to him could you tell?

14 A Yes, sir, I could tell. He was bleeding profusely
15 from the face and neck area.

16 Q Could he communicate anything to you?

17 A He was mumbling.

18 Q Were you able to understand him?

19 A No, sir.

20 Q Was he seated in a chair next to a car?

21 A Yes, sir.

22 Q I want to show you what's been marked State's Exhibit
23 5. Does that look familiar, a picture of the red car next
24 to a house?

25 A Yes, sir.

PHILLIP GREGORY - DIRECT

- 1 Q Is there a chair in the picture?
- 2 A Yes, sir.
- 3 Q Does that chair look familiar to you?
- 4 A I couldn't tell you what color it was, it was dark.
- 5 I just know there was a chair there.
- 6 Q In that same general area where the chair is?
- 7 A Yes.
- 8 Q Do you know how far it was away from the car at the
- 9 time?
- 10 A Three or four feet.
- 11 Q How did you treat Mr. Williams?
- 12 A He actually stood up, got on my stretcher by himself.
- 13 Once I got him on the stretcher and got him in the back of
- 14 the ambulance he became combative, which that is normal
- 15 with somebody with shock or blood loss. And that's when
- 16 he -- I had already called for the helicopter and that's
- 17 when he just finally quit fighting and laid back. I
- 18 canceled the helicopter and proceeded to Chester Regional
- 19 in full cardiac arrest.
- 20 Q And was he in your presence when he passed away?
- 21 A Yes, sir. He went flatline on me in the back of the
- 22 ambulance at the scene, that's when we did CPR, did the
- 23 whole full cardiac arrest workup and transported him to
- 24 Chester.
- 25 Q And how was he combative?

PHILLIP GREGORY - CROSS

1 A Just swinging, didn't want to lay down, didn't want
2 to be cooperative. It was obvious that he was going into
3 shock, that's normal for that.

4 MR. MAXWELL: No further questions, Your Honor.

5 CROSS EXAMINATION

6 BY MR. FRICK:

7 Q You said he was swinging, what just --

8 A I was trying to start an IV on him, he was trying to
9 wiggle away and was swinging.

10 Q Okay. And you said he was -- other than that he was
11 still a little bit combative too?

12 A Yeah. He was still a little bit combative, which
13 like I said, that's normal for that.

14 Q But he got up out of the chair and got on the
15 stretcher.

16 A Got out and got on the stretcher by himself. Well,
17 with a little help, I ain't gonna say by himself.

18 Q And he was not communicative?

19 A No, sir. He was mumbling but I couldn't understand
20 him because of where the actual gunshot was.

21 Q Got you.

22 MR. FRICK: All right. Thank you, sir, that's all of
23 the questions I have.

24 MR. MAXWELL: Nothing further, Your Honor, I would ask
25 that this witness be excused.

PHILLIP GREGORY - CROSS

1 MR. FRICK: No objection.

2 MR. MAXWELL: State calls Dr. Robert Thomas.

3 The witness, ROBERT THOMAS, M.D. was first duly sworn

4 And testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MAXWELL:

7 Q State your name for the record.

8 A Robert E. Thomas, Jr.

9 Q And Dr. Thomas, where are you employed?

10 A York Pathology Associates in Rock Hill.

11 Q How long have you been employed there?

12 A Sixteen years.

13 Q And can you talk about your education?

14 A I received a Bachelor of Science at Clemson

15 University in Chemical Engineering, got a four year

16 medical school degree at MUSC in Charleston, and a five

17 year residency program also at MUSC in Charleston.

18 Q And do you do any -- or get any continuing legal

19 training? Excuse me, educational training, any continuing

20 education?

21 A We're required to keep our license to get CME, we're

22 pathologists in three hospitals and cover two counties for

23 forensic autopsies in York County and Chester County, so

24 the CME would be a mix of any of that.

25 Q And do you conduct autopsies as part of your job?

ROBERT THOMAS, M.D. - DIRECT

1 A I do.

2 Q How often do you perform autopsies, or how many have
3 you done?

4 A I have performed approximately five to 600 in my
5 career.

6 MR. MAXWELL: We offer Dr. Thomas as an expert in
7 pathology.

8 MR. FRICK: No objection.

9 THE COURT: So qualified.

10 Q And Dr. Thomas, what is an autopsy?

11 A An autopsy is a detailed examination of the decedent
12 to try to establish a cause and manner of death. It would
13 be -- depending upon whether it's a hospital autopsy for
14 medical purposes or a forensic autopsy for legal purposes,
15 trying to document any sort of injuries on the decedent to
16 help investigators and solicitors try to put together the
17 pieces of what happened to that decedent.

18 Q And did you perform an autopsy on Odell Williams on --
19 around November 4th or 5th of 2014?

20 A I did.

21 Q What day did you perform it?

22 A It was on the 5th.

23 Q And where did you perform it at?

24 A At piedmont Medical Center morgue.

25 Q Can you go through your examination of Mr. Williams'

ROBERT THOMAS, M.D. - DIRECT

1 body?

2 A I did.

3 Q Can you go through it?

4 A So the first part of that would be the external
5 examination where we would do things like weigh a body,
6 take a height measurement, observe any sort of injuries on
7 the outside of the body. In this case the decedent had an
8 exit and an entrance gunshot wound. There was an entrance
9 gunshot wound right here in the right cheek, and then
10 there was an exit gunshot wound over here in the left
11 cheek left/neck area, so that would be the external
12 examination. We would look in the oral cavity of the
13 mouth to see if there were any injuries that occurred due
14 to that bullet path. We would have measured the entrance
15 and exit wounds, again part of the internal examination.
16 And then after that we would have done the internal
17 examination, which would have included taking out all of
18 organs, weighing, measuring organs, seeing if there was
19 any natural disease processes.

20 Q And did you conduct, or form a report from your
21 findings?

22 A I did.

23 Q I am going to show you what's been marked as State's
24 Exhibit 82. Is that your report?

25 A That is.

ROBERT THOMAS, M.D. - DIRECT

1 Q Did Mr. Williams have any other injuries other than
2 the wound to his face?

3 A He had -- the same gunshot track actually lacerated
4 part of the tongue, but that was all part of the same
5 injury to him.

6 Q What about any other parts of his body?

7 A No. He had no other injuries other than those
8 associated with that gunshot wound track.

9 Q Can you talk about how you can tell where a gunshot
10 enters a body as opposed to where it exits a body?

11 A Sure. So a couple of different things. You can get
12 some ideas based on the shape -- the entrance wound is
13 generally speaking smaller depending upon whether it hits
14 any soft tissue or over a bony structure, whereas an exit
15 wound is generally larger. And that is due to the fact
16 that when a bullet goes through a body it deforms if it
17 hits a bone, it might break up, then as it goes out of the
18 body it would actually blow out the tissue on the exit
19 wound. So usually an exit wound is irregular, we may
20 refer to them as stellate where an entrance wound more
21 often is more round, again, just smaller.

22 Q Does the entrance wound, can you tell anything about
23 what kind of gun it was or how far the shooter was away?

24 A So if you find any stippling around an entrance
25 wound, again that confirms that it was most likely an

ROBERT THOMAS, M.D. - DIRECT

1 entrance wound, but it also gives you some idea as to the
2 distance that the shooter was from the individual. In
3 other words when a gun is fired with a bullet as it exits
4 the gun comes gun powder that continues to burn, and that
5 would go out from the muzzle in sort of a cone shaped
6 fashion. So if you're within say a foot or three feet,
7 maybe four depending upon the gun from the decedent to the
8 gun you're going to see the stippling, basically a small
9 microscopic burning around the entrance wound. In this
10 case we did not see that.

11 Q That would indicate the shooter was further away than
12 three or four feet?

13 A Correct.

14 Q Would that be a distant shot?

15 A You can refer to it as that, yes.

16 Q And were there any bullets or anything found inside of
17 his body unnaturally I guess?

18 A No. There was a small fragment on his chest three to
19 four millimeters, I believe, but that may or may not be
20 part of the bullet.

21 Q Was that in part -- in the skin or was it laying on
22 the skin?

23 A No, just laying on the chest.

24 Q And were Mr. Williams -- were things collected from
25 his body in order to do a toxicology report?

ROBERT THOMAS, M.D. - DIRECT

1 A Yes.

2 Q Do you know what the results of the toxicology report
3 were?

4 A So those were done at SLED and those were negative
5 for alcohol and commonly used drugs of abuse.

6 MR. MAXWELL: Your Honor, I offer Dr. Thomas' report
7 into evidence as State's 82, I believe.

8 MR. FRICK: No objection.

9 THE COURT: In without objection.

10 (The report was received as State's 82.)

11 Q Dr. Thomas, to a reasonable degree of medical
12 certainty what was the cause of Odell Williams' death?

13 A Gunshot wound to the face.

14 Q And what did it do when the gunshot entered?

15 A As it entered it fractured the zygomatic bone, which
16 is the cheek bone right here, it also fractured the
17 mandible, or the maxillary bone here, traveled slightly
18 down and backwards and it fractured the left mandible, the
19 left jaw bone. And on the way out it severed the small
20 artery, the facial artery and also severed an intermediate
21 to larger size vein of the left external jugular vein.

22 Q And severing of the artery and the vein would cause
23 what?

24 A Exsanguination or just bleeding out, it's loss of
25 blood.

ROBERT THOMAS, M.D. - DIRECT

1 MR. MAXWELL: No further questions, Your Honor.

2 CROSS EXAMINATION

3 BY MR. FRICK:

4 Q Doctor, is part of your examination trying to figure
5 out a direction of travel or anything like that for this
6 bullet?

7 A Correct.

8 Q And you were able to determine what?

9 A That it went from right to left slightly downward and
10 slightly backwards.

11 Q Okay. But are you able to determine in which way his
12 head is turned or --

13 A I can't.

14 Q You couldn't say where a shooter was or --

15 A No, sir.

16 Q Couldn't say how far away a shooter was?

17 A Just that he was most likely more than three or four
18 feet.

19 Q Because there was no powder on his face essentially,
20 right?

21 A Correct.

22 Q The fragment that you said you found on his chest,
23 what did it look like to you?

24 A It was irregular shaped, it was dark and it looked
25 like it could be lead. Again, we sometimes find things,

ROBERT THOMAS, M.D. - CROSS

1 we don't know what they are, we just turn them over to the
2 evidence collectors in law enforcement.

3 Q Got you. And that's what you did here, right?

4 A Correct.

5 Q But it wasn't attached or embedded, it was just laying
6 there?

7 A Correct.

8 Q And it was there when you got there.

9 A Correct.

10 Q And I know you already answered it, just make sure I
11 have got this straight, you were not able to make any
12 determination as to the caliber of gun that was used.

13 A No. I can say it was probably intermediate size to
14 larger size, it looked like it was probably bigger than a
15 .22. But you can get some idea -- because your skin and
16 your soft tissues, they can stretch, you know, and you
17 can't always tell powders particularly on a gunshot if you
18 don't recover a bullet.

19 Q Only the one gunshot wound.

20 A Correct.

21 Q Didn't see any other entry wounds or scratches or
22 anything that indicated he might have been struck by
23 another bullet.

24 A That's correct.

25 Q Any other injuries whatsoever other than that?

ROBERT THOMAS, M.D. - CROSS

1 A No, sir.

2 MR. FRICK: Thank you, sir, that's all of the
3 questions I have.

4 MR. MAXWELL: No redirect, Your Honor.

5 THE COURT: Thank you, Doctor.

6 MR. MAXWELL: Ask that Dr. Thomas be excused.

7 MR. FRICK: No objection.

8 MS. HALL: And that's the conclusion for our witnesses
9 for the day.

10 THE COURT: All right. We will fire back at 9:30 in
11 the morning. Everybody report promptly and we will get
12 started again. Remember my instructions, no communications
13 and don't allow anybody to contact you. Y'all have a good
14 evening.

15 (The jury left the courtroom.)

16 (Court recessed for the evening and resumed on
17 Wednesday, June 29, 2016 at 9:30 a.m.)

18 THE COURT: Are we ready for the jury?

19 MS. HALL: Yes, sir.

20 MR. FRICK: Yes, sir.

21 (The jury returned to the courtroom.)

22 THE COURT: Good morning everybody. Once again we are
23 ready for the State to call its next witness.

24 MS. HALL: The State calls Dan DeFreese.

25 The witness, DAN DEFREESE, was first duly sworn and

ROBERT THOMAS, M.D. - CROSS

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MS. HALL:

4 Q Your name is Dan DeFreese?

5 A It is Frank Dan DeFreese, that's D-e-F-r-e-e-s-e.

6 Q And where are you employed?

7 A I'm not employed, I'm retired.

8 Q And from where are you retired?

9 A From the South Carolina Law Enforcement Division, I
10 worked for them for in excess of 48 years.

11 Q Were you working for them back in November of 2014?

12 A I was.

13 Q When did you retire?

14 A In September of 2015.

15 Q What were your responsibilities at the law enforcement
16 division?

17 A My last assignment with SLED was with the firearms
18 laboratory in the firearms department of the forensic
19 services laboratory where we do the examination of firearm
20 and tool mark evidence.

21 Q And how long did you work in that division?

22 A With a few interruptions almost the entire 48 years.

23 Q And what was your background in education experience
24 that allowed you to be employed in that capacity?

25 A I'm a graduate of the University of South Carolina in

DAN DEFREESE - DIRECT

1 Columbia; but my training to examine firearm and tool mark
2 evidence occurred principally at SLED. Then after my
3 employment I was assigned to the firearms department,
4 began a course of instruction that lasted for about two
5 and a half years. I studied the techniques of firearm
6 tool mark identification under Lieutenant Willard Kate.
7 Lieutenant Kate established the SLED laboratory when the
8 modern era of SLED itself began in 1948, and also I
9 studied under Lieutenant Carl Stokes. And after preparing
10 case work under their supervision for a period of about
11 two and a half years I began accepting case work on my own
12 and have been testifying as to my results since 1961.

13 MS. HALL: Your Honor, at this time the State would
14 offer Dan DeFreese as a firearms expert.

15 MR. FRICK: No objection.

16 THE COURT: So qualified.

17 Q I want to go through something I like to call
18 ballistics 101, if you could explain to us some things
19 about guns that people may or may not know. What is the
20 difference between a revolver and a semiautomatic?

21 A A revolver is a type of firearm, it is principally a
22 handgun that uses a revolving central cylinder. There are
23 a number of chambers that are present in the cylinder and
24 the cylinder rotates to bring these chambers into
25 alignment with a single barrel by means of the gun's

DAN DEFREESE - DIRECT

1 mechanism. The revolver is a manually fired firearm, that
2 all of the effort necessary to make the firearm work is
3 supplied by the shooter. And a revolver functions by
4 loading however many cartridges that the cylinder will
5 accept, and it's usually between five and nine. Then the
6 cartridges are fired and then the cartridges are removed
7 manually. The revolver does not automatically expel fired
8 cartridge cases each time it's fired, and as I say, most
9 revolvers are handgun. There are revolving rifles and
10 even revolving shotguns but there are not very many of
11 them. Semiautomatic firearms can be rifles, pistols or
12 shotguns, and they use some of the energy supplied by the
13 firing of the cartridge to automatically load the next
14 cartridge and prepare the firearm for the next firing.
15 They have a single chamber which is integral with the
16 barrel, and after firing it's necessary for the fired
17 cartridge case to be extracted and ejected from the
18 firearm to prepare the firearm for the next cartridge to
19 be fired in. So each time you pull the trigger on a
20 semiautomatic firearm the projectiles go down the bore, a
21 short time later the fired cartridge case is extracted and
22 ejected from the firearm, and if there is unfired
23 ammunition in the gun's magazine it is removed from the
24 magazine and placed in the chamber to prepare it for the
25 next firing, at which point the shooter has to let up on

DAN DEFREESE - DIRECT

- 1 the trigger to pull the trigger again for the next firing.
- 2 It only fires one shot for each pull of the trigger.
- 3 Q I want to show you what has been marked as State's
- 4 Exhibit 18. Do you recognize this item first of all?
- 5 A I do.
- 6 Q Did you perform an analysis on that item at some point
- 7 in time?
- 8 A I did.
- 9 Q Is that a revolver or semiautomatic?
- 10 A This is a revolver. Is this is it an H and R .32 S
- 11 and W long caliber revolver. It can shoot at many as six
- 12 times without reloading.
- 13 Q And as a revolver when the bullets are fired from it,
- 14 do the spent shell casings remain in the gun or are they
- 15 extracted?
- 16 A No. The fired cartridge cases remain in the chambers
- 17 and the cylinder until the cylinder is opened, as it is
- 18 now, and effort is made to extract and eject the cartridge
- 19 casings, which are done more or less simultaneously.
- 20 Q And when you received that gun for analysis, did you
- 21 receive any bullets or cartridges with it?
- 22 A There were four unfired cartridges and two fired
- 23 cartridge cases with this firearm.
- 24 Q All right. And did you -- could you explain to the
- 25 jury what you do when you perform analysis on a firearm and

DAN DEFREESE - DIRECT

1 what you are looking for and how do you go about the
2 procedure?

3 A Well, our most popular request is to identify fired
4 cartridge cases and fired bullets back to the firearms in
5 which they were fired. In the case of bullets, when a
6 bullet is fired from a firearm it's engaged by the
7 interior surface of the barrel, what we call the bore.
8 And in the bore of a rifled firearm, which includes
9 rifles, pistols and revolvers, there are a series of
10 spiraling flutes, the flutes rip the bullet as the bullet
11 is pushed down the bore by the combustion gasses and they
12 impart a spin on the bullet. The bullet is not round in
13 most cases, and the spin is given to the bullet for the
14 same reason the quarterback spins a football when he
15 releases it, to keep the bullet from tumbling end over
16 end, so the rifling is there to enhance accuracy. But we
17 have found by examining fired bullets that some of the
18 individual tool marks that are present inside the bore
19 will uniquely leave their signature on bullets fired from
20 a particular firearm. And when the bullets are recovered
21 in sufficiently good condition it's possible to identify
22 these fine microscopic marks back to the gun barrel in
23 which the bullet was fired. The cartridge case on the
24 other hand is marked by a number of things, one of them
25 being the firing pin which comes forward from the breach

DAN DEFREESE - DIRECT

1 to initiate the firing of the cartridge, the firing pin
2 then leaves an impression on the primer or on the rear of
3 the cartridge case, and that impression itself contains
4 microscopic markings in many cases that are able to be
5 identified back to the firing pin. When the combustion is
6 initiated within the cartridge it builds up a very high
7 pressure area inside the cartridge, which is what's used
8 to expel the bullet out of the barrel. While that high
9 pressure is present it presses the cartridge case very
10 firmly against the chamber walls and against the breach
11 face. The tool marks and other imperfections that are
12 present are embossed on the cartridge case because of the
13 cartridge case swelling up, and the pressures used vary
14 from the tens of thousands up to like 40 or 50,000 pounds
15 depending on the cartridge, so it is very firmly pressed
16 against it. For that reason it's possible in many cases
17 to identify a particular cartridge case back to the gun in
18 which it was fired. And in a case of semiautomatic
19 firearms there are mechanism marks such as the extractor
20 or the ejector that can leave markings on the cartridge
21 case as the cartridge is cycled through the firearm, these
22 would indicate that the cartridge had been cycled through
23 the firearm as opposed to breach face, chamber and firing
24 pin marks that would indicate that it had actually been
25 fired in a particular firearm. We do a side by side

DAN DEFREESE - DIRECT

1 microscopic comparison where we viewed test bullets and
2 cartridge cases that are fired by a firearm with the
3 evidence specimens to see if these markings are
4 sufficient, repeatable and suitable for identification.

5 Q Okay. So you actually get bullets and test fire a
6 gun, and take the compressions that are left on that
7 cartridge case and compare them with the ones that have
8 been given to you as a part of this, is that a fair
9 statement?

10 A We don't actually compare the bullet or cartridge
11 case directly with the firearm in most cases. We compare
12 the fired bullet cartridge case in evidence with known
13 fired bullets and cartridge cases that we fire in a given
14 firearm.

15 Q All right. And did you do that with this gun as part
16 of your analysis? Did you test fire it or do any
17 comparisons with this gun?

18 A In this case I did test fire the gun and found the
19 gun to be in working order. Since the two fired cartridge
20 cases submitted with this revolver had been removed from
21 revolver I didn't make a microscopic comparison of the
22 marks on those two fire cartridge cases.

23 Q And is it fair to say that since those two fired
24 cartridge cases were removed from that gun at the scene or
25 by law enforcement prior to getting to you, the assumption

DAN DEFREESE - DIRECT

1 would be that those were fired by that gun so there was no
2 need to do any analysis.

3 A Correct.

4 MS. HALL: Your Honor, at this time the State would
5 move 18 into evidence.

6 MR. FRICK: No objection.

7 THE COURT: In without objection.

8 (The gun was received as State's 18.)

9 Q And if you would please pick -- if you wouldn't mind
10 picking the gun back up and explaining to the jury the
11 process of loading, unloading and reloading that gun.

12 A I can't actually close the cylinder because of the
13 nylon cable, but ordinarily if the gun were in the
14 condition at rest with the cylinder closed you would pull
15 forward slightly on the center pin or the ejector rod
16 which would release the cylinder so that it can be rotated
17 outward as it is now. You would manually place any number
18 of cartridges up to a maximum of six in the chambers
19 within the cylinder, and then the cylinder would be
20 rotated back to its closed position, and in the closed
21 position each time it's fired the cylinder would advance
22 one chamber during the process of cocking the firearm.
23 This is what's called a double action revolver. It can be
24 fired in two modes, one of them by manually cocking the
25 hammer and then a light and short pull of the trigger will

DAN DEFREESE - DIRECT

1 cause the hammer to be released to go forward and strike
2 the firing pin and initiate the combustion in the
3 cartridge, or it can be fired in the double action mode
4 where the trigger actually does two things, which is to
5 both cock the hammer and then fire it when the hammer is
6 sufficiently cocked, in doing that there's a long heavy
7 pull at the end of which the hammer is released and the
8 firearm fires. The firearm can be fired in this case up
9 to six times without reloading, after which the whole
10 sequence has to begin again by pulling forward to release
11 the cylinder, rotating the cylinder out. At that point
12 you could press back on the rod and the fired cartridge
13 cases that are -- or unfired cartridges if they were
14 present and would be extracted and ejected from the gun in
15 one stroke.

16 Q And then the relaying process would begin and begin if
17 that's what your intention was to reload it?

18 A Yes.

19 Q I'll show you what has been marked as State's Exhibit
20 20. Tell me if you can identify that.

21 A Yes, I can.

22 Q What is that?

23 A This is a Charter model Off Duty .38 Special caliber
24 revolver.

25 Q And have you seen it before today?

DAN DEFREESE - DIRECT

1 A I have.

2 Q Did you perform analysis on it in your lab?

3 A I did.

4 Q And what did you do with regard to that gun?

5 A Well, I examined it and collected data about the
6 firearm, and I also test fired it to be sure that it was
7 in working order, and I found that it was.

8 Q Did you receive any bullets or cartridges with that
9 gun?

10 A I received five unfired cartridges which are .38
11 Special Blazer Brass brand cartridge. I did not perform
12 any analysis on it other than to note that they were the
13 correct caliber of ammunition for use in the firearm.

14 Q All right.

15 MS. HALL: At this time the State would move 20 into
16 evidence?

17 MR. FRICK: No objection.

18 THE COURT: In without objection.

19 (The gun was received as State's 20.)

20 Q All right. I will show you what has been marked as
21 State's 19. Tell me if you can identify that.

22 A Yes, I can.

23 Q And what is that?

24 A This is a Kill Tec nine millimeter caliber
25 semiautomatic pistol.

DAN DEFREESE - DIRECT

1 Q The touch on the semiautomatic part, if you would just
2 briefly go back through the portion where -- explaining how
3 that was fired so that we can differentiate from the other
4 firearms.

5 A Sure. If it weren't for the nylon cable tie I could
6 insert the magazine assembly into the grip of the pistol.
7 The magazine assembly is a -- in this case a cheap metal
8 box that contains a spring and it has feed lips at the top
9 that are designed to guide the cartridge into the chamber.
10 The shooter would manually place in this case up to ten
11 unfired cartridges within this box, and he's forcing the
12 cartridges down against the magazine spring which will
13 bring each cartridge up for feeding it with a chamber in
14 its order. To fire this pistol one would insert a loaded
15 magazine into the gun and then close the slide, the slide
16 is locked open now. There, it's partially closed but it
17 can't be completely closed because of the tie. When the
18 slide moves forward it will grab the top cartridge in the
19 magazine and strip it from the magazine and guide it into
20 the chamber which is an enlarged area at the rear of the
21 barrel, the slide then closes and the gun is essentially
22 prepared for firing at this time. This is the kind of
23 pistol known as a double action only. Many pistols are
24 capable of both single and double action fired, this one
25 is not. In this case each shot requires a long heavy pull

DAN DEFREESE - DIRECT

1 of the trigger and it fires one time for each pull of the
2 trigger. It has no real external safety mechanisms as
3 many of the single action pistols have, it relies on the
4 long heavy trigger pull to prevent accidental firing.

5 Q And then when somebody fires that gun what happens to
6 the spent casings, or the things that the bullet has
7 already gone out of, what happens to the casing.

8 A After pulling the trigger that initiates the firing
9 of the cartridge the bullet goes down the barrel out the
10 gun, and a short time later the fired cartridge case
11 that's in the chamber is extracted from the chamber and
12 expelled from the firearm through this area in the middle
13 of the slide called an ejection port.

14 Q And then it would just fall into the ground or seat or
15 wherever it ends up.

16 A It falls wherever it falls. And then the slide is
17 being retracted against the force of the recoil spring at
18 the end of the trigger motion it will automatically grab
19 the next cartridge in the magazine, insert it in a chamber
20 and prepare it for firing. The movement of the slide is
21 so fast that you about can't see it happen.

22 Q Okay. And you received that magazine with that gun;
23 is that correct?

24 A I did.

25 Q And did you receive any bullets or any cartridge

DAN DEFREESE - DIRECT

1 casings with that gun?

2 A I received 11 unfired 9-millimeter Luger caliber
3 cartridges, which are the correct caliber for use in this
4 firearm.

5 Q Did the magazine fit into the gun?

6 A It did.

7 Q How many unfired cartridge or bullets would that
8 magazine actually hold?

9 A The magazine holds ten if you put ten in the magazine
10 and then one in the chamber, so the gun is capable as
11 firing as many as 11 times before reloading is required.

12 Q I show you what has been marked as --

13 MS. HALL: Your Honor, at this time the State moves 19
14 into evidence.

15 MR. FRICK: No objection.

16 THE COURT: In without objection.

17 (The gun was received as State's 19.)

18 Q I'll show you what has been marked as State's Exhibit
19 60. Tell us if you recognize that, please.

20 A I do.

21 Q What is it?

22 A It's also a magazine assembly for use in a Kill Tec
23 nine millimeter Luger caliber pistol.

24 Q Would that magazine fit in the gun that you just had
25 in your hand a minute ago?

DAN DEFREESE - DIRECT

1 A Yes.

2 Q And did you receive that as part of your request for
3 analysis in this case?

4 A I did.

5 Q Did it have any unfired or fired shell casings or
6 cartridges with it?

7 A It had ten unfired 9-millimeter Luger cartridges
8 which are also the correct caliber for use in the Kill Tec
9 pistol.

10 Q Does that magazine also just hold ten?

11 A Yes.

12 Q So it was at maximum capacity or would have been if
13 you would have put all of those cartridges into it; is that
14 correct?

15 A Correct.

16 Q And did you perform any analysis on that?

17 A Nothing other than to note that the magazine did fit
18 and function in the pistol, and the cartridges were the
19 correct caliber.

20 MS. HALL: Your Honor, at this time the State would
21 move 60 into evidence.

22 MR. FRICK: Is that the one that he was just talking
23 about?

24 MS. HALL: Yeah, it's this one here.

25 MR. FRICK: Okay. No objection.

DAN DEFREESE - DIRECT

1 THE COURT: In without objection.

2 (The gun magazine was received as State's 60.)

3 Q I'm showing you what has been marked as State's
4 Exhibit 12. Have you seen this before?

5 A I have.

6 Q What is that?

7 A This is a Romarm 7.62 by 39 millimeter semiautomatic
8 rifle.

9 Q And since it's a semiautomatic rifle it's different --
10 it's sort of the same as the semiautomatic gun we just
11 talked about. Could you explain any differences that it
12 may have when it fires?

13 A It functions in essentially the same way in that a
14 magazine containing loaded cartridges would be inserted
15 into the firearm and the bolt would be cycled to bring the
16 top cartridge in the magazine into the chamber after which
17 time as long as the manual safety is in a fired position
18 for each pull of the trigger a firing of a cartridge would
19 result. A bullet would be expelled down the barrel and a
20 short time later a fired cartridge case would be
21 automatically removed, and then so long as cartridges were
22 present in the magazine the next cartridge would be loaded
23 to prepare it for firing.

24 Q And you touched on this but I wanted to ask you, does
25 that gun -- you said the last one did not have a safety

DAN DEFREESE - DIRECT

1 mechanism, does this gun have a safety mechanism?

2 A It does. This essentially is a single action
3 firearm. It has an internal hammer that's cocked by the
4 motion of the bolt each time the bolt is withdrawn, for
5 this reason it has this lever that's on the side of it,
6 it's a manual safety. When the lever is in the up
7 position it prevents the trigger from going far enough
8 rearward to fire, but when it's in the lowered position a
9 pull of the trigger because the hammer could drop and fire
10 a cartridge if the bolt were fully forward.

11 Q And what is the difference between a semiautomatic and
12 an automatic?

13 A An automatic firearm is what we refer to as a
14 machine. An automatic firearm continues to fire on its
15 own so long as the trigger is held to its rearward
16 position. So if this were a fully automatic firearm, if I
17 pulled the trigger it would continue firing until all 30
18 rounds in the magazine had been exhausted.

19 Q But since it's a semiautomatic I think you said before
20 you had to pull a trigger every time before you get a
21 cartridge to expel; is that correct?

22 A With a single automatic each time you have to let up
23 on the trigger until the mechanism resets, you pull the
24 trigger again, let up, pull it again, let up, pull it
25 again to achieve the firing of the gun. They do make a

DAN DEFREESE - DIRECT

1 gun that looks just like this and it is fully automatic
2 but this one is not.

3 Q And did you -- when you received that gun for analysis
4 what came with it?

5 A It came with vertical pistol grip, the rail system
6 four end, and it also came with a flashlight attached as a
7 combination flashlight and laser. The flashlight worked
8 but the laser did not, and it was mounted on the side of
9 the rifle such that it was difficult to close the evidence
10 box, and that's why I removed it myself.

11 Q And what else came with it, if anything?

12 A Well, there was unfired ammunition.

13 Q Okay.

14 A There were 28 unfired cartridges that were received.

15 Q And did you perform analysis on that gun?

16 A I did.

17 Q Could you explain what you did to do that? Did you
18 test fire it?

19 A I did. I test fired it using ammunition similar to
20 the other ammunition submitted so that I had fired
21 cartridge cases and fired bullets that I knew this gun had
22 fired for microscopic comparison purposes. And the
23 magazine was the correct magazine for use in that firearm
24 and the cartridges were the correct caliber.

25 Q So you put the magazine in the firearm to make sure it

DAN DEFREESE - DIRECT

1 would fit and everything?

2 A I did. I used the magazine for testing.

3 Q Okay.

4 MS. HALL: At this time the State would move 12 into
5 evidence.

6 MR. FRICK: No objection.

7 THE COURT: In without objection.

8 (The rifle was received as State's 12.)

9 Q I'll show you what has been marked as State's 45. Do
10 you recognize that item?

11 A I do.

12 Q What is that?

13 A This is a fired 7.62 by 39 millimeter cartridge case.

14 Q Are there any markings on the box that would indicate
15 to you where it had been found or anything?

16 A It says marker I.

17 Q Now, is that cartridge case, would that have gone into
18 this rifle?

19 A Yes.

20 Q Did you compare it -- that cartridge case with the
21 test firing that you did on this rifle?

22 A I did.

23 Q And what did you find?

24 A I found matching markings on State's Exhibit 45 and
25 on test cartridge cases fired by the long armed rifle from

DAN DEFREESE - DIRECT

1 which I concluded that this cartridge case was fired by
2 the rifle.

3 Q So you concluded that that bullet was fired by that --
4 or that cartridge case was fired by that gun.

5 A I did.

6 Q Okay.

7 MS. HALL: Your Honor, at this time the State would
8 move 45 into evidence.

9 MR. FRICK: No objection.

10 THE COURT: In without objection.

11 (The cartridge case received as State's 45.)

12 Q This is has what has been marked as State's Exhibits
13 21 through 38. Do you recognize those items?

14 A I do.

15 Q Were those submitted to you in this case for analysis
16 in this case as well?

17 A They were.

18 Q Are there any markings on this envelope that indicate
19 where they were found on the scene?

20 A State's Exhibit 21 is marker one, 22 marker two, 23
21 marker three, 24 marker four, 25 marker five, 26 marker
22 six, 27 marker seven, 28 marker eight, 29 marker nine, 30
23 marker ten, 31 marker 11, 32 marker 12, 33 marker 13, 34
24 marker 14, 35 marker 15, 36 marker 16, 37 marker 17, 38
25 marker 18.

DAN DEFREESE - DIRECT

1 Q And when you received those items for analysis, what
2 did you -- what tests did you perform in order to compare
3 them with any other guns that you have in this case?

4 A Well, I did a side by side microscopic comparison of
5 each of the cartridge cases. Each of these little
6 envelopes contains one fired 7.62 by 39 millimeter
7 cartridge case, which I have previously inspected this
8 morning. And after comparing each one with test cartridge
9 cases fired by the long armed rifle, I found sufficient
10 matching individual marks to conclude that all of these
11 were fired by that rifle, that is everything from State's
12 Exhibit 21 to State's Exhibit 38 were all fired by that
13 rifle.

14 Q And is that the only kind of gun that those bullets
15 can be fired from?

16 A Oh, no. There were a lot of 7.62 by 39 millimeter
17 firearms, there are many firearms that have been made in
18 that caliber, but these are more sufficient individual
19 markings that I can conclude, they were fired by that
20 specific firearm.

21 MS. HALL: Your Honor, at this time the State would
22 move 21 through 38 into evidence.

23 MR. FRICK: No objection.

24 THE COURT: In without objection.

25 (The shell casings were received as State's 21-38.)

DAN DEFREESE - DIRECT

1 Q The head stamps on it you said that you had earlier
2 today, you inspected the head stamps on those bullets or
3 those cartridge casings, are they all the same or are they
4 different or --

5 A No, they're different. There were two different
6 manufacturers of ammunition involved, the majority of
7 these were Tulammo, T-u-l-a-m-m-o. There were a few that
8 were Hornady, which have the head stamp HMC on them.

9 Q Regardless of the difference in manufacturing your
10 conclusions were the same that they were all fired by that
11 State's 12; is that right?

12 A Correct. The fact that there was a difference in
13 manufacturer didn't interfere with my concluding that they
14 were all fired by that rifle.

15 Q I want to show you what has been marked as State's 46.
16 Can you tell me if you recognize that?

17 A I do.

18 Q Give me just a second. What is that?

19 A This is a fired bullet fragment.

20 Q Can you tell where it came from?

21 A It's marked as from carpeted area in back window.
22 Actually there is no core to this, this is really a fired
23 bullet jacket fragment.

24 Q Are you able to tell what kind of bullet it came from?

25 A It is consistent with being a 7.62 by 39 millimeter

DAN DEFREESE - DIRECT

1 bullet. And the remaining markings on it are consistent
2 with a kind of markings that the gun barrel in the Romarm
3 rifle will leave, but the bullet jacket fragment was so
4 badly damaged that I can't tell for certain that it was
5 fired by that specific rifle.

6 Q So is that the cartridge or is that the part that
7 comes out and goes through the barrel?

8 A This is the bullet, this is what's expelled from the
9 barrel. This also -- this is a copper alloy bullet jacket
10 fragment. When we were talking about the different in the
11 ammunition before, most of the Tulammo ammunition that is
12 sold in the United States today is loaded with bullets
13 that are steel with a copper coating or a copper plating
14 on top, the Hornady bullets are actually copper alloy
15 jackets. Even though the cartridge cases are similar, the
16 bullets themselves are different in the construction, they
17 are constructed of different materials.

18 Q So the Tulammo and the Hornady -- is the Hornady the
19 HMC marking on the end of the cartridge case?

20 A Yes.

21 Q And so the Tulammo while they fire the same way and
22 everything, just the contents are a little bit different in
23 terms of the metals?

24 A Correct. The bullet jacket fragments that Hornady
25 uses -- Hornady uses their own bullets in producing these

DAN DEFREESE - DIRECT

1 and they are copper alloy throughout. The Russian made
2 ammunition is from steel.

3 Q But it fires the same way and everything, doesn't it?

4 A It works the same way.

5 MS. HALL: Your Honor, at this time the State would
6 move 46 into evidence.

7 MR. FRICK: No objection.

8 (The projectile was received as State's 46.)

9 Q I'll show you what has been marked State's 41. If you
10 would, tell me if you recognize that?

11 A I do.

12 Q What is that?

13 A This is a fired bullet fragment.

14 Q Where is it now?

15 A It's marked as being collected from passenger
16 floorboard Cadillac.

17 Q And did you perform analysis on that?

18 A I did.

19 Q And what conclusions were you able to reach about
20 that?

21 A My results were also inconclusive on this due to its
22 damaged condition and it's lack of markings I wasn't able
23 to tell that it was fired by that firearm, but it could
24 have been fired by that firearm, by the long arm rifle.

25 Q And is that the copper alloy you were talking about or

DAN DEFREESE - DIRECT

1 is that the steel that --

2 A This one is the steel, or what's known in the
3 industry as a bimetal jacket. It's actually a little
4 copper and a lot of steel.

5 Q And that would be consistent with the Tulammo?

6 A Yes.

7 MS. HALL: At this time the State moves 41 into
8 evidence. That was the last is we just talked about.

9 MR. FRICK: No objection.

10 THE COURT: Those last two are in without objection.

11 (The projectile was received as State's 41.)

12 Q So state's 44, can you tell me if you recognize that?

13 A I do.

14 Q Okay. And I apologize, I am going to go back to
15 State's 41 for just a second, I forgot to ask you something
16 about that, that was the one we just put in. And what SLED
17 number did that have when you performed the analysis on it?

18 A This was my item number 31.

19 Q Did you do anything else to it, swab it or do anything
20 else to it before you completed your dealings with that
21 fragment?

22 A If I did -- item 31, the bullet jacket fragment, had
23 white debris on it, sort of white powdery debris that was
24 consistent in appearance with pulverized glass, that's
25 something you frequently see when vehicles were shot. It

DAN DEFREESE - DIRECT

1 was noted but it wasn't sampled. But there was also
2 present when I examined it under a microscope a substance
3 that appeared to be dried blood and I did sample that and
4 assigned it a number, which is our SLED laboratory number
5 31.1. So I collected it and preserved it, and I didn't
6 analyze it myself because it's not a test that I do, but I
7 made it available because I didn't know whether it was
8 probative or not at that time.

9 Q Okay. Thank you. And with regard to State's 44, can
10 you tell us what that is?

11 A This is also a fired bullet fragment.

12 Q And can you tell where that came from?

13 A It's marked as being collected from marker H.

14 Q Okay. And you stated it's a fragment?

15 A Yes.

16 Q And did you examine it?

17 A I did.

18 Q And what did you find out about that when you examined
19 it?

20 A It was so badly damaged I really could not determine
21 it's caliber. It was consistent -- it could have been
22 part of a 7.62 by 39 millimeter bullet, but it was so
23 badly damaged that I really couldn't say that for certain.
24 It bore absolutely no marks of value. It was, however, a
25 copper alloy fragment, it was not a bimetal fragment.

DAN DEFREESE - DIRECT

1 Q So that would be consistent with being Hornady?

2 A Yes. Of the two ammunitions involved in this case it
3 would be consistent with the Hornady and not with the
4 Tulammo.

5 Q All right. Let me show you --

6 MS. HALL: I actually move at this time State's 44
7 into evidence.

8 MR. FRICK: No objection.

9 THE COURT: In without objection.

10 (The projectile was received as State's 44.)

11 Q I am going to show you what's been marked as State's
12 40. Can you identify that, please?

13 A Yes, ma'am.

14 Q And what is it?

15 A This is a fired bullet fragment.

16 Q Did you perform analysis on that?

17 A I did.

18 Q What were you able to conclude, if anything, about
19 that?

20 A It was certainly consistent with a 7.62 by 39
21 millimeter. It could have been fired by the rifle, by the
22 Romarm rifle. I should hasten to add that none of these
23 could have been fired by any handguns involved in this
24 case. This was a bimetal fragment, it was a steel -- a
25 copper plated steel fragment.

DAN DEFREESE - DIRECT

1 Q Which would be consistent with Tulammo; is that
2 correct?

3 A Yes.

4 Q And can you tell where that came from?

5 A It's marked as being collected from ground at 646
6 Parkway.

7 MS. HALL: At this time State moves 40 into evidence.

8 MR. FRICK: No objection.

9 THE COURT: In without objection.

10 (The projectile was received as State's 40.)

11 Q I show you what's been marked as State's 39. Can you
12 tell us what that is, please?

13 A State's Exhibit 39 is a fired bullet fragment.

14 Q And did you perform analysis on it?

15 A I did.

16 Q What if any conclusions were you able to reach about
17 that?

18 A Also due to the extremely damaged condition I was not
19 able to identify this particular bullet fragment as being
20 fired by that firearm, the Romarm rifle. It could have
21 been fired by that rifle but it was just too badly damaged
22 to tell. It could not have been fired by any of the
23 handguns involved. And it was a bimetal copper washed
24 steel fragment.

25 Q Which again would be consistent with Tulammo.

DAN DEFREESE - DIRECT

1 A Yes.

2 Q And where did -- can you tell from any markings where
3 that was collected?

4 A It says collected from ground at [REDACTED].

5 MS. HALL: At this time State would move 39 into
6 evidence.

7 MR. FRICK: No objection.

8 THE COURT: In without objection.

9 (The projectile was received as State's 39.)

10 Q I am going to show you what is marked as State's
11 Exhibit 61. Tell us if you recognize that, please, and
12 what it is.

13 A I do.

14 Q And what is it?

15 A This is a 30 round 7.62 millimeter magazine. It is
16 the type of magazine that's adaptive for use in the Romarm
17 rifle and it fits in the Romarm rifle.

18 Q Did you put it in there to see if it fits?

19 A It fits, yes.

20 Q And then did you do any further examination of that or
21 analysis on that?

22 A No. Just collected some data on it to find out how
23 many cartridges it would hold. There were no cartridges
24 received with it but you can load as many as 30 into this
25 one.

DAN DEFREESE - DIRECT

1 MS. HALL: At this time State moves 61 into evidence.

2 MR. FRICK: No objection.

3 THE COURT: In without objection.

4 (The rifle magazine was received as State's 61.)

5 Q And I show you what has been marked as State's 42. Do
6 you recognize that?

7 A I do.

8 Q Can you tell from the boxes or the packaging where it
9 was collected?

10 A It says marker J.

11 Q And what is it?

12 A This is a fired .40 Smith and Wesson caliber
13 cartridge casing.

14 Q And what condition is it in?

15 A It's severely dented and abraded.

16 Q Did you perform any analysis on it?

17 A I did.

18 Q And what if any findings or conclusions were you able
19 to come to as a result of that analysis?

20 A Well, this cartridge case was not fired by any of the
21 submitted weapons in this case. I compared it with
22 another fired .40 caliber cartridge case and also with
23 some other evidence items but was unable to identify it
24 with anything else.

25 Q But had you received a .40 caliber gun in this case at

DAN DEFREESE - DIRECT

1 all you would have been able to do comparison with it
2 against the firing characteristics of that gun, correct?

3 A Certainly. Or if I had received any firearm that was
4 capable of firing .40 S and W caliber cartridge case.

5 Q But again you did not?

6 A I did not.

7 MS. HALL: State moves 42 into evidence.

8 MR. FRICK: No objection.

9 THE COURT: In without objection.

10 (The projectile was received as State's 42.)

11 Q Let me show you what has been marked as State's 43 and
12 tell me if you recognize that.

13 A I do.

14 Q What is it?

15 A Pardon?

16 Q I'm sorry, what is it?

17 A This is also a fired .40 Smith and Wesson caliber
18 cartridge case.

19 Q And where did that come from if you can tell from the
20 packaging?

21 A It's marked [REDACTED].

22 Q And you said you performed analysis on it?

23 A I did.

24 Q And were you able to draw any conclusion about that?

25 A I compared the cartridge case in State's Exhibit 43

DAN DEFREESE - DIRECT

1 with the cartridge cases in State's Exhibit 42 and
2 concluded that they were fired by two different firearms.
3 And, of course, this cartridge case in State's 43 was not
4 fired by any of the firearms submitted in this case.

5 Q Okay. And was it -- comparing the two, what were the
6 condition of each of them as -- and as compared to one
7 another?

8 A Well, State's Exhibit 43 is in overall excellent
9 condition. It does not appear to be weathered or abraded,
10 and State's Exhibit 42 appears to be both weathered and
11 abraded and dented and folding in on itself.

12 Q And let me show you what has been marked as State's
13 Exhibit 76.

14 MS. HALL: First of all I move this into evidence as
15 well as State's 43.

16 THE COURT: Both of them.

17 MS. HALL: I think I have already done 42 but just as
18 an abundance of caution 42 and 43.

19 MR. FRICK: No objection.

20 THE COURT: In without objection.

21 (The projectiles were received as State's 42 and 43.)

22 Q I'll show you what has been marked as State's 76. Do
23 you recognize that document?

24 A I do.

25 Q What is it?

DAN DEFREESE - DIRECT

1 A This is my report of the results in this case.

2 Q So everything you testified about today, all of your
3 findings and conclusions are included in that report?

4 A They are.

5 Q And that was prepared by you in the normal course of
6 business; is that correct?

7 A That's correct.

8 MS. HALL: State would move 76 into evidence at this
9 time.

10 MR. FRICK: No objection.

11 THE COURT: In without objection.

12 (The report was received as State's 76.)

13 Q The only other thing I want to ask you is this: With
14 regard to reloading a semiautomatic with a magazine --
15 we've already been through reloading a revolver -- what is
16 the difference of reloading -- and I don't know if you want
17 to hold it or not -- in the reloading of a semiautomatic?
18 If you could show the jury what the process is involved in
19 doing that.

20 A Well, in the case of Romarm rifle if we had
21 previously loaded 30 unfired cartridges into the magazine,
22 which takes a little time to do that, but assuming we had
23 a full magazine, or a magazine with any number of
24 cartridges -- I can't actually do it because of the nylon
25 cable tie, but if there were a magazine in the firearm

DAN DEFREESE - DIRECT

1 already it could be removed by simply mashing forward on
2 the magazine release, which is this small lever in front
3 of the trigger guard, this would release the catch that's
4 holding the magazine and the gun. And in the kalashnikov
5 rifles, which this is, the magazines are retained by a lip
6 on the front of the magazine which is held in the front of
7 the receiver. So as soon as you mash the magazine release
8 a slight forward push on the magazine will essentially
9 just have the magazine drop away from the gun. And to
10 reload it it's necessary to hook the small hook on the
11 front of the magazine into the receiver and just rotate it
12 back, and if the cable tie weren't there you would -- it
13 just locks in, it clicks and locks in. And since this gun
14 like most does not actually have a bolt hold open device,
15 it's necessary at that point in time to pull the bolt
16 fully to the rear and let it go, which would grab the top
17 cartridge in the magazine, load it in the chamber and
18 prepare it for firing.

19 Q Thank you. How loud is that gun?

20 A It's pretty loud. It's an intermediate power
21 military cartridge, but it's a loud thing. It's
22 significantly louder than the handguns involved with all
23 other things being equal.

24 Q I want to go back to what has been marked as State's
25 18. This is the .32 revolver that was submitted from the

DAN DEFREESE - DIRECT

1 Cadillac, and I want to look at that real click. How loud
2 is that?

3 A Well, it's also like all firearms it's loud. It
4 would be unpleasant to be nearby at the time it's fired.
5 But in terms of comparative noise it doesn't make nearly
6 as much as the rifle does because the cartridge it shoots
7 is not nearly as powerful as the cartridge that the rifle
8 shoots.

9 Q And if you had to say which one had more stopping
10 power, which one would you say has more stopping power?

11 A That's a -- stopping power is sort of a loaded
12 question, because the ability of a bullet to hurt you or
13 kill you depends as much on shot placement as it does
14 anything else. But in terms of the amount of energy that
15 the cartridges yield, the 7.62 by 39 millimeter cartridge
16 is significantly more powerful, that is it has a higher
17 yield foot pound of energy than the .32 Smith and Wesson
18 alone does.

19 MS. HALL: Beg the Court's indulgence.

20 (Break in proceedings.)

21 MS. HALL: I don't have any further questions, please
22 answer anything Mr. Frick may have for you.

23 CROSS EXAMINATION

24 BY MR. FRICK:

25 Q So Agent DeFreese, following up the solicitor's last

DAN DEFREESE - CROSS

1 question, if you got shot by a .32 it could kill you,
2 couldn't it?

3 A Oh yes.

4 Q Any of these handguns can kill you.

5 A Either one of them kill you if you got hit in the
6 right place. I wouldn't want to be hit by any of them in
7 any place.

8 Q I understand. You said when you got this gun that it
9 had this attachment on it, you said it was a flashlight and
10 appeared to be a laser?

11 A Yes.

12 Q The laser was not in operating order?

13 A It wasn't. It looked like -- well, there was no
14 battery for the laser and it looked like the battery cover
15 was missing or incomplete.

16 Q Okay. It was just simply attached to it?

17 A It was attached.

18 Q Does it enhance the performance of the gun in any way?

19 A Yeah, in the dark it does. Because it aligns the
20 flashlight with the bore of the firearm.

21 Q Right.

22 A The idea being that the shooter can turn the
23 flashlight on, identify its target and shoot under
24 low-lighted conditions.

25 Q Could you tell when you got this gun whether it was on

DAN DEFREESE - CROSS

- 1 or not?
- 2 A It wasn't on when I got it because it still worked
3 when I got it, the battery still had enough charge that
4 the flashlight would come on.
- 5 Q But the laser part was not functional.
- 6 A It was not.
- 7 Q Now, you talked about that one of guns having
8 different actions and it requires different pulls of the
9 trigger. Does this one have the double action you were
10 talking about?
- 11 A No, it actually is a single action. The hammer is
12 cocked when the bolt goes to the rear so it requires a
13 somewhat lighter pull to the trigger to discharge it than
14 like the double action one would where you were actually
15 using the energy of pulling the trigger to the rear to
16 cock the hammer.
- 17 Q So let me get this straight, you're telling me that
18 this big ole' gun right here may require less energy than
19 this little .32 here to pull the trigger?
- 20 A Well, the trigger pull on the rifle is the same for
21 every shot.
- 22 Q Right.
- 23 A But the revolver, you can either fire the revolver in
24 the single action mode or the double action mode.
- 25 Q Okay.

DAN DEFREESE - CROSS

1 A But in the double action mode it takes more effort to
2 fire the revolver than it does to fire the rifle.

3 Q Got you.

4 A In the single action mode it would take less effort
5 to fire the revolver than it would the rifle.

6 Q Okay. You've examined this gun.

7 A Yes.

8 Q You determined that it is a semiautomatic.

9 A That's correct.

10 Q Was anything done to it to tamper with it to make it
11 work automatically?

12 A No. There were no modifications to it that I could
13 tell.

14 Q Okay. If it were legal for you to possess that gun,
15 is that a legal firearm?

16 A Yes. So long as you are not a prohibited person it's
17 perfectly fine for you to possess it or sell it or
18 whatever.

19 Q In fact it is a rifle.

20 A It is.

21 Q Let's talk briefly about -- I don't know which one of
22 the clips I'm looking at -- I think this is the one that
23 came in the box. One of them had some bullets, one of them
24 didn't have some bullets, I know I'm using vernacular and I
25 apologize, is that correct? Did one of them have some

DAN DEFREESE - CROSS

- 1 unfired cartridge casings?
- 2 A The rifle was received with unfired ammunition with
- 3 it. I didn't physically unload the magazine myself but it
- 4 had ammunition accompanying the magazine and the rifle.
- 5 The other magazine, the magazine by itself, had no
- 6 cartridges with it.
- 7 Q This was separate?
- 8 A Correct.
- 9 Q Okay. That's State's Number 61 there. Is this how
- 10 you received the magazine and the cartridges for this
- 11 particular rifle?
- 12 A Yes.
- 13 Q Okay.
- 14 A Except we resealed the bag.
- 15 Q Sure. Okay. And the clip that was in this -- with
- 16 this gun, what did you say the capacity was?
- 17 A Thirty.
- 18 Q Thirty?
- 19 A Thirty.
- 20 Q And the same for State's Number 61?
- 21 A Correct.
- 22 Q Thirty? This one had cartridge casings?
- 23 A It had cartridges, unfired cartridges.
- 24 Q With it?
- 25 A Right.

DAN DEFREESE - CROSS

1 Q You can't say definitively because you didn't take
2 them out but they were with them. And how many were there?

3 A Twenty-eight.

4 Q Twenty-eight. Have you got your report in front of
5 you? I just want to clarify some stuff I know we've gone
6 over.

7 A Sure.

8 Q Basically what I'm going to start looking at is the
9 bullet fragments that you examined. Start with number 31.
10 Well, no actually hold on, let's go with 30.

11 A All right.

12 Q That was the one that was found at marker H I believe?

13 A Correct.

14 Q Okay. Of course you didn't go on the scene so you
15 don't know exactly where marker H was, do you?

16 A No. All I know them from is the markings that were
17 on the evidence containers, I don't know of my own
18 knowledge where any of them came from.

19 Q Okay. I believe what you said on there was that it
20 was extremely damaged and you really couldn't figure out
21 what caliber or rifling specifications were; is that
22 correct?

23 A Correct. It was so badly damaged that you couldn't
24 determine the diameter of the bullet with confidence.

25 Q Okay.

DAN DEFREESE - CROSS

- 1 A It had essentially no land or groove impressions
2 present, but it did have a part of a base and it had part
3 of a crimpling, which are characteristics of a bullet.
- 4 Q Okay. So you could tell it was a bullet.
- 5 A It was a bullet fragment.
- 6 Q But you cannot say with any type of certainty what
7 fired that bullet?
- 8 A Correct. Like I said, it could have been fired by
9 that rifle but it could have been fired by another
10 firearm.
- 11 Q Any other firearm?
- 12 A Well, I wouldn't say any other firearm, but certainly
13 another firearm in the small arms class.
- 14 Q Okay. Tell me --
- 15 A You could get a certain caliber that's large enough
16 and the base is large enough to where you would know that
17 could not have been a part of it.
- 18 Q Okay. Well, what would be a small arms class?
- 19 A Up to .50 caliber.
- 20 Q Okay. Is a .9?
- 21 A A .9 would be a small.
- 22 Q .38?
- 23 A Yeah.
- 24 Q .32?
- 25 A .38, .32 and .45.

DAN DEFREESE - CROSS

1 Q Okay. And you couldn't make any determination on
2 whether any of these guns had fired that.

3 A Correct.

4 Q Number 31 is a fragment, I think it's one that was
5 found in the floorboard of the Cadillac; is that right?

6 A Yes.

7 Q I'm trying to sum it up so I can keep it in my head.
8 Basically what you're saying is it's consistent with being
9 fired with this gun but you cannot say 100 percent that it
10 was fired by this rifle.

11 A That's correct? I can say it wasn't fired by the
12 others.

13 Q It definitely was not fired by these others.

14 A Not fired by the others. Couldn't have been fired by
15 that one, could have been fired by another gun similar to
16 the Romarm.

17 Q Same thing with number 32, correct?

18 A Correct.

19 Q It's similar, could have been but you can't
20 conclusively say, right?

21 A Correct.

22 Q But not fired by these other guns.

23 A Correct.

24 Q And 33, same thing?

25 A Essentially, yes, sir.

DAN DEFREESE - CROSS

- 1 Q Thirty-four, same thing?
- 2 A Yes, sir.
- 3 Q Now, tell me about item number 35. What do you know
- 4 about it?
- 5 A Item 35 is a copper alloy bullet jacket fragment, and
- 6 it also has a partial crimping cannelure impression on it,
- 7 so it's not just an errant little copper fragment, it's
- 8 actually a bullet fragment. But it is so badly damaged
- 9 that I also could not determine for certain it's caliber,
- 10 and for that reason I didn't exclude the other firearms as
- 11 being possible sources of it. What there is of it, it is
- 12 similar to the 7.62 by 39 millimeter bullets of the type
- 13 used in the Hornady cartridges, but I can't say for sure
- 14 that that's the source of it.
- 15 Q Okay. Hornady is not the only one that makes a bullet
- 16 that way, are they?
- 17 A No. There are other similar bullets made so that --
- 18 it's like -- it's just not enough of this to get a lot of
- 19 information off of, but we can say for certain it's a
- 20 bullet fragment.
- 21 Q Is a bullet, but like number 30 you're just not able
- 22 to say what kind of gun fired it.
- 23 A Can't say for sure, no.
- 24 Q I want to ask you about I think it's State's Number
- 25 42, which is your item number ten, I believe.

DAN DEFREESE - CROSS

1 A That's a .40 and S and W cartridge case.

2 Q Yes, sir.

3 A With the road rash.

4 Q Yes, sir. Tell me how about that, how does a
5 cartridge case get road rash?

6 A From being over to or stepped on.

7 Q Would it take a whole lot of effort to do that?

8 A Not really. It's like being run over one time really
9 well would probably do it, or being caught several times
10 would probably do it even better. That one as you look it
11 is in rather poor condition, but it has extensive damage
12 over its entire exposed surface.

13 Q But not inconsistent with being run over by one car.

14 A Could be one car.

15 Q Or more cars.

16 A Yeah. I can't tell by looking at that cartridge case
17 how many cars ran over it.

18 Q If you knew that that cartridge case had been run over
19 by at least one car the damage to it would be consistent
20 with that.

21 A Yeah. And it also -- as you look at the color of it
22 its color is such that it indicates it may have been in
23 the elements for a period of time. It may have been
24 exposed to sun and then rain and what have you for a
25 period of time.

DAN DEFREESE - CROSS

1 Q Okay. But that could have occurred while it still had
2 its bullet in it and it was unfired, correct?

3 A No. Because if you look at State's Exhibit 42 the
4 mouth of the cartridge case is sort of collapsed on
5 itself. A cartridge that's the recipient of road rash
6 would have its mouth more or less intact because the
7 bullet would be there to support it and prevent it from
8 being collapsed so that a significant portion of the
9 damage that occurred in State's Exhibit 42 occurred after
10 it was fired.

11 Q Okay. But essentially there's no way that you can
12 date it and determine when it got damaged, right?

13 A No, not from looking at it.

14 Q At the end of your report there's something talking
15 about comparison with other case.

16 A Yes.

17 Q Can you give me an idea what you're talking about
18 there?

19 A In this case they had requested that the evidence
20 specimens that might be appropriate be compared with a
21 Taurus nine millimeter Lugar caliber pistol, which the
22 serial number is in the report, and also with a Taurus .40
23 Smith and Wesson caliber pistol which is also in the
24 report. I was asked to see if there was anything in this
25 case that could be linked to either of those two firearms

DAN DEFREESE - CROSS

1 and there was not.

2 Q You say -- did you compare -- presumably you didn't
3 compare bullets that you know were fired by the rifle,
4 right? But --

5 A Correct. Since the rifle is not really capable of
6 firing .40 Smith and Wesson cartridge cases.

7 Q Okay.

8 A But it was a matter of like looking at what bullet
9 fragments there might have been that could possibly have
10 parts of .40 S and W calibers, which limits us to just a
11 couple of specimens, and, of course, they were too heavily
12 damaged to do anything with anyway. And then with the
13 fired .40 Smith and Wesson caliber cartridge cases in this
14 case with the Taurus .40 caliber pistol and they were --
15 they just were not fired by that pistol.

16 Q Okay. So I'm going to try to sum this up and make
17 sure I know what you just told me. Chester County
18 Sheriff's Department sent you some additional guns,
19 correct?

20 A I think they sent the guns to be examined anyway in a
21 different case. It's sort of like because the cases
22 occurred somewhere in the same time it was a matter of how
23 about compare the evidence in this case with those two
24 guns to see if there was any correspondence, if there's
25 any linkage between the two cases and there were just not.

DAN DEFREESE - CROSS

- 1 Q But essentially you were given extra guns to examine.
- 2 A Correct..
- 3 Q And it is compiled in the report on this particular
- 4 case?
- 5 A It is.
- 6 Q Okay. And one of those guns was, in fact, a .40
- 7 caliber pistol?
- 8 A It was.
- 9 Q And you compared that pistol with the two .40 caliber
- 10 shell casings in this case and they did not come from that
- 11 gun.
- 12 A That's correct.
- 13 Q So out of all of the weaponry we've got in this case
- 14 .40 caliber is not present.
- 15 A There's no .40 caliber firearm that we know of that
- 16 fired State's Exhibits 42 and 43, we just don't -- we have
- 17 not recovered the gun that fired State's 42 and 43.
- 18 Q Got you. And can I take that .40 and put it in any of
- 19 these guns and it work properly?
- 20 A No. You might physically be able to insert it in the
- 21 rifle but you would not want to pull the trigger.
- 22 Q Bad things would happen.
- 23 A It would not be good.
- 24 Q How about into the nine, could I do that?
- 25 A It won't even fit. It's just too big to fit in any

DAN DEFREESE - CROSS

1 of the other firearms.

2 Q The .38 revolver as well?

3 A Right.

4 Q And certainly the .32?

5 A Right.

6 Q There's one other thing I want to ask about on there,

7 just above that you're talking about Integrated Ballistic

8 Identification System.

9 A Yes, sir.

10 Q What the heck is that?

11 A It's a computer. We would customarily scan the

12 impression on fired cartridge cases, and still do so far

13 as I know, and the computer indexes certain markings, it

14 digitizes it and assigns a number to it. And for

15 virtually any of the IBIS calibers, which .40 S and W's is

16 a caliber we search, we would take a cartridge case from

17 each submitted case and put it in the computer to see if

18 the computer would say, "I found a correlation between

19 your cartridge case and this case and some other case and

20 you might need to look at the evidence specimen in these

21 two cases," because the computer thinks there's a chance

22 that they were both fired by the same gun.

23 Q Is there any limitation on where these other cases

24 are?

25 A Well, they're typically cases in South Carolina.

DAN DEFREESE - CROSS

1 Q Okay.

2 A Although they can do broader searches than that. And
3 it's not done for every single cartridge. It's done
4 principally for semiautomatic pistol cartridges, but it's
5 also done for some rifle cartridges.

6 Q Okay.

7 A It's not typically done for revolver calibers because
8 revolvers don't typically leave cartridge cases at the
9 scene.

10 Q Right. Is it fair to kind of compare this with a DNA
11 database then?

12 A Yeah, or with the AFIS fingerprint. It's a similar
13 sort of situation where the computer searches a database
14 and it searches new incoming data and it suggests to you
15 that there may be a correlation between two unknown cases.
16 And we do get IBIS hits and identify IBIS hits from a
17 geographic area or from the whole state where we can -- or
18 even from out of state that we do discover where a gun
19 used in our case was also used to commit a crime in some
20 other state or two different jurisdictions within South
21 Carolina that the same gun, and sometimes when we recover
22 the gun we can identify not only in the case where it's
23 recovered but we can associate it with some other crime.

24 Q All right. The two .40 caliber shell casings we got
25 here, did you put them in IBIS?

DAN DEFREESE - CROSS

1 A Let's see. It's 10 and 11 and a test cartridge case
2 for item five. Yes.

3 Q There were?

4 A There were.

5 Q Did you get any hits back?

6 A None that I know of.

7 Q All right. Briefly I want you to take a look at
8 State's Number 18. That's the .32 caliber that was found
9 in the Cadillac -- well, per your notation; is that
10 correct?

11 A Yes.

12 Q You didn't recover it from the Cadillac.

13 A Actually -- yeah. It says it was recovered from the
14 red Cadillac.

15 Q Now, I believe you said that the -- fired and unfired
16 shell casings had already been removed when you received
17 it?

18 A Correct.

19 Q So did you do any analysis on those?

20 A On the fired ones?

21 Q Yes, sir.

22 A No, I didn't. We have a policy -- our evidence
23 submission guidelines are such that unless there's a
24 specific request we don't typically do microscopic
25 comparisons with fired cases that were known to have been

DAN DEFREESE - CROSS

1 removed from a firearm. If they for some reason suspected
2 that something is wrong of course we do it, but I did not
3 do it in this case just per our evidence guidelines.

4 Q Okay. And I believe the solicitor asked you about
5 some of the mechanisms on there. Agent DeFreese, is it
6 possible to load or unload that gun with one hand?

7 A It's possible to do, it would be difficult but it's
8 possible.

9 Q Okay. I think you said you simply needed to pull
10 the -- how would you get the cylinder out again?

11 A The first action you need to take is to pull forward
12 on the ejector rod.

13 Q Right. Okay. And that causes the cylinder just to
14 open up?

15 A No, it causes is to unlock. But then at the same
16 time you would have to pull forward and rotate the
17 cylinder out of the its normal position, it's aligned
18 position.

19 Q Right. Okay. And then you've got to get the fired
20 shell casings out, right?

21 A If there are fired shells in it that's pretty easy,
22 you just have to get it. In one stroke there you've got
23 all of the fired cartridge cases removed.

24 Q All at one time.

25 A All at one time.

DAN DEFREESE - CROSS

1 Q And then, of course, you've got to reload it.

2 A The most difficult thing there for the one-handed
3 person would be holding the gun and placing the individual
4 unfired cartridges back in each chamber, and then closing
5 it up would be fairly easy to do.

6 Q But there are mechanisms that would allow it to load a
7 little quicker, aren't there?

8 A There are.

9 Q Now, you didn't receive any in this case but there are
10 such things called speed loaders?

11 A Speed loaders, yes. And I have come to find out that
12 they did actually make a speed loader for this. There is
13 a speed loader that was at least at one time, I'm not sure
14 that it is still made, but it was at one time made that
15 would fit this firearm.

16 Q Okay. If you were skilled with a firearm, had been
17 familiar with your firearm with some time, would it be
18 easier to perform the task of loading and unloading it?

19 A Yeah. The more practiced you are at most anything
20 the better off you are with it. And I have known some
21 handicapped people over the years that can do some
22 incredible things with one hand. I would say it would not
23 be within the realm of impossible to actually load this
24 and fire it with one hand.

25 Q Right. Okay. And, of course, you do not need two

DAN DEFREESE - CROSS

- 1 hands to fire that weapon, do you?
- 2 A No, you just need one.
- 3 Q You just need to simply pull the trigger.
- 4 A That's all you have to do, or you can thumb cock it
- 5 and pull the trigger, either way.
- 6 Q But you don't even have to do that.
- 7 A No.
- 8 Q Just simply pull it.
- 9 A Just pull it.
- 10 Q Can you pull the trigger for us just so we can see how
- 11 it works?
- 12 A Sure. (Pulls the trigger.)
- 13 Q That's it.
- 14 A That's all you have to do. If it were loaded and
- 15 closed it would have fired one time.
- 16 Q Okay.
- 17 A And you let up and pull it again.
- 18 Q And assuming you have two operational hands there's
- 19 nothing that prevents you from shooting that gun with
- 20 either hand.
- 21 A True.
- 22 Q Okay. Agent DeFreese, give me one second, I may be
- 23 through.
- 24 (Break in proceedings.)
- 25 MR. FRICK: Thank you, sir.

DAN DEFREESE - CROSS

1 REDIRECT EXAMINATION

2 BY MS. HALL:

3 Q Just briefly since Mr. Frick brought up the speed
4 loader. Could you explain to the jury what a speed loader
5 is and how it works?

6 A A speed loader looks about like half the cylinder.
7 It has got -- it is -- like a cylinder it has chambers
8 within it that are aligned with the chambers on the
9 revolver that the speed loader is intended for. And it
10 usually has a knob or some sort of other mechanics. There
11 are several brands of these things and some of them work
12 in slightly different ways. But essentially you can put
13 the unfired cartridges in a speed loader and then lock
14 them in the speed loader so that it looks rather like a
15 cylinder with cartridges dangling out the bottom of them.
16 And then when it comes time to reload you open the
17 cylinder of your revolver and bring the speed loader into
18 alignment with the chambers and you are actually inserting
19 the rounds part of the way into the chamber when you would
20 release the mechanism that's holding them. In some cases
21 just actually placing them on it will cause it to trip and
22 drop. But after that all six -- in this case six or
23 however many it's intended for, would drop into the
24 cylinder and you simply close the cylinder.

25 Q And were you given a speed loader to analyze or

DAN DEFREESE - REDIRECT

- 1 anything in this case?
- 2 A No.
- 3 Q And even with a speed loader, like you said, you would
- 4 still have to align it with the different holes in the
- 5 revolver portion of that gun, drop them in, or align them
- 6 to where they would drop in.
- 7 A You would have to get at least a portion of the
- 8 projecting -- the bullet and the neck of the cartridge
- 9 case into alignment with the speed loader and then to
- 10 release the cartridges.
- 11 Q So how easy would -- I think you touched on this with
- 12 Mr. Frick, how hard is it to reload that gun with one hand?
- 13 A It's difficult and un-gamely to do it. And like I
- 14 say, it's not the way -- particularly trying to hold the
- 15 cylinder and insert cartridges one after another and
- 16 rotate the cylinder so that the next empty chamber is
- 17 brought in to where you can reach it, it's much easier to
- 18 do with two hands than it is with one hand.
- 19 Q And even with a speed loader it would be cumbersome
- 20 just because you would have to line it all up and get it
- 21 all straight.
- 22 A Well, it's a lot easier with a speed loader because
- 23 you're doing six things at one time. It's just faster
- 24 with a speed loader but it still requires some dexterity
- 25 with either one.

DAN DEFREESE - RECROSS

1 Q And how easy would it be to do either of those
2 functions while you're driving a car?

3 A Well, any other thing you've got, driving a car and
4 using a cellphone, anything else you do is going to end up
5 making it harder to do.

6 MS. HALL: Thank you.

7 RECROSS EXAMINATION

8 BY MR. FRICK:

9 Q But you could still do it.

10 A Yeah. I wouldn't say you couldn't do it but it's
11 more difficult.

12 MR. FRICK: Thank you.

13 MS. HALL: I don't have anything else for this
14 witness, Your Honor, we would ask that he would be excused.

15 THE COURT: I've got a question for edification and
16 curiosity.

17 THE WITNESS: Yes, sir.

18 THE COURT: On the rifle you have got 30 possible
19 rounds in the clip, can you have one in the chamber to
20 where it would fire 31?

21 THE WITNESS: Yes.

22 THE COURT: Just like a semiautomatic.

23 THE WITNESS: That's usually the case. There are some
24 firearms that because of their safety mechanisms you can't
25 put that one extra in the chamber. But with most

DAN DEFREESE - RECROSS

1 semiautomatics you could have the full capacity of a
2 magazine and one in the chamber.

3 THE COURT: That do it?

4 MS. HALL: Yes, sir. We would ask that he be allowed
5 to leave.

6 MR. FRICK: No objection.

7 THE COURT: Thank you, sir, good seeing you. Timeout.
8 Let's take a ten or 12 minute break.

9 (The jury left the courtroom.)

10 THE COURT: Are we ready?

11 MS. HALL: Yes, sir.

12 MR. FRICK: Yes, sir.

13 (The jury returned to the courtroom.)

14 MS. HALL: State calls Terrance Buchanan.

15 The witness, TERRANCE BUCHANAN, was first duly sworn
16 and testified as follows:

17 DIRECT EXAMINATION

18 BY MS. HALL:

19 Q Is your full name Terrance Buchanan?

20 A Yes, ma'am.

21 Q And what town do you live?

22 A Chester.

23 Q Do you know Christopher Moore, the defendant in this
24 case?

25 A Yes, ma'am.

DAN DEFREESE - RECROSS

1 Q How do you know him?

2 A He's an old friend of mine.

3 Q How long have y'all been friends?

4 A A few years.

5 Q Like two, three, seven, eight?

6 A About three.

7 Q I'll get you to pull the microphone to you a little
8 bit so we can all hear you. And just remember, this man
9 over here has to take down everything you say so no head
10 shakes or nods or anything. Mr. Buchanan, do you have a
11 nickname that you go by?

12 A Three Money.

13 Q Three Money?

14 A Yes, ma'am.

15 Q Okay. Were you with Chris Moore on the night of
16 November the 4th of 2014?

17 A Yes, ma'am.

18 Q Do you know Chris Moore to go by any nicknames?

19 A Diesel.

20 Q Where were y'all the night or the day -- at what point
21 did you make contact with him on the 4th?

22 A Later on that night in Chester Homes.

23 Q What were y'all doing?

24 A Chilling down at like a little kickback.

25 Q Were y'all somebody house?

TERRANCE BUCHANAN - DIRECT

- 1 A Yes, ma'am.
- 2 Q Whose house were y'all at?
- 3 A Gidget's.
- 4 Q Who else was with you besides Chris Moore?
- 5 A Dixon, Roseboro and McClinton.
- 6 Q Dixon, Roseboro?
- 7 A Dixon, Roseboro and McClinton.
- 8 Q Winnsboro? Does he go by a nickname?
- 9 A Yes, ma'am.
- 10 Q What is it?
- 11 A Debo (phonetically.)
- 12 Q What about -- what do you know McClinton as?
- 13 A Trill (phonetically.)
- 14 Q Is that Quinton McClinton?
- 15 A Yes, ma'am.
- 16 Q And then Derrick Dixon, does he have a nickname?
- 17 A Hatchet.
- 18 Q Were y'all at Gidget's house together?
- 19 A Yes, ma'am.
- 20 Q What were y'all doing there?
- 21 A Sitting around chilling with everybody, it was like a
22 little party.
- 23 Q At some point did y'all make a decision to leave that
24 party and go somewhere else?
- 25 A Yes, ma'am.

TERRANCE BUCHANAN - DIRECT

1 Q Was it the five of y'all that left or were there more
2 or less people involved?

3 A It was just us.

4 Q And did y'all leave in a gold Dodge Ram truck?

5 A Yes, ma'am.

6 Q Whose truck was that?

7 A Some guy. I don't know whose truck it was.

8 Q Who had the truck there?

9 A Trill had the truck.

10 Q Is that Quinton McClinton?

11 A Yes, ma'am.

12 Q And was he driving the truck when y'all left?

13 A Yes, ma'am.

14 Q Where were you sitting?

15 A Passenger seat.

16 Q And was that the front or the back?

17 A Front.

18 Q And who was sitting in the back seat? And while you
19 do it tell me where they were sitting.

20 A Diesel was behind me, Roseboro was in the middle
21 Hatchet was behind the driver.

22 Q Okay. So we've got ⁰Chris Moore behind you in the rear
23 passenger, Debo is in the middle and then Hatchet, who is
24 Derrick Dixon, is behind Quinton McClinton; is that right?

25 A Yes, ma'am.