

VOLUME I OF II

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CLARENDON COUNTY
William Jeffrey Young, Circuit Court Judge

THE STATE,

RECEIVED

RESPONDENT, MAY 11 2016

V.

SC Court of Appeals

JUSTIN JERMAINE JOHNSON,

APPELLANT

APPELLATE CASE NO. 2014-001219

AMENDED RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

State's Exhibit 13 (photograph), State's Exhibit 15 (photograph), State's Exhibits 23-24 (photographs), State's Exhibits 36-39 (photographs), State's Exhibit 54 (photograph), State's Exhibit 55 (Recording of 911 calls), State's Exhibit 56-65 (DVDs of Apr. 6, 2011 GSR test and Interrogation), State's Exhibit 66 (DVD of Apr. 7, 2011 Interrogation), and State's Exhibits 82-90 (Photographs of footwear impressions).¹

¹ Pursuant to Rule 210(f), SCACR, transportation is being requested for all of the designated exhibits, including photographs, because they could not be accurately reproduced by copying into the Record on Appeal.

State of South Carolina

Court of General Sessions

County of Clarendon

2011-GS-14-00294

The State of South Carolina

:

:

-VS-

:

TRANSCRIPT OF RECORD

:

Justin Jermaine Johnson

:

March 6, 2014

Columbia, South Carolina

B E F O R E:

The Honorable William Jeffrey Young, Judge.

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

Christopher R. Durant, Esquire

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Circuit Court Reporter

I N D E X

Witness

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E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>ID.</u>	<u>EV.</u>
S-1	DVD	3	
S-2	DVD	3	
S-3	DVD	3	
S-4	DVD	3	
S-5	DVD	3	
S-6	DVD	3	
S-7	DVD	3	
S-8	DVD	3	
S-9	DVD	3	
S-10	DVD	3	
S-11	DVD	3	

1 (State's Exhibits 1 through 11 were marked for
2 identification only.)

3 **The Court:** Thank you. Please be seated.

4 **Mr. Robinson:** I just need to get my client from the
5 other side if you don't---

6 **The Court:** Yeah. Sure.

7 (Pause in proceedings.)

8 **Mr. Durant:** May it please the Court, Judge?

9 **The Court:** Yes, sir.

10 **Mr. Durant:** This is the State of South Carolina versus
11 Justin Jermaine Johnson on indictment 2011-GS-14-294. I'll
12 pass a copy of the indictment up to Your Honor.

13 **The Court:** All right, sir. Thank you.

14 **Mr. Durant:** Your Honor, as you are aware, this is the
15 defendant's or -- well, really, it's a -- this is a pretrial
16 motion. It's a State -- a Blair hearing.

17 **The Court:** Right.

18 **Mr. Durant:** Or not -- the Jackson v. Denno hearing for
19 admission of the defendant's interview. And, Your Honor, if
20 it pleases the Court, I'd just like to call my first witness.

21 **The Court:** All right. You may do so.

22 **Mr. Durant:** The State would call former Investigator
23 Mason Moore of the Clarendon County Sheriff's Office.

24 **The Court:** And we've got him by Skype.

25 **Mr. Durant:** Your Honor, he is available via Skype.

1 **Mr. Robinson:** And, Your Honor, I think we addressed
2 this just briefly yesterday. I'm not going to object to this
3 testimony by Skype for the purpose of this Jackson v. Denno
4 hearing.

5 **The Court:** Right.

6 **Mr. Robinson:** But may wish to be heard on that for
7 trial purposes later.

8 **The Court:** Okay. And is he under oath there? Is there
9 a notary with him?

10 **Mr. Durant:** Your Honor, there is not at this time. We
11 certainly can---

12 **The Court:** I guess we can put him under oath from here.
13 Do you have any objection to that for the purposes---

14 **Mr. Robinson:** Not for the purposes of this hearing,
15 Your Honor.

16 **The Court:** For trial you may have a problem with it.

17 **Mr. Robinson:** Yes, sir.

18 **The Court:** I may have a problem with it, too, for trial
19 but not... You're going to need to make that so that I can
20 see it as well.

21 (Skype is turned on in the courtroom.)

22 **Mr. Durant:** Yes, sir. Investigator Moore?

23 **Mr. Moore:** Yes, sir.

24 **Mr. Durant:** Can you hear me?

25 **Mr. Moore:** Yeah, I can hear you.

1 **Mr. Durant:** Let me step where I can see you a little
2 bit or where you can see me, I should say.

3 **The Court:** Madam Clerk, would you please place him
4 under oath?

5 **The Clerk:** Yes, sir, I will.

6 Mason Moore, after being duly sworn, testified as
7 follows in camera:

8 Direct Examination

9 By Mr. Durant:

10 Q. Mr. Moore, if you would, tell me: Where are you now?

11 A. I'm in -- just outside of Bozeman, Montana.

12 Q. Okay. How long have you lived in Montana?

13 A. Oh, about -- almost three years now, I believe.

14 Q. Do you work?

15 A. Yes, sir, I do.

16 Q. Who do you work for?

17 A. I work for the Department of Transportation in Montana
18 here for the commercial motor vehicle enforcement.

19 Q. Before going to Montana, where did you live and work?

20 A. I lived in Clarendon County and I worked for the
21 sheriff's office there as an investigator.

22 Q. How long did you work at the sheriff's office here in
23 Clarendon County?

24 A. Four years.

25 Q. Were you working at the sheriff's office in Clarendon

1 County back in April of 2011?

2 A. Yes, sir, I was.

3 Q. Okay. On April the 6th of 2011, did you have occasion
4 to participate in an interview with the defendant in this
5 matter, Justin Jermaine Johnson?

6 A. Yes, sir, I did.

7 Q. And how did that interview come about?

8 A. It was... (sound feed went out)

9 Q. Mr. Moore?

10 A. We basically brought him to the sheriff's office to
11 interview him---

12 Q. Okay. I didn't hear the beginning of that answer. If
13 you would, back up. Tell me: How did that interview come
14 about?

15 A. We had a 9-1-1 call to the sheriff's office about
16 someone being shot, I believe, and we -- during the course of
17 that investigation he was brought down to the sheriff's
18 office for further interview.

19 Q. Okay. Who was present for the interview?

20 A. Myself and Kipp Coker.

21 Q. Mr. Coker worked for the sheriff's office as well?

22 A. Yes, sir, he did or does.

23 Q. Okay. And where did the interview take place?

24 A. In the sheriff's office at the -- at one of the
25 interview rooms there.

1 Q. Okay. During the interview, did the defendant appear to
2 be under the influence of alcohol or drugs?

3 A. No, sir.

4 Q. Did he appear to have any physical or mental disability
5 that would impair or affect his ability to understand your
6 questioning?

7 A. Yes, he... (sound feed went out)

8 Q. Investigator Moore? Mr. Moore?

9 A. Yes, sir.

10 Q. Okay. Did the defendant appear to have any physical or
11 mental disability that would affect his ability to understand
12 your questions?

13 A. No, he did not.

14 Q. Do you believe he was aware of the nature of the
15 investigation?

16 A. Yes, sir, I do.

17 Q. Before any questioning, was he advised of his
18 constitutional rights pursuant to Miranda?

19 A. He was, sir.

20 Q. By who?

21 A. By myself.

22 Q. And how many times was he advised of those rights?

23 A. At least twice.

24 Q. When you advised him of the rights, did you use a card
25 or do you have those rights memorized?

1 A. No, sir, I used a card.

2 Q. Okay. Did you tell him that he had the right to remain
3 silent?

4 A. (Sound feed goes out.) You can hear me now. We've got
5 a little bit of a connection problem but...

6 Q. Did you tell investigator -- or Mr. Johnson that he had
7 a right to remain silent?

8 A. Yes, sir, I did.

9 Q. Did you tell him that he had the right to an attorney?

10 A. Yes, sir, I did.

11 Q. Did you tell him he had a right to have that attorney
12 present with him during questioning?

13 A. Yes, sir, I did.

14 Q. All right. And did you tell him that if he couldn't
15 afford a lawyer that one would be appointed for him?

16 A. Yes, sir, I did.

17 Q. And did you tell him that if at any time he decided that
18 he wished to exercise these rights he could stop the
19 interview?

20 A. Yes, sir, I did.

21 Q. And did he indicate his willingness to proceed with the
22 interview?

23 A. Yes, sir, he did indicate his willingness to proceed.

24 Q. And did you ask him if he wished to waive those rights
25 and talk to you?

1 A. Yes, sir. I think the initial one was when we were
2 collecting the evidence and I didn't ask him that question,
3 but when we actually started to do the interview itself, I
4 did ask him that, whether or not he was willing to talk to us
5 at that time and he said that he was willing to.

6 Q. Okay. And you say that -- that was during the second
7 one. You mean the second time you read him his Miranda
8 rights?

9 A. Yes, sir.

10 Q. Did the defendant -- did the defendant appear to have
11 the intellectual capacity to understand those rights?

12 A. Yes, sir, he did.

13 Q. Did he ever later change his mind and ask to stop
14 questioning?

15 A. No, sir, he did not.

16 Q. Did he ever later ask for an attorney?

17 A. No, sir, he did not.

18 Q. During the interview process, were the defendant's
19 answers -- were they rational and responsive?

20 A. Yes, sir, they were.

21 Q. Was he emotional during the process?

22 A. At times he was, yes.

23 Q. Was he so emotional that you ever had any concerns about
24 his ability to understand his rights?

25 A. No, sir.

1 Q. How long was the defendant questioned?

2 A. Quite a long time. It was an -- it was an in-depth
3 process, but it was -- the questioning itself was four or
4 five hours at least.

5 Q. Okay. Were there any breaks taken during that process?

6 A. Yes, sir, there were a number of breaks.

7 Q. Was the defendant offered food and drink and access to a
8 bathroom?

9 A. Yes, sir, we made sure that he was -- he was able to
10 take a break if he needed it, if he needed to get some water
11 or something to drink or use the bathroom. We asked him
12 several times.

13 Q. Do you remember how many times? And if you don't
14 remember---

15 A. I would say in excess of, you know, four or five times
16 because, you know, over that length of time there were
17 several times where we would -- we would leave the interview
18 room and that sort of thing, and when we left we -- I would
19 say almost every time we asked him, "Hey, you know, do you
20 need anything? Are you doing okay? Do you need to go to the
21 bathroom? Do you need anything to drink?" So...

22 Q. Were there any threats or promises made in exchange for
23 his participation in the interview or his -- any statements
24 that he gave you?

25 A. (The Skype stopped.)

1 Q. Investigator Moore?

2 A. Yes, sir.

3 Q. You kind of broke up after my last question. The
4 question was: Were there ever any threats made in exchange
5 for the defendant's statement?

6 A. There was not.

7 Q. To the best of your knowledge, was the defendant's
8 statement given freely and voluntarily?

9 A. Yes, sir, it was.

10 Q. Was it recorded by video and audio surveillance?

11 A. Yes, sir, it was.

12 **Mr. Durant:** Okay. I beg the Court's indulgence.

13 **The Court:** Yes, sir.

14 By Mr. Durant:

15 Q. Investigator Moore, during the interview what kind of
16 clothing did the defendant have on?

17 A. Initially he was wearing street clothes, like a tee
18 shirt. It was white with some kind of writing on it, and I
19 don't remember if he had blue jeans but pants and then boots
20 like light tan boots.

21 **Court Reporter:** I'm sorry. Like what?

22 **The Witness:** And we collected the evidence because of
23 the blood and stuff that was on it and the torn clothing and,
24 I mean, we put him into an orange jumpsuit from the jail.

25 By Mr. Durant:

1 Q. Let me back up. You said he had on -- tell me what his
2 street clothes were like.

3 A. Yeah. Like a white tee shirt and I can't remember if it
4 was jeans. I think it was jeans, but I'm not sure and then
5 tan boots.

6 Q. At some point y'all had he him change out of those
7 clothes into a jumpsuit for the detention center?

8 A. Yes, sir, we did.

9 Q. Mason, that's all the questions I've got for you right
10 now. If you would, please answer any that Scott Robinson may
11 have for you.

12 A. Yes, sir.

13 **The Court:** Mr. Robinson?

14 **Mr. Robinson:** Thank you, Your Honor. Your Honor,
15 before I begin questioning Investigator Moore, I did want to
16 just put on the record, as Mr. Moore indicated, it was quite
17 a lengthy videotaped interview and Your Honor has had---

18 **The Court:** Yes.

19 **Mr. Robinson:** ---an opportunity to review that, and
20 that's why it's not necessary at this point that we play that
21 in court.

22 **The Court:** Yeah. It's approximately 11 hours.

23 **Mr. Robinson:** Yes, sir. Okay. Thank you.
24
25

Cross-Examination

By Mr. Robinson:

Q. Investigator Moore, how are you this morning?

A. I'm good, sir. How are you?

Q. Doing good. Let me ask you a few questions, if I could, about your interview with Mr. Johnson. Do you remember the particular date that this interview took place?

A. I believe it was April -- April 6th.

Q. Of 2011?

A. Yes, sir.

Q. Okay. And is that the same day that this 9-1-1 call about the shooting came in?

A. Yes, sir, it was.

Q. So do you remember approximately what time Mr. Johnson was being questioned by you and Investigator Coker at the sheriff's department, what time that began?

A. Yes, sir. The interview itself started sometime around -- I believe it was 2:00, the actual interview where we started asking him questions.

Q. Okay. And let me clarify that a little bit. His---

A. Yes, sir.

Q. ---being taken into custody, I think the first portion of that -- of these tapes was y'all doing swabs and collection of D.N.A. and things of that nature? Is that correct?

1 A. Yes, sir.

2 Q. Okay. And would it be safe to say -- and I'm not trying
3 to pin you to an exact time, but this process began within a
4 couple of hours of this shooting on June Burn Road?

5 A. Yes, sir. We started that portion in -- about
6 midmorning, 10, 11:00.

7 Q. Okay. And these shootings took place roughly somewhere
8 9, 9:30?

9 A. Yes, sir.

10 Q. Is the information that you have. I understand you
11 weren't there.

12 A. Yes, sir, it was -- it was just -- just prior to us...

13 Q. Okay. Now -- and do you know who was -- were there any
14 deaths as a result of this shooting?

15 A. Yes, sir, there was two deaths.

16 Q. Okay. And was one of them Mr. Johnson's infant child?

17 A. Yes, sir.

18 Q. Okay. And so within roughly a couple of hours of the
19 death of his infant child, y'all had him in custody at the
20 sheriff's department. Is that correct?

21 A. Yeah. (The Skype stopped)

22 Q. Are you back? Can you hear me?

23 A. Yeah. You broke up just a little bit.

24 Q. Okay. I'll repeat that question. So what I was -- my
25 question was: So within roughly a couple of hours of the

1 death of Mr. Johnson's infant son, he was in y'all's custody
2 at the sheriff's department. Is that correct?

3 A. That's correct. We were interviewing him there at the
4 sheriff's office.

5 Q. Okay. And that interview process, to include the
6 collection of buccal swab, gunshot residue, et cetera, began
7 immediately once y'all got him to the sheriff's department.
8 Is that correct?

9 A. Yes, sir.

10 Q. Okay.

11 A. Within -- within a short time.

12 Q. Okay. Were you at the scene where Mr. Johnson was
13 actually taken into custody?

14 A. Very briefly, yes, sir.

15 Q. Okay. Do you know whether or not he was interviewed or
16 examined by any medical personnel on the scene?

17 A. I do not; no, sir.

18 Q. Okay. Are you aware of whether or not he was checked
19 for any physical injuries?

20 A. By someone -- by EMS or something of that nature?

21 Q. By somebody at the scene.

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

23 Q. Okay. Are you aware whether or not he was looked at,
24 evaluated, or talked to anybody relative to whether or not he
25 may have been suffering symptoms of shock?

1 A. No, sir.

2 Q. And did you do any of that type of assessment other than
3 just your visual observation of him?

4 A. No, sir, I didn't, just my -- just my visual
5 observations of him.

6 Q. And do you have any type of special training as an
7 investigator or otherwise to evaluate people who may be
8 suffering from shock or post-traumatic stress disorder or any
9 mental problems of that nature?

10 A. No, sir, I do not.

11 Q. So when Mr. Durant asked you did he have any physical or
12 mental impairments, your answer was, "No," and that's just
13 based on your layman knowledge. You don't have any
14 specialized knowledge to determine that, do you?

15 A. That's correct.

16 Q. Okay. And you will admit or agree with me that this
17 interview began immediately on the heels of a very traumatic
18 situation.

19 A. Yes, within a matter of hours of it. Yes, sir.

20 Q. Okay. And I think you said that the question portion of
21 the interview itself was in excess of four or five hours. Is
22 that correct?

23 A. That's correct. Yes, sir.

24 Q. Okay. And would you be inclined to disagree with me if
25 I told you that the videotapes themselves were in excess of

1 11 hours?

2 A. Total? I would say, yes, sir, because we started in the
3 morning and it was -- it was probably late afternoon when we
4 finished.

5 Q. Okay. At any time during that point from the time that
6 you arrived on the scene at the June Burn Road to the end of
7 this examination, did y'all ever have any type of medical
8 personnel or mental health personnel look at Mr. Johnson to
9 determine whether he was suffering from any type of mental or
10 emotional trauma or shock?

11 A. No, sir, we did not.

12 Q. And to your knowledge -- and I certainly can ask him if
13 you don't know. To your knowledge, is Investigator Coker
14 qualified to make any examinations or ascertations (verbatim)
15 in that neighborhood: Shock, post-traumatic stress disorder,
16 things of that nature? (The Skype stopped) How much of that
17 did you miss, Mason? Most of it?

18 A. You asked me if Kipp Coker had had any of that
19 specialized training, and I said no.

20 Q. Okay. I didn't hear your answer, but thank you. So
21 your testimony was: To the best of your ability, you didn't
22 notice any physical or mental impairment but admit that
23 neither you nor Investigator Coker had any training to
24 recognize that. Is that correct?

25 A. Yes, sir, no specialized training.

1 Q. Okay. And that, to the best of your knowledge, Mr.
2 Johnson was not examined by anyone with such training.

3 A. That's correct.

4 Q. And that this interview followed directly on the heels
5 of what you've already described as a very traumatic
6 situation.

7 A. Yes, sir.

8 Q. Okay. When you were talking with Mr. Johnson, did you
9 ask any specific questions to determine his understanding?
10 For instance, how old he was, how far he went in school,
11 things of that nature or did you simply read him his Miranda
12 rights and begin the interview?

13 A. I myself just read him his Miranda rights. I believe
14 Kipp Coker asked him questions along the line of his name and
15 date of birth and...

16 Q. Do you remember either you or Investigator Coker in your
17 presence asking any questions specifically targeted to help
18 y'all ascertain whether or not he understood what you were
19 asking him?

20 A. And... (The Skype stopped.)

21 Q. And I didn't hear your answer, Mason. You cut out on
22 me.

23 A. Yeah, just -- just in us -- in making conversation with
24 him, being able to answer our questions back and making
25 coherent answers to our questions.

1 Q. Okay. And do you recall the reason that the interview
2 lasted so long?

3 A. Yeah. It's just basically because we had to collect
4 that evidence and that, of course, took quite a -- quite a...
5 (The Skype stopped)

6 **Mr. Robinson:** We just lost the call.

7 **The Court:** Can you reconnect?

8 **Mr. Robinson:** I don't know if we know how to do that.

9 **The Witness:** I think we got you back now.

10 Unfortunately, we have a little bit of a rainstorm here. I'm
11 a little surprised because the last time we talked to you it
12 was a blizzard, so I apologize for that.

13 By Mr. Robinson:

14 Q. Okay. Hold on just a minute because we've got your
15 audio, but we don't have your video.

16 A. Oh, okay. Let's see here. How about now?

17 Q. Wow. That's scary, but, yes, we have it.

18 A. All right, sir.

19 Q. Okay. And I'm trying to remember... I think you were
20 answered my last question about the reason that the
21 interrogation took such a voluminous amount of time? Was
22 that my last question?

23 A. Yes, sir. That's correct. And my response was that the
24 first portion of it was just the collection of evidence and
25 that took quite an extended period of time, several hours,

1 and then we went into the interview. Obviously it took us
2 time just to talk to him, and then when we -- as we got more
3 information about what was at the scene and the
4 inconsistencies between his stories and what was actually at
5 the scene and this evidence, further knowledge came to us, we
6 would go back and talk to him about those inconsistencies.

7 Q. Okay. And the reality of it is that you ended the
8 interview when you got what you believed to be a confession
9 from Mr. Johnson. Is that correct?

10 A. Yes.

11 Q. Okay.

12 A. As I recall.

13 Q. Do you recall approximately how long that portion of the
14 interview was?

15 A. No, sir, I do not. No.

16 Q. Okay.

17 A. Specifically the -- when he admitted to what actually
18 went on?

19 Q. Yes, sir.

20 A. I do not.

21 Q. Would you agree or disagree with me if it was roughly
22 40 minutes, 45 minutes?

23 A. I would say that would probably be accurate.

24 Q. Okay.

25 A. Yes, sir.

1 Q. And so for several hours prior to that, he told you and
2 Investigator Coker something different. Is that correct?

3 A. Yes, sir, several somethings different as I recall, yes,
4 sir.

5 Q. And, quite simply, y'all didn't quit questioning him
6 until he gave you the responses that y'all thought were
7 accurate?

8 A. Yes, sir, the ones that we knew were accurate but, yes,
9 sir.

10 Q. And throughout this investigation process, I think you
11 just testified that y'all would go out, you and Investigator
12 Coker, either together or separately as information was
13 coming forward and then you would go back in and you would
14 confront Mr. Johnson with that information. Is that correct?

15 A. Yes, sir.

16 Q. And tell him basically: What you're telling us is not
17 adding up because we know X. or we know Y. Do you recall
18 that?

19 A. Yes, sir.

20 Q. So would you agree with my characterization that
21 throughout this interrogation process y'all basically laid
22 the pieces of what y'all perceived the evidence to be out in
23 front of Mr. Johnson?

24 A. Yes, sir.

25 Q. And then at the end he basically capitulated and said:

1 I'm sorry; you're right; that's what happened. And I know it
2 wasn't that short, but I'm -- so you can explain if you need
3 to, but does that more or less characterize it?

4 A. As I recall it, it was him admitting to more of the
5 story of -- or more of what actually we believe occurred.

6 Q. Right.

7 A. So...

8 Q. As y'all told it to him throughout the process. In
9 other words, his initial story involved a third party;
10 correct?

11 A. Yes, sir. That's correct.

12 Q. And throughout the interview process you would come in
13 and say: Justin or Mr. Johnson, we know you're lying about
14 X. because we just found out Y.

15 A. Yes, sir.

16 Q. Okay. And so through that process you provided Mr.
17 Johnson with the evidence that y'all had collected and what
18 you believed it showed in this case. Is that correct?

19 A. At least part of it, yes, sir.

20 Q. Okay. Do you recall at the end, the last 40 to
21 45 minutes when you say that Mr. Johnson basically confessed
22 to what y'all believe happened -- did he provide you with any
23 detailed information that you had not already provided him
24 with throughout the course of this interview?

25 A. Not -- not that I recall, sir.

1 Q. Okay. And I think you -- when Mr. Durant asked you
2 about his emotional state and things of that nature, do you
3 remember having significant discussions with him about God
4 and how God would take this weight from him and God would
5 make everything okay? Do you recall that?

6 A. Yes.

7 Q. And do you recall being very - and I don't want to say
8 affectionate - but you put your hands on him and were
9 touching him and conveying that to him. Do you agree with
10 that?

11 A. Yes.

12 Q. And would you also agree that there were times when
13 Investigator Coker yelled at him, came in and---

14 A. Yes, sir.

15 Q. Came in, called him a liar. "I know you're lying to
16 me," things of that nature?

17 A. Yes, sir.

18 Q. Okay. Did y'all also remember having discussions about
19 what you were going to tell his daughter?

20 A. I don't recall that.

21 Q. Okay. Do you -- let me specifically give you the
22 equivalent of a quote, and again it's yours to remember or
23 not, that there was some discussions towards the end of the
24 interview where Investigator Coker told him -- told Mr.
25 Johnson that, "I'll tell your daughter her daddy was a man,

1 that he told the truth"? Do you remember any of that?

2 A. Yeah, I recall some discussion of that. Yes, sir.

3 Q. Okay. And so did you notice a change in Mr. Johnson's
4 demeanor when you began talking about his daughter and what
5 were you going to tell her and things of that nature?

6 A. I don't recall that, no.

7 Q. Okay. And after I guess roughly about 10 hours of
8 swabbing and interviewing and spiritual counseling and
9 confrontation and providing Mr. Johnson with the evidence and
10 talking about his daughter and things of that nature, that's
11 when he basically said: I'm sorry I wasted y'all's time; go
12 home to your family. And then went into what you equate to a
13 confession?

14 A. And -- yes, and...

15 Q. Okay. And I think you -- and I'm not trying to belabor
16 this point, but I think you've already answered the question
17 that during that particular confession portion, no additional
18 evidence that y'all didn't already have was provided by Mr.
19 Johnson. Is that correct?

20 A. I don't -- I don't -- I don't recall enough to know
21 exactly where the -- if he had given any additional
22 information---

23 Q. Okay.

24 A. ---at that particular time.

25 Q. Nothing that stands out in your mind today.

1 A. You know, there was -- there was -- you know, at some
2 point when I was talking to -- because I also interviewed him
3 the next day but -- because I think he requested to talk to
4 me. But as I recall, I believe during that first -- during
5 this portion -- during that day, he admitted that he was the
6 only one that was holding the shotgun and that he had shot
7 grandmama and I think he admitted that Roger -- I think it
8 was Roger, the other person, that was -- that admitted that
9 he wasn't really there.

10 Q. And would you agree with my characterization---

11 A. I think that -- I think that happened at that portion of
12 the interview.

13 Q. Okay. Would you agree with my characterization that
14 that information came from Mr. Johnson only after y'all had
15 told him: "Look, we know there's no Robert; we know you did
16 this; we know you did that"? In other words, y'all had
17 provided him that evidence or that information prior?

18 A. I think we had discounted his story is what we had done.
19 We had basically taken his story apart.

20 Q. Right, and told him, "There's no Robert. We know you
21 did it"?

22 A. That's correct. Yeah...

23 Q. Okay. During this process, you said you offered Mr.
24 Johnson food and drink. I think he drank a couple of sodas.
25 Is that right?

1 A. Yes, sir.

2 Q. Did he eat anything during this process?

3 A. I don't recall if he ate anything.

4 Q. Do you know whether Mr. Johnson is a diabetic or suffers
5 from any other type of medical condition?

6 A. No, sir. I'm fairly certain that we offered him drink
7 or anything that he needed: Drink, food.

8 Q. I understand. I understand that. My question is: Do
9 you know whether or not he had some sort of medical condition
10 that would have affected if he needed to eat and didn't eat
11 that he may be impaired?

12 A. No, sir.

13 Q. Okay. You told Mr. Durant that he did not appear to be
14 under the influence of alcohol or drugs. Did y'all
15 administer any type of breathalyzer or take a blood sample or
16 anything of that nature?

17 A. No, sir.

18 Q. Never had any professional testing done to assure that
19 Mr. Johnson wasn't under the influence of any type of drugs
20 or alcohol?

21 A. Yes, sir. That's correct.

22 Q. Okay. And again no testing, examination or anything by
23 any physical, medical, or mental personnel to determine
24 whether or not he had any impairments, just yours and
25 Investigator Coker's lay determination that he was fine.

1 A. That's correct. Yes, sir. No professional...

2 Q. Okay. And you mentioned that you talked with Mr.

3 Johnson again the following day at his request?

4 A. Yes, sir.

5 Q. Okay. And hold on just a minute. Court's indulgence.

6 Your Honor, have you viewed that one as well?

7 **The Court:** Yes.

8 By Mr. Robinson:

9 Q. Okay. I just wanted to make sure. Would you agree with
10 I guess my characterization of that interview that he
11 recanted what he had told you at the close of the previous
12 day?

13 A. Recanted as in?

14 Q. In other words, he came back and said---

15 A. As far as what he had done?

16 Q. Yes.

17 A. No.

18 Q. He did not?

19 A. Not that I recall, no, sir.

20 Q. Okay. What do you recall was the substance of that
21 second interview the following day.

22 A. I know that we discussed some of the particulars of
23 the -- of the incident itself, but I don't recall specific --
24 specifically what we discussed or any of that sort of stuff.

25 Q. Okay.

1 A. I just -- I know that there was no, you know,
2 whatever-I-said-yesterday-didn't-happen kind of thing.

3 **Mr. Robinson:** Okay. Court's indulgence for just a
4 moment, Your Honor.

5 **The Court:** All right.

6 **Mr. Robinson:** Just a moment, Investigator Moore. Thank
7 you, Investigator Moore. I don't have any further questions
8 at this time.

9 **The Court:** Any redirect, Mr. Durant?

10 **Mr. Durant:** Just briefly, Judge.

11 Redirect Examination

12 By Mr. Durant:

13 Q. Investigator Moore, earlier Mr. Robinson asked you how
14 long the confession portion of the interview was, and your
15 answer was, "40 to 45 minutes." Is that correct?

16 A. Yes, sir, in that -- in that general neighborhood. I'm
17 not for certain but...

18 Q. And his follow-up question to that was: Didn't the
19 defendant tell you something different for several hours
20 prior to that? And your answer to that question was,
21 "Several somethings different." Tell me what you meant by
22 that.

23 A. Yes, sir. As the process of the interview went on, it
24 was -- the stories -- his story would -- had changed several
25 times, and I can't tell you exactly where it was that his --

1 that his story changed and to what extent, but there was just
2 inconsistencies in his story. And as we pointed those out to
3 him, that's where that -- where there were several variations
4 in his story.

5 Q. And this story that the defendant gave you, did he
6 provide specific details in that story or was it just a
7 general "somebody else did it"?

8 A. There was -- there were some -- there were some details
9 in the -- in the -- in his story.

10 Q. I think you said earlier that he asked to speak to you
11 on the second day during the second interview; is that right?

12 A. That's correct, sir. Yes, sir.

13 Q. Okay. So he contacted law enforcement somehow and said,
14 "Bring me back up for questioning"?

15 A. Yes, sir, he did because we made no -- we didn't attempt
16 to talk to him. To my -- to my knowledge, I believe it was
17 actually his request.

18 Q. Did you read him his Miranda rights again on the second
19 day?

20 A. Yes -- I don't recall specifically, but that's common
21 procedure for us to do that since it had been time for him to
22 sleep on it and that sort of thing, and I would -- I would
23 hazard a guess that that would be yes.

24 Q. And that second interview was recorded by video and
25 audio surveillance as well?

1 A. Yes, sir, it was.

2 Q. During the second interview, did the defendant ever go
3 back -- go back to the story about the third party, Robert?

4 A. No, sir. I believe we eliminated the fact that Roger or
5 Robert was...

6 Q. So whatever he told you on the second day, he never
7 said, "I'm sticking to my original story; it was Robert."

8 A. That's -- that's correct.

9 Q. I beg the Court's indulgence, Your Honor. Investigator
10 Moore -- and you may have answered this earlier. How long
11 had you been practicing or working in law enforcement here in
12 Clarendon County?

13 A. Four years.

14 Q. Okay.

15 A. In Clarendon County.

16 Q. And before that, were you in law enforcement?

17 A. Yes, sir, I was. I worked for the Lexington County
18 Sheriff's Office and also the University of South Carolina as
19 well.

20 Q. Okay. How many---

21 A. Police department.

22 Q. How many total years in law enforcement do you have?

23 A. Eight or nine years.

24 Q. Have you conducted several interviews of suspects during
25 that period of time?

1 A. Yes, sir. Yes, sir, I interviewed multiple individuals.

2 Q. Okay. And during that experience, have you seen
3 defendants exhibit behavior to you which would suggest that
4 they were uncomfortable or they needed some kind of medical
5 assistance?

6 A. (Pause) I'm trying to recall if any of mine... Yes, I
7 believe we've had them -- we've actually had them request,
8 you know, that, hey, you know, there's -- my head is hurting
9 real bad or something, you know, where they would request
10 medical attention.

11 Q. And I guess my point is or my question is: Do you think
12 that you would recognize if the defendant was uncomfortable
13 and needed some kind of medical assistance?

14 A. Yes, sir. Yeah.

15 **Mr. Robinson:** Your Honor, I'm just going to object to
16 that as asked and answered. He said he didn't have any
17 specific training to do that; it was just his lay experience.
18 So just for the record...

19 **The Court:** Overruled.

20 **Mr. Durant:** Your Honor, I don't -- I don't have any
21 further questions.

22 **The Court:** All right. Any recross?

23 **Mr. Robinson:** No, sir, Your Honor. Nothing further for
24 this witness.

25 **The Court:** All right. Thank you.

1 **Mr. Durant:** Thank you, Investigator.

2 **The Witness:** All right, sir.

3 (The Skype is turned off.)

4 **The Court:** How long do you think your next witness is
5 going to be?

6 **Mr. Durant:** Probably about the same, Your Honor.

7 **The Court:** All right. Why don't we take a short break?
8 We'll take a 15-minute recess.

9 (Whereupon, a short break was taken.)

10 **The Court:** Thank you. Please take your seats. You may
11 call your next witness.

12 **Mr. Durant:** The State calls Major Kipp Coker.

13 Kippton Coker, after being duly sworn, testified as
14 follows in camera:

15 Direct Examination

16 By Mr. Durant:

17 Q. Major Coker?

18 A. Yes, sir.

19 Q. Where do you work?

20 A. Clarendon County Sherrif's Office.

21 Q. How long have you worked at the sheriff's office?

22 A. September will be 15 years.

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

24 A. Fifteen years. Well, September will be 15 years.

25 Q. Before becoming a major, what were you doing at the

1 sheriff's office?

2 A. Before major, I was captain and then before captain I
3 was on the task force, narcotics task force, and before that
4 I was in investigation.

5 Q. You were working with the sheriff's office back on April
6 the 6th of 2011?

7 A. Yes, sir.

8 Q. Did you have occasion to participate in an interview
9 with the defendant in this case, Justin Johnson?

10 A. Yes, sir.

11 Q. When did that interview take place?

12 A. The day of the incident.

13 Q. April the 6th?

14 A. That's correct.

15 Q. Where did it take place?

16 A. Clarendon County Sheriff's Office interview room.

17 Q. Do you remember who was present for the interview?

18 A. Myself and Investigator Moore and Mr. Johnson.

19 Q. What time did you or did the sheriff's office take the
20 defendant, Johnson, into custody?

21 A. I think it was approximately 10:36 a.m. I arrived at
22 the scene on June Burn Road. As I was walking up, Mr.
23 Johnson was in the back of the patrol car. And there was an
24 investigator that was walking towards me, and I asked where
25 they were going. Said they were taking Mr. Johnson to the

1 sheriff's office, and I advised one of the investigators - I
2 think it was Investigator Clarke - to stay at the scene and I
3 would go help Investigator Moore. So I then turned around
4 and got in my vehicle and followed the patrol car to the
5 sheriff's office.

6 Q. Did y'all take Mr. Johnson directly into the interview
7 room when you got to the sheriff's office?

8 A. Yes, sir.

9 Q. And when you got to the interview room that morning,
10 tell me what you did.

11 A. The first thing I did is asked him for his name and date
12 of birth, just basic information of who he was, his address,
13 Social Security number, and stuff like that.

14 Q. Was he able to provide you with that information?

15 A. Yes, sir.

16 Q. Did he have -- appear to hesitate or have to think about
17 the answers to those questions?

18 A. No, sir.

19 Q. After or when you got him to the interview room, were
20 his Miranda rights read to him?

21 A. Yes, sir, by Investigator Moore.

22 Q. And did you witness the reading of those rights to him?

23 A. Myself and Deputy Barney Dozier. I forgot he was in
24 there, too.

25 Q. Do you recall whether Investigator Moore told him he had

1 the right to remain silent?

2 A. Yes, sir.

3 Q. Do you recall whether he was told that he had the right
4 to an attorney?

5 A. Yes, sir.

6 Q. Do you recall whether he was told that if he couldn't
7 afford an attorney that one would be appointed for him?

8 A. Yes, sir.

9 Q. Do you recall whether he was told that at any point if
10 he decided to exercise those rights he could stop the
11 interview process?

12 A. I can't recall that part because I heard Investigator
13 Moore's -- but I know that the second time that he did do
14 that.

15 Q. Okay. You said there was a second time that his rights
16 were read to him?

17 A. That's correct.

18 Q. Why were his rights read to him a second time?

19 A. Because we walked out and we were just making sure we
20 were covering the basics because we had walked out and was
21 gone a few minutes. So we were just making sure he
22 understood his rights.

23 Q. Do you remember how much time had elapsed between the
24 first time his rights were read and the second?

25 A. No, sir, I don't know exactly what time -- how long it

1 was.

2 Q. When you got him to the interview room that morning, did
3 you go directly into questioning?

4 A. The only question I asked him to start with was his
5 personal information. Then we just started doing tests like
6 the G.S.R., the photographs and stuff like that, and that
7 took a couple of hours, two or three hours, I believe.

8 Q. And during that process of those tests and collection of
9 that evidence, were y'all asking him any questions?

10 A. No, not to my knowledge, just -- if we asked anything is
11 -- you know, "Are you all right? Do you need a bathroom
12 break" or stuff like that, but no -- no questions about the
13 scene or the incident itself.

14 Q. Okay. Do you remember exactly what point that y'all
15 finished those tests and moved into the questioning or
16 interrogation portion of the interview?

17 A. It was that afternoon. I think it was around 2. 2:08,
18 I believe.

19 Q. Okay.

20 A. And that's when the second Miranda was read.

21 Q. Okay. So the second Miranda was before the actual
22 questioning---

23 A. Of the incident, yeah.

24 Q. Did the defendant during this time appear to be under
25 the influence of alcohol or drugs to you?

1 A. No, sir.

2 Q. Did he appear to you to have any physical or mental
3 disability that would affect his ability to understand what
4 was going on?

5 A. No, sir. He was actually helping us with the tests at
6 some point.

7 Q. Okay. What do you mean by that?

8 A. When we were photographing him, he was showing places we
9 had missed to take photographs of his hand.

10 Q. When his Miranda rights were read to him, did he appear
11 to have any trouble understanding those rights?

12 A. No, sir. He understood them.

13 Q. Okay. And during---

14 A. He acknowledged to us -- I'm sorry. He acknowledged to
15 us that he understood.

16 Q. During your 15-year career, do you know how many
17 interviews you've done?

18 A. No, sir. I've done a lot.

19 Q. And during that -- those 15 years, have you ever had a
20 suspect exhibit symptoms that would lead you to believe that
21 they have some kind of physical or mental disability that
22 would warrant some kind of medical attention?

23 A. They were -- I mean, there were numerous interviews that
24 I've done, but if somebody had a problem, we stopped
25 immediately and called either an ambulance or say, "Look, he

1 just can't do this."

2 Q. So in the past you have recognized those problems before
3 in different suspects?

4 A. Yeah, because some suspects -- some suspects will get in
5 there and just tell you that the walls -- there's a purple
6 elephant on the wall and you know there's -- you know there's
7 some kind of -- we don't need to go further in the interview.

8 Q. Did the defendant in this case, Justin Johnson, exhibit
9 any symptoms that gave you cause for concern of his ability
10 to understand what was going on?

11 A. No, sir. He seemed like he understood everything to me.

12 Q. Okay. And did you ask him if he was okay during the
13 interview process?

14 A. Yes. I asked him several times if he needed anything,
15 was he okay, and every time he said he was fine.

16 Q. And I think you've said that the actual questioning
17 process began sometime that afternoon.

18 A. Yes, sir.

19 Q. Do you remember how long that process lasted?

20 A. A long time. Sometime that night, before midnight.

21 Q. Okay.

22 A. I mean, it was a good -- good while.

23 Q. So it was during the daylight hours that y'all were
24 interviewing him.

25 A. The beginning, yes.

1 Q. Did the defendant ever tell you that he was tired or he
2 needed to rest or a break from the interview process?

3 A. No. We kept asking him and he said he was fine, and as
4 long as he said he was fine, we continued.

5 Q. Were there actually any -- were there any actual breaks
6 taken from the interview process?

7 A. Yes. Yes, he went to the bathroom. We actually offered
8 him food. I think he told me that he doesn't eat hamburgers
9 or something, so we offered him a salad and I think he
10 declined.

11 Q. Do you remember how many times you offered him food or
12 drink?

13 A. It was several. I mean...

14 Q. How many times y'all offered him access to a rest room?

15 A. Every time we walked out of the room we asked him, I
16 believe.

17 Q. Do you remember how many breaks or pauses from
18 questioning that y'all took?

19 A. No, sir, not off the top of my head.

20 Q. Was it more than one?

21 A. Yes.

22 Q. During the process, were there ever any threats or
23 promises made from you in exchange for his statement?

24 A. No, sir.

25 Q. And to the best of your knowledge, was the defendant's

1 statement freely and voluntarily given that day?

2 A. Yes, sir.

3 Q. During the process, did the defendant -- was he able to
4 give you a detailed story of what happened or what he alleged
5 happened?

6 A. In the beginning, yes, he gave us some stories.

7 Q. Did he appear to be an intelligent person?

8 A. What do you mean by intelligent?

9 Q. Well, I -- was he thoughtful? Was he articulate?

10 A. Oh, yeah. He gave us details of a story of -- several
11 stories.

12 Q. Okay. And you say several stories during the process?

13 A. Well, he gave -- he started off with a story of somebody
14 else being there, and during these hours we picked his story
15 apart, but he was also giving us details of the crime scene
16 that wasn't adding up to his story, if you follow me.

17 Q. Okay. Had you been through the crime scene when you
18 first started talking to him?

19 A. No, sir.

20 Q. Okay. So you were getting information from outside?

21 A. That's correct, from the investigators on the scene. I
22 never made it to the crime scene tape.

23 Q. And I want to show you what's been marked for the
24 purposes of identification as State's Exhibits 1 through 11
25 and ask you if you recognize these.

1 A. The -- I recognize the first ten, but the eleventh I
2 don't.

3 Q. Okay. What---

4 A. It says, "Second interview." I wasn't a part of that, I
5 don't think---

6 Q. So you weren't a part of any second interview?

7 A. I don't think I was, no.

8 Q. The first ten disks, tell me what those are.

9 A. Those are the interview with myself and Investigator
10 Moore in Mr. Johnson's interview that day.

11 Q. And so that interview was recorded by some kind of video
12 and audio surveillance?

13 A. That's correct.

14 Q. Tell me how that system works. What -- what---

15 A. We have a digit -- we have a digitized system in
16 investigation that records our interviews. We have two
17 interview rooms. The recording system allows you to record
18 audio and video in these two rooms for approximately an hour,
19 hour and 20 minutes. It varies sometimes. Then it cuts off
20 automatically. You have to go back in and automatically --
21 or -- and push a button and hit record again. That's the way
22 the system is set up. It doesn't record constantly 24/7.

23 Q. So each one of those disks represents one of those
24 segments---

25 A. A segment, yeah. Yes, sir.

1 Q. Does the -- the recording system, does it give you a
2 timestamp on the file so you know what time it started?

3 A. It gives you a date, case number. I don't know about a
4 timestamp. I don't know that.

5 Q. Okay. Do you know whether there were any breaks? At
6 any point during the interview process did the system cut off
7 and you had to run outside and cut it back on?

8 A. Yes, there were times during this interview.

9 Q. So are there periods of the interview that aren't
10 recorded on those then?

11 A. Yes, sir.

12 Q. Do you know how long those periods might be?

13 A. Just a few minutes---

14 Q. Okay.

15 A. ---because when we're in there interviewing, you cannot
16 see the system in the other room. So you kind of have to
17 estimate your time of talking to somebody and then walk out
18 and make sure it's still recording. If it's not, you hit
19 record again.

20 Q. Okay. So if you were to get involved in a line of
21 questioning and not realize how much time had elapsed, the
22 system had cut off on you...

23 A. That's correct.

24 Q. At any point during this process, whether it was
25 recorded or not, were there any threats or promises made to

1 the defendant to get him to answer your questions?

2 A. No, sir.

3 Q. Did the defendant ever -- ever ask for a break and y'all
4 not give it to him?

5 A. If he asked for it, he got it. And then we offered.

6 Q. And---

7 A. But I don't remember him asking us for a break.

8 Q. Do you remember how many times you offered him a break?

9 A. It was -- every time we probably walked out of the room
10 we asked him. When both of us at the same time walked out
11 and left him by himself, we would ask.

12 Q. Did he ever accept your offer to eat anything that day?

13 A. He did use the bathroom a couple of times, and we got
14 him some water and we offered him food and...

15 Q. Do you recall him ever telling you why he didn't want
16 anything to eat?

17 A. He said he didn't eat hamburgers or something, but he --
18 I can't remember -- I remember him saying he doesn't eat
19 hamburgers.

20 Q. Okay.

21 A. So we offered him a salad or something, just get him
22 something, and I think he said he was fine.

23 **Mr. Durant:** I beg the Court's indulgence, Your Honor.

24 **The Court:** Yes, sir.

25 **Mr. Durant:** Major Coker, I don't have any further

1 questions for you. If you would, please answer anyway Mr.
2 Robinson might have.

3 **The Court:** Mr. Robinson?

4 **Mr. Robinson:** Thank you, Your Honor. May it please the
5 Court?

6 Cross-Examination

7 By Mr. Robinson:

8 Q. Major Coker?

9 A. Yes, sir.

10 Q. Now, you were present in here for my questioning of Mr.
11 Moore, and I will try to run through this and not ask you the
12 exact same questions, but some of this redundancy is
13 necessary and I do apologize for that. You don't have any
14 specialized training in recognizing, treating, dealing with,
15 recognizing the symptoms of shock, P.T.S.D. or any other type
16 of mental illnesses, do you?

17 A. No, sir.

18 Q. Do you have any training to recognize diabetes or other
19 dietary deficiencies in your training---

20 A. No.

21 Q. ---as an investigator?

22 A. No, sir.

23 Q. Okay. So the information or the observations that you
24 made about Mr. Johnson's conditions were simply your
25 observations as a lay person.

1 A. Yes, sir..

2 Q. You have no specialized training to determine whether he
3 was intoxicated, impaired, in shock, anything of that nature.

4 A. No, sir.

5 Q. And you never had him tested or examined by anyone who
6 was qualified to make that determination. Is that correct?

7 A. No, sir, I didn't.

8 Q. Okay. The -- tell me -- and I just want to go back to
9 this because I don't recall this and I may be wrong. You
10 said Barney Dozier was there?

11 A. Yeah. I think he's the one that transported him from
12 the scene to the office.

13 Q. But he was never in the interview room with him.

14 A. He was in there when we first got in there, yes---

15 Q. Okay.

16 A. ---because he asked to step out because he had a call, I
17 believe.

18 Q. Okay. Okay. But beyond that, no---

19 A. No, just me and---

20 Q. ---material participation. I just simply didn't
21 remember that---

22 A. Right.

23 Q. ---and I wanted to make sure I hadn't overlooked
24 anything. Is it -- do you have any knowledge of any
25 statements on in-car cameras, body mics or anything like that

1 between Mr. Dozier and Mr. Johnson from the time he was
2 arrested 'til the time that these tapes began?

3 A. No, sir, I have no knowledge of that.

4 Q. Okay. And is Officer Dozier the individual who actually
5 placed Mr. Johnson under arrest at the scene or did he take
6 him for questioning? What happened? Do you know?

7 A. I have no idea. I didn't -- when I walked up to the
8 scene, they were walking out and they were fixing to pull out
9 with him. So who put the cuffs on him in the car, I don't
10 know.

11 Q. Okay. And you didn't get to view any of the crime
12 scene?

13 A. Nothing but the yard, kind of just a quick glance
14 because there was a lot of people, crime scene tape. I
15 probably got from about me to you from the crime scene tape.

16 Q. Okay. But throughout the interview process during that
17 day, which was April the 6th, 2011, y'all got information
18 from the crime scene from other officers as to what evidence
19 was there, what they believed this evidence tended to show,
20 et cetera? Is that correct?

21 A. Yes. They would call and kind of lay out the scene for
22 me because---

23 Q. Okay. And tell me, if you can, who is they.

24 A. I think it was Investigator Tommy Burgess was who I was
25 talking to.

1 Q. Okay.

2 A. Might have been Captain Burgess at that time.

3 Q. Okay. Tommy Burgess.

4 A. Yeah.

5 Q. Okay. And so he would relay this information to you.

6 You would then go back and I think that's where -- when you

7 said y'all were quote/unquote picking his story apart,

8 meaning Mr. Johnson's story?

9 A. Yes. They would tell us different things at the scene.

10 It wasn't adding up to what he was saying.

11 Q. Okay. And this continued, I think you said, late into

12 the night 'til just prior to midnight?

13 A. I think it was -- I don't know exactly what time, but it

14 was before midnight.

15 Q. Okay. And you would agree with me that based on the

16 information that you received that day that this was a very

17 tragic and traumatic event, would you not?

18 A. Yes, sir.

19 Q. And that Mr. Johnson was in custody the entire time.

20 A. From the time I got there, yes.

21 Q. Okay.

22 A. How long he was -- not before then....

23 Q. Right. But from roughly 10:36 when he was in the patrol

24 car---

25 A. That's correct.

1 Q. ---until sometime before midnight up until today, he's
2 been in custody.

3 A. Yeah.

4 Q. Okay. Do you remember him asking you during this
5 interview to try to get updates about his daughter's
6 condition or Kaysha's (phonetic) condition?

7 A. I remember Kaysha. He wanted to know if she was at the
8 house, I think it was.

9 Q. Okay. Did you at some point tell her -- tell Mr.
10 Johnson that Kaysha had been shot? Do you remember telling
11 him that?

12 A. That's his daughter or girl---

13 Q. The baby's mother. K.C. (phonetic) is the daughter.

14 A. I don't think I -- no, I don't recall.

15 Q. Okay.

16 A. I don't remember that.

17 Q. And do you remember him, during the course of this
18 interview, asking about his daughter? How is she? What's
19 going on?

20 A. I remember Kaysha and he was asking if she was at the
21 house, and I think he did ask about his daughter, too.

22 Q. Okay. And do you remember having some discussion with
23 him towards the end of this about, "I'm going to tell your
24 daughter her daddy was a man because he told the truth," and
25 things of that nature?

1 A. Yes, I do remember that.

2 Q. Okay. And that seemed to -- did that seem, from your
3 observation, to have an impact on Mr. Johnson?

4 A. Yes, sir, it did.

5 Q. That was important to him?

6 A. Yes, sir, it was.

7 Q. Okay. Was there some discussion at some point about
8 whether or not he would be able to see his daughter?

9 A. I can't remember. I -- because we talked a lot about
10 his daughter.

11 Q. Right.

12 A. I may have said something about seeing her. I don't
13 know. I can't remember.

14 Q. Okay.

15 A. Because we talked a good bit about his daughter.

16 Q. Right. And that was towards the end of the interview.

17 A. Uh-huh. I think so; yes, sir.

18 Q. Okay. And do you remember at some point a couple of
19 times - and I won't say it was a lot of times and I'm
20 certainly not implying that it was abusive - but that you
21 lost your temper with him because you thought he was lying to
22 you and you told him that?

23 A. Yes, sir.

24 Q. Okay. And do you remember Mr. Moore talking --

25 Investigator Moore talking to him a good bit about how God

1 would help him and, you know, was rubbing his shoulders and
2 holding his arm and---

3 A. Yes, sir.

4 Q. ---different things like that?

5 A. Yes, sir, I remember that.

6 Q. So there was some -- I guess some points in there where,
7 whether intentionally or unintentionally, y'all played to
8 different parts of his emotion, his religious beliefs,
9 concerns for his children, things of that nature. Do you
10 agree with that?

11 A. Yes, sir.

12 Q. Okay. And after doing that, toward the end of the
13 interview, he basically apologized for wasting y'all's time
14 that day?

15 A. He did say that.

16 Q. And said basically, "I'm sorry; I did it. Go home to
17 your family," something to that effect?

18 A. Something to that effect.

19 Q. And from that point forward did he give -- do you recall
20 any detailed information from Mr. Johnson that you didn't
21 already have or that y'all had not already provided to him
22 during the interview process, any facts that startled you and
23 you said, oh, wait a minute, I didn't know that?

24 A. There was a lot of stuff talked about in that interview.
25 Right near the end he did tell us that the gun was pointed at

1 his son and it just went off.

2 Q. Right. But, I mean, you had already known that the
3 child had been shot and---

4 A. Right, but as far as -- see, I didn't walk in the scene.

5 Q. Right.

6 A. So his story, along with the investigators on the scene,
7 I had to -- I went in this interview cold turkey, knowing
8 just only we had two deceased people.

9 Q. Right.

10 A. And so I had to put the two together and then try to
11 get a -- if you follow me.

12 Q. Yeah, and I do. Let me ask you to make sure we're clear
13 on this. You didn't actually go into the interview cold
14 turkey. You went into the interview with the understanding
15 that Kaysha had identified to officers that Mr. Johnson was
16 the one who had done the shooting. Is that accurate?

17 A. Actually I do not think I knew that.

18 Q. They didn't tell you that that's why they had arrested
19 him---

20 A. Not at that point. At some point during that interview
21 I found that out, but I don't think -- when I drove up to the
22 scene, two investigators was leaving and the car was leaving
23 and I said, "Where are you going?" And they said, "We're
24 going to do the tests on Mr. Johnson." So during all that I
25 turned to go back. When I get to the office and get in there

1 and we start doing the tests, I get a phone call and I think
2 it was from Tommy Burgess about -- I'm sorry. I called
3 Investigator Burgess and told him the tests were complete and
4 I said, "He's ready to be talked to. Do you want me to do it
5 or are y'all coming up here to do it?" And he told me and
6 Moore to do it.

7 Q. Okay. But at some point prior---

8 A. And I do not remember anybody telling me -- I'll have to
9 check my notes but...

10 Q. Okay.

11 A. Things that happened at the scene I didn't know prior to
12 me getting there.

13 Q. I understand that. They didn't tell you why they had
14 Mr. Johnson in custody?

15 A. I don't think so. I'd have to look back at my notes,
16 but I don't think so.

17 Q. Okay. So is it your testimony here today that prior to
18 roughly 2:00 p.m. when the actual questioning started, nobody
19 had informed you that---

20 A. Now, by 2:00 I should have known.

21 Q. Okay.

22 A. I have to look back at my notes but---

23 Q. And I'm not trying to trap you on times.

24 A. I know.

25 Q. The question is: When you started the specific

1 interrogation---

2 A. Oh, yes, I knew then.

3 Q. ---you knew at that point---

4 A. Yes. He was a suspect.

5 Q. ---that he had been identified as the shooter.

6 A. Yes, I did know before 2:08.

7 Q. Okay.

8 A. But at 10:36 or 11:00---

9 Q. Right.

10 A. ---when we were doing tests, no.

11 Q. Yeah, and that was kind of semantics. I wasn't trying
12 to say from the very beginning. But from the very beginning
13 of the actual interrogation---

14 A. Yes, I knew that.

15 Q. ---you had information that had at least preconceived in
16 your mind that Mr. Johnson was the guilty party.

17 A. That he was -- yeah.

18 Q. And your questions focused on that.

19 A. Uh-huh.

20 Q. In other words, when he gave you information that didn't
21 fit with that information or the sheriff's department's view
22 of the evidence, you called him out, quote/unquote picked his
23 case or his story apart.

24 A. That's correct.

25 Q. And the interview continued for a long time, a good

1 while, 'til almost midnight when he basically told you the
2 version of the story that fit with what y'all had been
3 telling him all day.

4 A. It fit with the evidence.

5 Q. Right, that you had revealed to him throughout the
6 course of the interview.

7 A. Yes.

8 Q. Okay.

9 A. He would tell me something and I knew he was lying,
10 so...

11 Q. Okay. And you would tell him that.

12 A. Uh-huh.

13 Q. You're lying because I just talked to so-and-so or we've
14 got this or that---

15 A. That's correct.

16 Q. ---and it doesn't fit.

17 A. That's correct.

18 Q. And so at the very end, prior to the conclusion, the
19 last 40, 45 minutes, do you recall any specific details that
20 Mr. Johnson gave you that you didn't have prior or that you
21 hadn't provided to him?

22 A. No, sir, I don't think so.

23 Q. Okay. Other than what you said about---

24 A. Right.

25 Q. ---where J.C. (phonetic) had been shot, but you

1 already had that information, just not from personal
2 observation. Is that correct?

3 A. Now---

4 Q. When I asked you this earlier -- and I'm not trying to
5 be confusing and I probably am and I'm sorry. I asked you
6 this question basically earlier, and you said something about
7 J.C. being shot, that he had the gun and it went off.

8 A. That was at the end of the interview, yes.

9 Q. Right. But that is not new information to you.

10 A. No, I knew there was a child that was---

11 Q. You knew that. And you took -- he knew that the child
12 had been shot.

13 A. Yeah.

14 Q. Because you had told him that, is that right, that you
15 knew there was a child---

16 A. I probably did. I'd just have to look back at the---

17 Q. Okay. Okay. So what -- what I want to make clear is
18 that there was nothing that---

19 A. No.

20 Q. ---Mr. Johnson told y'all that y'all didn't already know
21 or tell him---

22 A. By that time we knew it.

23 Q. Okay. Nothing -- so there was no specific element, fact
24 or detail that for y'all said it had to be him because we
25 didn't know that.

1 A. Right. I got you now.

2 Q. And you have no idea what happened the next day because
3 you weren't there.

4 A. No. I don't think I was in that interview.

5 Q. And I agree with that characterization; I just want to
6 make sure. Now, tell me -- tell me this because I didn't
7 realize this until the solicitor just asked you these
8 questions about this digitized recording system. Is it your
9 testimony that these 11 hours of tapes have some gaps in them
10 in the questioning?

11 A. They do.

12 Q. And you don't know how much or...

13 A. Without looking at them, each one I could tell you...

14 Q. So in the interview---

15 A. But now -- because there is an incident.

16 Q. And I know what incident you're talking about---

17 A. Right.

18 Q. ---because I looked---

19 A. That is not recorded.

20 Q. ---religiously for that incident and I did not see it
21 where you -- where you claim -- and just for purposes of this
22 hearing, Your Honor, so we can identify this issue -- where
23 you claim Mr. Johnson had some sort of tantrum, hit the wall
24 or kicked the wall or did---

25 A. Hit the table and jumped up and backed himself in a

1 corner.

2 Q. And that's not anywhere on these tapes, is it?

3 A. No, it is not.

4 Q. So my question is: These tapes are not an accurate
5 representation of the entire interview process of Mr.
6 Johnson, are they?

7 A. No, because that incident is not on there, but the
8 majority -- I don't know exactly how many minutes is missing,
9 but like I testified earlier, you have to go out and hit
10 record again because if you get caught up in the interview,
11 an 11-hour -- 11-and-a-half-hour thing, counting the tests --
12 I mean, you know, you get caught up in one thing. You have
13 to stop yourself and say: Wait a minute; let's make sure
14 this is recording.

15 Q. And there's no audible warning, no light---

16 A. No.

17 Q. ---that comes on, nobody in the other room going---

18 A. If somebody is in the other room, they should be hitting
19 the button, but there was times when there was no one in the
20 other room.

21 **Mr. Robinson:** All right. Court's indulgence for just a
22 minute.

23 **The Court:** Yes, sir.

24 **Mr. Robinson:** Just one more question briefly, Your
25 Honor.

1 By Mr. Robinson:

2 Q. Are there occasions when there was somebody else in the
3 other room?

4 A. Yes.

5 Q. Could you tell me who those individuals or who that
6 individual was or the individuals were or do you have that
7 somewhere you could provide to me?

8 A. I know S.L.E.D. Agent Tina Carter was in there at one
9 time.

10 Q. Okay.

11 A. I'll have to look back, but I remember her being in
12 there.

13 Q. Would you make an effort at some point---

14 A. Yes.

15 Q. ---today or tomorrow to see if you have that
16 information---

17 A. Yes.

18 Q. ---please, sir? Okay. Thank you. I don't have any
19 further questions.

20 **The Court:** Any redirect?

21 **Mr. Durant:** Just a few, Your Honor.

22 Redirect Examination

23 By Mr. Durant:

24 Q. Major Coker, do you remember -- when Mr. Johnson gave
25 you his version of events that day, do you remember how many

1 gunshots he told you were fired?

2 A. I think he told me four.

3 Q. Okay. And at that point in the interview process you
4 were just letting him tell his story.

5 A. That's correct.

6 Q. You hadn't confronted him with any evidence, had you?

7 A. No, sir.

8 Q. Okay. And do you know how many -- now do you know how
9 many spent shell casings were found on the scene?

10 A. No, I don't, not in front of me.

11 Q. All right. But, again, when Mr. Johnson told you that
12 there were four shots fired, you wouldn't have had -- at that
13 point you didn't have any way to ascertain whether that was
14 the truth or a lie.

15 A. No, because once -- in a normal crime scene in a
16 shooting when Crime Scene is called in, S.L.E.D. Crime Scene,
17 the entire scene is secured. Nobody walks in until they go
18 in and do their thing. So if you didn't walk through it
19 before you sealed it off, you wouldn't know.

20 **Mr. Durant:** And if I may approach again?

21 **The Court:** You may.

22 **Mr. Durant:** Judge, just for the purposes of this
23 hearing, I'd ask that -- to just put the disk in and point
24 out something to him on it---

25 **The Court:** Certainly.

1 **Mr. Durant:** ---and question him. For the record, this
2 is State's Exhibit 4. Major, if you would, with the Court's
3 permission, step down.

4 **Mr. Robinson:** And, Judge, just if we could for my
5 notes, what disk is this?

6 **The Court:** This is Disk 4.

7 **Mr. Durant:** Four.

8 **The Court:** Turn it a little more this way so I can see
9 it. Thank you.

10 By Mr. Durant:

11 Q. And I asked you earlier, Major Coker, if the individual
12 disk contained a timestamp on the file. I just wanted to --
13 if you would, would you tell me what this 13 dash 58 dash 52
14 is on that file?

15 A. That's -- I don't know.

16 **Mr. Durant:** Okay. In that event, Judge, I don't have
17 any further questions.

18 **The Court:** Okay. Thank you. Any recross based on his
19 redirect?

20 **Mr. Robinson:** No, sir, Your Honor.

21 **The Court:** All right. Thank you. You may step down.
22 Call your next witness.

23 **Mr. Durant:** Your Honor, the State has no further
24 witnesses.

25 **The Court:** Mr. Robinson, do you want to call anybody?

1 **Mr. Robinson:** Can I have about five minutes?

2 **The Court:** You can. We'll go ahead and take a
3 five-minute recess.

4 **Mr. Robinson:** Thank you, Your Honor.

5 **The Court:** Court's in recess until -- let's go ahead
6 and say 12:00.

7 **Mr. Robinson:** Okay. Thank you, Your Honor.

8 (Whereupon, a short break was taken.)

9 **The Court:** Thank you. Please take your seats. All
10 right. Mr. Robinson?

11 **Mr. Robinson:** Thank you, Your Honor. I don't have any
12 evidence or testimony to put on the record at this time.

13 **The Court:** All right. What I'm going to do is I'm
14 waiting to get a few answers on some things, and I will take
15 this matter under advisement. I will notify you in the
16 morning of my ruling.

17 **Mr. Durant:** Your Honor, if I may just for the record, I
18 wanted to state that it's my understanding that the
19 interviews, Disks 1 through 10, and the second interview are
20 Court's exhibits by stipulation of the attorneys in this
21 matter.

22 **The Court:** All right.

23 **Mr. Robinson:** For the purposes of this hearing, yes,
24 sir.

25 **The Court:** Okay.

1 **Mr. Robinson:** And, Your Honor, it is not a Jackson v.
2 Denno and we can address it later. It really just came to my
3 attention quite honestly during Investigator Coker's
4 testimony, but I do have -- whether the State wants to
5 prepare now or do it at sometime later - I'm not trying to do
6 it by sneak attack - an issue about the tapes themselves
7 based on Major Coker's testimony about the recording device
8 and potential gaps in the tapes. So just to make Your Honor
9 aware of that...

10 **The Court:** And you want to make that motion now or do
11 you want to make it in the morning?

12 **Mr. Robinson:** I would probably -- given the fact that I
13 kind of just got that information, I would ask for a little
14 bit of time to do a little bit of research---

15 **The Court:** I mean, most -- most interviews aren't even
16 on tape, so...

17 **Mr. Robinson:** I understand. I just -- I just want to
18 make sure the record is clear and that I'm covered and
19 protected. So if the Court would allow, I'd like to that in
20 the morning as well.

21 **The Court:** Okay. All right. Very well.

22 **Mr. Robinson:** Thank you, Your Honor. Anything else
23 concerning this case?

24 **Mr. Finney:** No, Your Honor.

25 **The Court:** All right. Thank you.

1 **Mr. Durant:** Thank you, Your Honor.

2 (Whereupon, the proceedings were concluded for the day.
3 The following day, March 7, 2014, the hearing continued as
4 follows:)

5 **The Court:** I want to get Mr. Robinson in here. I'm
6 ready to rule on the thing from yesterday. Mr. Robinson?

7 **Mr. Robinson:** Yes, sir. Do I need any additional...

8 **The Court:** I'm giving you my ruling.

9 **Mr. Robinson:** Okay.

10 **The Court:** In State versus Johnson I have reviewed the
11 testimony from yesterday's hearing. I have reviewed the
12 videotapes myself, and I find that the statement made by Mr.
13 Johnson was given freely, voluntarily, knowingly, and
14 intelligently. Although it was over an 11-hour period, he
15 was -- he was Mirandized twice during that. He was very
16 talkative.

17 He was offered ample times to take breaks.. He was
18 offered food. He was offered drink. He certainly did not
19 appear to be under excessive I guess oppression in the giving
20 of the confession, and I am going to allow the confession to
21 come into evidence.

22 Now, as far as the question as to the testimony by Skype
23 whenever the trial begins, I have reviewed the law in this
24 case. I have -- I've checked around with other circuit court
25 judges, and apparently it's a pretty common practice,

1 provided that there are certain situations -- I mean, this
2 witness is 2500 miles away. He is not the main witness in
3 this trial. He is an ancillary witness who the majority of
4 what was going on with him -- of course, everything that was
5 going on with him is available on videotape.

6 There was another officer in the room who was available
7 for most of the -- I guess 95 percent of any testimony that
8 this officer would give, it would be just cumulative to a
9 large extent. And so I don't find that there would be any
10 prejudice to the defendant to allow testimony of Officer
11 Moore by use of Skype, so---

12 **Mr. Robinson:** And, Your Honor, I understand your
13 ruling. We haven't really argued on that, and I'm not
14 necessarily asking to do that today. At some point I'd like
15 to put either an argument on the record or---

16 **The Court:** I'll be glad to---

17 **Mr. Robinson:** ---submit a brief---

18 **The Court:** I'll be glad to do that then if there's a --
19 if it changes my mind, but I just -- could you tell me what
20 prejudice it would be to your client?

21 **Mr. Robinson:** Well, Your Honor, I can briefly tell you
22 this and I have some materials that I will be glad to submit
23 for you to review. I think it is violative of the
24 confrontation clause.

25 I also did a good bit of research last night, and I

1 quite frankly couldn't find any cases, reported cases, that
2 had allowed it other than some terrorist cases where the
3 witnesses were in foreign countries. The cases that I saw --
4 and chief justice or Justice Scalia in an opinion that he had
5 written basically said that allowing testimony via Skype,
6 while it may satisfy the cross-examination requirements,
7 confrontation -- that element of the statute---

8 **The Court:** That was a 1990 case out of Maryland; is
9 that correct?

10 **Mr. Robinson:** Well, this was since then; yes, sir. I
11 think that was either Crawford or Maryland v. Craig. The
12 cases that I saw that allowed it were, as I said, either
13 cases where the witnesses were terminally ill, physically
14 unable to travel, international witnesses for matters of
15 national security... Everything else -- there's a case out
16 of New Mexico that I'll be glad to hand you, very similar to
17 this one, was a state chemist. He was simply a chemist to
18 say: I analyzed and it was a drug.

19 The Court originally allowed that Skype testimony. The
20 Supreme Court of New Mexico overruled that and said that that
21 violated the confrontation clause. The confrontation clause
22 and the drafters of the Constitution anticipated, required,
23 and envisioned literal face-to-face confrontation. There are
24 articles and studies that have been done that at least at
25 this point say that the courts have not adopted that being

1 able to view somebody on a video screen with them kind of
2 seeing a vague image of the courtroom has the same impact and
3 import that the framers of the Constitution envisioned by
4 coming in.

5 In other words, there may be more of a propensity to
6 lie. They're not literally facing -- that's kind of like
7 texting someone versus having to talk to them and deal with
8 that confrontation live and in person. The Supreme Court of
9 the United States, as a matter of fact, basically was given a
10 draft-version suggestion to the federal rules of criminal
11 procedure that would allow that and they declined to send
12 that to Congress to act on.

13 So the only reported cases I saw where this was allowed
14 were in child abuse or child cases where there was some
15 special showing, and I think even in the cases -- I think it
16 was the Maryland v. Craig case where such testimony was
17 allowed. There was a test that there was some public policy
18 to protect and some unavailability element. There's a
19 comment to the federal rules that say the courts may now
20 allow that if the witness is unavailable under the federal
21 rules.

22 Under neither the state nor the federal rules do I
23 believe that Investigator Moore meets this. It certainly is
24 a convenience issue, but I don't think states' convenience
25 and expense should trump the defendant's right to literally

1 have face-to-face confrontation with his accuser where the
2 jury is able to evaluate his credibility much more candidly,
3 clearly, and visibly with him sitting in the room a few feet
4 away versus an image of him broadcast from several states
5 away.

6 Like I said, I've got some materials that I will be glad
7 to hand up for your review, but I believe it's violative of
8 the confrontation clause and I did not see any cases where it
9 was allowed. The only times I've seen it allowed there were
10 specific exceptions carved out which I don't think the State
11 has met here such as, as I said, unavailability in child
12 cases.

13 **The Court:** Mr. Durant or Solicitor?

14 **Mr. Finney:** May it please the Court, Your Honor? Good
15 morning. Counsel is almost right. This is a special
16 exception and I do think that the Court is correct in saying
17 that this particular witness is the request that we're
18 making. We're not requesting that all our witnesses be
19 Skyped in. Certainly we have live witnesses who were on the
20 scene of this crime back in April.

21 This witness is a cumulative witness. He is supported
22 by the other officer, Mr. Coker, who was present. The whole
23 entire basis of his testimony is on videotape for the jury to
24 ascertain. And the little bit of information that's out
25 there for lawyers to review on this matter supports the

1 Court's decision that in cases where a compelling or a
2 substantial need exists to avoid costs, to avoid
3 inconvenience to the witness, and to pretty much put on the
4 record something that is not substantive but is a matter of
5 tying the chain together, the Court should use, as it does in
6 every case in most states and counties around here -- we do
7 video bond hearings every day in this county and neighboring
8 counties, and as the Court has said, other judges are using
9 this more and more. We would like to think that very soon
10 there's going to be a rule, a court rule, that would apply---

11 **The Court:** Maybe in this case.

12 **Mr. Finney:** Maybe in this case; that's correct. But we
13 think the judge is using judicial economy and the fact that
14 it is not a key witness on a major point that the jury needs
15 to consider.

16 **The Court:** Mr. Robinson, I think my decision would be
17 much different if this was the sole eyewitness to a crime. I
18 would have a problem with this, but, again, he was one of two
19 men who were in that room virtually the whole time, and all
20 of his testimony to some extent is -- you see it on the
21 video. So it's not anything hidden. It just -- this is one
22 that begs for the use of Skype in my opinion, and, therefore,
23 I'm going to allow it. But if you want to supplement the
24 record with anything else, I'll be glad to listen to it.

25 **Mr. Robinson:** Your Honor, I think I've briefly covered

1 on it. Like I say, there are some materials out there, but
2 that is my---

3 **The Court:** And I think with the changing of technology
4 it has gotten to be so good, where it used to be it would
5 drag and you couldn't get the full flavor of a person's
6 testimony because it would be garbled to some extent. But
7 technology now is just amazing and, again, my granddaughter
8 who lives in Texas, we Skype all the time. She comes up and
9 kisses the screen as if I am absolutely right there. It's
10 just amazing. So if the Supreme Court gets an opportunity to
11 look at it through this case, well, so be it.

12 **Mr. Finney:** Thank you, Your Honor.

13 **The Court:** Thank you.

14 **Mr. Robinson:** Thank you, Your Honor.

15 **The Court:** Are there any other motions or -- let's talk
16 about Monday. I imagine we're going to come in here, strike
17 our jury in here. Do you have some motions that we need to
18 take up on Monday afternoon to give them time to get the room
19 to chambers ready? Because I understand they really don't
20 want us having court over there on Monday afternoon if we can
21 do everything here and then start the trial on Tuesday. Does
22 that kind of work for everybody?

23 **Mr. Durant:** We've got a Blair hearing to take care of
24 on Monday.

25 **Mr. Robinson:** I was fixing to say, Your Honor -- I

1 mean, it's, you know -- I hope -- and I will certainly
2 forward to y'all through e-mail... I have a number of
3 requested voir dire questions in this case that's beyond the
4 standard---

5 **The Court:** I would---

6 **Mr. Robinson:** The magnitude of this case---

7 **The Court:** I would well imagine that you would.

8 **Mr. Robinson:** I would think under the circumstances,
9 given the size of the panel, the publicity this case has
10 received, that the voir dire itself is going to take much
11 longer than usual, plus, as Mr. Durant alluded to, we've got
12 the Blair issue to deal with that afternoon. So I don't
13 think we will be wasting any time on Monday doing anything,
14 and in addition, as we had discussed, perhaps over the
15 weekend we can get together on some photographs and kind of
16 put them---

17 **The Court:** Yeah, I just want to be sure that when we
18 start on Tuesday that we're ready to move, that the exhibits
19 have been marked. I mean, there may be some exhibits that
20 are objected to and we can take that up on Monday.

21 **Mr. Robinson:** Yes, sir.

22 **The Court:** So that when we start, the case will flow
23 quickly.

24 **Mr. Durant:** And, Judge, I guess kind of back on the
25 Jackson v. Denno issue, I think it would be our position that

1 the first three hours of the video where the officers are
2 just collecting the gunshot residue and some bloodstains from
3 the defendant, we don't intend to play that portion of the
4 video. I don't know whether Mr. Robinson has an objection to
5 that, but maybe that's something we should take up now as
6 well.

7 **Mr. Robinson:** And I'll be glad to, Your Honor.

8 **The Court:** Yes, sir.

9 **Mr. Robinson:** I would propose to play the entire thing
10 as I think it does go to voluntariness. I think Your Honor
11 made some observations, but, again, under the Jackson v.
12 Denno standard, once you make that determination---

13 **The Court:** It's still for the jury.

14 **Mr. Robinson:** ---that it's allowable, it's still for
15 the jury. So I think, in fairness to my client, they need to
16 see the totality of the circumstances which is---

17 **The Court:** Would you agree though that the part where
18 they're merely extracting evidence from him where there's
19 really no conversation about anything that's going on would
20 probably be cumulative and not necessary?

21 **Mr. Robinson:** Well, not necessarily, Your Honor. His
22 demeanor, his appearance, the timing of it, just so they can
23 get the flavor of exactly what happened... Again, the test
24 here is under the totality of the circumstances. So I think,
25 in fairness to the defendant, the jury should be allowed to

1 see the entire totality of the circumstances.

2 **The Court:** Well, then I guess the question would come
3 up: Would you want to put it in? I mean---

4 **Mr. Robinson:** I certainly would ask to; yes, sir.

5 **The Court:** Okay. But, I mean, in your case.

6 **Mr. Robinson:** Yes, sir.

7 **The Court:** I mean, you always have that---

8 **Mr. Robinson:** I understand. I mean, and that would be
9 again---

10 **The Court:** That they would put in what they wanted and
11 then you could supplement with whatever you---

12 **Mr. Robinson:** Right, just from a timeliness standpoint
13 I do intend to introduce the entire thing, whether it be
14 through the State or whether I need to introduce portions,
15 but I would intend to do that.

16 **The Court:** Okay. Would y'all have any objections to
17 him putting it in without his client taking the stand?

18 **Mr. Finney:** No, Your Honor.

19 **The Court:** Okay.

20 **Mr. Finney:** I mean, it may -- it may trigger -- that
21 would be an introduction of evidence.

22 **The Court:** Well, that would be. He would lose the last
23 argument on that.

24 **Mr. Finney:** But I wouldn't have any objection to that.

25 **The Court:** Okay. All right. I guess we just need to

1 make sure we have a couple of comfortable seats over there as
2 we watch 11 hours of video---

3 **Mr. Robinson:** Pillows and drool pads.

4 **The Court:** All right. Very good, gentlemen. We'll see
5 y'all Monday morning.

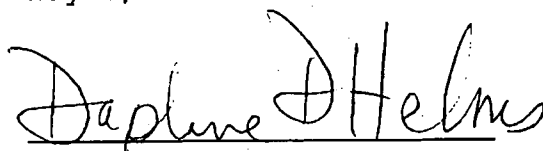
6 **Mr. Robinson:** Thank you, Your Honor.

7 (Whereupon, the proceedings were concluded.)
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I, the undersigned Daphne D. Helms, official court reporter for the Fifth 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 had and evidence introduced in the trial of the captioned case, relative to appeal, in the circuit court for Clarendon County, South Carolina, on the 6th and 7th of March, 2014.

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

May 5, 2015.

A handwritten signature in cursive script that reads "Daphne D. Helms". The signature is written in dark ink and is positioned above the printed name.

Daphne D. Helms, court reporter

State of South Carolina

In the Court of General Sessions

County of Clarendon

State of South Carolina,

Plaintiff,

-vs-

Justin Jermaine Johnson,

Defendant.

2011-GS-14-0294

March 10-14 and 18-20, 2014

Transcript of Record

B E F O R E:

The Honorable W. Jeffrey Young, Judge

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

Christopher R. DuRant, Esquire
Ernest Adolphus Finney, Esquire
Assistant Solicitors for 3rd Judicial Circuit
Attorneys for the State

Scott L. Robinson, Esquire
Attorney for the Defendant

Bonnie Kelly
Circuit Court Reporter

1 THE COURT: Do you think you could be fair and
2 impartial and listen to the evidence?

3 THE JUROR: I do.

4 THE COURT: Thank you. Very good. Thank you,
5 sir.

6 Now, ladies and gentlemen, this is a list of
7 possible witnesses in this case. I'm going to go through
8 the entire list, and then I'll ask you if anyone has been
9 related by blood or marriage or had a close personal
10 relationship with any of these witnesses: Danny Floyd,
11 Lance Corporal Charles Eaddy of the Clarendon County
12 Sheriff's Office, Kaisha Caraway, John Caraway, Mary
13 Caraway, Henry Abraham, Danisha Brogdon, Lativia Brogdon,
14 Korianda Walker, Charles Jackson, Luke McGowan, Captain
15 Ricky Richards of the Clarendon County Sheriff's Office,
16 Major Kipp Coker of the Clarendon County Sheriff's
17 Office, Investigator Mason Moore formerly of the
18 Clarendon County Sheriff's Office, Investigator Tommy
19 Burgess of the Clarendon County Sheriff's Office,
20 Investigator T.O. Lin Ham formerly of the Clarendon
21 County Sheriff's Office, Investigator Kenneth Clark of
22 the Clarendon County Sheriff's Office, Barbara Proctor
23 formerly of the Clarendon County Sheriff's Office, Maria
24 Rosebloome of the Clarendon County Sheriff's Office, Dr.
25 Cynthia A. Schmall of the Medical University of South

1 MR. FINNEY: Your Honor, may we approach?

2 THE COURT: You may.

3 (WHEREUPON, a bench conference was held off the
4 record.)

5 THE COURT: Has any member of the jury panel
6 formed or expressed an opinion about any issue or matter
7 that's involved in this case? If so, please stand.

8 (No response)

9 THE COURT: All right. Thank you. Ladies and
10 gentlemen, this case involves a prosecution for murder.
11 Would the fact that the murder is charged cause you to
12 favor the State or to resolve a close case in favor of
13 the State? If so, please stand.

14 (No response)

15 THE COURT: Thank you. No one's standing.

16 Would any member of the jury panel tend to give
17 credit to the testimony of a witness who is a law
18 enforcement official or police officer over that of a lay
19 person simply because the witness is a law enforcement
20 official or police officer? If so, please stand.

21 (No response)

22 THE COURT: All right. Thank you. No one's
23 standing.

24 Has anyone read in the Sumter Daily Item, the
25 Clarendon Citizen or the Manning Times or heard any

1 television, radio or any news account revolving around
2 this case that would make it so that you can't be fair
3 and impartial to the State or the Defense in this case?
4 If so, please stand.

5 (No response)

6 THE COURT: All right. Thank you. No one's
7 standing.

8 Has any member of the jury panel or their immediate
9 family ever been the victim of or accused of a crime of
10 violence including kidnapping, burglary, assault, or
11 murder? If so, please stand.

12 (No response)

13 THE COURT: All right. Thank you. No one's
14 standing.

15 Is there any member of the jury panel so opposed to
16 the ownership and/or use of guns that they cannot give
17 both sides a fair trial? If so, please stand.

18 (No response)

19 THE COURT: Thank you. No one's standing.

20 Is there any member of the jury panel who is a
21 contributor of or a member of any organization whose
22 focus is on the purpose of gun control? If so, please
23 stand.

24 (No response)

25 THE COURT: All right. Thank you. No one's

1 standing.

2 Is there any member of the jury panel who is a
3 friend on Facebook or other social media of any of the
4 witnesses or victims in this case? If so, please stand.

5 (No response)

6 THE COURT: All right. Thank you. No one's
7 standing.

8 THE COURT: Does any member of the jury panel
9 follow on any of the witnesses or parties in this matter
10 on Twitter or any other type of social media? If so,
11 please stand.

12 (No response)

13 THE COURT: Thank you. No one is standing.

14 Is there any member of the jury panel or their
15 immediate family who is a contributor to or a member of
16 any group whose focus is the support and furtherance of
17 law enforcement? Such groups would be Mothers Against
18 Drunk Drivers, Students Against Drunk Drivers or Citizens
19 Against Violent Crime. If so, please stand.

20 (No response)

21 THE COURT: All right. Thank you. No one's
22 standing.

23 Has any member of the jury panel or their immediate
24 family ever been involved in a situation of criminal
25 domestic violence? If so, please stand.

1 (No response)

2 THE COURT: All right. Thank you. No one's
3 standing.

4 Is any member of the jury panel or their family a
5 contributor to or a member of any group involved in the
6 advocacy of abolishing criminal domestic violence? If
7 so, please stand.

8 (No response)

9 THE COURT: All right. Thank you. No one's
10 standing.

11 Is any member of the jury panel a member of the
12 Grand Jury which issued the indictment in this case? I
13 doubt it since I'd already asked that other question, but
14 I do need to ask this question.

15 (No response)

16 THE COURT: Thank you. No one's standing.

17 Does any member of the jury panel know of any reason
18 whatsoever why he or she should not serve as a juror in
19 this case with particular emphasis being placed on your
20 ability to be fair and impartial to both the State and
21 the Defendant? If so, please stand.

22 Yes, ma'am. Come forward, please.

23 (WHEREUPON, the following was held on the record, in
24 the presence of the jury panel but out of the
25 hearing of the jury panel.)

1 THE COURT: Please state your name and number,
2 please.

3 THE JUROR: Ruby Player, 145. You see, my
4 mother, my step-mother and father was brutally murdered.

5 THE COURT: And you don't think you could
6 listen to the evidence in this case?

7 THE JUROR: No, no, no. He was murdered by an
8 axe.

9 THE COURT: Did you discuss that with any of
10 the jurors?

11 THE JUROR: No.

12 THE COURT: Thank you, ma'am. We won't call
13 you for this trial.

14 (WHEREUPON, the following was held on the record in
15 open court.)

16 THE COURT: Excuse her for cause.
17 Yes, sir, we've got one more.

18 THE CLERK: Juror number 3.

19 (WHEREUPON, the following was held on the record, in
20 the presence of the jury panel but out of the
21 hearing of the jury panel.)

22 THE JUROR: Women's Advocates. My wife is
23 doing a fund-raiser for WYSE.

24 THE COURT: The fact that your wife -- be fair
25 and impartial?

1 THE JUROR: I really don't know. I'm being
2 honest.

3 THE COURT: Okay. We've got enough. We will
4 strike him for cause. Thank you. Have a seat.

5 (WHEREUPON, a bench conference was held off the
6 record.)

7 THE CLERK: We've got one more. Juror number
8 21.

9 (WHEREUPON, the following was held on the record, in
10 the presence of the jury panel but out of the
11 hearing of the jury panel.)

12 THE COURT: Yes, ma'am?

13 THE JUROR: I have a question. Social media.

14 THE COURT: Are you familiar with any
15 witnesses?

16 THE JUROR: Yes. Kaisha Caraway.

17 THE COURT: You're friends with her?

18 THE JUROR: Uh-huh (affirmative).

19 THE COURT: The fact that you're friends with
20 Kaisha Caraway on social media, could you still be fair
21 and impartial to both the State and the Defendant in this
22 case?

23 THE JUROR: No.

24 THE COURT: So you couldn't listen to the
25 evidence and make a decision? Okay. Have you heard

1 anything about this case?

2 THE JUROR: (Shook head side to side in the
3 negative)

4 THE COURT: Thank you. And I will give you
5 another opportunity.

6 (WHEREUPON, the following was held on the record in
7 open court.)

8 THE COURT: Ladies and gentlemen, Mr. Justin
9 Jermaine Johnson, of course, is an African American. And
10 would the fact cause you to favor or would it give any
11 bias for or against any African American on trial in this
12 case? If so, please stand.

13 (No response)

14 THE COURT: All right. Thank you. No one's
15 standing.

16 Ladies and gentlemen, I asked you a question about
17 whether you had seen anything in the media and would it
18 affect your ability to be fair and impartial. But I'm
19 going to ask the question again a little differently.
20 Did anyone read anything in the Sumter Daily Item,
21 Clarendon Citizen, The Manning Times, hear any newspaper
22 accounts or television or radio reports concerning this
23 particular incident? If so, please stand.

24 (No response)

25 THE COURT: All right. Thank you.

1 Are there any other questions that the State
2 requests that I ask?

3 MR. FINNEY: No, Your Honor..

4 THE COURT: Any other questions?

5 MR. ROBINSON: Your Honor, question number
6 thirty-one.

7 THE COURT: Okay.

8 Has any juror experienced the death of a minor
9 child? If so, please stand.

10 All right, sir. Would the fact that you have
11 experienced the death of a minor child make it so that
12 you can't be fair and impartial in this case?

13 THE JUROR: No, sir.

14 THE COURT: Okay. Thank you.

15 Yes, sir?

16 THE JUROR: Your Honor, I just had a son that
17 got killed, a minor that got killed.

18 THE COURT: Okay. Well, the fact that you've
19 lost a son make it so that you can't be fair and
20 impartial in this case?

21 THE JUROR: No, sir.

22 THE COURT: All right. Thank you.

23 Yes, sir. Mr. Castro?

24 THE JUROR: Yes, sir. My little cousin.

25 THE COURT: Okay. Would the fact that you've

1 lost a cousin-make it so that you can't be fair and
2 impartial in this case?

3 THE JUROR: No, sir.

4 THE COURT: All right. Thank you.

5 Sir, what was your juror name and number?

6 THE JUROR: 147, Harry Pringle.

7 THE COURT: Okay. Thank you.

8 All right. Now, are there any other questions, Mr.
9 Robinson?

10 Yes, ma'am?

11 THE JUROR: I'm sorry. I just want to make sure
12 it's covered. I'm juror 22.

13 THE COURT: Yes, ma'am.

14 THE JUROR: I lost a grandchild due to illness.

15 THE COURT: Okay. And that would not affect
16 your judgement?

17 THE JUROR: No.

18 THE COURT: Okay. Thank you.

19 Mr. Robinson, does that complete your questions?

20 MR. ROBINSON: No, sir.

21 THE COURT: And for the State as well?

22 MR. FINNEY: No, Your Honor.

23 MR. ROBINSON: The Court's indulgence just a
24 minute, Your Honor.

25 THE COURT: Yes, sir.

1 MR. ROBINSON: That completes my requested voir
2 dire. Thank you.

3 THE COURT: All right. Thank you.

4 Ladies and gentlemen, what's going to happen now is
5 the Clerk will call your name. When your name is called
6 ...

7 Do y'all want to bring them up front?

8 THE CLERK: Yes, sir.

9 THE COURT: You'll come forward and turn and
10 face the audience. Ladies and gentlemen, the State and
11 the Defense will have an opportunity to strike you. And
12 they can strike you for any reason or no reason except
13 for by race or gender.

14 Now, ladies and gentlemen, please do not take it
15 personally if you are stricken as a juror in this case.
16 Again, these attorneys have some idea as to the jury that
17 they think would be the most fair and impartial. And
18 that's going to differ between each side. So, please,
19 when you come forward, bring all of your personal items
20 with you so that if you get selected, then you will have
21 them right there with you.

22 All right. Is the State ready to proceed?

23 MR. FINNEY: Yes, Your Honor.

24 (WHEREUPON, a bench conference was held off the
25 record.)

1 THE COURT: Ladies and gentlemen, I do have one
2 more question that the parties have consented to me
3 asking. Has any member of the jury panel heard anything
4 about this case in any way whatsoever while you're here
5 today in the courtroom or in and out of the courtroom?

6 (No response)

7 THE COURT: All right. Thank you. No one is
8 standing.

9 Okay. Are you ready?

10 THE CLERK: As I call your name, as the Judge
11 said, bring your belongings with you, come right through
12 the aisle here and stand right here until I give -- until
13 I tell you to either have a seat in the jury box or
14 either have a seat back in the jury pool.

15 Number 41, Latoya Conyers.

16 What say the State?

17 MR. FINNEY: Please swear the juror.

18 THE CLERK: What say the Defense?

19 MR. ROBINSON: Please excuse Ms. Conyers.

20 THE CLERK: Okay. Have a seat back in the jury
21 pool, please, ma'am.

22 Number 12, Lamont Bennett.

23 What say the State?

24 MR. FINNEY: Please swear the juror.

25 THE CLERK: The Defense?

1 without watching it?" That's all I did. I didn't change
2 what the fact of the video were. I just said, "Can you
3 say to a reasonable degree of certainty without seeing
4 that, that it would not change your opinion?" "I don't
5 want to answer that in the affirmative," and then just
6 said, "No."

7 THE COURT: And then he said, no, it would not
8 change his opinion.

9 MR. ROBINSON: No, no, no. He said he can't
10 say that it wouldn't change his opinion. The problem is,
11 we've got an issue now. I don't want to delay or derail
12 this trial. If Dr. Frierson can look at those tonight
13 and doesn't change his opinion, that's fine. But I
14 certainly think under the circumstances of this case that
15 Mr. Johnson is entitled to every reasonable doubt. And
16 there's a reasonable doubt from the State's own expert as
17 to whether or not he had the capacity to conform his
18 conduct, then we can't go forward at this point until
19 that issue has been resolved by the State. And I
20 understand. I'm sorry. But I didn't know that until
21 today. That came up during the hearing. That wasn't
22 something I planned. That was in response to some
23 questions. I didn't realize, honestly, that he had not
24 reviewed those video tapes. So I would at least ask the
25 Court to direct him to watch those videotapes and be

1 prepared to at least supplement the criminal capacity. I
2 mean, if it doesn't change it, that's fine, and we can go
3 forward. Because if it does change it, then ---

4 THE COURT: Well, he said he didn't think he
5 needed to see it. I mean, he says he has lots ---

6 MR. ROBINSON: It's clear that he doesn't want
7 to spend eleven hours. He said he could not answer that
8 particular question to a reasonable degree of certainty.

9 THE COURT: He said he did not think he needed
10 to see it.

11 MR. ROBINSON: Okay.

12 THE COURT: And his report stands, and he's
13 confident in his report.

14 MR. ROBINSON: Okay. I think his testimony
15 speaks for himself, that he would not put that confidence
16 in his report when directly asked in light of that
17 without seeing. Clearly, he doesn't want to watch it.
18 And it may not change it. I think the Defendant is
19 entitled to the reasonable doubt and at least to have him
20 review that to supplement it. And we can go forward with
21 the trial while that happens. And if it does change it,
22 then certainly he can come back and the trial can be
23 stopped if there's an issue. I'm not trying to delay the
24 trial. I'm simply trying to make sure that Mr. Johnson
25 has all of his rights protected, including a potential

1 that could change his criminal responsibility.

2 MR. DURANT: Judge, may I reply just quickly?

3 THE COURT: You may.

4 MR. DURANT: Judge, again, I just want to
5 reiterate that State v. Blair requires the State to prove
6 competency before trial. It does not require the State
7 to prove capacity to conform or criminal responsibility
8 pre-trial. Now, Mr. Robinson has been in possession of
9 Dr. Frierson's report since June of last year. So nine
10 months he's had that report. That report details the
11 information reviewed by Dr. Frierson. So Mr. Robinson
12 has been well aware of the information reviewed and what
13 information was not reviewed by Dr. Frierson. If he so
14 desired to have his own expert review or evaluate Mr.
15 Johnson pertaining to his criminal responsibility or
16 capacity to conform, he's had the right to do that.
17 That's not something the State has to prove pre-trial.
18 We've got to prove competency, and we've done that.

19 THE COURT: All right. Anything further?

20 MR. ROBINSON: No, Your Honor.

21 THE COURT: I heard his testimony. He was
22 clear that he found that the Defendant had a sufficient
23 factual and rational understanding of the proceedings
24 against him and that the present ability to assist his
25 attorney with the preparation of the defense. That is

1 what is required for Blair.

2 As to his criminal responsibility, I don't think I
3 have to rule on that. If the doctor decides that he
4 wants to see it, you can make it available to him. But
5 if he doesn't want to see it, then he doesn't have to see
6 it.

7 All right. Thank you. Anything else? What do we
8 have ---

9 MR. ROBINSON: Your Honor, I do have a motion
10 based on ---

11 THE COURT: Yes, sir.

12 MR. ROBINSON: I guess it's a two-part motion
13 for a mistrial. The first motion being, Your Honor --
14 and I took a photograph. I didn't know how else to
15 preserve it, but I could certainly call one of the
16 jailers if the Court would deem appropriate. Mr. Johnson
17 was requested and was brought here today in street
18 clothes that he has on now. The holding cell is on the
19 other side of the courthouse immediately adjacent and
20 within full view of where the jurors were assembling this
21 morning. Mr. Johnson was brought in there, although in
22 plain clothes, but with his hands cuffed in front of him
23 in a pair of orange handcuffs and escorted by at least
24 three and perhaps four jail personnel. And certainly
25 that act, I don't think, was overt or on purpose or

1 anything. That's the way they are typically instructed
2 to bring them, and that's where they brought him. The
3 problem is at that point in time the jury saw him come
4 through there with all indicia of being incarcerated and
5 under heavy guard. Now, clearly, the right to be --
6 appear in street clothes goes beyond just your outward
7 appearance. It is the appearance of whether or not
8 you're in custody because that prejudices Mr. Johnson's
9 rights. I think clearly under what happened this morning
10 -- and like I said, if the Court desires some testimony
11 from one of the guards to substantiate this, because I
12 don't want it to be based on my testimony, I'll be glad
13 to call him. I think Mr. Johnson's rights have been
14 prejudiced by the jury seeing him like that, and the
15 entire jury pool was tainted. And, therefore, I'm going
16 to ask the Court to disqualify the jury that we've
17 selected and declare a mistrial in this case until
18 another jury panel can be assembled.

19 THE COURT: All right. Mr. DuRant?

20 MR. DURANT: Judge, by Mr. Robinson's own
21 admission, the Defendant was in street clothes when he
22 was shown before the jury. Your Honor, I would argue
23 that even if there was some prejudice, that it would be
24 minimal in this case when the Defendant is charged with
25 two murders. I don't believe the jury is under any

1 illusions that a Defendant charged with multiple murders
2 would have to be in custody or potentially could be in
3 custody. Your Honor asked the question during jury
4 selection whether anybody in the jury panel knew of any
5 other reason other than the ones that you specified -- if
6 they knew of any other reason that they couldn't give Mr.
7 Johnson a fair trial. No one stood up. I believe that
8 he has been -- the jury selection was carefully and
9 calculated as done by you, Your Honor. And nobody that
10 we didn't remove indicated any reason that they couldn't
11 be fair and impartial in this matter. And nobody brought
12 up that incident. No jurors seemed to think it was
13 something that they needed to bring to Your Honor's
14 attention. I don't believe that there was any prejudice
15 to the Defendant.

16 THE COURT: All right. Thank you.

17 Mr. Robinson, it's your motion. I'll give you the
18 last word.

19 MR. ROBINSON: Thank you, Your Honor. Just
20 briefly. The problem is two things. First of all, Mr.
21 DuRant said, you know, the prejudice would have been
22 minimal because the jury wouldn't expect -- they don't
23 have that right. They have to come in here clean slate,
24 presumed innocent, no preconceived notions. So to say,
25 "It's a double murder; they would expect him to be in

1 custody," I think that particular ideology violates his
2 constitutional rights. They're not allowed to think
3 that. And if they do think that, then they're not
4 qualified to serve on the jury panel because they have to
5 come in here, "He's innocent. He's presumed innocent.
6 He remains that way." And Your Honor is well familiar
7 with that charge and those instructions.

8 The other problem is we're now shifting it to the
9 jurors' perspective. The problem is we can't guarantee
10 that. And these trials, this Court, this justice system,
11 is set up to do everything it can to safeguard Mr.
12 Johnson's rights, not necessarily the convenience -- and
13 I understand it would be a tremendous inconvenience. And
14 nobody is any more ready to proceed with this trial than
15 myself and Mr. Johnson and his family. But I can't
16 ignore these types of things. If he had come in in a
17 jumpsuit, you know, to what degree. The problem is when
18 you start trying to put degrees on it. Orange handcuffs,
19 in custody, with three or four guards, regardless of how
20 many, right there in front of the jury takes away that
21 right for him not to be viewed in that light. To try to
22 come back and do an inquiry -- there was no way, quite
23 frankly, for me to ask that in voir dire, because I would
24 have re-rung the bell. I can't un-ring the bell. I
25 brought that to the ---

1 THE COURT: Well, what we did, we did have him
2 come in with you without handcuffs on and everything like
3 that. Their last view of the Defendant before jury
4 selection was coming in as a free man.

5 MR. ROBINSON: I understand their last view,
6 Your Honor. But again, I think that's a slippery slope
7 and a dangerous place to be is to try to quantify and
8 qualify when and how it matters. It was within an hour,
9 the same morning, the same clothes, a very small
10 courtroom. I don't if anybody was -- you know, that saw
11 him. I'm not saying that everybody in the jury panel saw
12 him. I don't know. I wasn't there. But I think to err
13 on the side of caution to protect Mr. Johnson's rights,
14 that it would be incumbent on the Court to declare a
15 mistrial. And so I would ask Your Honor to do that.

16 THE COURT: All right. I'm going to deny your
17 motion. I think the jurors -- I asked them many times,
18 was there any bias? Was there anything that they needed
19 to tell me? Was there any reason they didn't think they
20 could go forward. And although you make a compelling and
21 sincere argument, I don't think it's the law of this
22 state, so I'm going to deny your motion.

23 MR. ROBINSON: Your Honor, it's a two-part.

24 THE COURT: Oh, okay.

25 MR. ROBINSON: It's separate, but it's another

1 mistrial motion. After we finished the initial
2 qualification and the exemption questions for the jurors,
3 the Court took a break so we could bring Mr. Johnson in
4 here, get the questions and go through the voir dire.
5 Prior to the voir dire, but after qualifications,
6 exemptions, et cetera, it has come to my attention that
7 there was a conversation in the hall, part of which I
8 witnessed.

9 Now, I can't tell you what was said in front of me.
10 But I can tell you that there was a conversation between
11 Investigator Richards and Mr. Robert Brogdon because I
12 walked up on the conversation. And they were literally
13 closer than arm-lengths to a couple of jurors standing in
14 the hall. And I simply asked them not to talk -- I could
15 hear they were talking about the case. And I said,
16 "Please don't talk about the case. Jurors are in here."
17 I walked off.

18 Mr. Brogdon found me later. And I'm prepared to put
19 him on the stand to testify to the effect of this
20 conversation. But there was substantive conversation
21 about the evidence, the existence of evidence in this
22 case, the weight of that evidence and the Defendant's
23 guilt in the hallway to him in front of jurors standing
24 around.

25 That, I think, quite frankly is inexcusable. That

1 is not the Court's fault and not the Court's personnel.
2 But certainly these officers should know better. They
3 know how to act. They've been trained. And regardless
4 of what their emotion is or what was said, they have to
5 make sure that justice prevails and the Defendant's
6 rights are protected. That happened after you asked is
7 there any reason anybody can't serve.

8 Now, we went through some specific voir dire.

9 THE COURT: Well, then I asked the jurors
10 specifically did they know anything about this case that
11 did not come from within the four walls of this
12 courtroom, and they said, "No."

13 MR. ROBINSON: Yes, sir. And the problem is
14 they may not have known at that time that it was about
15 this case. They may not know until Investigator Richards
16 takes the stand or until Mr. Brogdon takes the stand.
17 And then the lightbulb goes on and says, oh, yeah.
18 That's the one that said he was overwhelmingly guilty.

19 THE COURT: Well, I'm sure Mr. DuRant's going
20 to say in his opening statement that he committed this
21 murder. And I'm going to tell the jurors, as I always
22 do, that the only evidence of this case comes from this
23 witness stand and from any other exhibits. So even what
24 you tell them -- and I'm sure Mr. DuRant is not going to
25 pass up the opportunity to talk about these murders

1 tomorrow morning. And I'm going to instruct the jurors
2 that they have to make their decision based upon what
3 they hear here. Would you like to argue?

4 MR. DURANT: No, sir. I'd just like to say
5 that my recollection of your last question during jury
6 selection was whether or not any member of the jury panel
7 had heard anything today.

8 THE COURT: I mean, that was what this was
9 based upon. And I asked the jury specifically, and no
10 one stood up. I mean, I have to take them at their word
11 as well.

12 MR. ROBINSON: And based on that, Your Honor,
13 just so the record's clear, do you want me to call Mr.
14 Brogdon?

15 THE COURT: I don't need -- I assume if it was
16 said, it was said. But whether they heard it or not --
17 you know, I don't know whether any of the jurors read
18 about this in the newspaper. I mean, that could happen.
19 It's amazing what people, when they're in a different
20 situation, don't see.

21 MR. ROBINSON: Don't see, yeah.

22 THE COURT: You assume they heard it. And
23 going back to the other one about the handcuffs, I had a
24 Defendant in Sumter who tried a case in his prison garb
25 with foot shackles on and won the case. So it's just

1 hard to judge on that. But I think I'm going to deny
2 this motion as well.

3 MR. ROBINSON: Okay. Thank you, Your Honor.
4 Let me double check before I turn you loose.

5 THE COURT: Well, I think we've still got some
6 other things to go over concerning ---

7 MR. ROBINSON: We do. We have some evidentiary
8 issues.

9 (WHEREUPON, Mr. Robinson conferred off the record
10 with the Defendant.)

11 MR. ROBINSON: I don't have any further motions
12 at this time, Your Honor.

13 THE COURT: Thank you, Mr. Robinson. Why don't
14 we take about a ten-minute recess, and then we'll come
15 back and do the -- how long do you think it's going to
16 take to ---

17 MR. ROBINSON: Honestly, if all we're doing is
18 going through these photos, maybe thirty or forty-five
19 minutes tops.

20 THE COURT: Okay.

21 MR. ROBINSON: There's some of them I have no
22 problem with. A couple I have some questions that we ---

23 THE COURT: Can y'all go ahead and let me look
24 at them while we take a break? That way I'm somewhat
25 familiar with them.

1 MR. ROBINSON: Yes, sir. I don't have any
2 problem with them.

3 THE COURT: Okay. Thank you, David. Court's
4 in recess for ten minutes.

5 (WHEREUPON, court stood in recess for a short break
6 during which State's Exhibit Number 53 and 54 were
7 marked for identification only.)

8 MR. ROBINSON: Your Honor, if I could, I would
9 just like to briefly go through these photographs and
10 exhibits. I think they're either -- there's 53 now. And
11 just briefly lodge any potential objection that I may
12 have ...

13 THE COURT: Okay.

14 MR. ROBINSON: ... and let the Court rule on
15 that as we go.

16 THE COURT: All right.

17 MR. ROBINSON: The first thing, Your Honor, I
18 would like to do -- I certainly don't have any problem
19 with a number of these given the proper authentication.
20 In other words, I just don't want to say, yes, this
21 picture comes in. I presume, and I do know Mr. DuRant
22 and Mr. Finney ---

23 THE COURT: Have y'all got the photographer or
24 the person who was on the scene?

25 MR. ROBINSON: --- they're going to be able to

1 call the right people to ---

2 THE COURT: Right.

3 MR. ROBINSON: --- authenticate these
4 documents. So subject to ---

5 THE COURT: Laying the foundation.

6 MR. ROBINSON: --- authentication and
7 documentation. And for instance, State's Exhibits 1 and
8 2 show Mr. Johnson as he appeared at the time he was
9 arrested. There appears to be blood on his shirt. I
10 would certainly stipulate that these pictures would come
11 in as an accurate representation subject to
12 authentication, but not in any way conceding what the
13 blood is, whose it is, how it got ---

14 THE COURT: Right. I don't think anybody's
15 asking you to do that.

16 MR. ROBINSON: Okay. I just want to be clear.
17 I don't want to give anything away. So with those
18 reservations, State's 1, 2 ---

19 THE COURT: If you want to just walk through
20 them and tell me which ones you have objections to and
21 don't have objections.

22 MR. ROBINSON: Okay. No objection to 3, 4, 5,
23 6, again, with the authentication information.

24 THE COURT: Sure.

25 MR. ROBINSON: Number 7 -- and I don't want the

1 State to necessarily give away its case. I'm not sure
2 what the relevance of that particular ---

3 THE COURT: I don't either.

4 MR. ROBINSON: That's the credit card, picture
5 of the credit card. And if you don't want to tell me
6 now, that's fine. We can just mark that as an objection
7 and we can deal with that later.

8 MR. FINNEY: There's going to be testimony by
9 Ms. Kaisha Caraway about an argument between she and the
10 Defendant regarding financial problems they were having.
11 And that's the credit card that is the ---

12 THE COURT: Was the bone of contention?

13 MR. FINNEY: That's correct.

14 MR. ROBINSON: And certainly, I think it would
15 speak for itself once it's authenticated that she has a
16 credit card with that name and number on it.

17 THE COURT: Right.

18 MR. ROBINSON: So that would be number 7.
19 Number 8, I really don't know. I'm, again, going to
20 presume 8 and 9 are sills on the doors at the ---

21 THE COURT: Probably when you ...

22 Any chain of custody I would guess ---

23 MR. FINNEY: That's correct, Your Honor.

24 MR. ROBINSON: Okay. And that's fine to that
25 extent. No objection to those. Number 10, no objection.

1 11, no objection. 12, no objection. Let me put these
2 down so I can -- 13, again, depending on the explanation
3 and the authentication, no specific objection at this
4 point.

5 THE COURT: Right.

6 MR. ROBINSON: 14, no objection. 15 ---

7 THE COURT: I think there's two pictures of ---

8 MR. ROBINSON: There's two of those, yes. I
9 think that unless there's some major difference, I would
10 just ask them to only submit one, because I think they're
11 duplicative.

12 THE COURT: I don't know what their reason is.
13 What was the reason for two of them?

14 MR. ROBINSON: I don't -- let me see if I can
15 find the other one, Your Honor.

16 THE COURT: It's towards the end.

17 MR. ROBINSON: Yes, sir, I remember that, it
18 being toward the end.

19 THE COURT: It's right before that picture.

20 MR. ROBINSON: Yes, 42 and 15.

21 THE COURT: I think they're ---

22 MR. FINNEY: 42, Your Honor, has the shell
23 casing that we believe caused the death of the baby in
24 the picture itself. 12 is just ---

25 MR. ROBINSON: I'm sorry. It's 15.

1 MR. FINNEY: I'm sorry, 15.

2 MR. ROBINSON: I said 14. It's 15 and 42.

3 MR. FINNEY: So we're talking about 15 and 42?

4 MR. ROBINSON: Yes, sir.

5 THE COURT: And I understand, Mr. Robinson,
6 that there is a picture of a child who is deceased. And
7 if there was more to them than that, I would have -- I
8 would agree with you, as I have done in many a trial that
9 involved children. But quite frankly, he looks like he's
10 sleeping.

11 MR. ROBINSON: I understand. I just -- I don't
12 see the reason for two pictures that look almost
13 identical.

14 THE COURT: As long as they've got some reason,
15 I tend to let them in, so ...

16 MR. ROBINSON: Okay.

17 MR. FINNEY: We did want both to show that the
18 room ---

19 THE COURT: Okay.

20 MR. FINNEY: This is a better view of the room
21 in 15 than it is in 42, but 42 has the evidence.

22 MR. ROBINSON: And I certainly understand the
23 reasoning behind that, but we'd object to the picture's
24 being duplicative and unnecessary and subject to the
25 Court's ruling.

1 THE COURT: All right.

2 MR. ROBINSON: Thank you. 16, Your Honor, I
3 would have no objection. 17, no objection. 18, no
4 objection. 19, no objection. Just let me make sure I
5 know what 20 is.

6 MR. FINNEY: I think that's the bathroom door.

7 MR. ROBINSON: That's the bathroom door?

8 MR. FINNEY: Yes.

9 MR. ROBINSON: Okay.

10 No objection to that, Your Honor. No objection to
11 21, 22, 23. I guess I would, again, take the position
12 that 23 and 24 are basically the same picture, and I
13 don't think they're particularly prejudicial. I
14 understand ---

15 THE COURT: I don't think they're prejudicial
16 at all.

17 MR. ROBINSON: And I think quite frankly they
18 bear on the burglary issues. So they certainly are
19 intended to be prejudicial to some effect. But ---

20 THE COURT: They wouldn't put them in if they
21 weren't somewhat prejudicial.

22 MR. ROBINSON: That's right. 25, 26, 27, 28,
23 29, 30, 31, 32, 33, no objection to those. And I will
24 make this objection -- I have a feeling I know how the
25 Court's going to rule on this one -- on number 34, that I

1 think that one is also -- is a slightly different angle
2 of several photographs that are in here. It depicts one
3 of the victims, Ms. Maxine Caraway's body, laying beside
4 her car with some numbers around it. And there are ---

5 THE COURT: The numbers designate -- showing
6 shell casings?

7 MR. FINNEY: As to other items, personal items.

8 THE COURT: Okay. Okay.

9 MR. FINNEY: Yes, sir.

10 MR. ROBINSON: So I just again think that one
11 is ---

12 THE COURT: I think the nature of that picture
13 is -- anytime you put a body in, the Defense always
14 objects.

15 MR. ROBINSON: Right.

16 THE COURT: But that's not a -- it wouldn't
17 shock the jury to the extent that ---

18 MR. ROBINSON: 35, certainly no objection. 36,
19 37, 38, those three, Your Honor, I would object to all
20 three of those. I am well aware that the Court is
21 probably going to allow at least one of those in to show
22 -- even though they are very graphic -- perhaps to show
23 the condition of the victim's body. There are not any
24 other pictures that show it from that particular angle
25 prior to these pictures, but it is graphic of the wound.

1 But I certainly think if any of them come in, that it
2 perhaps should be 36. 37 and 38 are simply closeups ---

3 THE COURT: Closeups.

4 MR. ROBINSON: --- that I don't believe show
5 anything other than a number card in one of them that is
6 not revealed in the first one and are -- those probably,
7 quite frankly, would be shocking. And I think that the
8 prejudicial harm would outweigh any probative value,
9 especially in light of number 36 potentially coming in.
10 So I would move that 37 and 38 be stricken.

11 THE COURT: As far as 37 and 38 ---

12 MR. ROBINSON: Yes, sir.

13 THE COURT: --- what was the -- what is your
14 particular reason for wanting to put those into evidence,
15 if I let the other one in?

16 MR. FINNEY: There are two reasons. Number
17 one, the 36 and -- excuse me. 37 and 38 do show the
18 proximity of the telephone ---

19 THE COURT: Isn't that shown in that one as
20 well?

21 MR. ROBINSON: Yes, sir.

22 MR. FINNEY: It's just a clearer view, Your
23 Honor. We wanted that to be seen clearly. The other
24 reason is that there was testimony given to the law
25 enforcement that Ms. Caraway suffered a broken nose or a

1 nose injury at the hands of the Defendant which caused
2 her to leave the residence and go and get in a car to try
3 to go get treatment at the hospital. And we wanted that
4 to be clearly ---

5 THE COURT: Is there any way that you can focus
6 in on the nose and mouth area ---

7 MR. ROBINSON: That would be my request, to
8 crop out the ---

9 THE COURT: I mean, I've done that before. You
10 can crop out some of this area ---

11 MR. ROBINSON: If, you know, we could go from
12 that, quite frankly, the eyebrows down or something that
13 shows the nose area. And certainly the ---

14 MR. FINNEY: I don't think that'll be a
15 problem, Your Honor. We'll get the law enforcement ---

16 THE COURT: I mean, that's the wonderful part
17 about digital photography ---

18 MR. FINNEY: Right. Right.

19 THE COURT: --- is you can -- I would tend to
20 say if you -- and I understand. As they are, I think,
21 Mr. Robinson, I will sustain any objection. If you crop
22 them down, I may -- those may not be ---

23 MR. FINNEY: All right. All right, sir.

24 THE COURT: He may not win on those.

25 MR. FINNEY: All right, sir. That's fine. We

1 will take these and bring them back tomorrow.

2 THE COURT: Okay.

3 MR. ROBINSON: And, Your Honor, just for the
4 record, I understand ---

5 THE COURT: You're still objecting to that one.

6 MR. ROBINSON: I still object to 36 as well. I
7 just wanted to make sure that was on the record.

8 THE COURT: But I'm telling you that if nothing
9 changes, I'm going to overrule your objection.

10 MR. ROBINSON: And 37, Your Honor ---

11 MR. FINNEY: 39, I think.

12 MR. ROBINSON: I'm sorry, 39. You're right.

13 THE COURT: 39.

14 MR. ROBINSON: I believe -- although it's
15 somewhat graphic, I believe it does depict an injury that
16 is reported in the autopsy and some other findings that
17 there was a shot through the hand as well. And that
18 clearly shows that. So I would object for the record,
19 but I don't really have a really good argument for that
20 one, quite frankly.

21 THE COURT: All right.

22 MR. ROBINSON: 40, no objection. 41, no
23 objection, and 42 is the earlier one that I objected to
24 ---

25 THE COURT: Right.

1 MR. ROBINSON: --- that I think it duplicates
2 the earlier photo of J.C. deceased in the high chair.
3 43, I really don't -- I think I know what this is, but
4 I'm not sure what the relevance of that is.

5 THE COURT: That's a hairpiece, isn't it?

6 MR. ROBINSON: Yes, sir.

7 THE COURT: That's just a hairpiece.

8 MR. FINNEY: It's shown there. But this one
9 had the marker in it, so we just wanted to give it some -
10 --

11 MR. ROBINSON: And I will object to that, to
12 the relevance. I don't know what it is. But, you know,
13 subject to that objection, beyond that once that
14 satisfies the Court, I don't know that I would have an
15 objection to that 43 and 44. 45, again, a relevance
16 question. But beyond that, no objection. It doesn't
17 appear to be inflammatory or shocking or egregious,
18 anything of that nature. 46 is the bathroom door.

19 MR. FINNEY: That's correct.

20 MR. ROBINSON: So I would have no objection to
21 that. 47 appears to be the bathroom sink ---

22 MR. FINNEY: Right.

23 MR. ROBINSON: --- with some bird shot looking
24 indentions between the wall and the mirror and the sink
25 area. And I think no objection to 47, 48, 49, 50 and 51,

1 is, again, just a closeup of that bathroom area that
2 shows what I presume the State will say is where the bird
3 shot went through the door and into the bathroom. And 52
4 and 53, I have no objection. I have had -- for the
5 record, 53 is a diagram of the floor plan of the victim's
6 home. Mr. Johnson has looked at that ---

7 THE COURT: That's a fair and accurate ---

8 MR. ROBINSON: --- with myself and Solicitor
9 DuRant, and he believes it to be a fair and accurate
10 representation of the layout of the home, so I have no
11 objection to that one.

12 THE COURT: All right. And we'll take up those
13 other two tomorrow morning first thing.

14 MR. ROBINSON: Yes, sir.

15 THE COURT: I mean, it's probably going to be a
16 while before you put in those pictures anyway?

17 MR. FINNEY: Yes, sir. That's fine.

18 THE COURT: All right.

19 MR. DURANT: Judge, we -- just to put on the
20 record, of course, we head a Jackson v. Denno hearing
21 last week. I did want to make the Court aware of a few
22 references in that -- in the Defendant's interview to a
23 prior altercation that he had with one of the victims in
24 this case, Kaisha Caraway. He was arrested for CDV and
25 kidnapping, I believe, back in December of 2010, which

1 had been three or four months prior to this incident. He
2 mentions that altercation, the Defendant does, a few
3 times during the interview. I have marked the time on
4 each disk in my notes of the references. But I just want
5 to make the Court aware before that happens to be played
6 ---

7 THE COURT: Well, you could actually --
8 couldn't you stop it and start it over and ---

9 MR. DURANT: We could, and that's what I would
10 suggest. That's what I would ask.

11 THE COURT: I think that would work. And I
12 think y'all have said -- Mr. Robinson, you just wanted to
13 put in the 45 minutes prior to his making his
14 incriminating statements; is that correct? Or what did
15 y'all want to put the ---

16 MR. DURANT: Well, I thought I understood the
17 Court's ruling to be that if I was going to play that, I
18 had to play the entire interrogation portion. So that
19 was my intent.

20 THE COURT: Okay.

21 MR. DURANT: But not to offer the first three
22 hours, or three disk of the collection of evidence part.

23 THE COURT: That's fine. Okay.

24 MR. ROBINSON: And, Your Honor, that is my
25 understanding of what your ruling was and, I guess, for

1 lack of a better term, a stipulation that if I wanted the
2 three hours of buccal swab GSR photographs in, I would
3 have to put that in as evidence in my -- whether it's
4 through one of their witnesses or whatever. But it would
5 count as evidence put in by the Defendant.

6 THE COURT: That's correct. It would count ---

7 MR. ROBINSON: And I understand that, Your
8 Honor. I don't have any problem with that.

9 THE COURT: Okay. All right. I guess we're
10 going to get a lot of time to watch the video?

11 MR. DURANT: Yes, sir.

12 THE COURT: Realistically, I'm just trying to
13 -- how long do you think this trial is going to take? I
14 don't want the jurors to think they're going to get out
15 of here -- I want to kind of let them know as soon as
16 possible if we're going into another week.

17 MR. DURANT: Judge, I would anticipate calling
18 about twenty-five witnesses. And I believe a number of
19 those will be fairly short.

20 THE COURT: And some of them are going to be
21 very long.

22 MR. DURANT: On chain of custody, I collected
23 this piece of evidence, that sort of thing. Some of them
24 are going to be lengthy. It's tough for me to estimate,
25 Judge. When I do, I'm always wrong. I would hope to

1 finish the State's presentation on Friday.

2 THE COURT: Okay.

3 MR. ROBINSON: And I would concur with that,
4 that it may be -- Friday would be hopeful, quite frankly,
5 given -- especially with the video coming in.

6 THE COURT: I just really -- I don't see -- I
7 really -- and you're probably -- since you don't get last
8 argument, you're probably going to put up a defense,
9 being the good lawyer that you are. I guess probably by
10 Wednesday I will notify Court Administration that they
11 may need to have somebody fill in for me over in Lee
12 County.

13 MR. ROBINSON: I was fixing to say, the good
14 thing -- and I did address that with Mr. Durant, sensing
15 that we may not finish -- is I told him you were supposed
16 to be in Lee County the following week with myself and
17 Mr. Cutter and Ms. Timmons. So it certainly could be a
18 worse situation for you to have to be somewhere else more
19 inconvenient.

20 THE COURT: Yeah. That's right.

21 MR. ROBINSON: But I think we would be doing a
22 champion's pass to try this in a week, quite frankly.

23 THE COURT: And it needs to be fleshed-out as
24 any serious case needs to be. All right. Anything else
25 we have for today?

1 MR. ROBINSON: I don't think so, Your Honor.

2 THE COURT: All right. I'd like to go see the
3 facilities where we're going to be, just so I have an
4 idea. So I think we're -- we'll adjourn with court
5 starting at 9:30 tomorrow morning.

6 (WHEREUPON, court stood in recess for the day at
7 approximately 3:44 p.m.)

8 **March 11, 2014**

9 (WHEREUPON, court convened with all parties present
10 and the following proceedings were had commencing at
11 approximately 10:13 a.m.)

12 (WHEREUPON, State's Exhibit Numbers 37 and 38 were
13 remarked for identification to substitute for
14 originals.)

15 THE COURT: We have one matter we need to take
16 up with a juror before we start.

17 How about bring out the juror?

18 (WHEREUPON, the juror entered the courtroom.)

19 THE COURT: Mr. Adams, if you could step right
20 over there. Mr. Adams, it's come to our attention
21 through you -- thank you -- that there is a possible
22 conflict of interest, that you have may known the
23 Defendant in times past. So what the safest thing for us
24 to do -- and that's why have extra alternates -- is to
25 release you as a juror and replace you with ---

1 Which juror would it be?

2 THE CLERK: Mr. Wingard.

3 THE COURT: Mr. Wingard?

4 THE CLERK: Ronald Wingard.

5 THE COURT: Ronald Wingard.

6 So that relieves you from any further duties in this
7 trial. You're welcome to stay; you're welcome to go back
8 to your work. And they will pay you for yesterday and
9 today.

10 THE JUROR: Thank you, sir.

11 THE COURT: All right. Thank you, sir.

12 (WHEREUPON, the juror exited the courtroom.)

13 THE COURT: Is there anything from the State or
14 the Defense before we begin?

15 MR. FINNEY: Good morning, Your Honor.

16 THE COURT: Good morning.

17 MR. FINNEY: For the benefit of the record, we
18 have substituted two photographs that were objected to
19 yesterday, they being number 37 and 38. And we have
20 substituted two photographs of Ms. Caraway. One is now
21 marked 37. It is a closeup cropped view of the injuries
22 to her nose. And then 38 is the one that will replace
23 the old 38, which is a picture of Ms. Caraway.

24 THE COURT: And you've seen these, Mr.
25 Robinson?

1 MR. ROBINSON: Yes, sir, Your Honor. And I
2 think 38 is the pre-death photograph?

3 THE COURT: Right. Just an everyday
4 photograph. Any objection to 38?

5 MR. ROBINSON: Yes, sir.

6 THE COURT: What's your objection to that?

7 MR. ROBINSON: Your Honor, I don't know that
8 her pre-death condition would be relevant to anything in
9 this case, quite frankly. And I think that it plays on
10 the jury's sympathies and compassions and is certainly
11 more prejudicial than it is probative. It's not
12 probative of anything relevant to this case. Certainly,
13 the medical personnel can testify that she was alive. In
14 other words, there's no question that she died on that
15 date. So I don't believe that that does anything other
16 than appeal to the passions and caprice of the jury. And
17 on those grounds, I would object.

18 THE COURT: Mr. Finney?

19 MR. FINNEY: If Your Honor please, we believe
20 that it is within the jury's province to know Ms. --
21 something about Ms. Caraway while she was alive. That
22 picture represents her separate and apart from this
23 proceeding. It is not shown to arouse any passion or
24 prejudice. It is just a picture to substantiate what she
25 looked like prior to her injuries on April the 6th.

1 THE COURT: All right. I'm going to overrule
2 your objection. And then the other one for the ---

3 MR. FINNEY: 37.

4 THE COURT: You cropped number 37.

5 MR. FINNEY: Yes, sir, to show the injuries she
6 sustained on that day.

7 THE COURT: Specifically of the facial?

8 MR. FINNEY: Yes, sir.

9 THE COURT: Mr. Robinson?

10 MR. ROBINSON: Your Honor, I would object to
11 that one as well. There is a photograph in evidence,
12 probably 36 if I'm guessing correctly, that shows her not
13 as close up. I'm not aware that Mr. Johnson is in any
14 way charged with a crime related to breaking her nose and
15 that that injury is not relevant to the murder charge
16 which was allegedly -- I'm assuming testimony will be
17 induced that it was brought about by a shotgun. I think
18 that picture is shocking, is disturbing. There's another
19 picture in evidence that displays all of the information
20 shown in there, just not as up close and disturbing and
21 shocking. Again, the injury to the nose he's not been
22 charged with that. That's not part of the cause of
23 death. There are no allegations of anything about
24 breaking her nose that I think are relevant to the
25 charges for which Mr. Johnson is on trial. And based on

1 that, I would object to that photograph coming in as
2 well.

3 THE COURT: I'm going to reserve my ruling on
4 that. And looking at this again, I'm going to wonder if
5 you can crop it down even more into just an area such as
6 that. But -- and that I may allow. But right now, I'm
7 just going hold to my ruling until the time comes and
8 depending upon what evidence comes in.

9 MR. ROBINSON: And in case I didn't, Your
10 Honor, it's a relevance issue. The injury's not
11 relevant.

12 THE COURT: Any objection to 54 showing that?

13 MR. ROBINSON: The same type injury that --
14 again, the identity of the child is not in question --
15 showing -- especially a child in a happy state, prior to
16 death, is going to be very emotional to the jury. It
17 does not lend anything to the case whatsoever other than
18 to stir the emotions of the jury. This is a case --
19 although it is going to be very emotional, it's supposed
20 to be decided without emotion on the jury's behalf based
21 simply on the facts of the case. And that picture lends
22 nothing to the case. Identity is not an issue. That
23 doesn't demonstrate -- you know, I don't think cause of
24 death is going to be an issue based on the information
25 that I've been provided. So, again, I don't think that

1 lends anything to the case other than plays on the
2 emotion and sympathy of the jury to perhaps cloud their
3 judgment.

4 THE COURT: Okay. I'm going to overrule you on
5 that as well. I think who the person was is a part of
6 this case.

7 Anything else?

8 MR. ROBINSON: Yes, sir, Your Honor. Before we
9 get started -- this is just a matter of court efficiency
10 quite frankly. It is my understanding that the State
11 intends to call the 9-1-1 Emergency Services Director to
12 authenticate the 9-1-1 phone call and that would be their
13 first witness. I would have an authentication objection
14 to that, being that it's not the operator that actually
15 took the call and identified it. And I'm not sure, quite
16 frankly, that that is a regularly kept business record, a
17 9-1-1 call. And I just didn't know whether Your Honor
18 wanted to deal with that now to save some time ---

19 THE COURT: Yeah. I would. I'd rather go
20 ahead and do it.

21 MR. ROBINSON: --- instead of dealing with that
22 in front of the jury.

23 THE COURT: All right. You're standing up, Mr.
24 DuRant.

25 MR. DURANT: Yes, sir. I intend to handle that

1 and gentlemen.

2 THE JURY: Good morning.

3 THE COURT: I think you can see you do have a
4 lot more room in your jury room, and there's a lot more
5 space here for everybody. One of the jurors, Mr. Adams,
6 had a potential conflict, so I have relieved him. We
7 have randomly selected Mr. Wingard as the new primary
8 juror. So that leaves us with one alternate to go
9 forward from here. So we will proceed with that.

10 Would you please swear the jury?

11 THE CLERK: Yes, sir.

12 (WHEREUPON, the jury was duly sworn.)

13 THE COURT: Yes, sir.

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

16 THE COURT: Well, good morning again, ladies
17 and gentlemen. And thank you again for being jurors in
18 this case. Before we begin this trial, I want to tell
19 you that this will probably be different from what you
20 might expect. You know, most people never have an
21 opportunity to participate in an actual court session as
22 you are doing now and may think from watching TV, movies,
23 or reading in books that trials are always full of high
24 drama, intense actions, and riveting circumstances.

25 Now, while all these things might be true at times,

1 this trial is not for entertainment. This is a real
2 trial which is a fundamental part of our democracy. And
3 it's a search for the truth in an effort to make sure
4 that justice is done. And searching for the truth and
5 ensuring that justice is done is often slow, deliberate,
6 repetitive, the exact opposite of what you've seen on TV,
7 movies or read in books.

8 Now, ladies and gentlemen, this courtroom -- and
9 this is a court of law at this time, even though it's
10 normally the county council chambers, but for our
11 purposes, it is the court of law -- is a place that is
12 dedicated to the protection and the preservation of our
13 citizens' rights through what has been called and what I
14 truly believe to be the greatest justice system ever
15 created by mankind.

16 The attorneys who are appearing before you are
17 advocates for the parties that they represent. But first
18 and foremost, they are officers of this court who are
19 sworn to uphold the integrity and the fairness of our
20 judicial system and to help you in your search for the
21 truth.

22 Ladies and gentlemen, you should expect them to be
23 professional, competent, and ethical in the
24 representation of their clients' interest. And remember,
25 ladies and gentlemen, you also just took an oath to

1 listen to the evidence in this case and reach a fair and
2 just verdict. And you're expected to be professional,
3 reasonable, and ethical as well. Again, thank you for
4 your service as jurors for this case.

5 Now, ladies and gentlemen, what I'm going to tell
6 you now is just intended to serve as an introduction of
7 the trial of this case. These remarks are not a charge
8 on the law. I will charge you the law that is applicable
9 to this particular case at the end of the trial. This is
10 merely an explanation of the procedures that we will
11 follow so you may better understand what is happening.

12 Ladies and gentlemen, let me tell you up-front that
13 you will not be allowed to take notes during this trial.
14 Therefore, it's very important that you listen throughout
15 this trial.

16 Now, ladies and gentlemen, the Defendant is charged
17 by indictments filed in this court with murder, two
18 counts, attempted murder, kidnapping, burglary in the
19 first degree, and possession of a weapon during the
20 commission of a violent crime. Now, ladies and gentlemen
21 the specific elements of each of these charges will be
22 explained to you later.

23 Now, ladies and gentlemen, as I told you yesterday,
24 the indictment charging the Defendant is simply the
25 document by which this case gets into court, and it is

1 not in any sense evidence of any of the charges contained
2 therein. The Defendant has pled not guilty to the
3 charges in the indictment. So the State, therefore, has
4 the burden of proving each and every element of each
5 charge in the indictment beyond a reasonable doubt. And
6 it will be your duty as jurors to decide whether the
7 State has met that burden.

8 Now, ladies and gentlemen, your purpose is to
9 determine the facts in this case. You're to determine
10 the facts in this case from the testimony that will be
11 presented from the witness stand and any other exhibits
12 that are introduced here in court. It will be up to you
13 to determine the inferences which you believe may be
14 properly drawn from the evidence that is presented.

15 And ladies and gentlemen, it is especially important
16 that you perform your duty diligently and conscientiously
17 because ordinarily there is no way to correct an
18 erroneous determination of facts by a jury.

19 Ladies and gentlemen, on the other hand, but with
20 equal emphasis, the same law that makes you the judges of
21 the facts, makes me the judge of the law. The law, as
22 given to you by me, is the only law that you may
23 consider. You must accept the law as I give it to you
24 and follow it even though you may disagree. And I will
25 make an agreement with you, that I will not tell you what

1 the facts are, and you will not disagree with me about
2 what the law is or what you think the law should be.
3 Your job as jurors is to take the law as I give it to
4 you, apply it to the facts as you find them from the
5 testimony of the witness and any other evidence that is
6 presented, and after hearing that evidence, you will
7 deliberate and render a true and just verdict under the
8 solemn oath that you just took as jurors.

9 Now, ladies and gentlemen, until I advise you to
10 begin your deliberations at the conclusion of this case,
11 you must not discuss the case with others, including your
12 fellow jurors, except when authorized to do so by me.
13 You may not use a computer, cellular phone, or other
14 electronic device with communications capabilities while
15 in attendance here at trial or during your deliberations.
16 Now, you may use these devices when we break for lunch or
17 when you go home for the evening. But even then, you may
18 not use them to disclose any information about the case
19 when you're not in court.

20 Information about the case would include, but
21 certainly would not be limited to information about a
22 party, a witness, an attorney, or any other court
23 officer, any news accounts about the case, any
24 information collected through juror research on any topic
25 raised or any testimony offered by any witness or any

1 information collected during juror research on any topic
2 that you think might be helpful in deciding this case.

3 Now, ladies and gentlemen, after the case is
4 submitted to you, you must discuss it only in the jury
5 room with your fellow jurors. The attorneys in this case
6 and anyone else involved are advised that they are not to
7 talk to you. So if you see anyone involved in this case
8 around this small square or in this small town, and they
9 don't even say hello while the trial is going on, well,
10 they're not being unfriendly; they're just following my
11 instructions, ladies and gentlemen.

12 Now, ladies and gentlemen, it's very important that
13 you keep an open mind and not decide any issue in this
14 case until all the evidence has been presented, the
15 attorneys have made their closing arguments, and I have
16 instructed you on the law that is applicable to this
17 case.

18 Ladies and gentlemen, it is your solemn
19 responsibility to determine the guilt or innocence of the
20 Defendant. And your verdict must be based solely on the
21 evidence as it is presented during this trial and on the
22 law as I instruct it to you during and at the close of
23 the trial.

24 Now, ladies and gentlemen, in just a moment the
25 Solicitor will make what is called an opening statement

1 in which he will explain to you what he believes the
2 issues are in this case. The attorney for the Defendant
3 may also make an opening statement, although he is not
4 required to do so. But what the attorneys tell you
5 during their opening statement, I remind you, is not
6 evidence in this case. It is only their contention as to
7 what they believe the issues are in this matter.

8 Now, from time to time during this trial, you may
9 hear one of the lawyers saying something like, "Your
10 Honor, I believe we have a question or a matter of law
11 that we need to discuss with you," or "Your Honor, may we
12 approach the bench?" Or sometimes I might find it
13 necessary to excuse you from the courtroom for a short
14 time while the attorneys and I discuss a matter of law.
15 And the reason for this is, as I said, you are the judges
16 of the facts. And sometimes when I'm discussing a matter
17 of law with the attorneys, it may be necessary for me to
18 make some comment as to the fact in connection as to
19 whether or not in ruling whether a particular law
20 applies. And as I've said, I'm not supposed to tell you
21 what the facts are. So I will excuse you from the
22 courtroom or for these conversations while these
23 discussions take place so that you will in no way be
24 influenced by anything that I might say or do in
25 connection with the facts.

1 Now, ladies and gentlemen, also during the trial,
2 you may hear one of the attorneys make an objection to
3 certain evidence that is about to be presented. Now,
4 whether I sustain, which would be to grant, or overrule,
5 which would be to deny, the objection should not be
6 construed that I favor one side over the other. I do
7 not. Nor should you infer that the objecting party is
8 trying to hide something from you. In this Court, as in
9 all situations in life, there are certain rules that must
10 be followed. And the attorneys, as officers of this
11 court, are merely trying to follow the rules of evidence
12 in making their objections. And I am only ruling based
13 upon what I believe the law of the State of South
14 Carolina to be concerning the evidence being presented.

15 Now, ladies and gentlemen, in determining what the
16 true facts are in this case, you must decide whether or
17 not the testimony of a witness is believable. Now, it
18 will be my responsibility to rule as a matter of law as
19 to whether certain testimony is admitted. But once the
20 testimony is admitted, whether or not you decide to
21 believe it is solely for you as jurors to determine.

22 And in deciding whether to believe a witness, you
23 have a right to consider the interest of any witness, the
24 bias of any witness, the prejudice of any witness, the
25 opportunity for the witness to have observed the matters

1 and things about which the witness may testify, and you
2 may examine the way the witness acts on the witness
3 stand.

4 Now, ladies and gentlemen, you will have a right to
5 consider anything that is in the record that will help
6 you evaluate the testimony of the witness. And that
7 means that it is your responsibility to pay close
8 attention to these witnesses, to observe these witnesses,
9 to listen to the witnesses and pay close attention to the
10 attorneys and to the Court.

11 Ladies and gentlemen, please don't let your thoughts
12 wander, but please give strict attention to the testimony
13 in this case. So at the end of all of the evidence and
14 the testimony and the argument of counsel by the
15 attorneys -- argument of counsel and the charge on the
16 law by me, you will then be in a position to determine
17 what the true facts are and to apply the law to those
18 facts and thus render a true and just verdict.

19 And Mr. Foreman, in addition, it will be your
20 responsibility to preside in the jury room and be the
21 jurors' spokesman here in the Court. It will also be
22 your responsibility to write down the verdict on the
23 verdict form. But I will provide you with more
24 information at the appropriate time.

25 Now, ladies and gentlemen, in order to preserve

1 everyone's rights, I will give the State and the
2 Defendant an opportunity to object to anything that I
3 have stated to you at this time.

4 Does the State have any objection to anything that
5 I've stated?

6 MR. FINNEY: No, Your Honor.

7 THE COURT: Does the Defense have any
8 objection?

9 MR. ROBINSON: No objection, Your Honor. But
10 may we approach?

11 THE COURT: You may.

12 (WHEREUPON, a bench conference was held off the
13 record.)

14 THE COURT: Ladies and gentlemen, I did have a
15 request -- there was a short article in the Item, and I
16 had instructed you not to read the newspaper. Has any
17 juror read anything about this case this morning?

18 (No response)

19 THE COURT: Okay. And I'm going to give you a
20 blanket. Please do us all a favor. And I know you may
21 still get the Item at your home or whatever, but please
22 do not read it this week. The Item is present, and
23 they're going to publish what they -- probably not much
24 more than what y'all see here. But we want you to be --
25 hear only from in here. Not any outside source. And I

1 appreciate that. Thank you, ladies and gentlemen.

2 Is the State ready to proceed?

3 MR. FINNEY: We are, Your Honor.

4 THE COURT: All right.

5 MR. FINNEY: Good morning, Your Honor.

6 Mr. Robinson.

7 MR. ROBINSON: Good morning.

8 MR. FINNEY: Good morning, ladies and
9 gentlemen.

10 THE JURORS: (In unison) Good morning.

11 OPENING STATEMENT

12 BY MR. FINNEY:

13 Mr. Foreman, my name is Chip Finney. And I have the
14 honor, the pleasure, and the responsibility of trying
15 this case today for the State of South Carolina. I've
16 got my favorite Clarendon lawyer, Mr. Chris DuRant,
17 because this is a big case. We decided we would work on
18 it together.

19 Today is a special day. It's a special day for
20 Justin Johnson because he's going to get a trial. He's
21 going to get his day in court. He's got a good lawyer.
22 He's got a fair judge. We've got the court reporter.
23 His trial is going to begin.

24 It's also special for the Caraways. John and Maxine
25 Caraway are some of the best people that you'd ever want

1 to come across. Today is March 11th, Maxine Caraway's
2 birthday. She would have been fifty-two years old --
3 excuse me -- sixty-two years old today. They were
4 married a long time.

5 They were a loving family, which is going to be
6 proved to you by the evidence, because they opened up
7 their house to their granddaughter, Kaisha Caraway, and
8 her children, K.C. and J.C. . The whole family just
9 lived together out on Carissa Lane in Clarendon County
10 off the June Burn Road. They were living together,
11 taking care of each other, making progress.

12 John Caraway had been a hard worker for many years
13 at his job. Ms. Caraway, Maxine, was a homemaker.
14 Kaisha was in school, trying to get an education, trying
15 to do better for her kids.

16 You will hear from the evidence that we present over
17 the next few days that this normal, loving, Clarendon
18 County family had one problem. And that is Justin
19 Johnson who wanted to have things go his way, who wanted
20 to make sure that he was the center of attention. When
21 he didn't get that attention, things didn't go well, for
22 Kaisha, the kids, for the Caraways.

23 What brought us here today is the fact that on April
24 the 6th, 2011, we intend to prove that Justin Caraway
25 [sic] intentionally, maliciously with aforethought,

1 malice aforethought, which is the legal definition of bad
2 feelings, hatred, ill will.

3 He prepared himself by going to get a gun that he
4 had purchased, a pump shotgun, by going to get the
5 shotgun shells to go in that gun, by taking that gun with
6 his kids in the car back to the house on Carissa Lane
7 where Ms. Kaisha was waiting. And that he subsequently
8 started using his fists to harm the people in that house,
9 mainly Maxine Caraway and Kaisha. And that after a fist
10 fight, an altercation, he got that shotgun.

11 Ladies and gentlemen, he didn't stop shooting until
12 he ran out of bullets. We're going to prove to you that
13 he fired the first shot at the grandmother in the front
14 yard as she was trying to get to the hospital because he
15 had struck her and broken her nose. She didn't make it
16 to the car. The second shot, he walked inside, and in a
17 fit of rage, he fired the weapon at a nine-month-old

18 J.C. sitting in a high chair.

19 He then turned the gun on Kaisha who was trying to
20 run for her life. And you will see evidence that he
21 fired a third shot down the hallway at her as she ran for
22 her life, missing her. She was able to get to a
23 bathroom, close the door and put a block -- what was
24 called a gun safe they used for storage of towels and
25 sheets. She blocked the door with the gun safe. He

1 fired the last shot through the door at her to try to get
2 to her. At that point, there were no more bullets.

3 He's charged with two counts of murder, one count of
4 attempted murder of Kaisha. He's charged with burglary
5 first degree and breaking into the house. And we will
6 show you the doorframe that he crashed the door, the door
7 from the outside, crashed it in to get in the house. We
8 will show you that he later took Kaisha away from the
9 house against her will with still having the gun, put her
10 in the car with another child that was still living,
11 K.C. , and took them on a purported trip to the police
12 station to report this crime.

13 He wasn't going to report this crime that he had
14 done. He had made up a story, a story about a man who
15 never existed named Robert. And he wanted Kaisha to help
16 him prove to the police officers that Robert did this
17 crime and that Robert caused all this tragedy.

18 The first moment that Kaisha was able to talk to an
19 officer after being kidnapped and taken away, she told
20 what happened. "He did it. He shot my grandmother. He
21 shot my baby."

22 We will present every piece of evidence that we have
23 been able to gather from the good officers of Clarendon
24 County law enforcement who have put in time and time and
25 time. The one thing I learned about police officers when

1 I got this job was they don't to knock off at five
2 o'clock. They have to stay until the job is done.

3 You will see that not only did they do a good job of
4 investigating, taking photographs and getting the DNA and
5 everything that could be gotten, they also did something
6 very smart. They put Justin in a room with a camera and
7 they asked him over and over, "Tell us what happened.
8 Tell us what happened. Tell us what happened." And over
9 and over, Justin refused to tell the truth. It took
10 eight hours of interrogation. And you will see all of
11 that on videotape.

12 This is not a question of an accident. You do not
13 pump a shotgun four times and claim accidental death.
14 This is a case where he has been charged with exactly the
15 violation of law that the facts support. Two counts of
16 murder, one count of attempted murder, one count of
17 kidnapping, one count of burglary, and one count of
18 possession of a weapon during a violent crime. Six
19 charges. Six charges. Every one supported by the
20 evidence.

21 We have been working on this case for three years.
22 We need you to give us the next three days, to keep your
23 mind open, to listen to the evidence, and to wait until
24 the case is concluded to decide.

25 There are no winners in this case. None. But there

1 is a need for us in this community to have responsibility
2 for our actions and to treat one another fairly. When
3 one of us does not treat one fairly, he must be held
4 responsible. Thank you.

5 THE COURT: Thank you, Solicitor.

6 Mr. Robinson?

7 MR. ROBINSON: Thank you, Your Honor. May it
8 please the Court.

9 THE COURT: Yes, sir.

10 MR. ROBINSON: Good morning, Your Honor, Mr.
11 Finney, Mr. DuRant.

12 MR. FINNEY: Good morning.

13 MR. DURANT: Good morning.

14 OPENING STATEMENT

15 BY MR. ROBINSON:

16 Ladies and gentlemen, of the jury, I would -- and
17 probably a lot of defense attorneys don't do this. I
18 don't know what your perception is. But I will agree
19 with Mr. Finney's statement that he made to you before he
20 sat down, that there are no winners here. There are no
21 winners. There is absolutely nothing that anybody in
22 this courtroom can do to undo the tragedy that happened
23 that day. Nothing. And as Mr. Finney told you, what
24 your role here is to impartially seek the truth, which is
25 justice in this particular case.

1 Now, he's told you some facts that cannot be
2 disputed. J.C. is dead. Ms. Maxine Caraway is
3 dead. And they were two fine people. No argument about
4 that. But those feelings, those emotions, those
5 realities don't make evidence speak to things that aren't
6 there.

7 This is going to be an emotional case. You are not
8 allowed to let your emotions creep in and cloud your
9 judgment and cloud your vision and cloud your
10 impartiality. It's very sad.

11 There are going to be some items of evidence that
12 are difficult for you to look at. They're difficult for
13 me to look at. And I think if you'll remember the
14 selection process we went through yesterday, we did not
15 just randomly draw thirteen, fourteen, fifteen names out
16 of a hat and y'all sat up there. Y'all came up and stood
17 in front of us, and each attorney had an opportunity to
18 excuse you or to seat you, which means you're not a
19 random jury.

20 This is another thing that the State and I have
21 agreed on. That you are the best jury that we can have
22 to decide this case. And that's a job that, quite
23 frankly, that I do not envy of you all because this is a
24 difficult matter. It is emotional. It's sad. But you
25 have to put all of that aside and use your judgment, your

1 life experiences, your common sense, your everyday
2 knowledge in the context that the Judge will give you
3 with the law and apply it to the facts as they actually
4 are.

5 Now, the Solicitor told you that law enforcement had
6 done a good job in this case. They gathered every piece
7 of evidence that they were able to gather. He talked
8 about DNA and some other things. And you're certainly
9 going to hear a lot of testimony about that. There are,
10 in fact, a lot of items of evidence. But there are also
11 a lot of questions that I think you're going to hear
12 throughout this case. Items of evidence that weren't
13 analyzed, weren't tested, weren't gathered. Questions
14 that I don't think the State can answer. And I want you
15 to pay close attention to what the Solicitor told you, to
16 what he promised you that the evidence would show because
17 that is the State's burden.

18 They have made these charges against Mr. Johnson. A
19 man who was a model student, well-liked by his teachers,
20 did well in school, was an exemplary student. And you'll
21 hear testimony about that.

22 Nothing about this day was ordinary. Nothing about
23 this day made sense. Nothing about this day fits. But
24 your job is not to become emotionally involved and
25 overwhelmed by the sadness of this situation and say,

1 "Somebody's got to be punished." You have to make sure
2 that the State carries its burden. That is an oath that
3 you have sworn to. And it is the most important thing,
4 quite frankly, that we have in this society. Because if
5 that means nothing, then everything else that this
6 justice system stands for, our way of life, means
7 nothing.

8 Mr. Johnson is not guilty. The Judge has told you
9 that. He sits here today an innocent man. And there is
10 nothing that anyone can do to change that except you
11 twelve jurors in your jury room, and only, only if the
12 State convinces you beyond a reasonable doubt that each
13 and every accusation that they have leveled against him
14 is true and supported by the evidence.

15 Now, the State has a theory of what happened in this
16 particular case. And what they're going to do over the
17 next -- I hope it's three days. I doubt it's going to be
18 that short, quite frankly -- but over the next several
19 days is to present evidence to you that they hope
20 validates that theory or supports that theory. And your
21 job is to determine is that really what this evidence
22 shows. Does it really prove that? Does it rise to that
23 level? Am I convinced that this is what happened? And
24 there are going to be, like I said, questions that are
25 not going to be able to be answered.

1 And as the Judge told you, evidence will come from
2 that witness stand, through these exhibits. But there's
3 also another kind of evidence that you will never see.
4 It's evidence of reasonable doubt of those questions that
5 cannot be answered, that cannot satisfy you beyond a
6 reasonable doubt as to exactly what happened or to who
7 did this or why.

8 So my sole request to you at this point -- I'm not
9 going to promise you anything other than this is going to
10 be a long week. But to request that you do what we've
11 trusted you to, that you listen closely, that you pay
12 attention. And I'm not going to expect for y'all to
13 remain emotionless throughout this trial. But you be
14 able to separate that from your job, from your duty, to
15 give this case the consideration that it requires and
16 that it deserves and to make sure that justice is done in
17 this case. No matter how hard that is or how sad it is,
18 but that is what you have to do. And that's all that we
19 are asking of you.

20 And I thank you very much for your willingness to
21 serve. I know y'all didn't get to volunteer. But you
22 showed up for jury duty. You showed up to court. You
23 could have shrugged it off. Maybe you would have gotten
24 in trouble, maybe not. But you took your civic
25 responsibility seriously, and we appreciate that. Mr.

1 Johnson appreciates that because this is the most
2 important day of his life. This week will be the most
3 important week of his life. He's been accused of some
4 horrible things. And the only thing standing between him
5 and judgment for those is twelve impartial jurors who
6 have promised and sworn to take their job seriously and
7 to give him a fair and impartial trial. And that is all
8 that we will ask of you this week.

9 And, again, I thank you for your service.

10 THE COURT: Thank you, Mr. Robinson.

11 The State may call its first witness.

12 MR. DURANT: Thank you, Your Honor. The State
13 calls Danny Floyd.

14 **DANNY FLOYD,**

15 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Mr. Floyd, where are you employed?

19 A. I'm employed with the E 9-1-1 Center for Clarendon
20 County.

21 Q. The E 9-1-1 Center?

22 A. Yes.

23 Q. And how long have you worked there?

24 A. Thirty-three years.

25 Q. And in what capacity?

1 A. The last twenty-four years have been as director.

2 Q. As director?

3 A. Yes.

4 Q. Tell me, what services does the 9-1-1 Center in
5 Clarendon County provide?

6 A. We provide all emergency response and all emergency
7 services for Clarendon County, EMS, fire, law
8 enforcement, police department, everything.

9 Q. Do you receive distress calls at 9-1-1?

10 A. Yes, we do.

11 Q. And do the -- is part your service to direct
12 officers to respond to those calls?

13 A. We do.

14 Q. On April the 6th of 2011, did dispatch or Clarendon
15 County 9-1-1 direct officers to respond to
16 in Manning?

17 A. We did.

18 Q. And what was that in response to?

19 A. It was in response to a 9-1-1 hangup. Actually, a
20 9-1-1 call, a 9-1-1 hangup that originated from that
21 address.

22 Q. Was that call recorded?

23 A. Yes, it was.

24 Q. And as director, are you the custodian of those
25 records?

1 A. I am.

2 Q. Are they kept in the normal course of business?

3 A. Yes, they are.

4 (WHEREUPON, State's Exhibit Number 55 was marked for
5 identification only.)

6 Q. I'm going to show you what's been marked as State's
7 Exhibit 55 for purposes of identification. Do you
8 recognize that?

9 A. Yes, I do.

10 Q. Tell us what it is.

11 A. It is actually a cassette tape, a copy of the DVD of
12 the actual call that was made into the 9-1-1 center. The
13 first call is actually a hangup call where the call was
14 made and the dispatcher heard all the commotion and all
15 the stuff that went on.

16 MR. ROBINSON: Your Honor, at this point, I'm
17 going to -- I think once they put the tape in, it'll
18 speak for itself. But he's not ---

19 THE COURT: Sustained.

20 MR. ROBINSON: --- authorized ---

21 THE COURT: Sustained.

22 Q. Director, did you make a recording of that call for
23 law enforcement?

24 A. I did.

25 Q. And is this a fair and accurate representation of

1 that recording?

2 A. It is.

3 MR. DURANT: Your Honor, at this time, I'd ask
4 to admit State's Exhibit 55 into evidence.

5 THE COURT: All right. Any objection, Mr.
6 Robinson?

7 MR. ROBINSON: No objection, Your Honor.

8 THE COURT: Without objection. State's Exhibit
9 Number 55 is admitted.

10 (WHEREUPON, State's Exhibit Number 55 was admitted
11 into evidence.)

12 MR. DURANT: And I ask permission to publish it
13 for the jury.

14 THE COURT: Certainly you may let the jury
15 listen to it.

16 (WHEREUPON, State's Exhibit Number 55 was published
17 for the jury.)

18 Q. Okay. Director, the voice of the dispatcher you can
19 hear there, who was that?

20 A. That's Ms. Unar (phonic).

21 Q. She works for you?

22 A. Yes, she does.

23 Q. How long has she been working for you?

24 A. Approximately nine years.

25 Q. And what did dispatch or 9-1-1 do in response to

1 that call?

2 A. We actually sent a deputy to Carissa Lane because
3 the address she was giving is in Florence County. She
4 was actually giving an address in Florence County.
5 That's where she moved from apparently.

6 Q. The second address of Park View?

7 A. Park View or Park Lane, whatever it was that she
8 gave to start off with, the -- what actually happens the
9 dispatcher did what they call a retransmit.

10 MR. ROBINSON: Your Honor -- and I just want to
11 make sure that Mr. Floyd is testifying to this from his
12 own knowledge, not to what the dispatcher did unless he
13 observed that.

14 THE COURT: Rephrase your question.

15 Q. Mr. Floyd, based on your personal knowledge, what
16 did dispatch do, if you know, in response to that call?

17 A. Well, I was actually in the room when this
18 transpired. And she sent a deputy after obtaining the
19 information from the LENE screen. It is a feed that
20 comes in from the phone company that identifies the
21 location, phone number, address, everything on the
22 caller. And sent a deputy to that address.

23 Q. That Carissa Lane address?

24 A. The Carissa Lane address, yes.

25 MR. DURANT: Your Honor, I don't have any

1 further questions for Mr. Floyd.

2 THE COURT: All right.

3 Mr. Robinson, cross-examination?

4 MR. ROBINSON: Just briefly.

5 CROSS-EXAMINATION

6 BY MR. ROBINSON:

7 Q. Mr. Floyd, your only involvement with this was being
8 present when that call came in and then what you just
9 testified about finding out that address and sending it
10 out?

11 A. Yeah. I was in the radio room when all of this was
12 going on, yes.

13 Q. Okay. Beyond that, you have no first-hand knowledge
14 of anything else?

15 A. As far as the case, no, sir.

16 Q. Okay.

17 MR. ROBINSON: Thank you, Your Honor. No
18 further questions.

19 THE COURT: All right. Thank you.

20 Any redirect?

21 MR. DURANT: No, sir, Your Honor.

22 THE COURT: All right. Thank you. You may
23 step down. Any objection to this witness being excused?

24 MR. DURANT: Not from the State, Your Honor.

25 MR. ROBINSON: No objection.

1 THE COURT: All right. Thank you. Have a good
2 day, sir.

3 MR. DURANT: May it please the Court?

4 THE COURT: Yes, sir.

5 MR. DURANT: The State would call Lance
6 Corporal Charles Eaddy.

7 THE COURT: Corporal Eaddy.

8 **CHARLES EADDY,**

9 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

10 DIRECT EXAMINATION

11 BY MR. DURANT:

12 Q. Deputy Eaddy, where do you work?

13 A. Clarendon County Sheriff's Office.

14 Q. How long have you worked there?

15 A. Fourteen years.

16 Q. What is your position at the Sheriff's office?

17 A. I work civil process.

18 Q. One of your duties as a civil process server is to
19 serve legal papers on individuals?

20 A. Yes, sir.

21 Q. Were you working on April 6th of 2011?

22 A. Yes, sir.

23 Q. In that same capacity?

24 A. Yes.

25 Q. Did you have occasion to come in contact with the

1 Defendant in this case, Justin Johnson, on that date?

2 A. Yes, I did.

3 Q. How did that come about?

4 A. I was at 521 and 301. And ---

5 Q. Heading out of Manning?

6 A. Heading out of Manning, yes. And he was on -- and I
7 saw a car come across the intersection where I was. And
8 for some reason I kind of watched it come by me because
9 he was looking at me.

10 Q. When you say the -- is that the railroad tracks,
11 just as you go ---

12 A. Yes, sir. It's the railroad at 301 and 521.

13 Q. Okay.

14 A. I was stopped right there at the light, and he came
15 across. And he circled around me to the side, to my
16 right side.

17 Q. What kind of car was he driving?

18 A. He was driving a -- I think it was a Gray Hyundai.

19 Q. You're at the stoplight, and he circles around you?

20 A. Yes, sir. And he come up to the right side, and I
21 rolled my window down. And he told me someone just shot
22 his girlfriend's grandmother. And I looked over at him,
23 and I said, "Where'd this happen?" And then I noticed
24 blood on his sleeve of his tee shirt. And then I told
25 him, I said, "Well, you lead the way, and I'll follow."

1 Q. Is the individual that you saw with the blood on his
2 shirt in the courtroom today?

3 A. Yes, sir.

4 Q. Would you point him out to us?

5 A. Right there.

6 Q. After he told you what had happened, what did you
7 do?

8 A. Well, we proceeded down June Burn. And as we was
9 going, I radioed dispatch. I asked them did they have a
10 report of a shooting. And they told me, "No." And I
11 told them someone just reported a shooting at Carissa
12 Lane. And then they told me they would get EMS on the
13 way.

14 Q. How far did you have to travel down June Burn Road
15 to get to the location?

16 A. Maybe six or seven miles.

17 Q. And did you follow him all the way there?

18 A. Yes, sir.

19 Q. Any other patrol vehicles or law enforcement there
20 when you got to the scene?

21 A. No, sir.

22 Q. You were the first responder?

23 A. Yes, sir.

24 Q. Tell us what you saw when you got there.

25 A. When I turned in, he went straight. I made a right

1 at the house. When I make the right, I saw a victim.
2 laying on the ground. And I dispatched. I called back
3 on my cop radio telling them people was laying on the
4 ground. I get out of my vehicle. And I looked to the
5 left. There was a gun on the ground. But I went up to
6 her. I started up to her, and I see a pool of blood. So
7 I turn around. I didn't go up to her.

8 Q. Was anybody else in the car with the Defendant?

9 A. Yes.

10 Q. Who? Or how many people?

11 A. Two.

12 Q. Who were they? Do you know?

13 A. Not by name. But I mean, I know one of them ---

14 Q. Male? Female? Child? Adult?

15 A. A child and a female.

16 Q. I want to show you what's been marked for the
17 purposes of identification as State's Exhibit 10. And
18 I'll ask if you recognize that?

19 A. Yes.

20 Q. What is it?

21 A. That's the picture of the residence I went to.

22 Q. Is this how the scene looked when you arrived?

23 A. Yes, sir.

24 Q. Has it been altered or edited in any way?

25 A. No, sir. Not by looking, no, sir.

1 MR. DURANT: Your Honor, at this time, I'd ask
2 to admit State's Exhibit 10 into evidence.

3 THE COURT: Any objection?

4 MR. ROBINSON: No objection.

5 THE COURT: Without objection, State's Exhibit
6 10 is admitted.

7 (WHEREUPON, State's Exhibit Number 10 was admitted
8 into evidence.)

9 MR. DURANT: And I ask permission to publish it
10 to the jury as well, Your Honor.

11 THE COURT: You may.

12 MR. DURANT: I beg the Court's indulgence as I
13 switch my wires around.

14 (WHEREUPON, State's Exhibit Number 10 was published
15 for the jury.)

16 Q. Deputy Eaddy, if you would, with the Court's
17 permission, step over here for me.

18 (WHEREUPON, the witness stepped down from the
19 witness stand.)

20 Q. And I'd ask you to point out to the jury where the
21 body is that you said you saw when you arrived at the
22 scene as well as the gun?

23 A. That's the body right here to your right.

24 Q. Step up here with me and point on the actual
25 picture.

1 A. Right there's the body, and right there's the gun.

2 Q. Okay. While you're here, let me show you what's
3 been marked as State's Exhibit 11 and ask you if you
4 recognize that?

5 A. Yes.

6 Q. And what is that?

7 A. The same photo. The same picture. It's taken at a
8 different angle.

9 Q. Okay. And is this a fair representation of the
10 scene as you found it that day?

11 A. Yes, sir.

12 MR. ROBINSON: No objection, Your Honor.

13 THE COURT: This is State's Exhibit Number 11?

14 MR. DURANT: Yes, sir.

15 THE COURT: It's admitted without objection.

16 (WHEREUPON, State's Exhibit Number 11 was admitted
17 into evidence.)

18 MR. DURANT: And I ask permission to publish
19 this exhibit as well.

20 THE COURT: You may.

21 (WHEREUPON, State's Exhibit Number 11 was published
22 to the jury.)

23 Q. Again, Deputy, if you would, would you point out the
24 victim that you found as well as the gun?

25 A. This the victim, and that's the gun.

- 1 Q. You can have your seat back..
- 2 (WHEREUPON, the witness resumed the witness stand.)
- 3 Q. Deputy, after you arrived on the scene, did you
- 4 notify dispatch of what you found?
- 5 A. Yes, I did.
- 6 Q. Did you attempt to check on the victim on the
- 7 ground?
- 8 A. I went up. I went close to her. But like I say,
- 9 when I saw the puddle of blood, I turned around.
- 10 Q. So you didn't check her vitals or anything?
- 11 A. No, sir.
- 12 Q. Did you question the Defendant or the other
- 13 individual in the vehicle about what had happened?
- 14 A. Not what happened. The only thing I asked them, who
- 15 was Robert, because I tried to get that information so I
- 16 could get it back to the officer on the road.
- 17 Q. And where did you get the name Robert from?
- 18 A. That's what I heard across the radio.
- 19 Q. Did the Defendant or the other individual in the car
- 20 make any statements to you?
- 21 A. No statement. The only thing -- like I say, the
- 22 only thing I asked them was who was Robert.
- 23 Q. And did anybody respond?
- 24 A. They didn't know.
- 25 Q. Let me ask you, when y'all got to the house and you

1 say the Defendant parked -- where did he park?

2 A. I turned to the right, and he went straight on
3 because it's a -- you could turn to the right and go up
4 to the house. And then you can drive on. He pulled
5 straight up.

6 Q. Did he get out of the vehicle?

7 A. Yes, he did.

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

9 A. He came around to the passenger side.

10 Q. And he stood ---

11 A. Stood in the door.

12 Q. In the doorway of the passenger's side.

13 A. Yes.

14 Q. So the door -- the passenger side door of the
15 vehicle was open?

16 A. Yes.

17 Q. Who was sitting in the passenger side of the
18 vehicle?

19 A. The female subject.

20 Q. The adult.

21 A. The adult, yes, sir.

22 Q. And was he standing over her?

23 A. I wouldn't say exactly standing over her, but he was
24 in the door. And she was sitting down.

25 Q. Okay. She was sitting and he was standing?

1 A. Yes, sir.

2 Q. Did you have any further involvement in this case
3 after -- I assume at some point other officers arrived?

4 A. Yes, sir.

5 Q. Did you have any further involvement in this case
6 once other officers responded?

7 A. No, sir.

8 MR. DURANT: I beg the Court's indulgence.

9 THE COURT: Yes, sir.

10 Q. Did you stay at the crime scene for some time, or
11 did you leave immediately? What did

12 A. I stayed at the crime scene for quite a while. I
13 stayed, and anybody that come into the crime scene, I
14 took their name.

15 Q. You took their names? So you kept a log of people
16 who came into ---

17 A. Yes, sir. I keep a log of who come in.

18 Q. But beyond that, you didn't have any involvement in
19 the case?

20 A. No, sir.

21 Q. Deputy Eaddy, thank you for your testimony. I don't
22 have any further questions.

23 A. You're welcome.

24 THE COURT: Mr. Robinson?

25 MR. ROBINSON: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR ROBINSON:

3 Q. Deputy Eaddy, I notice that you've got some
4 paperwork up there with you. And I notice you didn't
5 look at it, which is pretty good. Are you testifying
6 today from your actual memory of this case, or have you
7 reviewed some notes or other matters in preparation for
8 your testimony?

9 A. I looked at my notes, and I've got a pretty good
10 remembrance of it.

11 Q. Okay. But you did look at your notes?

12 A. Yeah, before I came in.

13 Q. Okay. Are those your notes that you have right
14 there?

15 A. Yes, sir.

16 MR. ROBINSON: Your Honor, permission to glance
17 at those.

18 THE COURT: You may.

19 Q. May I look at those real quick?

20 (WHEREUPON, Mr. Robinson reviewed notes.)

21 Q. Thank you.

22 A. You're welcome.

23 Q. Let me ask you just a few questions about what you
24 recall that day. Now, the photographs that the State has
25 put into evidence that you identified, you said that they

1 accurately represent the scene the best you can recall?

2 A. Yes, sir.

3 Q. And that you took down the names of everybody who
4 entered the crime scene that day?

5 A. Yes, sir.

6 Q. Do you have an idea of when that particular
7 photograph was taken? I mean, I know it was taken that
8 day. But was it -- did you take that photograph?

9 A. No, sir.

10 Q. Was it taken after several other people arrived?

11 A. I would say, yes, but I didn't see no one took that
12 photo.

13 Q. Okay. Do you know if SLED took that photograph or
14 someone in your department?

15 A. No, sir. I don't know who took it.

16 Q. Okay. Would you agree with me that throughout the
17 course of that day, that there were some twenty-odd
18 officers from SLED or the Sheriff's department or other
19 law enforcement that came in and out of this crime scene?

20 A. I don't know the exact number, but ---

21 Q. It was a lot of them, wasn't it?

22 A. Yes, sir.

23 Q. Okay. And you don't really have any idea whether
24 that picture was taken before these people came in and
25 out of the crime scene or after; is that correct?

1 A. That's correct.

2 Q. Okay. Now, you said that the car at 521 and 301,
3 right there at the railroad tracks, turned around and
4 they actually flagged you down; is that correct?

5 A. Yes, sir. Where I was stopping, yes, sir.

6 Q. And they came up to you?

7 A. Came up to me.

8 Q. Mr. Johnson was driving the car?

9 A. Yes, sir.

10 Q. When he saw you, he didn't hit the gas and go the
11 other way?

12 A. No, sir.

13 Q. Was he -- did you see him holding a gun to anybody
14 in the car?

15 A. No, sir.

16 Q. Did he have a gun in the car?

17 A. To the best of my knowledge, no, sir.

18 Q. Okay. The only gun that you're aware of is that gun
19 in that picture; is that right?

20 A. Yes, sir.

21 Q. And it was laying in the yard when y'all pulled up;
22 is that right?

23 A. That's right.

24 Q. And you didn't -- when Mr. Johnson first pulled up
25 beside you, did you pull your weapon on him?

- 1 A. No, sir.
- 2 Q. Did you stick him in handcuffs or put him in the
- 3 car?
- 4 A. No, sir.
- 5 Q. Was anybody in the car crying or screaming, "Help
- 6 me, help me," or anything of that nature?
- 7 A. No, sir.
- 8 Q. Okay. Mr. Johnson told you what had happened, that
- 9 somebody had shot Ms. Kaisha's grandmother, Ms. Maxine?
- 10 A. Yes, sir.
- 11 Q. And you said, lead the way; is that right?
- 12 A. That's right.
- 13 Q. And he took you back to the house; is that correct?
- 14 A. That's correct.
- 15 Q. He didn't try to run from you then?
- 16 A. No, sir.
- 17 Q. When you turned in and turned to the right and he
- 18 went straight, he didn't take off down a dirt road or do
- 19 a u-turn and squeal out the yard?
- 20 A. No, sir.
- 21 Q. Did you ever see him do anything that caused you to
- 22 be concerned for your safety around Mr. Johnson?
- 23 A. No.
- 24 Q. Was he acting in a threatening way?
- 25 A. No, sir.

1 Q. Did he seem to be outraged or angry?

2 A. No, sir.

3 Q. And the Robert that you were asking about, you heard
4 that across the radio; is that right?

5 A. That's right.

6 Q. You didn't hear that from Mr. Johnson, did you?

7 A. No, sir.

8 MR. ROBINSON: Thank you. I don't have any
9 further questions.

10 THE COURT: Any redirect?

11 MR. DURANT: Just one follow-up.

12 REDIRECT EXAMINATION

13 BY MR. DURANT:

14 Q. Deputy, the two items that you identified in that
15 photograph, the body and the gun, had they been moved
16 from their original location that you found them from
17 when that photograph was taken?

18 A. No, sir.

19 Q. Okay.

20 MR. DURANT: No further questions.

21 THE COURT: All right. Any recross?

22 MR. ROBINSON: No, sir.

23 THE COURT: Thank you. Any objection to this
24 witness being excused?

25 MR. ROBINSON: No objection.

1 THE COURT: Thank you.

2 All right. We've been in here for over an hour.

3 Why don't we take a ten-minute recess. They'll provide
4 you a Coca-Cola or coffee or anything you want in there.

5 Please do not discuss anything about the case while
6 you're in your jury room. Thank you.

7 Hold it. Let the jury ...

8 (WHEREUPON, the jury exited the open courtroom at
9 approximately 11:15 a.m.)

10 THE COURT: Now the court is in recess.

11 MR. ROBINSON: Thank you.

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

14 MR. DURANT: Judge, may we approach real quick?

15 THE COURT: You may.

16 (WHEREUPON, a bench conference was held off the
17 record.)

18 THE COURT: Anything on the record before we
19 bring the jury in?

20 MR. FINNEY: No, Your Honor.

21 MR. ROBINSON: No, Your Honor.

22 THE COURT: Okay. Let's bring our jury.

23 (WHEREUPON, the jury entered the open court at
24 approximately 11:32 a.m.)

25 THE COURT: All right. Thank you. You may be

1 seated.

2 Ms. Byrd, I understand that the glare from out there
3 is bothering you. And anybody else, if it's a problem,
4 if you need to wear sunglasses, because y'all are looking
5 out that way. That's for a particular purpose. We're
6 not trying to be cool or anything.

7 All right. The State may call its next witness.

8 MR. DURANT: Thank you, Your Honor. The State
9 calls Mr. John Caraway.

10 **JOHN CARAWAY, JR.,**

11 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

12 DIRECT EXAMINATION

13 BY MR. DURANT:

14 Q. Mr. Caraway, where do you live?

15 A. , Manning.

16 Q. And how long have you lived there?

17 A. Twenty-five years.

18 Q. Twenty-five years?

19 A. Yeah, approximately.

20 Q. Mr. Caraway, Ms. Maxine Caraway that we've spoken
21 about in court here today, was that your wife?

22 A. Yes, it was.

23 Q. How long were y'all married?

24 A. Thirty-seven years.

25 Q. I'm going to show you what's been marked as State's

1 Exhibit 38 and ask if you recognize that?

2 A. This is her.

3 Q. Is that Ms. Maxine?

4 A. Yes, it is.

5 MR. DURANT: Your Honor, I just want to ask to
6 admit State's 38 into evidence.

7 THE COURT: Any objection?

8 MR. ROBINSON: Subject to my prior objection.

9 THE COURT: Overruled.

10 MR. DURANT: Permission to publish to the jury.

11 THE COURT: State's Exhibit Number 38 is
12 admitted over the Defendant's objection. You may
13 publish.

14 (WHEREUPON, State's Exhibit Number 38 was admitted
15 into evidence and published for the jury.)

16 Q. How old was Ms. Maxine in that picture?

17 A. She would be sixty-two today.

18 Q. How old was she in this picture?

19 A. Well, three years from now, so I guess she'd be
20 fifty-eight, fifty-nine.

21 Q. Let me show you what's been marked as State's
22 Exhibit 52 and ask what this is?

23 A. This is June Burn Road. I really can't make it out.

24 Q. Okay. You just recognize June Burn Road ---

25 A. Yeah.

1 Q. --- but you don't recognize the houses?

2 A. No.

3 Q. Mr. John, I'm going to go back to April the 6th of
4 2011 and just ask you a few questions. Well, let me back
5 up. Do you work?

6 A. Yes, I do.

7 Q. Where do you work?

8 A. Pilgrim's Pride in Sumter.

9 Q. Were you working there back in 2011?

10 A. Yeah.

11 Q. And did you work on April the 6th of 2011?

12 A. Yes, I did.

13 Q. Do you remember what day of the week it was?

14 A. I don't.

15 Q. What time do you have to go to work?

16 A. I think it was about eight thirty.

17 Q. Okay. Did you drive to work?

18 A. Yes, I did.

19 Q. When you left to go to work that day, who was at
20 your house?

21 A. Justin was there.

22 Q. Justin Johnson?

23 A. Yes, he was.

24 Q. Who else was there?

25 A. My wife.

- 1 Q. Ms. Maxine?
- 2 A. Yeah.
- 3 Q. Did she work?
- 4 A. No.
- 5 Q. And was she awake when you left home that day?
- 6 A. Yes, she was.
- 7 Q. And what was she doing?
- 8 A. She was -- well, she'd just got up before I leave,
- 9 and the two grand kids was there, the boy and the girl.
- 10 Q. The two grand -- what are their names?
- 11 A. Great grand kids. Kaisha -- I mean, K.C. and
- 12 J.C. .
- 13 Q. Were the great grandchildren's mother there as well?
- 14 A. Yeah. Maxine was. Kaisha was, yeah.
- 15 Q. Okay. Was everybody awake when you left home?
- 16 A. Yeah.
- 17 Q. How about Mr. Johnson? Did he live there?
- 18 A. No.
- 19 Q. What was he doing there at eight thirty in the
- 20 morning?
- 21 A. I asked my wife what was he doing there so early.
- 22 She said he came to take the ---
- 23 MR. ROBINSON: Your Honor, I'm going to object
- 24 to that.
- 25 THE COURT: Sustained.

1 A. He came to take the baby to the doctor.

2 THE COURT: Sir, sir, you can't say anything.

3 I sustained the objection.

4 THE WITNESS: Okay.

5 THE COURT: Thank you.

6 Q. Don't tell me what anybody else said. Mr. Johnson
7 didn't stay there overnight?

8 A. No.

9 Q. He had come there at some point that morning?

10 A. Yes.

11 Q. Did you have any conversation with Mr. Johnson that
12 day?

13 A. No.

14 Q. Was he inside the house when you left?

15 A. I think he was still at the car.

16 Q. He was outside at the car?

17 A. Yeah.

18 Q. Do you remember what his car looked like?

19 A. I don't even remember.

20 Q. Was it unusual for Mr. Johnson to be at your house?

21 A. Was it what?

22 Q. Was it unusual for Mr. Johnson to be at your house?

23 A. Well, I thought it was after they had broke up, my
24 granddaughter and him had broke up. I thought it was
25 unusual.

- 1 Q. And that's your granddaughter, Kaisha?
- 2 A. Yeah.
- 3 Q. So she had been dating Mr. Johnson at some point in
- 4 time?
- 5 A. Yeah.
- 6 Q. And as far as you know, were they dating on April
- 7 the 6th of 2011?
- 8 A. Not that I know of.
- 9 Q. The two great grandchildren that you mentioned,
- 10 K.C. and J.C. , are those Mr. Johnson's children?
- 11 A. As far as I know.
- 12 Q. As far as you know? Did Mr. Johnson come around to
- 13 your house often?
- 14 A. Not too often.
- 15 Q. After you left home that day and you went to work,
- 16 at some point were you contacted and informed of what had
- 17 happened?
- 18 A. Yes.
- 19 Q. Do you remember who contacted you?
- 20 A. A guy I work with, he contacted me. He said I need
- 21 to go up front. He said I needed to go up to personnel.
- 22 I didn't know what had happened.
- 23 Q. Did you drive back home?
- 24 A. No.
- 25 Q. Did somebody come get you or what?

1 A. No. Personnel told me that a deputy sheriff was out
2 there, needed to see me. And he told me I need to go
3 home. He was going to take me as far as the county line.

4 Q. And do you remember what time of day that was?

5 A. I think that must have been around nine. I'm not
6 sure.

7 Q. Sometime in the morning?

8 A. Yeah, in the morning.

9 Q. Do you remember about how long you had been at work
10 when that had happened?

11 A. Maybe thirty-five minutes or thirty minutes. It
12 wasn't long.

13 Q. After you saw Mr. Johnson that morning, did you ever
14 see him again on April 6th?

15 A. I saw his car.

16 Q. Where?

17 A. Turning toward Wal-Mart, cause when I left, I went
18 by the Bank of Clarendon and went down the Old Georgetown
19 Road to go -- there's a truck stop turning going to
20 Sumter. And just before I got to that light, I saw his
21 car going down in to Wal-Mart.

22 Q. Did you notice whether anybody was in the car with
23 him?

24 A. I couldn't see because the children was in there. I
25 couldn't see them in the car seat.

1 Q. Mr. Johnson [sic], I want to show you what's been
2 marked as State's Exhibit 23 and ask you what that is?

3 A. That's my front door.

4 Q. The front door to your house at ?

5 A. That's right.

6 Q. Was it in that condition when you left for work that
7 morning?

8 A. No.

9 MR. DURANT: Your Honor, at this time I'd ask
10 to admit State's Exhibit 23 into evidence.

11 THE COURT: Any objection?

12 MR. ROBINSON: Your Honor, I don't think that's
13 been properly authenticated. He just testified it wasn't
14 in that condition when he left. So I don't there's been
15 a proper foundation.

16 THE COURT: Right. You'll have to get that
17 through another witness. Sustained.

18 Q. Mr. Johnson, I'm going to also show you State's
19 Exhibit 24 and ask if you recognize that?

20 A. Yes.

21 Q. What is it?

22 A. The front door of my house.

23 Q. And was it in that condition when you left for work
24 on April 6th of 2011?

25 A. No.

1 Q. Okay.

2 MR. DURANT: I beg the Court's indulgence.

3 THE COURT: Yes, sir.

4 Q. Mr. Caraway, when you saw Justin Johnson the second
5 time on April the 6th near Wal-Mart, in which direction
6 was he headed?

7 A. Toward the truck stop.

8 Q. Towards Paxville?

9 A. Yeah.

10 Q. When you got to the house that morning after the --
11 a deputy took you to the house?

12 A. No. He stopped at the county line where Clarendon
13 County picked me up and took me on to the house.

14 Q. A Clarendon County deputy met you at the ---

15 A. Yes.

16 Q. When you got to the house, tell me what you learned
17 had happened.

18 A. I never got to the house. The closer we get, I saw
19 a lot of cars and people standing around the lane. So I
20 asked them what had happened, what was going on at my
21 house? So he just drove on up and told me to get out and
22 go talk with the sheriff.

23 Q. And at some point, were you given the information
24 about what had happened that day?

25 A. Yeah. The sheriff told me right then that there had

1 been a fatality at my house. And they got the person
2 what did it.

3 MR. ROBINSON: Your Honor, I'm going to object.
4 That's hearsay.

5 THE COURT: Sustained.

6 Q. Were you given any information about who the victims
7 were of the fatalities?

8 A. They said two fatalities.

9 Q. Of the two fatalities, were you given information
10 about who the victims were?

11 A. I don't think so.

12 Q. And were you told who was dead?

13 MR. ROBINSON: Your Honor, I think he's asking
14 him to testify to hearsay. I mean, clearly that would
15 have had to come from somebody else.

16 THE COURT: Sustained.

17 Q. Mr. Caraway, when you got back to your house that
18 morning, you say there were a lot of vehicles in the
19 yard? Was Justin Johnson's vehicle in the yard that day,
20 the same car as you had seen?

21 A. (Nodded head up and down in the affirmative.)

22 MADAM COURT REPORTER: Is that a yes?

23 THE COURT: You need to answer yes or no, sir.

24 A. Yes.

25 Q. Mr. Johnson's car was in the yard that morning?

1 A. Yes.

2 Q. Is that the same vehicle you had seen in town
3 earlier?

4 A. Yes.

5 Q. The same vehicle that he had been in at your house
6 in when you left for work?

7 A. Yes.

8 MR. DURANT: Your Honor, I don't have any
9 further questions.

10 THE COURT: Mr. Robinson?

11 MR. ROBINSON: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. ROBINSON:

14 Q. Mr. Caraway, I want to just ask you a few questions.
15 I know this is difficult. I apologize for having to go
16 through this, but I do appreciate your willingness to do
17 this.

18 What time did you have to be at work at Pilgrim's
19 Pride in Sumter that particular morning?

20 A. I can't really say right now because that was three
21 years ago. And I go all different times in the day. Any
22 different time. But I know it was after seven.

23 Q. Okay.

24 A. Around about eight or eight thirty.

25 Q. And you said you were going to the bank before you

- 1 went to work?
- 2 A. Yeah.
- 3 Q. To the Bank of Clarendon?
- 4 A. Yeah.
- 5 Q. Did you transact some business at the Bank of
- 6 Clarendon?
- 7 A. I intended to. But, now, whether I did, I don't
- 8 remember.
- 9 Q. Okay. Did anybody ask you that day or subsequent
- 10 when they were talking about this whether you went to the
- 11 Bank of Clarendon?
- 12 A. No.
- 13 Q. Nobody asked you where you were?
- 14 A. No.
- 15 Q. When did you tell law enforcement about seeing Mr.
- 16 Johnson's car out toward Wal-Mart?
- 17 A. (No verbal response)
- 18 Q. Was that within a few days of this happening?
- 19 A. I think so, yes.
- 20 Q. So they were asking you some questions?
- 21 A. Yes.
- 22 Q. And in response to their questions you told them, "I
- 23 saw his car after I left the house out toward Wal-Mart"?
- 24 A. Yeah, going toward.
- 25 Q. Right. And you told them I was headed to the Bank

1 of Clarendon?

2 A. Well, I had done been by the Bank of Clarendon.

3 Q. Okay. And so you did some business at the Bank of
4 Clarendon?

5 A. Well, I don't know that I did business or they were
6 -- too early. I don't know. But I did been by there.

7 Q. Okay. To your knowledge, did anybody ask for your
8 banking records to see what time you went to the Bank of
9 Clarendon specifically?

10 A. No.

11 Q. Do you have any idea what time specifically you were
12 in Manning that morning?

13 A. No.

14 Q. Okay. So you don't know exactly what time it was
15 when you saw Justin the second time in Manning?

16 A. No, not exactly.

17 Q. Rough guesstimate, what time do you think it was
18 when he was heading out towards Wal-Mart?

19 A. Well, if I had to be to work by eight-thirty -- so
20 it had to be -- I don't know -- something 'till eight, I
21 guess.

22 Q. Okay. So when you left your house -- and that's
23 what I was asking earlier. You said -- you talked about
24 eight-thirty. And I just didn't understand whether that
25 was when you had to be at work or when you left the

- 1 house. That's all I'm trying to get straight in my mind.
- 2 So you think you had to be at work at eight thirty?
- 3 A. That's what I'm thinking now.
- 4 Q. Okay. That's fine. And I know that's been a long
- 5 time ago ---
- 6 A. Yes, sir.
- 7 Q. --- and that's what I'm saying.
- 8 A. Yes, sir.
- 9 Q. I'm trying to keep it straight with -- so you think
- 10 you saw Justin prior to eight o'clock? If you had to go
- 11 by the Bank of Clarendon or at least try to go by the
- 12 Bank of Clarendon, and then get all the way to Sumter, it
- 13 would take -- how long would it take you to get to
- 14 Manning -- I mean Sumter to Manning?
- 15 A. From Sumter to Manning, about thirty-five minutes.
- 16 Q. So you would have had to leave -- not your house.
- 17 I'm talking about the town of Manning, downtown. It
- 18 takes you about thirty-five minutes?
- 19 A. I would think so.
- 20 Q. Okay. So it would have been before eight o'clock
- 21 when you needed to leave the town of Manning to get to
- 22 your job?
- 23 A. Probably so.
- 24 Q. Okay. So based on that, you believe it would have
- 25 been prior to eight o'clock when you saw Justin in town?

- 1 A. It could have been. Could have been.
- 2 Q. Okay. Now, you testified that when you left the
- 3 house that morning, whatever time it was the first time,
- 4 Justin was there in the yard?
- 5 A. Yes.
- 6 Q. Is that right?
- 7 A. Yes.
- 8 Q. And Kaisha, your wife, and your great grands were
- 9 there; right?
- 10 A. Right.
- 11 Q. Okay. I think you said Justin -- did y'all speak at
- 12 all when you left the yard?
- 13 A. Normally, I'd say, "Good morning."
- 14 Q. Okay. Did he do anything that caused you fear to
- 15 leave him at your house?
- 16 A. No.
- 17 Q. Act out of the way?
- 18 A. No.
- 19 Q. Say anything ugly?
- 20 A. No.
- 21 Q. Did he look angry to you?
- 22 A. No.
- 23 Q. Did you see him with a gun or do anything like that?
- 24 A. No.
- 25 Q. Nothing at that point to cause you any concern

1 whatsoever?

2 A. No.

3 Q. Did you -- when you saw Justin's car the second time
4 or Justin in his car headed out toward Wal-Mart going
5 towards Paxville, did you call anybody on the phone or
6 tell anybody or you just remembered that later?

7 A. No. Just went on to work.

8 Q. Okay. You didn't ever call Kaisha and say,
9 "Justin's over here"?

10 A. No.

11 Q. Okay.

12 MR. ROBINSON: The Court's indulgence for just
13 a moment.

14 THE COURT: Yes, sir.

15 MR. ROBINSON: No further questions, Your
16 Honor.

17 THE COURT: Any redirect?

18 MR. DURANT: Just briefly, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. DURANT:

21 Q. Mr. Caraway, I don't want to pin you down on time,
22 but Mr. Robinson asked you several different ways what
23 time it was when you saw Mr. Johnson. Let me just ask
24 you this. Was it after he had been at your house that
25 morning?

1 A. Yes.

2 Q. When you saw him in Manning ---

3 A. Yes.

4 Q. --- that was after you'd seen him at your house
5 earlier?

6 A. Yes.

7 Q. Okay.

8 MR. DURANT: I don't have any further
9 questions.

10 THE COURT: All right. Thank you.

11 Any recross based on that?

12 MR. ROBINSON: No, thank you.

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

14 MR. DURANT: Your Honor, we intend to call a
15 rather lengthy witness, and we'd like to take our lunch
16 break at this time if you don't mind.

17 THE COURT: All right. Well, yeah, we'll do
18 that.

19 Ladies and gentlemen, we're going to go ahead and
20 break early for lunch. And we'll reconvene at one
21 thirty. So that gives you a fairly long lunch period.
22 But be back here a little bit before one thirty, and then
23 we'll have a full afternoon. Please do not discuss the
24 case with anyone as you leave. And I will need to see
25 the Foreman for just a moment. If you could stay, Mr.

1 THE COURT: Thank you.

2 Ladies and gentlemen, I hope you had a nice lunch.

3 I hope you didn't eat a whole lot. I had a jury one time
4 that all went out and had a huge lunch, and we went long
5 in the afternoon. And as we were going, one of the
6 jurors fell completely asleep. So I hope you didn't eat
7 a great amount. We'll take a number of breaks to make
8 sure you stay alert. Quite frankly, the sun shining
9 brightly may keep you awake just on its own.

10 (WHEREUPON, the juror entered the courtroom.)

11 THE COURT: Have you we got everybody here now?

12 I think we do, yes.

13 All right. The State may call its next witness.

14 MR. FINNEY: Thank you, Your Honor. We call
15 Kaisha Caraway.

16 **KAISHA CARAWAY,**

17 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

18 DIRECT EXAMINATION

19 BY MR. FINNEY:

20 Q. How are you today?

21 A. I'm okay.

22 THE COURT: Ma'am, you're going to have to
23 speak up louder so we can all hear you, all right?

24 THE WITNESS: Okay.

25 THE COURT: Thank you.

1 Q. Tell the ladies and gentlemen your name.

2 A. Kaisha Caraway.

3 Q. Good. That's fine. Tell us a little bit about you.

4 Where do you live?

5 A. I now live in Sumter, but I grew up in Manning.

6 Q. All right. And your grandmother was Maxine Caraway?

7 A. Yes.

8 Q. All right. And in April of 2006 -- excuse me.

9 April of 2013 -- I'm sorry. I'm confused. In April of
10 2011, you were living with Ms. Maxine Caraway and her
11 husband John?

12 A. Yes.

13 Q. Tell us how old you were then.

14 A. Twenty-one.

15 Q. All right. And tell us a little bit about your
16 life. Did you go to high school in Clarendon County?

17 A. Yes.

18 Q. When did you graduate? What school?

19 A. Manning High School in 2008.

20 Q. 2008. And after high school, did you go on to study
21 or go to work or what?

22 A. I was in the National Guard for a while, but I got
23 out once I got pregnant with my daughter.

24 Q. All right. And you had two children in your life?

25 A. Yes.

- 1 Q. And your daughter is the oldest?
- 2 A. Yes.
- 3 Q. What's her name?
- 4 A. K.C.
- 5 Q. And spell that for us?
- 6 A. K.C. apostrophe capital K.C.
- 7 Q. And do you call her K.C. ?
- 8 A. Yes.
- 9 Q. K.C.
- 10 A. Yes.
- 11 Q. And what year was she born?
- 12 A. 2009.
- 13 Q. All right. And did you subsequently have another
- 14 child named J.C. ?
- 15 A. Yes.
- 16 Q. What year was he born?
- 17 A. 2010.
- 18 Q. All right. So you had K.C. in 2009, J.C. in
- 19 2010?
- 20 A. Yes.
- 21 Q. All right. Now, do you know Justin Johnson?
- 22 A. Yes.
- 23 Q. Where did you meet him?
- 24 A. At drill with the National Guard.
- 25 Q. All right. And where were you drilling at that

1 time?

2 A. In Hemingway.

3 Q. All right. And this was the Army Guard?

4 A. Army National Guard.

5 Q. And did you know him before you met him at drill?

6 A. No.

7 Q. All right. So you all were in the same unit?

8 A. Yes.

9 Q. And as a result of that, you all became romantic?

10 A. Yes..

11 Q. All right. How long did that take? How long did

12 you all know and go out and date before you became

13 romantic?

14 A. I don't remember.

15 Q. All right. After a while and because of a

16 relationship you had with Justin -- who was the father of

17 K.C. ?

18 A. Justin.

19 Q. All right. And she was born in 2000 ---

20 A. 9.

21 Q. 9. What month?

22 A. February.

23 Q. All right. And after she was born, did you all

24 change your relationship? In other words, did you ever

25 get married?

- 1 A. No.
- 2 Q. All right. Did you ever move in together?
- 3 A. No.
- 4 Q. Did you ever live with him and his family?
- 5 A. No.
- 6 Q. Did he ever live with you and your family?
- 7 A. No.
- 8 Q. Okay. And after the baby was born, K.C., did that
- 9 ever change? Did that ever change after she was born?
- 10 A. No.
- 11 Q. Okay. During the time after K.C. was born until
- 12 J.C. was born, you were out of drill then?
- 13 A. Yes.
- 14 Q. All right. And what were you doing in your life
- 15 after the baby girl was born?
- 16 A. I was going to school at Central Carolina.
- 17 Q. All right. Is that in Sumter, or is that here?
- 18 A. It's in Manning.
- 19 Q. In Manning? Is that at Dubose?
- 20 A. Yes.
- 21 Q. And what were you studying?
- 22 A. At the time, nursing.
- 23 Q. Nursing? All right. Where were you living when you
- 24 had the baby and was studying nursing?
- 25 A. With my grandparents.

1 Q. And give me the address there.

2 A. , Manning.

3 Q. All right. Can you tell the jury a little bit, just
4 -- because I don't think we've done this. How would you
5 leave here today and get to Carissa? Some general
6 directions.

7 A. It would be straight down this highway.

8 Q. This highway right out here?

9 A. Yes. And you would turn left by Piggly Wiggly.

10 Q. At the Piggly Wiggly turn left?

11 A. And then go all the way down to right in front of
12 where EZ Mart is on the side of City Train (phonic), make
13 the right, and then at the light make a left. And it's
14 going through the swamp.

15 Q. Right.

16 A. And then at the light at the swamp, you would make a
17 right and then another quick right on June Burn.

18 Q. All right. So you make a right off of 521?

19 A. Yes.

20 Q. That's the road the school is on, Dubose?

21 A. Yes.

22 Q. And once you get on June Burn, how long do you have
23 to go down before you get to Carissa?

24 A. About five or six miles.

25 Q. All right. When you get to Carissa, is there -- Mr.

- 1 Caraway's house is off the road there?
- 2 A. Yes, it's off the road.
- 3 Q. All right. And how many people lived there in that
- 4 house in April of 2011? Just name them.
- 5 A. Me, J.C. , K.C. , my grandfather and my
- 6 grandmother.
- 7 Q. All right. Five people. When you went to school,
- 8 was that during the day or during the evening or both?
- 9 A. I went online unless I had a test.
- 10 Q. All right. So you had online training?
- 11 A. Yes.
- 12 Q. And did you have a computer?
- 13 A. Yes.
- 14 Q. How did you get the computer?
- 15 A. My grandmother bought a laptop for me.
- 16 Q. All right. And how far into the training -- were
- 17 you one semester in, two semesters into your training
- 18 when this incident happened, the shooting at the house?
- 19 A. I wasn't going to Central Carolina then.
- 20 Q. All right. Were you still doing online training?
- 21 A. Yes. I was going to Ford Sale (phonic), Ford mobile
- 22 technician.
- 23 Q. All right. And was that still online?
- 24 A. Yes.
- 25 Q. All right. Now, when you're doing your online

1 training, it's up to you to set your schedule? Did you
2 have to go down to the library or go to the classes?

3 A. They sent me a laptop for that school.

4 Q. All right. And you were using it to prepare your
5 classes?

6 A. Yes.

7 Q. All right. At the time who was taking care of
8 K.C. in 2011 and the baby, J.C. ?

9 A. I was.

10 Q. All right. So you were doing -- you were basically
11 an at-home student with at-home daycare responsibilities?

12 A. Yes.

13 Q. All right. When J.C. was born, that was in 2009?

14 A. 2010.

15 Q. I'm sorry. 2010. He was born where?

16 A. Clarendon Memorial Hospital.

17 Q. All right.. And did you have a discussion with the
18 father of the child? Who was the father of the child?

19 A. Justin.

20 Q. He knew about that?

21 A. Yes.

22 Q. Was he there when the baby was born?

23 A. No.

24 Q. After the baby was born up until the baby was killed
25 -- the baby was nine months old?

1 A. Yes.

2 Q. All right. Would you identify this, please, for me?

3 This is State's Exhibit Number 54? Can you tell us what
4 this is?

5 A. A picture of J.C.

6 Q. And this was J.C. at about how old?

7 A. Seven months.

8 Q. All right.

9 MR. FINNEY: I'd like to introduce it into
10 evidence.

11 THE COURT: Any objection?

12 MR. ROBINSON: I just renew my earlier
13 objection, Your Honor.

14 THE COURT: Overruled.

15 (WHEREUPON, State's Exhibit Number 54 was admitted
16 into evidence.)

17 MR. FINNEY: Permission to publish it?

18 THE COURT: Yes.

19 (WHEREUPON, State's Exhibit Number 54 was published
20 to the jury.)

21 Q. Where was this picture taken?

22 A. At our house on Carissa Lane.

23 Q. All right. Did you take the picture?

24 A. Yes.

25 Q. All right. And he was about seven months old?

1 A. Yes.

2 Q. Now, is that an accurate representation of how he
3 looked when he was seven months old?

4 A. Yes.

5 Q. He's kind of a big baby?

6 A. Yes.

7 Q. All right. When you were at the house in April of
8 2011 and you had a nine-month-old boy and a two-year-old
9 girl, were you getting help from Justin? Support as far
10 as his time, his money, any kind of support?

11 A. Very little.

12 Q. All right. How often would you see him for help in
13 transporting the children or taking the children out or
14 anything like that?

15 MR. ROBINSON: Your Honor, I have an objection.
16 I understand some of this. But basically what we've got
17 is every question that the Solicitor is asking is either
18 leading or suggests the answer. I would really prefer to
19 have the witness testify rather than ---

20 THE COURT: Right.

21 MR. ROBINSON: And I understand it saves time.
22 But as we go forward into the substance of this, I would
23 ask that he ---

24 THE COURT: All right. Watch your questions,
25 Solicitor.

1 MR. ROBINSON: Thank you.

2 Q. How much time and effort would Justin spending
3 helping you with the children?

4 A. He mostly helped with K.C. , and it was maybe once a
5 week, if that.

6 Q. All right. During this time in April, did you have
7 an occasion to set up a medical appointment for the
8 children?

9 A. Yes.

10 Q. All right. And where did you have the medical
11 appointment set up at?

12 A. At Black -- it was Black River at the time. Black
13 River Health Care.

14 Q. Is that a clinic here in Manning?

15 A. Yes.

16 Q. Had the children been seen there before?

17 A. Yes.

18 Q. All right. On April the 6th did you have a
19 discussion either that day or the day before about
20 getting the kids to the medical clinic?

21 MR. ROBINSON: Your Honor -- and I'm going to
22 renew the objection again. The answers are in the
23 question. The witness is just saying yes or no. This is
24 direct. He can perhaps ask her to account the events of
25 that day.

1 THE COURT: All right. Solicitor, if you could
2 kind of not lead.

3 Q. Did you have any discussions with Justin ---

4 A. Yes.

5 Q. --- regarding the children?

6 A. Yes.

7 Q. What was that discussion about?

8 A. Taking them to the doctor that morning.

9 Q. All right. And what was the resolution? What did
10 you all come to understand?

11 A. When I initially asked him, he said he wasn't going
12 to be able to take them.

13 Q. He was not?

14 A. Yeah, he was not.

15 Q. Did you have a car in April of 2011?

16 A. I did not.

17 Q. And did Ms. Maxine have a car?

18 A. Yes.

19 Q. And did Mr. John have a car?

20 A. Yes.

21 Q. And how did you get from one place to another if you
22 needed a ride?

23 A. My grandmother took me mostly or my grandfather if
24 he was off work.

25 Q. All right. When did you see Justin at your house on

- 1 April the 6th, 2011?
- 2 A. It was first thing that morning.
- 3 Q. All right.
- 4 A. He called and said he was outside.
- 5 Q. He called you on the phone?
- 6 A. Yes. And said he was outside.
- 7 Q. And were you expecting him?
- 8 A. No.
- 9 Q. All right. What was your reaction to him being
- 10 there? What did you do next?
- 11 A. I asked him why he was there. He said he was going
- 12 to take the kids to the doctor. And so I got up and
- 13 began getting them dressed.
- 14 Q. So you got up out of what?
- 15 A. Out of bed.
- 16 Q. You were still in the bed when he got there?
- 17 A. Yes.
- 18 Q. And he called you?
- 19 A. Yes.
- 20 Q. All right. You hadn't prepared the children?
- 21 A. No.
- 22 Q. All right. How long did that take to prepare the
- 23 children?
- 24 A. About thirty minutes.
- 25 Q. While you were preparing the children, was Justin

1 inside your house?

2 A. No. He was outside. I actually took J.C. outside
3 and asked him to finish getting J.C. dressed so that I
4 could get K.C. dressed.

5 Q. All right. How did you take J.C. outside?

6 A. He was in a blanket, and I had his clothes with me.

7 Q. Did you have to take anything else out?

8 A. His car seat and his bag.

9 Q. All right. And those items you took out to ---

10 A. The car, yes.

11 Q. All right. I want to show you what's been marked as
12 State's Exhibit Number 25 and ask if you can identify it?

13 A. Yes.

14 Q. Tell us what that is.

15 A. Justin's car.

16 Q. All right. What color is the car?

17 A. Dark gray.

18 MR. FINNEY: All right. Any objection?

19 MR. ROBINSON: No, no objection.

20 THE COURT: Without objection, State's Exhibit
21 -- what is this?

22 MR. FINNEY: 25, Your Honor.

23 THE COURT: --- 25 is admitted.

24 (WHEREUPON, State's Exhibit Number 25 was admitted
25 into evidence.)

- 1 Q. Had he had that car for a long period of time?
- 2 A. I think it was since maybe January or February of
- 3 that year.
- 4 Q. All right. Is that the car he was in that morning
- 5 of April 6th when he was at the house?
- 6 A. Yes.
- 7 Q. All right. After you took the baby out, what was
- 8 your next responsibility that day?
- 9 A. Taking K.C. -- getting K.C. dressed.
- 10 Q. All right. Could the baby walk?
- 11 A. No.
- 12 Q. How about K.C. ?
- 13 A. Yes.
- 14 Q. She was about two?
- 15 A. Yes.
- 16 Q. Did you have to carry anything out with K.C. ?
- 17 A. Her car seat.
- 18 Q. All right. And where did you put K.C. in the car?
- 19 A. In the back seat with her car seat.
- 20 Q. And how about J.C. ?
- 21 A. He was already in the back seat.
- 22 Q. All right. Did you have any discussions with Mr.
- 23 Johnson that morning about the children and where they
- 24 were going?
- 25 A. Just -- he wanted me to go with them, but I didn't

1 feel comfortable with it. So I just told him where they
2 were going and what was wrong with them so he could tell
3 the doctor.

4 Q. All right. Had you had any conversation with him
5 earlier that day on April 6th about going with him
6 anywhere or doing anything for him to help him?

7 A. No.

8 Q. All right. Had he been to Black River Health Care
9 before with the children?

10 A. I honestly don't remember.

11 Q. You don't remember? Had you ever been with the kids
12 at Black River with Justin before April the 6th?

13 A. He's dropped us off, but he's never been in.

14 Q. All right. Now, at the time that the kids were in
15 the car, did Justin leave immediately?

16 A. No.

17 Q. Why not?

18 A. He still wanted me to go with them.

19 Q. All right. And what was the nature of your
20 conversation with him about that?

21 A. I didn't want to go with him. I told him he would
22 be fine to take them by his self.

23 Q. All right. Let me ask you this, now. At this time
24 in your relationship with Justin, April 6th, 2011 -- the
25 baby's nine months old -- had you all been seeing each

1 other on and off? Regularly? Not regularly? Had you
2 been in any kind of ongoing relationship with Justin?

3 A. No. We were together at the time.

4 Q. All right. And was that true since the baby was
5 born, J.C. was born?

6 A. Yes.

7 Q. So in over nine months, you hadn't been out on a
8 date with him, a movie or out of town to see a friend or
9 go to a party?

10 A. We would go to his house with the kids. But to go
11 out, no.

12 Q. And where was he living at the time that these
13 events were going on in the spring of 2011? Where was
14 Justin living?

15 A. I don't know exactly where it's at, but with his
16 girlfriend at the time.

17 Q. All right. When you say you had been to his house
18 with the children, that was whose house?

19 A. His mom's house.

20 Q. And where was that house at?

21 A. In Davis Station.

22 MADAM COURT REPORTER: I'm sorry?

23 THE WITNESS: Davis Station.

24 Q. Once you decided that you were not going to Black
25 River on that particular morning, did he leave with the

1 children?

2 A. No. He still stayed for a while.

3 Q. How long was that?

4 A. About twenty minutes.

5 Q. Would you describe to the jury his demeanor, his --

6 describe how he was talking with you, how he was acting

7 after you told him you weren't going?

8 A. He was angry. He threatened to break into the

9 house. And at that time, I told him that my grandparents

10 were in there. And he said he didn't care. He was

11 upset.

12 Q. Was he threatening?

13 A. Yes.

14 Q. Was your grandmother still inside?

15 A. Yes.

16 Q. All right. And was your grandfather still inside?

17 A. Yes, but he left.

18 Q. After a while, what happened? Tell us what

19 happened.

20 A. After the phone went out, he said that he ---

21 Q. Say that again.

22 A. After a while, his phone went dead. He was still

23 outside. But his phone went dead as we were on the

24 phone. I ---

25 Q. Let me back up. When you had put the kids in the

- 1 car and ---
- 2 A. Yes.
- 3 Q. --- you were having these words with him, you were
- 4 on the telephone with him?
- 5 A. Yes. I was back inside.
- 6 Q. I see. So you were inside the house; he was still
- 7 out in the yard in the car?
- 8 A. Yes.
- 9 Q. How long did you talk on the telephone?
- 10 A. Maybe five minutes.
- 11 Q. All right. Then you said the phone went dead?
- 12 A. Yes.
- 13 Q. His phone?
- 14 A. Yes.
- 15 Q. All right. What happened next?
- 16 A. Then I went to the door and saw he was still
- 17 outside. So I called his mom and asked his mother to
- 18 call him and ask him to leave so he didn't get in any
- 19 trouble.
- 20 Q. And you spoke with his mother ---
- 21 A. Yes.
- 22 Q. --- on the telephone?
- 23 A. Yes.
- 24 Q. You say his phone was dead?
- 25 A. Yes.

1 Q. How was his mother going to call him?

2 A. At the time, I didn't know it was dead.

3 Q. All right. At some point, did he drive off out of
4 the yard at Carissa?

5 A. Yes.

6 Q. And he had the kids with him?

7 A. Yes.

8 Q. How long was he gone?

9 A. About ---

10 Q. Before you saw him again?

11 A. About thirty minutes.

12 Q. And during that time, did you do anything as far as
13 checking on the children?

14 A. I called Black River to see if they were there. I
15 wanted -- I remembered something that I wanted to tell
16 the doctor. And I couldn't get in contact with him, so I
17 called Black River.

18 Q. All right. And ---

19 A. But they said ---

20 Q. You can't say what they said to you.

21 A. All right.

22 Q. As a result of the conversation, you knew ---

23 MR. ROBINSON: Judge, I'm going to object. I
24 mean, he's ---

25 THE COURT: Rephrase your question.

1 Q. As a result of the conversation -- had you seen the
2 kids since he left with them out of your yard?

3 A. No.

4 Q. When he came back, you said it was about thirty
5 minutes later?

6 A. Yes.

7 Q. You were still at home?

8 A. Yes.

9 Q. All right. When he came back, tell us what
10 happened. What did he do with the children?

11 A. He took K.C. out of her car seat. She walked in
12 the house. He brought J.C. in the house in his car
13 seat.

14 Q. And were there any statements made? Did you ask
15 anything of him about the children?

16 A. I just asked why they never made it to the doctor.

17 Q. All right. And what was his response?

18 A. He said they weren't taking walk-ins.

19 Q. All right. And did that lead to more words between
20 the two of you?

21 A. I just asked him -- he was supposed to bring the
22 kids some items. And I asked him if he had them with him
23 at that time.

24 Q. And did he have the item?

25 A. No. He went to the trunk. But when he went in the

1 trunk, he just brought back a cup. He didn't have
2 anything else.

3 Q. A cup?

4 A. Yes.

5 Q. Was it like ---

6 A. A baby cup.

7 Q. A baby cup. When he got to your house, was he still
8 driving that gray car?

9 A. Yes.

10 Q. And he helped -- or you -- you watched him unload
11 the children and the car seats?

12 A. Yes. I was standing in the door. And he brought
13 them to the porch, and I took them on into the house.

14 Q. All right. Was your grandmother still home at that
15 time?

16 A. Yes.

17 Q. And your grandfather?

18 A. He had already went to work.

19 Q. All right. Tell us what happened next.

20 A. He asked me a couple of times to go with him still.

21 And I didn't. He got in the car to leave. And as I was
22 shutting the door, he got out of the car and ran back to
23 the house.

24 Q. To the house ---

25 A. To the door, yes.

- 1 Q. What happened after he ran back to the house?
- 2 A. He pushed through the door, and he began fighting
- 3 me.
- 4 Q. Was the door what you consider the front door?
- 5 A. Yes.
- 6 Q. Was it closed when he pushed it open?
- 7 A. I was in the process of closing it.
- 8 Q. All right. And had you gotten it to the sill where
- 9 it clicked?
- 10 A. Yes. I was about to lock it.
- 11 Q. Did you know he was coming in the door?
- 12 A. Yes.
- 13 Q. All right. How did you know it?
- 14 A. I saw he was running towards the door. That's what
- 15 caused me to go ahead and shut it.
- 16 Q. All right. What was your state of mind at the time?
- 17 A. I was afraid.
- 18 Q. All right. And why you were afraid?
- 19 A. Because I knew why he was running towards the door.
- 20 Q. After he came into the door, was there any damage to
- 21 the door when he came in?
- 22 A. I didn't see any. Before he came in?
- 23 Q. Before he came?
- 24 A. No.
- 25 Q. All right. Was the door operating correctly?

1 A. Yes.

2 Q. All right. I want to show you what's been marked as
3 State's Exhibit 23 and ask if you can identify that?

4 A. That's the front door.

5 Q. All right. What is that object down to the left on
6 that picture?

7 A. K.C.'s car seat.

8 Q. Had K.C.'s car seat been sent to the doctor that
9 morning?

10 A. Yes.

11 Q. And it was back in the house?

12 A. Yes.

13 Q. All right. I also want to show you what's been
14 marked as State's Exhibit 24. Can you identify that?

15 A. That's the front door.

16 Q. All right. Was it in that condition before April
17 the 6th?

18 A. No.

19 Q. All right.

20 MR. DURANT: Move to introduce.

21 Q. Was the door in this condition before April 6th?

22 A. No, it was not.

23 Q. All right. After the shooting, did you have a
24 chance to go back to the house after April 6th?

25 A. Yes.

1 Q. Did you see the door after April 6th?

2 A. No.

3 MR. ROBINSON: Your Honor, again, I have an
4 authentication issue. If she can't say that ---

5 THE COURT: Sustained, if she can't verify
6 those.

7 MR. FINNEY: Thank you.

8 Q. After he pushed in the door, you testified he
9 started fighting you?

10 A. Yes.

11 Q. How did he fight you?

12 A. He began pushing me and pulling and punching me.

13 Q. All right. And where was he punching you?

14 A. All over.

15 Q. All right. And did you fight back?

16 A. I tried.

17 Q. All right. Where at this time were the children?

18 A. J.C. was in his high chair. K.C. was sitting on
19 a chair, and she was looking around the corner.

20 Q. All right. Would you describe for the jury a little
21 bit about the house that you lived in in Carissa? I want
22 to show you State's Exhibit Number 53 and ask if you can
23 identify this.

24 A. Yes. It's the house.

25 Q. Which house?

1 A. At Carissa Lane, my grandparents' house.

2 Q. This is the Caraway house?

3 A. Yes.

4 Q. All right. And do you recognize -- did you have
5 anything to do with preparing this?

6 A. No.

7 Q. All right. But you recognize the floor plan?

8 A. Yes.

9 Q. Is it an accurate representation of the floor plan
10 of the house that Mr. John and Maxine Caraway lived in?

11 A. Yes.

12 Q. And you lived there also?

13 A. Yes.

14 MR. FINNEY: Move to admit.

15 MR. ROBINSON: We would have no objection.

16 THE COURT: Without objection, State's Exhibit
17 -- this is 52?

18 MR. FINNEY: 53.

19 THE COURT: 53 is admitted. Assuming you want
20 to put it into evidence.

21 MR. FINNEY: I do want to put it into evidence,
22 Your Honor.

23 (WHEREUPON, State's Exhibit Number 53 was admitted
24 into evidence.)

25 Q. Ms. Kaisha, can you see that?

- 1 A. A little.
- 2 Q. Come around here, please, ma'am.
- 3 (WHEREUPON, the witness stepped down from the
- 4 witness stand.)
- 5 Q. Can you tell us where the front door is that you say
- 6 -- that you identified in that picture I showed you,
- 7 State's Exhibit Number ---
- 8 A. Right here.
- 9 Q. And let me ask you this now. This is the bathroom?
- 10 Can you point out the bathroom?
- 11 A. Wait. I pointed to the wrong door. That's the
- 12 front door. This is the back.
- 13 Q. All right. Where is the bathroom?
- 14 A. Right here.
- 15 Q. And is there just one bathroom in the house?
- 16 A. Yes.
- 17 Q. All right. I want you to speak up so the ladies and
- 18 gentlemen can hear you. So where is the front door that
- 19 is shown in State's Exhibit Number 10, which I believe
- 20 has already been admitted into evidence?
- 21 A. Right here.
- 22 Q. All right. And that door -- is there a porch area
- 23 outside that door?
- 24 A. Yes. Right here.
- 25 Q. All right. And that's the porch area on the sketch?

1 A. (Nodded head up and down in the affirmative.)

2 Q. And is that the porch area you see in State's
3 Exhibit Number 10?

4 A. Yes.

5 Q. All right. Now, in this particular sketch, once you
6 go onto the porch, there is a wooden door there?

7 A. Yes.

8 Q. Is it a solid wooden door? Does it have windows in
9 it?

10 A. At that time the door did have a window.

11 Q. It did have a window?

12 A. Yes.

13 Q. So you could see out into the front yard?

14 A. Yes.

15 Q. All right. And your testimony is that you tried to
16 close the door to keep him from coming in; he pushed his
17 way in?

18 A. Yes.

19 Q. When you all started fighting, tell us where the
20 fighting was taking place.

21 A. In this room.

22 Q. In that area?

23 A. Yeah.

24 Q. All right. And how would you get from that room
25 into the rest of the house?

- 1 A. Through the door right there.
- 2 Q. All right. And tell us where J.C. was, the baby
- 3 boy, in the house?
- 4 A. He was in a high chair right here.
- 5 Q. All right. And where was the little girl, K.C.?
- 6 A. She was sitting on this chair looking out the door.
- 7 Q. All right. Now, where was your grandmother, if you
- 8 know?
- 9 A. I don't know.
- 10 Q. All right. As a result of the actions between you
- 11 and Mr. Justin Johnson, did your grandmother come into
- 12 that area?
- 13 A. Yes.
- 14 Q. All right.
- 15 A. She came to the -- she stood in the door. There are
- 16 some steps under that door because that part of the house
- 17 is higher than that portion. And she stood to the door
- 18 and asked what was going on.
- 19 Q. After she said what was going on, did you have
- 20 occasion to talk to her or speak to her?
- 21 A. No.
- 22 Q. All right. Why is that?
- 23 A. Because once she came down the steps, he jumped onto
- 24 her and began fighting her.
- 25 Q. All right. Go ahead and sit back down.

1 (WHEREUPON, the witness resumed the witness stand.)

2 Q. After you and Justin started this tussling in the
3 front room, you say Ms. Maxine came into the room?

4 A. Yes.

5 Q. She got involved in the altercation as well?

6 A. Yes.

7 Q. What were you saying, if anything, at that time?

8 A. I was asking him to stop.

9 Q. All right. And did he stop?

10 A. No.

11 Q. All right. Tell us a little bit about how you were
12 treated in terms of your physical. Did you have anything
13 taken off of you in this fight?

14 A. Not at that time, no.

15 Q. Were you wearing natural hair, or did you have some
16 kind of artificial hair?

17 A. I had on a wig at the time.

18 Q. All right.

19 MR. ROBINSON: And, Your Honor, I'm going to
20 renew my objection again. I would really like this
21 testimony to come from the witness and not the Solicitor.

22 THE COURT: All right. Overruled. I think
23 this is harmless.

24 Q. I'm going to show you what's State's Exhibit 43.
25 Can you tell us what that is?

1 A. That's my wig.

2 Q. All right. And is that an accurate representation
3 of how your wig looked after the fight?

4 A. Yes.

5 Q. All right. Do you remember the wig coming off?

6 A. Yes. After Justin was punching my grandmother in
7 the face and she was trying to fight back, and they fell.
8 And I had gone up the steps to get the phone that was on
9 the counter. And he came in and pulled me back, and it
10 came off.

11 Q. All right.

12 MR. FINNEY: State's Exhibit Number 43 for
13 evidence.

14 THE COURT: Any objection?

15 MR. ROBINSON: No objection.

16 THE COURT: Without objection, State's Exhibit
17 Number 43 is admitted.

18 (WHEREUPON, State's Exhibit Number 43 was admitted
19 into evidence.)

20 Q. Could you tell from that picture, ma'am, what room
21 that is in?

22 A. It's in the room with the chairs where J.C. and
23 K.C. was at.

24 Q. Looking at exhibit 53, is that the room that the
25 fight started in, or is that the room where the children

1 were sitting?

2 A. The room where the children were.

3 Q. After the fight with your grandmother started, did
4 you have occasion to see her sustain any injuries to her
5 face?

6 A. Yes. She had scratches on her, and she also had a
7 broken nose.

8 Q. All right. And who broke her nose?

9 A. Justin.

10 Q. How did he break it?

11 A. When he punched her in the face.

12 Q. Did you see that punch?

13 A. Yes.

14 Q. All right. As a result of her sustaining that
15 injury, what happened to her?

16 A. She was actually going to the hospital. She --
17 while I was being dragged out, she ran past up the
18 stairs, back into the room where the kids were to get her
19 keys. She said she wanted to go to the hospital.

20 Q. All right. To your knowledge, did she ever come out
21 of the house?

22 A. Yes.

23 Q. And where was she -- according to your
24 understanding, where was she going?

25 A. She was getting in her car to go to the hospital.

- 1 Q. All right. Earlier we saw a picture of the outside
2 of the house. I believe it's State's Exhibit Number 10.
3 Did she have an automobile?
4 A. Yes.
5 Q. Is that the automobile in State's Exhibit Number 10?
6 A. Yes.
7 Q. All right. And is that where the automobile was
8 when she was leaving the house to go ---
9 A. Yes.
10 Q. --- to go to the hospital?
11 A. Yes.
12 Q. All right. Is that where she kept her automobile
13 most of the time?
14 A. Yes.
15 Q. Did she get out of the house to go to get in her
16 automobile?
17 A. Yes.
18 Q. Where were you at that time?
19 A. I was being dragged off the porch, and she ran past
20 us off of the porch.
21 Q. And this is the front porch area?
22 A. Yes.
23 Q. Referring to State's Exhibit Number 53, can you
24 point to the area you're talking about off the porch?
25 A. Right here where the bricks are at.

- 1 Q. All right. And you were being drug by who?
- 2 A. Justin.
- 3 Q. How was he dragging you?
- 4 A. By my shirt, the back of my shirt.
- 5 Q. What color shirt did you have on?
- 6 A. I don't remember.
- 7 Q. All right. Do you remember what else you might have
- 8 had on that morning?
- 9 A. I know I had on some pink and white Air Force Ones.
- 10 Q. Which are what?
- 11 A. My sneakers.
- 12 Q. Tennis shoes?
- 13 A. Yes.
- 14 Q. And do you know if you had on a skirt or pants or
- 15 ---
- 16 A. I had on jeans.
- 17 Q. All right. What happened to you as a result of
- 18 being pulled off the porch?
- 19 A. When my grandmother ran past, Justin tried to stop
- 20 her. So he loosened the grip on my shirt, and I was able
- 21 to slip out of my shirt and run back into the house.
- 22 Q. All right. At this point you, Justin, and your
- 23 grandmother are all outside on the ground area?
- 24 A. And K.C., yes.
- 25 Q. And K.C.?

- 1 A. Yes.
- 2 Q. Where was J.C. ?
- 3 A. He was still in the high chair.
- 4 Q. All right. And at this point he's by himself?
- 5 A. Yes.
- 6 Q. What happened next? When he loosened the grip on
- 7 you, you say ---
- 8 A. I slipped out of my shirt, and I ran back into the
- 9 house. I turned around as I was running back just to
- 10 make sure that K.C. was still behind my grandmother.
- 11 And I saw that they were standing by my grandmother's
- 12 car. She was bent over at the car fumbling -- I don't
- 13 know what she had in her hand. And K.C. was behind her,
- 14 and Justin was standing beside them, but he was walking
- 15 away from them.
- 16 Q. When you got pulled out of your shirt, how did that
- 17 happen?
- 18 A. I just slipped out of my shirt so that I could get
- 19 away from him.
- 20 Q. And what happened to the shirt that you slipped out
- 21 of?
- 22 A. He threw it down to go behind by grandmother.
- 23 Q. Did it come off of your body?
- 24 A. Yes.
- 25 Q. Over your head?

- 1 A. Yes.
- 2 Q. And do you know what happened to it?
- 3 A. He threw it.
- 4 Q. All right. So at that point you didn't have a shirt
- 5 on?
- 6 A. No.
- 7 Q. You were going where?
- 8 A. Into the house to find a phone.
- 9 Q. All right. Where was Justin the last time you saw
- 10 him at that point?
- 11 A. Beside my grandmother's car.
- 12 Q. All right. And where was your grandmother?
- 13 A. She was by her car as well.
- 14 Q. Did you make it back inside?
- 15 A. Yes.
- 16 Q. All right. What was the first thing you did?
- 17 A. I looked on the counter for the phone.
- 18 Q. All right. And did you find it?
- 19 A. I didn't.
- 20 Q. All right. What did you do next?
- 21 A. I ran down the hall, and that's when I realized that
- 22 the phone was actually in that room. But when I ran back
- 23 from the car, I never found the house phone, but I got my
- 24 grandmother's cell phone.
- 25 Q. All right. And where did you locate your

- 1 grandmother's cell phone?
- 2 A. On the counter.
- 3 Q. And can you point out to the jury on this home
- 4 sketch, number 53, where the counter is?
- 5 A. It would be right here.
- 6 Q. All right. What did you do when you found the
- 7 phone?
- 8 A. I began running back down the hall, but then I
- 9 stopped because I realized that J.C. was still in the
- 10 high chair.
- 11 Q. All right. And what happened next?
- 12 A. When I stopped to look at J.C., at the same time
- 13 Justin was coming back in the house, into the room that
- 14 we were in.
- 15 Q. All right. And is that the room with the chairs?
- 16 A. Yes.
- 17 Q. All right. When Justin came back in the house,
- 18 describe what he was doing.
- 19 A. He just walked back into the room, was kind of in a
- 20 rush. And he had a shotgun in his hand.
- 21 Q. Had you seen the shotgun before?
- 22 A. No.
- 23 Q. All right. Do you know where he got it from?
- 24 A. No.
- 25 Q. When he had the shotgun in his hands in the room,

1 what was he doing with it?

2 A. He had it pointed at me.

3 Q. Where were you in the room, if you can tell us by
4 looking again at this sketch, 53? Where were you in the
5 room when you first saw Justin?

6 A. I was right there.

7 Q. All right. And is this a hallway here?

8 A. Yes.

9 Q. All right. Where was -- how did Justin Johnson get
10 in the room that afternoon, that morning?

11 A. Through this door.

12 Q. Through that door?

13 A. Yes.

14 Q. When he came in the room, was he by himself?

15 A. Yes.

16 Q. K.C. wasn't with him?

17 A. No.

18 Q. Your grandmother wasn't with him?

19 A. No.

20 Q. And describe for us again where the high chair would
21 have been?

22 A. Right here.

23 Q. All right. So the three of you, you, the baby, and
24 Justin, were in the room at this time?

25 A. Yes.

1 Q. After he pointed the gun at you, did he say
2 anything?

3 A. He said, you made me do this. And when he said
4 that, I closed my eyes.

5 Q. What did you think? Why did you close your eyes?

6 A. Because I thought he was about to shoot me.

7 Q. What happened next?

8 A. I heard the gunshot, but then I realized that I
9 never felt anything hit me. So I opened my eyes and
10 realized that he had shot J.C.

11 Q. Once you realized that, what was your next move?

12 A. I turned and ran down the hall.

13 Q. All right. Would that be towards -- you show the
14 jury which way you ran down the hall.

15 A. I ran this way into the bathroom.

16 Q. All right. And what did you do when you got to the
17 bathroom?

18 A. I shut the door and locked it. And then there was a
19 cabinet that was right there, and I pushed it in front of
20 the door.

21 Q. All right. So were you able to get in the bathroom
22 and close the door?

23 A. Yes.

24 Q. All right. Did the door close?

25 A. Yes.

1 Q. Was the door in good working order that day?

2 A. Yes.

3 Q. And after you got in the bathroom and closed the
4 door, did you -- were you able to move the cabinet in
5 front of the door?

6 A. Yes. I had it pushed in front of the door.

7 Q. And what happened next?

8 A. And that's when I called 9-1-1.

9 Q. On what phone?

10 A. My grandmother's cell phone.

11 Q. When you called 9-1-1, you told them what?

12 MR. ROBINSON: Your Honor, I'm going to object.

13 She's getting ready to tell them what she told them. I
14 just ---

15 THE COURT: Yeah. Rephrase your question to
16 ensure that she tells them what she said.

17 Q. Why did you call 9-1-1?

18 A. Because Justin had shot J.C. , and I called them
19 and told them that I needed help.

20 Q. At this point, did you -- while you were in the
21 bathroom, did you know where your grandmother was?

22 A. No.

23 Q. Did you know where your daughter was?

24 A. No..

25 Q. As far as you knew, you were the only person in the

1 house other than J.C. ?

2 A. Yes.

3 Q. Could you hear Mr. Johnson in the house?

4 A. Yes. I knew he was outside of the bathroom door
5 because I could hear him rattling, trying to get it open.

6 Q. All right. The bathroom door, did it have a handle
7 on the outside and on the inside?

8 A. Yes.

9 Q. And were those knobs, hand knobs, in good working
10 order?

11 A. Yes.

12 Q. What happened after you dialed 9-1-1 and made the
13 call to the 9-1-1 operator?

14 A. While I was on the phone with them, he shot the door
15 open and came in with the shotgun pointed at me. So I
16 closed -- my grandmother had a flip phone. I closed it,
17 and I ended up falling over the cabinet because was
18 trying to back farther away from him.

19 Q. All right. Did you see him at that point in the
20 room with you?

21 A. Yes.

22 Q. What, if anything, did he say to you at that point?

23 A. He didn't say anything. I told him that I had
24 called 9-1-1 and that they were on the way.

25 Q. What, if anything, did he say to you at that point?

1 A. I don't remember him saying anything.

2 Q. All right. Did you get a call from 9-1-1 back to
3 your grandmother's phone?

4 A. Yes. They called back twice.

5 Q. All right. And during those conversations, did you
6 tell the 9-1-1 operator anything about where you were?

7 A. The first time I didn't answer. And they called
8 back. And at that time, I told him if I didn't answer
9 they were going to go ahead and send somebody out anyway.

10 Q. You told who?

11 A. Justin.

12 Q. All right. You told Justin they were going to call
13 somebody to come.

14 A. That they was going to send somebody out if I didn't
15 answer the phone.

16 Q. All right. And so where was he at the point where
17 the 9-1-1 calls were coming back to your house? Where
18 was he and you?

19 A. I was in the bathroom laying on the floor on the
20 cabinet.

21 Q. And where was he?

22 A. He was standing over me with me with the gun pointed
23 at me.

24 Q. Did you know whether or not he still had ammunition
25 shells in the gun?

1 A. No.

2 Q. What was your thought at that point?

3 A. That if I didn't do what he said, he was going to
4 kill me too.

5 Q. Were you trying to be -- tell us how you were trying
6 to act towards him?

7 A. I was just trying to do everything he said do.

8 Q. All right. In your ability to talk with him, did he
9 tell you anything to do or not to do or say or not to
10 say? Can you describe for us what he was saying at this
11 time?

12 A. He told me, "Tell them that the call was a mistake."
13 And at that time, the 9-1-1 operator said, no, it wasn't
14 because she could hear what was going on. That's when he
15 told them to tell them that that I was my grandmother and
16 that my granddaughter and her boyfriend was arguing. She
17 asked for the address, and he gave me the address to give
18 them and told me to tell them that the boyfriend's name
19 was Robert.

20 Q. All right. All of this information that you were
21 talking with Justin about is in the bathroom?

22 A. No. I don't remember why, but we left out of the
23 bathroom and walked back into the room where J.C. was
24 at.

25 Q. All right. And how long did you stay there?

1 A. About five minutes. And that's when I heard K.C.
2 cry.

3 Q. And where was K.C.'s cry coming from?

4 A. Outside.

5 Q. All right. Did you have the occasion to go outside?

6 A. No. He went outside and went and got her. And I
7 asked him why he left her outside by herself. And that's
8 when he said she wasn't by herself. And that's when I
9 went to my door and realized that my grandmother was
10 shot.

11 Q. And did you see your grandmother outside?

12 A. Yes. She was laying on the ground beside her car.

13 Q. When you ran down the hall and got in the bathroom,
14 can you tell us this area on State's Exhibit Number 53,
15 the hallway area right near the bathroom, is there a door
16 that goes -- whose room is this in the back here?

17 A. My grandfather's.

18 Q. That's John's room?

19 A. Yes.

20 Q. Was there any damage to that area of the wall where
21 Mr. John Caraway's door was prior to Justin being in the
22 house?

23 A. No.

24 Q. All right. Can I show you State's Exhibit Number 48
25 and ask you if you can identify it?

- 1 A. That's the wall across from the bathroom by my
2 grandfather's door.
- 3 Q. Where is the bathroom? If you were in the bathroom,
4 would that be looking out of the bathroom?
- 5 A. Yes, straight in front of it.
- 6 Q. All right. Can you identify what's in State's
7 Exhibit Number 46?
- 8 A. That would be the bathroom door.
- 9 Q. All right. And can you tell with -- is that an
10 accurate representation of how it looked after the shot
11 went through the door?
- 12 A. Yes.
- 13 Q. Was there any holes or anything wrong with the door
14 beforehand?
- 15 A. No.
- 16 Q. I want to show you State's Exhibit Number 51, ask if
17 you can identify that?
- 18 A. That's the area above the sink, between the sink and
19 the mirrors in the bathroom.
- 20 Q. All right. And the mirror in the bathroom is above
21 the sink?
- 22 A. Yes. It's a medicine cabinet.
- 23 Q. Do you see anything that looks unusual in this
24 picture that wasn't there before April the 6th?
- 25 A. Yes. The holes in the paneling.

1 Q. And where did those holes come from?

2 A. From when Justin shot through the door.

3 MR. FINNEY: Your Honor, I ask that we put
4 these into evidence.

5 THE COURT: Any objection, Mr. Robinson?

6 MR. ROBINSON: No objection, Your Honor.

7 THE COURT: And what are the numbers on these
8 again?

9 MR. FINNEY: This is exhibit number 51, Your
10 Honor.

11 THE COURT: Just give me the numbers. 51?

12 MR. FINNEY: Also exhibit 46 and also exhibit
13 48.

14 THE COURT: Which are all admitted without
15 objection.

16 (WHEREUPON, State's Exhibit Numbers 46, 48, and 51,
17 were admitted into evidence.)

18 Q. As far as that being the doorknob, that is the
19 doorknob to the bathroom?

20 A. Yes..

21 Q. When you were in the bathroom and the door was shot,
22 were you in a position to leave the bathroom? Was there
23 any other way -- like, was there two doors to the
24 bathroom?

25 A. No.

- 1 Q. I'm going to ask you to look at State's Exhibit
2 Number 17 and ask if you can identify that?
- 3 A. That's inside the bathroom.
- 4 Q. All right. And is that picture taken looking
5 outside or looking inside the bathroom?
- 6 A. Looking inside.
- 7 Q. And is that the area of the house that you were in?
- 8 A. Yes.
- 9 Q. The cabinet that you say that you used to block the
10 door, do you see it in that picture?
- 11 A. It's on the floor.
- 12 Q. All right. Right next to what?
- 13 A. The toilet.
- 14 Q. All right. And I also want to show you number 16,
15 State's Exhibit 16. Tell us, do you recognize that?
- 16 A. Yes. That's down the hallway.
- 17 Q. All right. Can you tell from that picture, State's
18 Exhibit Number 16, what direction were you running when
19 you were running down the hallway toward the bathroom?
20 Where is the bathroom in that picture?
- 21 A. The bathroom is right here.
- 22 Q. On which side of the picture?
- 23 A. When you're looking at it, it's on the left.
- 24 Q. On the left side?
- 25 A. Uh-huh (affirmative).

1 Q. At the end of the hallway?

2 A. Yes.

3 Q. And are these accurate representations of how the
4 house looked on April the 6th?

5 A. Yes.

6 MR. FINNEY: Without objection, Your Honor,
7 number 16 and 17.

8 THE COURT: Any objection?

9 MR. ROBINSON: No, that's correct, Your Honor.

10 THE COURT: All right. Without objection, 16
11 and 17 are admitted.

12 (WHEREUPON, State's Exhibit Numbers 16 and 17 were
13 admitted into evidence.)

14 Q. In looking at State's Exhibit Number 16, that
15 hallway is the hallway that you ran down?

16 A. Yes.

17 Q. Where is the bathroom in that hallway?

18 A. On the left.

19 Q. Is it the last door on the left?

20 A. Yes, before you go into the room.

21 Q. All right. This door right here, this brown door
22 right here, tell us whose room that is. Is that a room
23 or a hallway?

24 A. That's not a door. It's the hallway that leads to
25 the back door, and there's another bedroom back there as

1 well.

2 Q. All right. And this door right here, that room that
3 is at the end of the hallway, whose room is that?

4 A. My grandfather's.

5 Q. All right. And this mark right here on that
6 picture, was that there before Justin came in with the
7 shotgun?

8 A. No.

9 Q. All right.. Looking at State's Exhibit Number 17, is
10 that an accurate representation of the bathroom door
11 after Justin came and shot into it?

12 A. Yes.

13 Q. All right. And you said at the bottom of number 17,
14 there is a item that is described by you as a cabinet?

15 A. Yes.

16 Q. And that cabinet is where?

17 A. On the floor by the toilet.

18 Q. By the toilet?

19 A. Yes.

20 Q. Is that it there?

21 A. Yes.

22 Q. And you were behind the door, behind the cabinet,
23 when the shotgun blast came through the door?

24 A. Yes.

25 Q. Were you injured as a result of the shotgun blast in

1 the bathroom?

2 A. Yes.

3 Q. Can you tell the ladies and gentlemen where you were
4 shot?

5 A. In my left shoulder.

6 Q. I'm going to ask you to look at State's Exhibit
7 Number 5 and tell us if you recognize that?

8 A. Yes. It's my left shoulder.

9 Q. All right. And is that after you'd been shot?

10 A. Yes.

11 Q. And where was this picture taken?

12 A. In the hospital, Clarendon Memorial.

13 Q. About how long after the shooting was this picture
14 taken?

15 A. About forty-five minutes.

16 MR. ROBINSON: No objection to that, Your
17 Honor.

18 THE COURT: Without objection, State's Exhibit
19 Number 5 is admitted into evidence.

20 (WHEREUPON, State's Exhibit Number 5 was admitted
21 into evidence.)

22 Q. Did you know you were shot when the police got there
23 that morning?

24 A. No.

25 Q. To your knowledge, did you have other injuries as a

1 result of the struggle and fight that you described in
2 your testimony?

3 A. Not that I can remember.

4 Q. All right. Did you have any treatment at the
5 hospital for anything other than your shoulder?

6 A. No.

7 Q. After you called 9-1-1, do you remember telling the
8 9-1-1 operator that my daughter and her boyfriend are
9 arguing?

10 A. Yes.

11 Q. Why did you say that?

12 A. That's what Justin told me to tell them. I was
13 supposed to be acting as if I was my grandmother.

14 Q. And so you said that to the 9-1-1 operator?

15 A. Yes.

16 Q. When the 9-1-1 operator asked you for your name,
17 what did you say?

18 A. I don't remember.

19 Q. Do you remember saying that, "He has a gun," to the
20 9-1-1 operator?

21 A. Yes.

22 Q. Who were you telling the operator had a gun?

23 A. I was supposed to be pretending that the Robert
24 person was coming back in the house.

25 Q. All right. And do you remember telling that 9-1-1

1 operator the name of the person as being Robert?

2 A. Yes.

3 Q. Where did you get that name from?

4 A. That's what Justin told me to tell them.

5 Q. At any time did you tell Justin that we need to
6 blame this on somebody else and that I'm going to make up
7 a story to tell the 9-1-1 operator?

8 A. No.

9 Q. At the time that you were being told what to do, was
10 Justin still armed with a shotgun?

11 A. Yes. He had it pointed at me as I was on the phone.

12 Q. At the end of the 9-1-1 call, it sounds like you
13 said, "Oh, my God. Okay." What was going on at that
14 point?

15 A. That was when I had realized. As I was on the phone
16 with 9-1-1, I had walked outside.

17 Q. And saw what?

18 A. My grandmother's body outside with K.C. .

19 Q. After that, the call went dead.

20 A. I hung up the phone.

21 Q. Did you make any more calls?

22 A. No.

23 Q. Did you continue to do what Justin told you to do?

24 A. Yes.

25 Q. What was the next thing that you did?

1 A. I went into a room in the house to get a shirt and
2 put on so that we could leave.

3 Q. All right. And where was it discussed that you were
4 going?

5 A. He said we were going to the police station to tell
6 them what had happened. Well, not what really happened,
7 but the story about Robert.

8 Q. All right. At the time, did he still have a gun?

9 A. Yes.

10 Q. Where was K.C. at the time that you went and put
11 your shirt on?

12 A. She had walked into the room. She had already come
13 back in the house, and she was standing in the den in
14 front of J.C. 's high chair.

15 Q. Did she stay there while you went to get the shirt?

16 A. Yes.

17 Q. How long did you stay in the house after you
18 realized that your grandmother had been shot?

19 A. It was about two minutes. Long enough for me to
20 walk in and find a shirt and put it on.

21 Q. All right. At that time, all of you left, you K.C.
22 and Justin, left the house at the same time and went and
23 got in the gray car?

24 A. Yes.

25 Q. What happened next?

1 A. When we got in the car, I put K.C. in my lap and he
2 put the gun in the back seat. And so I asked, I said,
3 "Well, if you're going to tell them that Robert did it,
4 then you shouldn't have the gun because they're going to
5 ask how you got the gun." Because I didn't want the gun
6 to go with us.

7 Q. All right. So what did he do with the gun?

8 A. He took it and placed it in the front yard.

9 Q. All right. Was his car parked nearby your
10 grandmother's car at the time?

11 A. It was parked a little bit behind it.

12 Q. All right. So how did he -- where did he -- when
13 the gun got placed in the yard, according to State's
14 Exhibit Number 10, the gun was right near the porch
15 steps?

16 A. Yes.

17 Q. Where was his car in this picture when he ---

18 A. It's parked right there. When he got out, he just
19 placed it beside the car and drove around.

20 Q. All right. And was his car facing the house at this
21 time?

22 A. It was kind of diagonal to it.

23 Q. All right. The front of his car was closer to the
24 house, not the back of the car?

25 A. Yes.

- 1 Q. Did you see Justin go in the trunk of his car at any
2 time that morning?
- 3 A. After he brought the kids back, but I never saw the
4 gun. I just saw him in the trunk.
- 5 Q. Had you ever seen that gun before?
- 6 A. No.
- 7 Q. Once you got in the car with Justin and with K.C.
8 and you were leaving Carissa, did you take your cell
9 phone with you?
- 10 A. I had my grandmother's cell phone with me.
- 11 Q. All right. And did you use it again?
- 12 A. No.
- 13 Q. Did you have any opportunity to use the cell phone
14 from the time you left your grandmother's house to the
15 time you saw Police Officer Eaddy?
- 16 A. No.
- 17 Q. Why didn't you use the phone?
- 18 A. I was afraid.
- 19 Q. When you saw the Police Officer Eaddy, did you say
20 anything to him? Were you ever out of the car again?
- 21 A. Not until we got back to the house.
- 22 Q. All right. So you drove down June Burn, found
23 Police Officer Eaddy, turned right around and came back
24 to June -- down June Burn to Carissa?
- 25 A. Yeah.

1 Q. How long did that process take?

2 A. About ten minutes.

3 Q. During this ten minutes, was there any talking going
4 on?

5 A. Just getting the details of the story, and Justin
6 was asking was I going to stick with the story when the
7 police got to the house.

8 Q. And what did you tell him?

9 A. I told him at the time, "Yes."

10 Q. And who was giving you the details of the story?

11 A. Justin.

12 Q. And where was your baby K.C. ?

13 A. She was sitting in my lap.

14 Q. And were you in the front seat?

15 A. Yes.

16 Q. And he was driving?

17 A. Yes.

18 Q. After you got back to Carissa, Officer Eaddy was
19 behind you?

20 A. Yes.

21 Q. How long was it before other officers started to
22 arrive?

23 A. Maybe three or four minutes. I don't really
24 remember.

25 Q. Did Officer Eaddy ever leave you and Justin alone

1 once he got to the house?

2 A. No.

3 Q. To go inside and see what was going on in the house
4 or anything like that?

5 A. No.

6 Q. He stayed with you until the other officers arrive?

7 A. Yes.

8 Q. Did you or Justin make any statements to Officer
9 Eaddy while this was going on?

10 A. No.

11 Q. All right. After the other officers arrived and
12 things were getting done, did you have occasion to be
13 taken away from Justin, away from the car, the gray car?

14 A. Yes.

15 Q. Do you remember who took you away from the gray car?

16 A. Investigator Richards.

17 Q. All right. And was that the first time that you had
18 been one-on-one with somebody other than Justin?

19 A. Yes.

20 Q. What happened as a result of your talking to
21 Richards?

22 A. He asked me what had happened. And when he asked
23 me, I took his pen out of his hand and was able to write
24 on his paper that he did it.

25 Q. He did it?

- 1 A. Yes.
- 2 Q. And who were you referring to as 'he'?
- 3 A. Justin.
- 4 Q. How were you feeling? What was your state at that
- 5 point?
- 6 A. I was still scared, but I felt a little better
- 7 because there were officers there.
- 8 Q. All right. How long before you got a chance to be
- 9 taken for medical treatment after Officer Richards and
- 10 you talked?
- 11 A. About fifteen minutes.
- 12 Q. Did you see Justin with the police officers while
- 13 you were leaving?
- 14 A. No.
- 15 Q. Okay. Did you have K.C. with you when you left to
- 16 go get medical treatment?
- 17 A. Yes.
- 18 Q. And did K.C. stay with you for basically the rest
- 19 of the morning?
- 20 A. Yes.
- 21 Q. All right. They took you to the hospital?
- 22 A. Yes.
- 23 Q. Do you remember giving a statement to a law
- 24 enforcement officer at the hospital?
- 25 A. Yes.

1 Q. All right. And did you basically tell them what had
2 happened that morning between you and Justin?

3 A. I told them what I could remember at the time. I
4 was still scared and shaken up.

5 Q. All right. Did you -- do you know how long you
6 stayed at the hospital with the doctors and the
7 investigators?

8 A. I don't remember.

9 Q. All right. Do you remember what happened to --
10 where did you go after you left the hospital?

11 A. After we left, I went with Ms. Rhonda Rainey to the
12 Sheriff's office.

13 Q. All right. And Ms. Rhonda Rainey, she's here, the
14 lady at the front row of the court?

15 A. Yes.

16 Q. She's who?

17 A. The victim's advocate.

18 Q. And you stayed with the victim advocate getting
19 yourself kind of settled down?

20 A. Yes.

21 Q. Where did you spend the night that night?

22 A. At my great grandmother's house on Little Star Road.

23 Q. And your great grandmother, is she on the Caraway
24 side?

25 A. Yes.

1 Q. That would be John's mother?

2 A. Yes.

3 Q. And did K.C. stay there with you?

4 A. Yes.

5 Q. Before you went to your great grandmother's house
6 that evening, did you have an opportunity to give another
7 statement to another law enforcement officer later that
8 afternoon, maybe around five o'clock?

9 A. Yes. While I was getting -- they were doing the
10 gunpowder residue test, they asked more questions.

11 Q. All right. And the gunpowder residue test, tell the
12 ladies and gentlemen what that involves.

13 A. They took swabs of my hand to see if any gunpowder
14 residue was on it.

15 Q. All right. And where were those swabs taken at, if
16 you remember? Was it at the hospital?

17 A. No. At the Sheriff's department.

18 Q. And that would have been after you had been
19 discharged from the hospital?

20 A. Yes.

21 Q. Did you go back to Carissa the next day or the day
22 after that, or was -- how long before you went back to
23 Carissa?

24 A. They released it -- they didn't release it that
25 night. They released it later on in the evening, the

1 next evening, and we went back.

2 Q. Okay. Everything you had for your daughter was
3 there still?

4 A. Yes.

5 MR. FINNEY: Your Honor, may I have a moment,
6 please?

7 THE COURT: You may.

8 MR. FINNEY: Thank you, Your Honor. If it
9 please the Court, there are two more exhibits I need.

10 Q. I'm going to ask you a few more questions about the
11 inside of the house just so that we can be clear on it.
12 I want to show you State's Exhibit Number 22 and ask if
13 you can describe what's in that picture?

14 A. That's the view from the room where J.C. was at to
15 the outside.

16 Q. All right. The room that J.C. was in in the
17 highchair, is it part of the room with the pattern on the
18 floor?

19 A. No.

20 Q. All right. The room with the pattern on the floor,
21 what do you call that room?

22 A. That's just the dining room as soon as you're
23 walking out.

24 Q. All right. And is that the dining room which is the
25 next room off the porch?

1 A. Yes.

2 Q. The outside porch?

3 A. Yes.

4 Q. This is the dining room?

5 A. Yes.

6 Q. What do you call this room?

7 A. The den.

8 Q. The den. And so State's Exhibit Number 22 shows a

9 picture of the dining room floor ---

10 A. And the porch.

11 Q. And the porch. And what else?

12 A. And the outside.

13 Q. All right.

14 MR. ROBINSON: No objection to that photograph.

15 THE COURT: And that's State's Exhibit Number

16 ---

17 MR. FINNEY: 22, Your Honor. I'm sorry.

18 THE COURT: 22.

19 MR. FINNEY: Thank you.

20 (WHEREUPON, State's Exhibit Number 22 was admitted

21 into evidence.)

22 Q. Can you tell the ladies and gentlemen of the jury,

23 what is that item -- I apologize. It seems like it's

24 darker there. What is this item in the middle of the

25 floor on State's Exhibit Number 22?

1 A. It's K.C.'s car seat.

2 Q. What color is K.C.'s car seat?

3 A. Pink.

4 Q. All right. I'm going to show you what's been marked
5 as State's Exhibit Number 12 and ask if you can identify
6 that?

7 A. That's the door leading into the dining room and the
8 porch.

9 Q. All right. So the bottom part of this picture shows
10 what floor?

11 A. The porch.

12 Q. And the top part shows?

13 A. The dining room.

14 Q. All right.

15 MR. ROBINSON: No objection to that exhibit.

16 THE COURT: Without objection, State's Exhibit
17 Number 12 is admitted.

18 (WHEREUPON, State's Exhibit Number 12 was admitted
19 into evidence.)

20 Q. Is that a picture of the car seat that K.C. was
21 riding in that day?

22 A. Yes.

23 Q. All right. And you said this area is the floor of
24 the porch?

25 A. Yes.

1 Q. This is the door, the front door?

2 A. Yes.

3 Q. And this is the floor of the dining room?

4 A. Yes.

5 Q. What is this right here in the top left portion of
6 that?

7 A. It's a chair that goes to the table in the dining
8 room.

9 Q. And would you please identify what's marked in
10 State's Exhibit 13?

11 A. The chair in the dining room and J.C. 's car seat.

12 Q. All right. And were those items in that room when
13 the struggle between you and Mr. Johnson took place?

14 A. Yes.

15 Q. Is that an accurate representation of the items in
16 the room and the room they were in?

17 A. Yes.

18 Q. All right. And can you tell me, based on this
19 photograph, whether there's any evidence of anything as a
20 result of the struggle?

21 A. Blood.

22 Q. And was the blood there before?

23 A. No.

24 MR. ROBINSON: No objection.

25 MR. FINNEY: This is State's Exhibit Number 13.

- 1 THE COURT: It's admitted without objection.
- 2 (WHEREUPON, State's Exhibit Number 13 was admitted
- 3 into evidence.)
- 4 Q. This car seat belongs to who?
- 5 A. J.C. .
- 6 Q. All right. And this chair was part of a set?
- 7 A. Yes.
- 8 Q. All right. And these markings on the chair here and
- 9 on the floor are what?
- 10 A. Blood.
- 11 Q. All right. Is that the room, the dining room or the
- 12 den area where the struggle took place?
- 13 A. The dining room. The room right off of the porch.
- 14 Q. The room right off of the porch? All right. Two
- 15 more pictures and I'll be finished. I show you State's
- 16 Exhibit Number 41. Could you describe what that is?
- 17 A. K.C.'s car seat.
- 18 Q. Is that an accurate representation of the car seat?
- 19 A. Yes.
- 20 Q. All right. And how long did you have that car seat
- 21 before April 2011?
- 22 A. About two months.
- 23 Q. All right. Let me also show you State's Exhibit
- 24 Number 40 and ask you -- see if you can tell me, is the
- 25 car seat in that picture?

1 A. Yes.

2 Q. Is that an accurate representation of the front
3 porch area of the house?

4 A. Yes.

5 Q. All right.

6 MR. ROBINSON: No objection to 40 or 41.

7 THE COURT: All right. 40 and 41 are admitted
8 without objection.

9 (WHEREUPON, State's Exhibit Numbers 40 and 41 were
10 admitted into evidence.)

11 Q. State's Exhibit Number 41, is that K.C.'s car seat?

12 A. Yes.

13 Q. Can you tell where it is in this picture?

14 A. It's laying on the floor in the door.

15 Q. All right. And does it have anything on it that is
16 unusual?

17 A. Blood.

18 Q. All right. This is exhibit number 40. Is this the
19 front porch area of the house?

20 A. Yes.

21 Q. Is this the same car seat that we just saw in
22 exhibit number 41?

23 A. Yes.

24 Q. K.C.'s car seat?

25 A. Yes.

1 Q. All right. Can you identify for you us what is this
2 object right here?

3 A. My shirt.

4 Q. All right. What shirt are you talking about?

5 A. The shirt that I slipped out of.

6 Q. All right. And how did you slip out of it?

7 A. I was being dragged out of the house, and I -- my
8 arms were up, and I slipped out of it.

9 Q. So once you came out of the shirt, where were you
10 heading at that point?

11 A. I ran back into the house.

12 Q. Back over the car seat?

13 A. Yes.

14 Q. Was the car seat there when you went back into the
15 house?

16 A. Yes.

17 Q. So you had to jump over it?

18 A. Yes.

19 Q. When you saw Justin Johnson come in the house that
20 afternoon with the shotgun and point it at you and you
21 closed your eyes, what happened next?

22 A. I heard a gunshot. When I heard the gunshot, I
23 realized that I never felt myself being hit, so I opened
24 my eyes.

25 Q. Was that the first gunshot you had heard that

1 afternoon?

2 A. Yes.

3 Q. That morning?

4 A. Yes.

5 Q. When you opened your eyes, what did you see?

6 A. I saw that he actually had the gun pointed at J.C.
7 and that J.C. was taking a breath, a deep breath.

8 MADAM COURT REPORTER: I'm sorry?

9 A. I saw that he had the gun pointed at J.C. and that
10 J.C. was taking a deep breath.

11 Q. Did J.C. move or say anything after that?

12 A. No. His head dropped.

13 Q. He was in the high chair?

14 A. Yes.

15 Q. Once you saw J.C. drop his head, what was your
16 next move?

17 A. I ran down the hall.

18 Q. Did you hear a gunshot as you were running down the
19 hall?

20 A. No.

21 Q. When you got down the hall, what was your next move?

22 A. Into the bathroom.

23 Q. And the door was closed?

24 A. I shut the door, locked it, and then pushed the
25 cabinet in front of it.

- 1 Q. Did you hear a gunshot at that point?
- 2 A. Yes.
- 3 Q. And where did that gunshot go to as far as you could
- 4 tell?
- 5 A. It went through the door. That's how he got into
- 6 the bathroom.
- 7 Q. And once you were in the bathroom with Mr. Justin,
- 8 did you see him still holding the shotgun?
- 9 A. Yes. When he shot in, it knocked the cabinet down.
- 10 And I ran towards the tub, and that caused me to fall
- 11 over the cabinet. He had the gun pointed at me.
- 12 Q. And did he maintain possession of that gun until you
- 13 left the house with him, going out the front door with
- 14 K.C. to get in the car?
- 15 A. Yes.
- 16 Q. Is there any question in your mind who caused the
- 17 death of J.C. ?
- 18 A. No.
- 19 Q. Who was that?
- 20 A. Justin.
- 21 Q. Is there any doubt in your mind who shot the gun
- 22 that came through the bathroom while you were in there?
- 23 A. No.
- 24 Q. Who shot the gun?
- 25 A. Justin.

1 MR. FINNEY: Nothing further.

2 THE COURT: All right. We'll take a fifteen
3 minute recess before we have our -- please do not discuss
4 anything about the case while you're in your jury room.

5 (WHEREUPON, the jury exited the open court at
6 approximately 3:13 p.m.)

7 THE COURT: All right. Court will be in
8 recess. I would remind the witness that she is still on
9 the stand and may not speak to anyone concerning her
10 testimony. Thank you. The Court's in recess for
11 fifteen.

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

14 THE COURT: All right.. The witness will resume
15 the stand.

16 (WHEREUPON, the witness resumed the witness stand.)

17 THE COURT: Let's bring our jury in.

18 (WHEREUPON, the jury entered the open court at
19 approximately 3:36 p.m.)

20 THE COURT: All right. Thank you. You may be
21 seated.

22 Now, ladies and gentlemen, I tell the jurors this
23 every -- I go all over the State. And jurors get very
24 territorial with their seats as soon as they come in.
25 But if y'all want to sit in a different place each time,

1 you're welcome to do that. But they are very
2 territorial.

3 Mr. Robinson, are you ready to proceed with cross-
4 examination?

5 MR. ROBINSON: Yes, sir, Your Honor.

6 THE COURT: All right.

7 CROSS-EXAMINATION

8 BY MR. ROBINSON:

9 Q. Ms. Caraway, are you doing okay?

10 A. Yes.

11 Q. I understand this is difficult, but please bear with
12 me. This is not pleasant for any of us, but it's a
13 necessity that we have to deal with.

14 Let me ask you, first of all, on April 6th, of 2011,
15 you've recounted some of what happened that day from the
16 Solicitor; is that correct?

17 A. Yes.

18 Q. Is what you told the Solicitor the entirety of what
19 happened that day?

20 A. It's a little bit.

21 Q. A little bit?

22 A. A little bit that was left out different.

23 Q. And tell me specifically what you can recall right
24 now that you left out that is different?

25 A. I remember that when Justin left the gun, he took

1 the shells out, and the shells went with us.

2 Q. So when the Solicitor asked you or said earlier that
3 the shotgun was emptied, that's not accurate, is it?

4 A. Yes.

5 Q. It is accurate?

6 A. I don't know about the shotgun, so I don't know
7 whether the shells come out when they're shot or not, but
8 ---

9 Q. Well, let me ask you about what you just said. When
10 Mr. Johnson, according to your testimony, went to leave
11 the shotgun in the yard, he took the shells out of the
12 gun and put them in his pocket?

13 A. Yes.

14 Q. So there were still shells in the gun?

15 A. Yes.

16 Q. Okay. So the statement that was made that the gun
17 was shot until it was empty or Mr. Johnson didn't quit
18 shooting until the gun was empty is not accurate, is it?

19 A. No.

20 Q. There were still shells in the gun?

21 A. Yes.

22 Q. Okay. And when he took the shells out of the gun --
23 you're actually the one that suggested that he leave the
24 gun?

25 A. Yes.

1 Q. And why did you suggest that?

2 A. Because I would feel safer with it at the house when
3 we were leaving instead of in the car with me.

4 Q. So basically you tricked him?

5 A. Yes.

6 Q. And convinced him that it would be easier to come up
7 with this story if he left it there?

8 A. Yes.

9 Q. Now, let me take you back to what precipitated this
10 whole thing because I don't know that you necessarily
11 talked about that either. How did this start? Y'all
12 were arguing about the children going to the doctor?

13 A. Because I didn't want to go with them. He had
14 already had the children in the car and wanted me to go
15 as well, but I didn't see where I was necessary to go.

16 Q. That's all you can remember today about what
17 happened?

18 A. And I remember that there was an argument. He was
19 supposed to bring -- I can't remember if it was money or
20 what the items were, but he was supposed to bring
21 something for the kids that wasn't there.

22 Q. Okay. So you expected him to bring you some money
23 that day?

24 A. Either money or the ---

25 Q. The goods?

1 A. Yes.

2 Q. Kind of in lieu of child support?

3 A. Yes.

4 Q. Okay. And why did you have that expectation?

5 A. Because he was their father.

6 Q. I understand that. But I mean, you -- I think the
7 Solicitor asked you earlier if it surprised you when he
8 showed up that day. And you said it did. Do you
9 remember that?

10 A. Yes.

11 Q. So if you weren't expecting him, why would you
12 expect him to bring money unexpected or goods unexpected?

13 A. Because when we talked the evening before I asked
14 him to. He said, "No." And that's why it surprised me
15 when he showed up because he said he wasn't.

16 Q. Okay. And when you talked the evening before, you
17 talked about money?

18 A. Yes.

19 Q. And what was the substance of that conversation?

20 A. I don't really remember much, but I remember him --
21 he was supposed to bring the kids some items. He had
22 asked me to meet him that night, but I didn't feel
23 comfortable meeting him in the Wal-Mart's parking lot.

24 Q. Okay. And have you told anybody that, that he asked
25 you to meet him in the Wal-Mart parking lot?

1 A. Yes.

2 Q. Who did you tell that to?

3 A. I can't remember her name, but when we -- when I was
4 being interviewed after everything happened.

5 Q. Okay. Do you remember how many times you were
6 interviewed within a few days after this happened,
7 immediately after this happened?

8 A. I remember twice.

9 Q. Twice? And who do you remember being involved with
10 those interviews?

11 A. The SLED agent.

12 Q. Ms. Carter?

13 A. Yes.

14 Q. And where did she interview you?

15 A. Once at the hospital and once at the Sheriff's
16 department.

17 Q. Okay. And the hospital, that was the day of?

18 A. Yes.

19 Q. And later that day when I think you talked about
20 doing the gunshot residue test ...

21 A. Yes.

22 Q. did you talk with her and Investigator Clark
23 again?

24 A. Yes.

25 Q. Okay. So that was twice that day?

1 A. Yes.

2 Q. And then wasn't there another interview with her as
3 well?

4 A. Yes.

5 Q. And that was the day after J.C.'s funeral?

6 A. I'm not sure what day it was, but I remember going
7 down to the Sheriff's department.

8 Q. And do you remember specifically when you talked to
9 her -- let's start with at the hospital. Do you remember
10 what you told her happened?

11 A. Not right offhand.

12 Q. Do you remember telling her why y'all were arguing?

13 A. I remember telling her. I don't remember exactly
14 what I told her.

15 Q. Okay. Did y'all have an argument because you saw
16 something on the computer about Mr. Johnson and talking
17 to another lady, another female?

18 A. I remember that, yes.

19 Q. Okay. And is that what happened?

20 A. It's what began the argument on the 5th. It was the
21 night before.

22 Q. The night before. Did y'all have any argument about
23 that on the 6th, that next morning?

24 A. No.

25 Q. Did y'all argue about his PIN number on the 6th?

1 A. It was my PIN number to my debit card. On the 5th,
2 we argued. And I told him I didn't want anything else to
3 do with him, so I changed my debit card PIN.

4 Q. Now, was it your account or his account?

5 A. Mine.

6 Q. Do you remember telling SLED officers that you
7 didn't have an account, that y'all had an account
8 together because you at one time had some money in there?

9 A. My account. It was my account, and he had a
10 secondary card to my account.

11 Q. Okay. So he was the secondary?

12 A. Yes.

13 Q. Okay. And do you remember telling the SLED officers
14 that?

15 A. Yes.

16 Q. After the funeral, that's what you believe you told
17 them?

18 A. Yes.

19 Q. So if I remember something otherwise, that's
20 incorrect?

21 A. That's what I remember, yes.

22 Q. Okay. Well, let me ask you right now, today, are
23 you certain that this is your account and Mr. Johnson is
24 the secondary card holder?

25 A. Yes.

- 1 Q. Okay. So was he putting money in that account?
- 2 A. He had some military money, his GI Bill, was going
- 3 to that account.
- 4 Q. Okay. So it was your account; right?
- 5 A. Yes.
- 6 Q. His money was going in it?
- 7 A. Yes.
- 8 Q. You had a card?
- 9 A. Yes.
- 10 Q. And you're the only one that had the PIN?
- 11 A. He had a card as well, but I had ---
- 12 Q. You had changed the PIN?
- 13 A. Yes.
- 14 Q. So he couldn't use his card to get any money?
- 15 A. No.
- 16 Q. But you could?
- 17 A. Yes. But I had already told him that I was going to
- 18 disconnect it.
- 19 Q. Okay. So why did you need him to bring you some
- 20 money or goods if you had his money in an account that he
- 21 couldn't access that only you could access?
- 22 A. I mostly asked him to actually bring the products
- 23 because I didn't have a car. But if he didn't want to go
- 24 into the store to get them, that he could bring the money
- 25 and I'd find a way. But it was easier for him to buy the

1 stuff.

2 Q. Okay. Do you remember telling Ms. Carter and Mr.

3 Clark when they were doing the gunshot test that Mr.

4 Johnson had asked you for money?

5 A. Yes.

6 Q. Okay. So which one happened?

7 A. That was the night before. He had asked -- he was

8 in Sumter, and he had asked if I had any money because

9 his GI Bill had not come in yet. But at the time, I

10 didn't have any. And that's when I told him I didn't

11 have any. I needed some from him. I believe it was for

12 diapers.

13 Q. Okay. You didn't have any money, but he needed

14 money; right?

15 A. Yes.

16 Q. But his money was in your account that he couldn't

17 get to?

18 A. It came on the 6th, that morning.

19 Q. Okay. And how do you know that?

20 A. I checked.

21 Q. You checked that morning?

22 A. Yes.

23 Q. And did y'all have some discussion that morning

24 about him not being able to get his money?

25 A. After he came back, yes.

1 Q. Okay. And what was that?

2 A. He asked about the PIN, and I told him I had changed
3 it.

4 Q. Okay. And were y'all -- now, you said that y'all
5 hadn't been together for nine months or longer?

6 A. No.

7 Q. Is that right?

8 A. Yes.

9 Q. Why was he still on your account?

10 A. He had a joint card. We still conversated (phonic).
11 And with us having a joint account, that he put his money
12 in the account for the kids that I would have it.

13 Q. Okay.

14 A. Because I didn't have a car. So if he was at drill
15 or wasn't around, he could still load it onto the card
16 and I had access to it.

17 Q. His GI Bill went straight into your account?

18 A. Yes.

19 Q. Even after y'all were broken up; right?

20 A. Yes.

21 Q. He was living with another woman?

22 A. Yes.

23 Q. And you had told him you had moved on and y'all,
24 quote, unquote, weren't together?

25 A. Yes.

1 Q. Okay. And how long had that arrangement gone on
2 prior? When did y'all open the account together?

3 A. The account was opened -- I'm not sure when, but I
4 want to say in 2010. But the GI Bill wouldn't have
5 started coming in until about January or February.

6 Q. So y'all opened an account in 2010, and he started
7 getting money in January or February?

8 A. Uh-huh (affirmative).

9 Q. And y'all had broken up in what part of 2010?

10 A. We stopped talking in -- it was a little after
11 J.C. was born, June or July.

12 Q. Okay. Do you have any recollection that you told
13 law enforcement during one of your interviews that Justin
14 was mad because you told him that you weren't going to be
15 with him anymore?

16 A. Yes.

17 Q. And you told him that that day?

18 A. I told him on the 5th that I was tired of the back
19 and forth because he wasn't going to change. And that's
20 why I changed the PIN and cut his card off.

21 Q. Okay. So you didn't cut his card off until the day
22 before?

23 A. Yes.

24 Q. Okay. And you told him -- I mean -- and I'm trying
25 to understand this. Y'all hadn't been together for nine

1 months?

2 A. No. We still conversated. We still had
3 conversations. He still came to pick me up and would
4 spend time with the kids, but we weren't together.

5 Q. Okay. Tell me what you mean by conversated or
6 conversations? Does that literally just mean talking ---

7 A. Yes.

8 Q. --- or is that kind of what kids say today when
9 we're talking or we're texting? I'm kind of old. I
10 don't understand that.

11 A. No. We would actually pick up the phone and have a
12 conversation. He would call and ask how K.C. was.
13 Every now and then, he would ask about J.C. , but he
14 would call.

15 Q. Would you consider what y'all had a dating-type
16 relationship?

17 A. No.

18 Q. And he was living with another girl?

19 A. Yes.

20 Q. So why would it be upsetting to him if you said,
21 "We're not getting together"?

22 A. I'm not sure.

23 Q. Because that had been the status quo for some time;
24 hadn't it?

25 A. It was off and on. I would -- I was in an off-and-

1 on relationship, so we would discuss getting back
2 together. And it was just the fact of I don't want to
3 discuss it anymore. And I would do things for him. If I
4 had money, I would help him out. And I wasn't willing to
5 do it anymore.

6 Q. All right. Well, let me ask you this. And this is
7 probably somewhat indelicate, but I'm just trying to
8 understand. You said y'all had an off-and-on
9 relationship. Did y'all have a physical relationship at
10 times during that nine-month period since you and Justin
11 had broken up?

12 A. Not to my memory, no.

13 Q. No? So what are you saying when you mean off and
14 on?

15 A. We would consider ourselves being
16 boyfriend/girlfriend, but he was never really around for
17 us to actually to see each other. Or if he did, it would
18 be with the kids. It wasn't a one-on-one type of thing.

19 Q. Did you and Justin ever live with Justin's mother?

20 A. No.

21 Q. Never?

22 A. No.

23 Q. Y'all ever stay over there?

24 A. We would spend the night, me and the kids would stay
25 the night, if he wanted to spend time.

1 Q. And that was obviously after J.C. was born,
2 visiting with the kids?

3 A. Yes.

4 Q. So that would have been in the period of time that
5 y'all were supposedly broken up?

6 A. Yes.

7 Q. So during that period of time, you and the kids
8 would spend the night with Justin at his mom's sometimes?

9 A. Yes.

10 Q. Now, when Justin showed up to take the kids, what
11 time of the morning was that?

12 A. It was about seven-thirty, eight o'clock.

13 Q. Okay. And you're certain of that?

14 A. It may be a little bit earlier. I'm not sure.

15 Q. Okay. On Wednesday ---

16 A. April the 6th.

17 Q. --- April 6th, 2011, he was at your house seven-
18 thirty or eight o'clock give or take?

19 A. Yes.

20 Q. Okay. And he got the children at that time?

21 A. Yes.

22 Q. And where did he take them?

23 A. I don't know.

24 Q. Where did you think he was taking them?

25 A. To the doctor.

1 Q. Okay. Do you have any idea of what time Black River
2 opened?

3 A. Black River opened at eight or eight thirty.

4 Q. Okay. And you had an appointment later that day?

5 A. Yes.

6 Q. But not for the kids?

7 A. I had an appointment and they had an appointment,
8 but he wasn't willing to take me to the doctor and then
9 sit at the doctor with them. And it was more important
10 for them to go. So when he came, I told him he could
11 take them and I would just find a way to my appointment
12 later.

13 Q. And you're positive right now that the kids had an
14 appointment and not that you were taking them as a walk-
15 in when you went for your appointment?

16 A. To my memory, one of them had an appointment. I
17 don't remember which one. And the other was supposed to
18 be doing a walk-in. I had already spoken with the doctor
19 the day before, and they said that it was okay.

20 Q. And which doctor did you talk to?

21 A. Black River. I talked to the nurse.

22 Q. Okay. Which nurse did you talk to?

23 A. I don't remember.

24 Q. And that was the day before? That would have been

25 ---

1 A. April 5th.

2 Q. April the 5th. Do you remember what time of day
3 that was?

4 A. I don't.

5 Q. I mean, was it morning, later in the afternoon?

6 A. I know it was right in the middle of the day.

7 Q. Okay. So on the morning of April the 6th, Justin
8 did not ask you for money?

9 A. No.

10 Q. But you did ask him for money?

11 A. Yes.

12 Q. Did you ask him once he got to your house or prior
13 to him coming to your house?

14 A. Once he got there, I asked if he had gotten the
15 stuff for the kids, and he told me that he had the money.

16 Q. He told you he had the money with him?

17 A. Yeah. At that time, I had already taken J.C.
18 outside to him, and I was inside getting K.C. dressed.
19 And, also, we were having a phone conversation. And he
20 told me that he had it outside, to come outside and get
21 it.

22 Q. Okay. Did you go outside?

23 A. I went outside to take K.C. into the car. And when
24 I asked him for it -- after I put her in the car, I went
25 to the driver's side, and he asked me to get in.

- 1 Q. And y'all had an argument at that point in time?
- 2 A. Yes, because I wouldn't get in.
- 3 Q. Okay. And how bad was that argument?
- 4 A. It wasn't really bad. He just kind of asked me to
- 5 get in, and I asked him for the money because I didn't
- 6 feel like I needed to get in the car to just be handed
- 7 some money. And he told me he wasn't going to give it to
- 8 me. So I just walked away. I walked back in the house.
- 9 Q. So that's not the argument like you testified
- 10 earlier where he disrespected your grandparents and
- 11 threatened to knock the door down and told you he didn't
- 12 care about them?
- 13 A. That was after I got inside the house and he called
- 14 back and asked me to come outside.
- 15 Q. You said that was a telephone call?
- 16 A. Yes.
- 17 Q. Okay. And at what point during that argument --
- 18 were you outside when your grandfather left, or you were
- 19 inside?
- 20 A. I was inside.
- 21 Q. Did you tell your grandfather before he left, "Wait
- 22 a minute. Don't go out there. Justin's threatening
- 23 you."?
- 24 A. No.
- 25 Q. You didn't?

1 A. No.

2 Q. Why?

3 A. I didn't feel like I needed to.

4 Q. You didn't believe Justin?

5 A. No.

6 Q. You didn't think he was capable of that?

7 A. No.

8 Q. Okay. So you weren't really scared of him; you were
9 more aggravated with him?

10 A. Yes.

11 Q. Okay. So he then -- the phone went dead and left?

12 A. At the time, I didn't know that his phone went dead,
13 but it disconnected.

14 Q. Okay. And then what happened?

15 A. He sat outside for a while. And I called his
16 mother, and that's when I asked her to call him and ask
17 him to leave. And she said she was going to call the
18 police. And when I went to look, he was gone. So I
19 don't know if she called him, but he was gone.

20 Q. And that's when he left and presumably went to
21 Manning?

22 A. Yes.

23 Q. Because you heard your grandfather testify that he
24 saw him at Wal-Mart?

25 A. Yes.

- 1 Q. Did he call you and tell you that?
- 2 A. No.
- 3 Q. How did you find that out?
- 4 A. I had spoke with my grandfather.
- 5 Q. When?
- 6 A. At the hospital.
- 7 Q. At the hospital?
- 8 A. Yeah.
- 9 Q. After this had happened?
- 10 A. Yes.
- 11 Q. Okay. So you and your grandfather had a
- 12 conversation at the hospital where he told you that he
- 13 had seen Justin?
- 14 A. Yes.
- 15 Q. And when you told law enforcement that your
- 16 grandfather told you that, you meant afterwards?
- 17 A. Yes.
- 18 Q. You didn't know that before hand?
- 19 A. No.
- 20 Q. Okay. Let's talk about when Justin was gone and you
- 21 called Black River, found out he wasn't there, they
- 22 wouldn't take walk-ins or whatever. What did you do at
- 23 that point?
- 24 A. I called his mother to see if she knew whether he
- 25 had taken them to her house.

1 Q. How long had he been gone at that point?

2 A. About fifteen, twenty minutes.

3 Q. From your house on June Burn Road? What made you
4 call Black River that quick?

5 A. Because I remembered something that I hadn't told
6 him, and I wasn't able to get him on his phone. So I
7 called him -- the doctors because I figured they were
8 already there. I could let the doctor know and they
9 could write it down.

10 Q. Okay. So when you found out that he wasn't there,
11 when did you decide that you were going to call the
12 police and report him for kidnapping?

13 A. I didn't call the police. Before I had a chance to
14 call them, he called me.

15 Q. Right. So my question is why did you decide in that
16 short of a period of time that you were going to report
17 him for kidnapping the children?

18 A. Because I didn't know where they were.

19 Q. Okay. They'd only been gone fifteen or twenty
20 minutes?

21 A. Uh-huh (affirmative).

22 Q. How long does it take to get from Black River to
23 your house?

24 A. About ten minutes at most.

25 Q. Ten minutes. So because he was out of touch for

1 about ten minutes, you were going to report him for
2 kidnapping?

3 A. Yes.

4 Q. And why was that?

5 A. Because I knew he was mad and because he had my kids
6 with him.

7 Q. Okay. Did you think they were in danger?

8 A. Yes.

9 Q. So why did you let them go with him?

10 A. At that time, I didn't think that they were in
11 danger. I thought that they were going to the doctor.

12 Q. Okay. So when you found out that they weren't at
13 the doctor, then you thought they were in danger?

14 A. Yes.

15 Q. And what did he do from the time you put them in the
16 car to let them go to that point in time that changed
17 your mind?

18 A. He didn't know where he was going to go.

19 Q. Okay. And what did you think they were in danger
20 of?

21 A. I don't know. I didn't know where they were.

22 Q. And his phone had cut off, right, before he left the
23 house?

24 A. Yes.

25 Q. Did you remember that? That his phone had cut off,

1 you said, "Hey, his phone's dead, let me give him a few
2 minutes"?

3 A. Yes.

4 Q. Okay. And then he called right back, didn't he?

5 A. He called back about -- it was maybe a twenty-five
6 to thirty-minute time frame between the time that it cut
7 off and the time he finally called back.

8 Q. How long after you called Black River and found out
9 that he was not there with the children and decided you
10 were going to report him for kidnapping, did he call you?
11 How much time had elapsed?

12 A. About five or ten minutes.

13 Q. Okay. So once you decided your children were in
14 danger and he had kidnapped them, you decided to wait
15 five or ten minutes to call the police?

16 A. No. After I got off the phone with Black River, I
17 called his mother. And when I asked to see if maybe he
18 had taken them down there, that he had forgotten
19 something and needed to go down there before he took them
20 to the doctor. And she said that she didn't know where
21 they were. And so that's when I decided to call.

22 Q. So immediately after you hung up with his mother,
23 you were getting ready to call the police and he called?

24 A. After I called his mother, I called a friend of mine
25 that I know was in Manning and asked her to kind of look

1 to see if maybe she saw the car. And when she said she
2 didn't see it, that she was there -- because some time
3 had passed since I had called Black River, and I didn't
4 want to call them back. And once she said his car wasn't
5 there, that's when I was beginning to call the police.

6 Q. Okay. Tell me about this friend in Manning. Who
7 did you call in Manning?

8 A. Jerah Dozier (phonic).

9 Q. Jerah?

10 A. Dozier.

11 Q. Okay. And who is Jerah Dozier?

12 A. That is my best friend.

13 Q. Okay. Is her father in law enforcement?

14 A. Yes.

15 Q. Okay. Who is that? Is that Mr. Barney Dozier?

16 A. Yes.

17 Q. Okay. He's a deputy with the Sheriff's department?

18 A. Yes.

19 Q. You close to Mr. Barney also?

20 A. Yes.

21 Q. Do you remember telling somebody he was like a
22 father to you?

23 A. Yes.

24 Q. Did you try to call Mr. Dozier? Did you get Jerah
25 to call her dad and say, "Hey, Justin's got my babies.

- 1 I'm scared"?
- 2 A. No.
- 3 Q. Okay. So eventually Justin called you back?
- 4 A. Yes.
- 5 Q. Okay. What was that conversation about?
- 6 A. He asked about the PIN. And I asked him why didn't
- 7 he go to the doctor. And he said he was coming down the
- 8 road.
- 9 Q. He said he was coming down the road?
- 10 A. He was coming back down June Burn to bring them
- 11 back.
- 12 Q. So he never answered why he didn't go to the doctor?
- 13 A. Not until he got there.
- 14 Q. And what was the deal with the PIN? He just asked
- 15 you about the PIN and no further conversation?
- 16 A. I didn't answer him. And when he said he was coming
- 17 down the road, we got off the phone.
- 18 Q. Did you call anybody else when he told you he was
- 19 coming back to the house?
- 20 A. No.
- 21 Q. Were you scared at that point?
- 22 A. Kind of.
- 23 Q. Of what?
- 24 A. Of him and his temper.
- 25 Q. Okay. He got a bad temper?

1 A. Yes.

2 Q. You've seen it before?

3 A. Yes.

4 Q. And was -- did he sound madder to you on the phone
5 when you were talking to him then than when he was in the
6 yard and you were talking to him on the phone?

7 A. Not really.

8 Q. Okay. So, again, what changed when you said he was
9 in the yard and you were in the house and you weren't
10 scared because you didn't take him seriously to now
11 you're kind of starting to take him seriously coming down
12 the road?

13 A. Because I know that I have to come in contact with
14 him because I have to get the kids back.

15 Q. Okay. So he comes back to the house; is that right?

16 A. Yes.

17 Q. Do you know what time it is then roughly?

18 A. No.

19 Q. No idea? Ten thirty? Eleven o'clock? Twelve
20 o'clock?

21 A. Maybe nine thirty, ten.

22 Q. Nine thirty or ten? What happens when he pulls up
23 in the yard?

24 A. I stand in the front door, and he brings -- he took
25 K.C. out of her car seat and let her walk and placed her

- 1 car seat in front of me. Then he went back and got
2 J.C. in his car seat, and he brought back the diaper
3 bag. And once all that stuff was in the house, that's
4 when he went and opened his trunk.
- 5 Q. And that's when he gave you the baby cup?
- 6 A. The cup.
- 7 Q. Okay. And did y'all argue then?
- 8 A. No. He just continued to ask me to get in the car.
- 9 Q. Okay. And you refused?
- 10 A. Yes.
- 11 Q. And at what point did he start to drive off?
- 12 A. He got back in the car. I told him I was going -- I
13 was supposed to be changing the PIN back for him. And he
14 got in the car and he started pull off, but then he
15 stopped and got back out.
- 16 Q. You didn't stop him?
- 17 A. No.
- 18 Q. You sure?
- 19 A. Positive.
- 20 Q. Why would you have told law enforcement that?
- 21 A. I don't know.
- 22 Q. That as he was driving off, you remembered he hadn't
23 given you the money, so you tried to stop him to get the
24 money from him. Do you remember telling anybody that on
25 April the 6th?

- 1 A. No.
- 2 Q. Okay. So it's your testimony today that he went to
- 3 leave and then stopped himself?
- 4 A. Yes. I may have stopped him. I don't remember.
- 5 It's been three years.
- 6 Q. Okay. Well, did you do anything before today to
- 7 refresh your memory a little bit?
- 8 A. Yes, I did.
- 9 Q. What did you do?
- 10 A. I thought about it. I went back to the house and
- 11 kind of walked through it.
- 12 Q. Did you look over any of your previous statements?
- 13 A. Yes.
- 14 Q. Okay. And did you try to refresh your memory?
- 15 A. Yes.
- 16 Q. But when you testified earlier, you still left some
- 17 stuff out?
- 18 A. Yes.
- 19 Q. That's because you're nervous?
- 20 A. Yes.
- 21 Q. Okay. Do you remember talking to the SLED agents,
- 22 Ms. Carter and the other lady, another female?
- 23 A. Yes.
- 24 Q. That was after the funeral?
- 25 A. I don't remember.

1 Q. It wasn't the day of the event?

2 A. I remember talking to Ms. Carter, but I don't
3 remember anybody else being there.

4 Q. Do you remember talking to them about a DNA sample?

5 A. Yes.

6 Q. And what did you need that for?

7 A. I didn't need one. They were asking if I had one
8 done.

9 Q. Who was asking?

10 A. The SLED agent.

11 Q. Okay. You don't remember telling them you needed
12 one to give the Army?

13 A. No.

14 Q. To get some insurance?

15 A. No.

16 Q. You have no recollection of that?

17 A. No.

18 Q. Okay. And did you send a DNA sample to the Army?

19 A. No, I didn't.

20 Q. Did you ask somebody at SLED to do that for you?

21 A. No, I didn't.

22 Q. Did you get any money from the Army?

23 A. No, I didn't.

24 Q. Did you ask for any?

25 A. No, I didn't.

1 Q. Okay. Now, were you angry with Justin because he
2 had another child?

3 A. No.

4 Q. You weren't?

5 A. No.

6 Q. You don't remember telling anybody that you were
7 angry with Justin about that?

8 A. No.

9 Q. That you were mad because he was giving money to
10 somebody else and wouldn't give it to your children?

11 A. I remember that, that I was mad that he was doing
12 for the child, but I wasn't mad about the child.

13 Q. Okay. Well, that's what I'm saying. You were mad
14 that he was, quote, giving money to a child he wasn't
15 sure was his when he had two he knew was his and he
16 wasn't doing anything. Do you remember telling them
17 that?

18 A. Yes.

19 Q. And y'all had argued about that the night before, on
20 April the 5th, the night of?

21 A. Yes.

22 Q. And that's when you changed his PIN, isn't it?

23 A. No.

24 Q. You'd already changed it?

25 A. The PIN got changed after that.

1 Q. After? Well, that's what I said. You changed his
2 PIN after y'all had that argument, right?

3 A. Yes.

4 Q. Okay. Now, some of Justin's story, you say the
5 information about this Robert guy, that that came from
6 Justin?

7 A. Yes.

8 Q. And how was Justin when he was talking to you about
9 making the story up?

10 A. He was a little nervous. He still had the gun
11 pointed at me. And he was telling me what to tell the 9-
12 1-1 operator on the phone.

13 Q. Was he mad and mean and angry?

14 A. He was still very frustrated.

15 Q. Well, I mean, were you scared of him at that point?
16 Other than the gun, was he doing anything else to make
17 you be afraid of him, or he was just ---

18 A. Yeah. He was standing me over me.

19 Q. I understand that. But I mean, his demeanor, the
20 way he was looking and acting and talking, was it yelling
21 and screaming or was it ---

22 A. He was whispering so that they couldn't hear him.

23 Q. He was whispering?

24 A. Yes.

25 Q. And that's why they couldn't hear him on the tape?

1 A. Yes.

2 Q. So somebody that had -- in your testimony had just
3 shot his child, shot down the hall at you, shot the door,
4 kicked the door down, had a gun in your face was
5 whispering at you?

6 A. Yes.

7 Q. Okay. And how long did he continue to whisper at
8 you?

9 A. Throughout the 9-1-1 call.

10 Q. Okay. And when you hung up the phone, did he
11 continue to whisper to you?

12 A. He began talking louder.

13 Q. Just regular talking?

14 A. A little bit louder.

15 Q. Was he yelling at you?

16 A. Not yelling, but it wasn't normal. His voice was
17 raised.

18 Q. Was he threatening you?

19 A. No. He was just telling me to go ahead and get a
20 shirt.

21 Q. Okay. When do you remember first telling law
22 enforcement that Mr. Johnson was hitting you and your
23 grandmother?

24 A. I don't remember when I told them.

25 Q. Did you tell them that in your interviews on April

1 the 6th?

2 A. I don't remember if I did or not.

3 Q. Okay. Did you remember that that happened on April
4 the 6th?

5 A. Yes.

6 Q. Okay. And on that particular day when he was
7 hitting your grandmother, where were you at that moment
8 when he was hitting your grandmother?

9 A. In the same room.

10 Q. Okay. And what did you do?

11 A. I tried to stop him.

12 Q. You physically grabbed him?

13 A. I was on the floor because when she came in the
14 room, he threw me on the floor and jumped on her. And
15 every time I got up, he kind of stopped hitting her and
16 knocked me back down.

17 Q. Okay. And when did he -- I guess at one of those
18 points when he got off of her to knock you back down, she
19 got up to go to the hospital?

20 A. That was after -- after he -- the last time I fell,
21 that's when he started punching her and punched her in
22 the nose. And they both fell. And she asked him why he
23 was doing it. And he told her it was because of the PIN.
24 And she told me to go and change the PIN. And when I got
25 up to go get the phone to call, that's when he came

1 behind me and began dragging me out of the house. And
2 that's when she said, well, I need to go to the hospital.

3 Q. Okay. So she was going out of the house to go to
4 the hospital?

5 A. Yes.

6 Q. Do you know where the car keys were when she went
7 out of the house?

8 A. On the counter.

9 Q. So how was she going to the hospital?

10 A. The car.

11 Q. With the car keys on the counter?

12 A. I don't know why she didn't take them. I guess she
13 was ---

14 Q. But she had something in her hand, didn't she?

15 A. Yes.

16 Q. What did she have in her hand?

17 A. I don't know.

18 Q. You don't remember?

19 A. I didn't see it.

20 Q. You don't remember telling the police that she had
21 the telephone.

22 A. I remember telling them that the phone -- but they
23 had already asked me about it. I didn't really see what
24 she had.

25 Q. Okay. So she was out there, but she didn't have the

1 car keys?

2 A. No.

3 Q. And when did you realize that she didn't have the
4 car keys?

5 A. After everything was happening.

6 Q. Okay.

7 A. I honestly didn't realize that she didn't have the
8 car keys until after they had released the house back to
9 us and they were in there.

10 Q. So she went out of the house to go to the hospital?

11 A. Yes.

12 Q. You ran in another room looking for a phone?

13 A. Yes.

14 Q. And you don't really know what happened to your
15 grandmother until you came back out after everything was
16 over and saw her lying on the ground; is that right?

17 A. Yes.

18 Q. You didn't see anybody do anything to her?

19 A. No.

20 Q. You didn't hear any gunshots?

21 A. No.

22 Q. You have no idea what happened to her?

23 A. No.

24 Q. How many gunshots do you remember hearing that day?

25 A. Two.

1 Q. Two? And which two was that? Do you remember which
2 two that was?

3 A. The one that killed J.C. and the one that opened
4 the door.

5 Q. Okay. And how many gunshots, if you know, happened
6 that day? Do you know?

7 A. Four.

8 Q. Four? Did you ever touch the gun?

9 A. No.

10 Q. You're sure?

11 A. I touched the barrel of it to move it, but I never
12 -- other than the barrel, no.

13 Q. Did you touch the pump handle part of the gun?

14 A. Not to my knowledge, no.

15 Q. Okay. And in the bathroom, I believe there was
16 water in the sink. You remember that?

17 A. I don't remember if there was water in the sink or
18 not.

19 Q. You weren't in there washing your hands?

20 A. No.

21 Q. Okay. The police came about what time? What time
22 do you remember meeting Officer Eaddy on the road?

23 A. Maybe about eleven.

24 Q. Okay. And shortly -- y'all went back to the house,
25 right?

- 1 A. Yes.
- 2 Q. And shortly thereafter, Justin was arrested and
- 3 taken away?
- 4 A. Yes.
- 5 Q. Okay. Where did you go after that?
- 6 A. To the hospital.
- 7 Q. Okay. And when you went to the hospital, you
- 8 changed -- they took your clothes? Did the police get
- 9 your clothes?
- 10 A. I can't remember if they took them at the hospital
- 11 or not, but they did take them.
- 12 Q. You went to the hospital and put on a gown?
- 13 A. Yes.
- 14 Q. Did they clean you with anything, alcohol or
- 15 Betadine or anything that ---
- 16 A. They cleaned my shoulder, yes..
- 17 Q. Okay. Do you remember washing your hands or going
- 18 to the bathroom at all from that time until five o'clock
- 19 that afternoon?
- 20 A. No.
- 21 Q. You don't remember any of that?
- 22 A. No.
- 23 Q. Do you think you went to the bathroom at some point
- 24 in between there?
- 25 A. I probably didn't.

1 Q. Probably didn't? Okay. And when you were
2 interviewed at five o'clock that afternoon, did you have
3 on the hospital gown?

4 A. No.

5 Q. What did you have on?

6 A. I had on some clothes that my friend had brought me.

7 Q. And did you change at the hospital?

8 A. Yes.

9 Q. And did you go straight from the hospital to the
10 Sheriff's department for the interview?

11 A. Yes.

12 Q. So you were at the hospital from eleven thirty,
13 twelve o'clock to about five o'clock?

14 A. Yes.

15 Q. Okay. Did they have to put you under, knock you
16 out, give you anesthesia to get the pellet out, or did
17 they leave it in?

18 A. No. They took it out. They did x-rays to see where
19 it was. And then they gave me a shot to numb the area,
20 and then they gave me a tetanus shot and then they
21 stitched it up.

22 Q. Okay. Did they kind of -- how many rooms did you go
23 in in the hospital? Did they run you around a good bit?
24 I know because I've been there.

25 A. I just ---

1 Q. If you had to get x-rays you went in a waiting room,
2 and then you went into the x-ray room; is that right?

3 A. I went straight from the room that they had me in to
4 the x-ray room.

5 Q. Okay. And then did you come back to the same room?

6 A. And I went straight back.

7 Q. Okay. And you stayed in that room until they let
8 you go?

9 A. Yes.

10 Q. Okay. And when you went into x-ray, do you remember
11 them putting the shield on you or whatever ---

12 A. Yes.

13 Q. --- the heavy, the lead drape cover?

14 A. Yes.

15 Q. Did they lie you down or they just took it with you
16 standing up?

17 A. They took it with me standing.

18 Q. Okay. When you first talked to the officers at the
19 scene that day, you were talking with Mr. Eaddy, but you
20 didn't really tell him anything; is that right?

21 A. Yes.

22 Q. The first person you told something to was the
23 investigator?

24 A. Yes.

25 Q. Mr. Richards?

- 1 A. Yes.
- 2 Q. And did you verbally tell him something, or did you
- 3 write a note?
- 4 A. I wrote it down on his pad.
- 5 Q. And what did you write on his pad?
- 6 A. "He did it."
- 7 Q. "He did it"?
- 8 A. Yes.
- 9 Q. Are you sure you did that?
- 10 A. Yes.
- 11 Q. Did you start to write it and didn't finish?
- 12 A. Yes.
- 13 Q. What did you end up writing?
- 14 A. I don't remember.
- 15 Q. So you didn't actually write, "He did it," that's
- 16 what you intended to write?
- 17 A. I wrote, I started out, and then I stopped and was
- 18 able to write, "He did it."
- 19 Q. So you did get that written down?
- 20 A. Yes.
- 21 Q. And did you give that to Investigator Richards?
- 22 A. Yes.
- 23 Q. And as far as you know, he kept it?
- 24 A. Yes.
- 25 Q. Have you seen that note again since then?

1 A. No.

2 MR. ROBINSON: The Court's indulgence just a
3 moment, Your Honor.

4 THE COURT: Yes, sir.

5 Q. Do you remember Solicitor Finney asking you if you'd
6 ever seen that gun before?

7 A. Yes.

8 Q. And what did you tell him?

9 A. No.

10 Q. Are you sure you'd never seen that gun before?

11 A. Yes.

12 Q. You're positive?

13 A. Yes.

14 Q. You don't remember telling the SLED agent that Mr.
15 Johnson had pulled that gun on you before one time at
16 your mama's house?

17 A. No.

18 Q. Do you remember that now?

19 A. That was at his mother's house, but ---

20 Q. So he pulled that same gun on you at his mother's
21 house?

22 A. I don't know if it was that same gun, but it was a
23 gun.

24 Q. And you talked about that in the interview after the
25 funeral. Do you remember that?

1 A. No.

2 Q. You just remember that because I just reminded you
3 just now?

4 A. Yeah.

5 Q. Okay. And even after me reminding you or asking
6 things about the insurance and the DNA, you don't
7 remember having any conversation with anybody about that?

8 A. I remember they -- I don't remember asking them. I
9 do remember them asking did I have a DNA test because he
10 had told them that it wasn't his son, and they wanted
11 that. But I don't remember asking them for one. I
12 didn't need one.

13 Q. Okay. And that was SLED that asked you about it,
14 not an insurance company or the Army or anybody?

15 A. No.

16 Q. Ms. Caraway, let me hand you these two different
17 documents. They have the same date on them. One of them
18 says five o'clock p.m., and one of them says eleven
19 o'clock a.m. And I want you to look at them real quick
20 because I don't want to trick you or make you answer
21 something that you're not familiar with. Take enough
22 time to look at them until you think you are familiar
23 that you know what they are and then just let me know.
24 Okay?

25 A. Okay.

1 MR. FINNEY: Judge, may we approach?

2 THE COURT: You may.

3 (WHEREUPON, a bench conference was held off the
4 record.)

5 THE COURT: All right. Mr. Robinson?

6 MR. ROBINSON: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 CONTINUED BY MR. ROBINSON:

9 Q. Ms. Caraway, have you had a chance -- and I'm not
10 trying to rush you. If you haven't had a chance, then
11 that's fine. If you want some more time, that's fine.
12 Just let me know. Have you looked through those?

13 A. Yes.

14 Q. Does anything in those statements -- and I realize
15 that you haven't signed them -- but is there anything in
16 those statements help you with any of the questions that
17 I've asked you here today?

18 A. It brings back my memory a little bit.

19 Q. Okay. Tell me, if you can, specifically what
20 memories it brings back that you didn't have.

21 A. Just more of the little things that happened before.

22 Q. Like what?

23 A. Like the conversation we had the day before.

24 Q. And what were those about?

25 A. One of the conversations while he was waiting to

1 pick up one of his friend's girlfriend from work. And we
2 talked about the money. It reminded me of the argument
3 we had because of his other daughter.

4 Q. So you do remember arguing with him about the other
5 daughter and giving her money and not your kids?

6 A. Yes.

7 Q. Okay. Can I ---

8 A. Yes.

9 Q. Do you need to look at it? What about anything in
10 there that refreshes your recollection about whether or
11 not you actually stopped him when he went to leave?

12 A. Yes.

13 Q. And what happened there? What do you now remember?

14 A. I asked him about the money, but he told me that if
15 I wasn't going to go with him I couldn't get it.

16 Q. And then he went to leave; right?

17 A. He was already in the process of leaving, then he
18 stopped.

19 Q. Okay.

20 A. And then he said, "Well, if you go with me, I'll
21 give you the money." And that's when I said, "No." and
22 went to shut the door and he got out and ran towards the
23 house.

24 Q. So you still don't remember stopping him?

25 A. I stopped him and asked him -- when he got in the

1 car and was leaving, he asked me to go with him. He got
2 in the car. I stopped him and asked him about it. He
3 told me that if I did not -- if I wasn't going to go with
4 him, he wasn't going to give it to him. And so I said,
5 "Okay," and went to shut the door. And that's when he
6 got out of the car.

7 Q. Okay. And so I want to make sure I'm clear. When
8 he went to leave that particular time, he'd already put
9 the kids back in the house; it was just him in the car.
10 Right?

11 A. Yes.

12 Q. He was getting ready to leave?

13 A. Yes.

14 Q. Y'all had some discussions -- you told him you
15 weren't going to go with him -- and then he went to
16 leave. And then you stopped him and said, "Hey, how
17 about my money?" And he said, "Only if you get in the
18 car." And you said, "Never mind"?

19 A. Yes.

20 Q. And went in the house, and that's when he came on
21 in?

22 A. Yes.

23 Q. Did you see him coming?

24 A. Yes.

25 Q. Did he say any -- I mean, did he yell or scream or

1 ---

2 A. No. But I was still standing at the door, so I saw
3 that he was coming.

4 Q. Okay. But when he got out, did he slam the door and
5 cuss and stomp up to the house or ---

6 A. He slammed the door and took out running towards the
7 house.

8 Q. He was running towards the house?

9 A. Yes.

10 Q. Okay. Did he have a gun in his hand then?

11 A. No.

12 Q. Do you know when he got the gun?

13 A. No.

14 Q. Did you see him get the gun out of the car?

15 A. No.

16 Q. Did he ever ask you to go to Wal-Mart for him and
17 get some papers on this particular gun? Do you remember
18 that?

19 A. It wasn't -- I don't remember if it was that gun,
20 but I remember him saying he needed to go to Wal-Mart to
21 get some papers for a gun.

22 Q. He never asked you to do that?

23 A. No.

24 MR. ROBINSON: Judge, I think that concludes
25 the questions I can answer or ask right now. I've got

1 (No response)

2 THE COURT: All right. Very well. Thank you.

3 All right. Mr. Robinson, are you ready to proceed?

4 MR. ROBINSON: Yes, sir, Your honor.

5 THE COURT: Good morning.

6 THE WITNESS: Good morning.

7 CROSS-EXAMINATION

8 CONTINUED BY MR. ROBINSON:

9 Q. Ms. Caraway, good morning.

10 A. Good morning.

11 Q. I'll try to take you back to yesterday afternoon,
12 and it seems like a long time ago and in other ways too
13 short a time ago. But we're back here at this again. I
14 was asking you some questions yesterday about the
15 interviews, and you told me that you remembered you had
16 three separate interviews?

17 A. Yes.

18 Q. Do you remember an interview with Tina Carter and
19 Roxanne Bethay of SLED on April the 13th?

20 A. Yes.

21 Q. And that was the day after J.C. 's funeral?

22 A. Yes.

23 MR. ROBINSON: Your Honor ---

24 Q. Do you know whether or not that was recorded?

25 A. I don't.

1 MR. ROBINSON: Your Honor, at this point I
2 would ask to move into evidence the tape recording of
3 that particular interview.

4 THE COURT: All right. And I believe that's
5 without objection. Is that correct?

6 MR. FINNEY: Yes, sir.

7 THE COURT: Without objection Defense Exhibit
8 Number 1?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: All right.

11 (WHEREUPON, Defendant's Exhibit Number 1 was
12 admitted into evidence.)

13 MR. ROBINSON: Ladies and gentlemen, bear with
14 me just a moment. Let me see if I can -- I'm going to
15 hope it doesn't make that noise it made a minute ago.

16 THE COURT: Grab your ears if it does. You'll
17 hear the dogs howling.

18 Is this a video tape or just an audio?

19 MR. ROBINSON: It's a video, Your Honor.

20 THE COURT: Okay.

21 (WHEREUPON, Defendant's Exhibit Number 1 was
22 published for the jury.)

23 MR. ROBINSON: May I pause that just a little
24 bit?

25 THE COURT: Yeah.

1 MR. ROBINSON: We obviously have to adjust the
2 sound on that. Does somebody know how to turn that up
3 just a little bit?

4 (WHEREUPON, the publication of Defendant's Exhibit
5 Number 1 resumed.)

6 Q. Ms. Caraway, you remember me asking you about that
7 yesterday?

8 A. Yes.

9 Q. And you just -- you didn't remember that?

10 A. No, I didn't.

11 Q. Okay. Does that refresh your memory a little bit?

12 A. Yes.

13 Q. So you did, in fact, ask about DNA so you could get
14 some insurance money?

15 A. I did.

16 Q. And did you get any?

17 A. No, I didn't.

18 Q. And that was the day after the funeral.

19 A. Yes.

20 Q. And you, that particular day, had already called the
21 Army, the doctor's office ---

22 A. I called before -- it was before that day that I
23 spoke with them. And that was the only day that I had
24 time to go to the police.

25 Q. So prior to that, you had already started contacting

1 them, the Army or whoever, about getting this money prior
2 to the funeral?

3 A. Yes, I did.

4 Q. Do you remember when you first contacted them about
5 trying to get some insurance money?

6 A. I don't.

7 Q. Was it a day or two or after?

8 A. I don't remember.

9 Q. And you told me yesterday that you'd never seen that
10 gun before?

11 A. Yes, sir.

12 Q. Which is accurate, that you've never seen it before
13 or you have seen it before?

14 A. I don't know whether it's the same gun or not.

15 Q. Well, you seemed pretty -- you saw your testimony?

16 A. Yes.

17 Q. Did you tell the officers that you weren't sure if
18 it was the same gun?

19 A. Yes. No, I didn't.

20 Q. You told them, "Yeah, that's the same gun"?

21 A. Yes.

22 Q. You were pretty sure then, right?

23 A. I'm not sure what I had going on then.

24 Q. Okay. But you agree with me today is almost three
25 years later?

1 A. Yes.

2 Q. That was about a week later?

3 A. Yes.

4 Q. Would you agree that your memory was probably better
5 then than it is now?

6 A. It may have been. I was still in shock and going
7 through a lot there, so ...

8 Q. Okay. But not so in shock that you couldn't start
9 working on this insurance money?

10 A. It wasn't necessarily insurance money. I actually
11 called for support for my daughter that was still living.
12 And they mentioned the insurance because she wouldn't be
13 able to get any assistance from them.

14 Q. You're talking about support, like financial
15 support?

16 A. Yes.

17 Q. Okay. Not mental health or anything?

18 A. No.

19 Q. You didn't check on that?

20 A. I did. But I did that through the victim's
21 advocate.

22 Q. Okay. Let me take you back to yesterday and make
23 sure I'm clear on a couple of things that you told me
24 because you did tell me that you had some memories, and
25 then you looked at some statements and some things

1 changed. With regard to, I think, what has been marked

2 State's Exhibit Number 53 -- can you see that okay?

3 A. Yes.

4 Q. I'm trying to see whether the jury can see it.

5 Would you come around, please, ma'am? That'll make it a

6 little bit easier probably for everyone to see.

7 (WHEREUPON, the witness stepped down from the

8 witness stand.)

9 Q. And I just want to try to be clear. If you would,

10 how about make sure I'm straight. Where was J.C.

11 sitting in that particular dining room?

12 A. Right here.

13 Q. Okay. And at the time that you allege the shooting

14 occurred, where was Mr. Johnson?

15 A. Right here.

16 Q. He was over there?

17 A. Yes.

18 Q. Approximately how far away from J.C. would you say

19 he was? How wide is that room? Do you know?

20 A. It's not very wide.

21 Q. Ten or twelve feet?

22 A. It might be about as far as I am from the Judge.

23 Q. Okay. And I'm not trying to lock you in to any

24 specific details. And show me again where you were,

25 please, ma'am?

1 A. I was right in here.

2 Q. Okay. And you said he originally had the gun
3 pointed at you?

4 A. Yes.

5 Q. And you closed your eyes?

6 A. Yes.

7 Q. And when you opened -- you heard a gunshot?

8 A. Yes.

9 Q. Opened your eyes, and that's when you saw J.C.
10 slumped in the chair?

11 A. Yes. And the gun was pointed towards him.

12 Q. Okay. You can have a seat.

13 (WHEREUPON, the witness resumed the witness stand.)

14 Q. And the -- did --- (audio screech)

15 MR. ROBINSON: That can't possibly be me. .

16 Q. Now, when you and Justin -- you say that you and
17 Justin were fighting in the hallway or foyer area going
18 into the house?

19 A. Yes.

20 Q. And your grandmother came in and kind of intervened?

21 A. Yes.

22 Q. And I think you told the jury that Justin was
23 fighting with your grandmother, and then he would hold
24 you, and then he would fight her and hold you and kind of
25 going back and forth?

1 A. Yes.

2 Q. Did you -- and your grandmother, did you help her up
3 at any point in time or grab her or hold her or anything
4 of that nature?

5 A. No. He was kind of positioned between us.

6 Q. Okay. You never came in contact with your
7 grandmother?

8 A. At one point I did, but that was after things had
9 kind of calmed down and we were sitting -- after they
10 fell and I was already sitting on the floor.

11 Q. Wait a minute. After things calmed down?

12 A. Not calmed down as far as calmed down. But after he
13 punched her and they both fell, there was like a second
14 when everybody was kind of catching their breath when my
15 grandmother asked him why he was doing it. And he told
16 her about the card, about the PIN on the card where I
17 reached out for her to get up so that I could go in the
18 room to get the phone because she told me to change the
19 PIN for him so he would leave.

20 Q. Was he between y'all at that point in time?

21 A. He wasn't between us. He was sitting -- we were
22 kind of in a triangle shape. He wasn't really in-between
23 us.

24 Q. Okay. So y'all have had this brouhaha where Mr.
25 Johnson was just wailing on everybody, and then y'all

1 just all kind of fell on the floor and had a chat?

2 A. It wasn't really a chat. It was more so -- he --

3 after they fell, he wasn't hitting her. And she asked

4 him why he was doing it.

5 Q. Now, I thought you told the jury that was

6 beforehand?

7 A. No.

8 Q. So you're telling us that this man that you're

9 claiming went into a rage and killed two people, in the

10 middle of that rage, calmed down, caught his breath,

11 explained to your grandmother rationally why he was doing

12 this irrational behavior, and then flipped back out. Is

13 that what you're telling me?

14 A. It wasn't rational. He was still yelling. And,

15 well, you know, "She changed my PIN." My grandmother

16 told me to change it back. When she told me to change

17 the PIN back and I got up and walked into the room to get

18 the phone, that's when he began dragging me outside.

19 Q. So he stopped attacking y'all, had a loud

20 conversation but wasn't holding you, punching you,

21 beating you or anything, let you get up to go get a

22 phone, talking to your grandmother, then came and drug

23 you back out and started again?

24 A. Because at the same time I was trying to get up,

25 that's when she began saying she wanted to go to the

1 hospital. And he was -- I got up. I leaned on her to
2 get up. And he was kind of trying to still keep her
3 because I guess he didn't want her to go to the hospital.
4 But she was saying she needed to go to the hospital.

5 Q. And then she left?

6 A. No. As he was dragging me down the stairs, she ran
7 past me, and then she ran back outside. That's when she
8 went to the counter, and I thought she was getting her
9 keys.

10 Q. So she went in the house, passed y'all into the
11 house to get something off the counter that you thought
12 were the keys ---

13 A. Yes.

14 Q. --- that were all the way in the kitchen; right?

15 A. No. There's a counter. It's shown in the picture.
16 It's longer than it is in the picture. And it's right
17 there by the door.

18 Q. Okay. So it was kind of right by the door?

19 A. Yes.

20 Q. Okay. So she went there to get the keys but didn't
21 get them; right?

22 A. Right.

23 Q. And ran back outside?

24 A. Yes.

25 Q. And when she ran back outside, your shirt came off?

1 A. Yes.

2 Q. Okay. And tell me was Justin hitting y'all then,
3 screaming then, or ---

4 A. He was dragging me outside.

5 Q. Okay. Your shirt came off.

6 A. When my grandmother ran past us, his grip on me
7 loosened, and I was able to slip out of my shirt and run
8 back in the house.

9 Q. Okay. And that's when he went outside?

10 A. We were already outside.

11 Q. So y'all were fighting outside?

12 A. He dragged me from the room, the same room that
13 J.C. was sitting in, he dragged me out and to the
14 porch. And right after you come off of the porch,
15 there's like a brick layout on the ground. And we were
16 there. And my grandmother ran off the porch past us.
17 And then that's when he loosened the grip and I was able
18 to slip out of my shirt and go back into the house.

19 Q. Okay. So when he was dragging you down the porch
20 and your grandmother was in the house, was she about as
21 far away as we are now from y'all?

22 A. She was a bit further.

23 Q. A bit further. Not where Justin could grab her?

24 A. No.

25 Q. And he didn't have a gun at that time?

- 1 A. No.
- 2 Q. And she had a phone in her hand; right?
- 3 A. That's what they told me. I don't know what she
- 4 had. I didn't see anything in her hand.
- 5 Q. So she had a phone. She didn't call 9-1-1. And
- 6 your testimony is she went to get in her car and left the
- 7 keys on the counter right where she was standing?
- 8 A. Yes.
- 9 Q. And that at some point after all of that, after all
- 10 of those opportunities, that then Mr. Johnson escalated
- 11 to where he went to his vehicle and got a gun?
- 12 A. Yes.
- 13 Q. Now, when you got away -- when he was dragging you
- 14 and your grandmother ran past and you got away and went
- 15 in the house, you went into a bedroom?
- 16 A. I went down the hallway into my grandfather's
- 17 bedroom.
- 18 Q. Okay. Did you find a telephone?
- 19 A. No, I did not.
- 20 Q. You came back out?
- 21 A. Into the room with the counter and saw my
- 22 grandmother's cell phone and got her cell phone.
- 23 Q. Okay. Did you call 9-1-1?
- 24 A. Not at that time, no.
- 25 Q. Why not?

1 A. Because at that time, when I was going back down the
2 hall away from the door, it felt safer to be away from
3 the door so if he came in, I could -- I would have been
4 able to talk to him and still been safe. And I turned
5 around to get J.C. , and that's when he was coming back
6 up the stairs.

7 Q. Okay. And so you just stopped?

8 A. Yes.

9 Q. And you were several feet away from J.C. ?

10 A. Yes.

11 Q. And at that point in time you had not heard any
12 gunshots; right?

13 A. No.

14 Q. Okay. And then you close your eyes and you heard
15 one?

16 A. Yes.

17 Q. Mr. Johnson didn't say anything before you heard
18 that gunshot?

19 A. Yes. He said I made him do it.

20 Q. Before the gunshot?

21 A. Yes. The gun was pointed at me. He said, "You made
22 me do this."

23 Q. Okay.

24 A. And I closed my eyes because I thought he was going
25 to shoot me.

- 1 Q. Okay. And then you ran down the hall?
- 2 A. After the shot.
- 3 Q. After the shot?
- 4 A. Yes.
- 5 Q. You ran down back the other direction?
- 6 A. Yes.
- 7 Q. Down the hall and locked yourself in the bathroom?
- 8 A. Yes.
- 9 Q. And the only other shot you heard was the doorknob?
- 10 A. Yes.
- 11 Q. Now, you told us that when you called 9-1-1 from the
- 12 bathroom ---
- 13 A. Yes.
- 14 Q. --- that the first time, Mr. Johnson wasn't in
- 15 there; he was coming down the hall?
- 16 A. He was at the door already.
- 17 Q. Okay. And you hung up when he shot the door or
- 18 something?
- 19 A. Yes.
- 20 Q. Did you hang up before he shot the door?
- 21 A. No.
- 22 Q. Could you hear the shot clearly?
- 23 A. Yes.
- 24 Q. And after that he came in, and you were laying on
- 25 the floor?

- 1 A. Yes.
- 2 Q. Gun ---
- 3 A. Pointed at me.
- 4 Q. Okay. And was he yelling then?
- 5 A. Yes.
- 6 Q. Okay. And 9-1-1 called back?
- 7 A. Yes.
- 8 Q. And was he still very upset and irate?
- 9 A. Yes.
- 10 Q. And you were on the phone with 9-1-1 while he was
- 11 doing all of this?
- 12 A. I didn't answer the first time they called back.
- 13 Q. Okay. But I mean at some point when they called
- 14 back the second time, did he still have the gun on you?
- 15 A. Yes, he did.
- 16 Q. Okay. And he was telling you what to say?
- 17 A. Yes.
- 18 Q. While you were on the phone?
- 19 A. Yes.
- 20 Q. During that conversation that was recorded; correct?
- 21 A. Yes.
- 22 Q. Okay. Did you listen to that tape?
- 23 A. Yes.
- 24 Q. Did you hear his voice telling you clearly what to
- 25 say?

1 A. No, I didn't. But he was whispering, so I wouldn't
2 have been able to hear.

3 Q. You just said he was yelling at you with a gun in
4 your face?

5 A. Yes. And then when they called back, he was telling
6 me what to say. So he was whispering ---

7 Q. He started whispering? He could control his temper
8 that quick, from killing two people, a gun in your face,
9 yelling at you to, (whispering) "Tell them it was
10 Robert"?

11 A. Yes.

12 Q. That's your testimony?

13 A. Yes.

14 Q. Okay. And you're sure that's accurate?

15 A. I'm positive.

16 Q. And there's nothing that would recall your memory
17 otherwise, another statement or something?

18 A. No.

19 Q. Okay. Do you know how many times you called or
20 tried to call Mr. Johnson that particular morning that
21 you weren't expecting him?

22 A. It was quite a few. Not before he came. But after
23 he came, it was quite a few.

24 Q. From -- I think you said yesterday you think the
25 first call was between seven forty-two or seven forty-

1 six. You remember that?

2 A. Something around that time, yes.

3 Q. So between that time and about nine forty a.m., do
4 you know how many times you called him?

5 A. Probably about fifteen, twenty.

6 Q. Okay. Fifteen or twenty times? And what were you
7 calling him that many times for?

8 A. Because he had my kids.

9 Q. Okay. Well, at some point he was back at the house,
10 wasn't he?

11 A. Once he came back, I didn't have to call him
12 anymore.

13 Q. But you said several times you talked to him on the
14 cell phone while he was at the house?

15 A. While he was there, yes, we was talking.

16 Q. Okay. So while all this threatening behavior and
17 terrible stuff is going on in this time frame and you're
18 worried about a kidnapping and him fighting you and
19 disrespecting your grandparents and knocking down the
20 door, you had time to make twenty-one phone calls just to
21 Mr. Johnson, but not one to 9-1-1?

22 A. No, because when I called his mother and asked her
23 to keep from him getting in trouble to call, she said she
24 was going to call.

25 Q. How about you called your best friend, Ms. Dozier,

- 1 didn't you?
- 2 A. Yes.
- 3 Q. Her dad's a cop, isn't he?
- 4 A. Yes.
- 5 Q. Did you call them again ---
- 6 A. No, I didn't.
- 7 Q. --- and say, "Hey, Justin's going crazy. I'm
- 8 scared. I need some help. Somebody get out here"?
- 9 A. I didn't have time to call anybody when -- once he
- 10 got back to the house, I didn't have time to call
- 11 anybody.
- 12 Q. Well, you told this jury yesterday that he was
- 13 acting mad and disrespectful before he left the house
- 14 with the children the first time.
- 15 A. And then he left. And I ---
- 16 Q. But he had your children?
- 17 A. Yes. But they were his kids also.
- 18 Q. So did that scare you or not?
- 19 A. Not at that time. But once I realized they weren't
- 20 where they were supposed to be, it did.
- 21 Q. So ten minutes -- at one point driving off, you're
- 22 not scared. They're his kids although he's mad and
- 23 threatening everybody. Ten minutes later, because
- 24 they're not at Black River that takes five or eight or
- 25 ten minutes to get to, you're going to report him for

1 kidnapping, but then you never do?

2 A. Because before I had a chance to call, I gave him
3 the benefit of the doubt. I called his mother to see if
4 he was home. She didn't know where he was at. I called
5 somebody that was in town that didn't see his car. And
6 before I had the chance to call, he called me. So I knew
7 that he was on the way back. So there was no need to
8 call. He was on the way back home.

9 Q. Isn't it true that you were wearing him out about
10 money?

11 A. To support the kids, yes.

12 Q. Okay. That's not what you told us yesterday, is it?

13 A. No.

14 Q. Why didn't you tell us that yesterday?

15 A. I don't remember being asked.

16 Q. You don't remember me asking you about changing his
17 PIN and y'all arguing about money and all of these
18 things?

19 A. I remember the argument about money, but I wasn't
20 asking him about money that day. But in the course of --
21 we had a two-year-old and a nine-month-old -- yes, I did
22 ask for money.

23 Q. You asked -- you actually -- how many times that
24 particular day, April 6th, 2011, did you call the bank?

25 A. I called the bank maybe three.

- 1 Q. Three times that morning?
- 2 A. Yes.
- 3 Q. For what reason?
- 4 A. Because I had -- I had money that was supposed to be
- 5 going there. I called to get the PIN changed. Then once
- 6 I called to get the PIN changed, I called to ensure the
- 7 -- to see if the money was there. Then I called back to
- 8 change -- to see if the PIN changed because it wasn't
- 9 able to be changed online anymore.
- 10 Q. Okay. And that money was worrying you a pretty good
- 11 bit that day, wasn't it?
- 12 A. Not necessarily the money. More so the diapers.
- 13 Q. Well, it must have been money. You called and
- 14 checked the account from the hospital?
- 15 A. Yes, I did.
- 16 Q. After your grandmother and your son had been shot,
- 17 you were in the hospital being treated for a gunshot
- 18 wound, and you called the bank to check on your money?
- 19 A. I did.
- 20 Q. Yeah. But you weren't worried about money that day?
- 21 A. I had a two-year-old that needed diapers. It wasn't
- 22 necessary ---
- 23 Q. That day?
- 24 A. Yes.
- 25 Q. In the hospital?

1 A. Yes.

2 Q. And you were ---

3 A. I couldn't go back to the house, so she had to get
4 some.

5 Q. Okay. And did you call the Army that day to start
6 checking on the insurance?

7 A. I don't recall.

8 Q. So you had money on your mind from the get-go,
9 didn't you?

10 A. No. I had my children being taken care of being on
11 my mind.

12 Q. Okay. Now, who took care of Justin's money?

13 A. He did.

14 Q. He did?

15 A. Yes.

16 Q. You don't remember telling anybody that you took
17 care of everything for him?

18 A. As far as making phone calls. But as far as him and
19 his money, I didn't.

20 Q. But it was in your account?

21 A. Yes.

22 Q. That you had the PIN?

23 A. Yes.

24 Q. That he couldn't get to?

25 A. After that day. But before that day, he could.

1 Q. So you changed it that day?

2 A. It was either the 5th or the 6th. I don't remember
3 which one.

4 Q. Let me ask you this. Do you remember on April the
5 6th, 2011, you talked to the police formally twice; is
6 that right?

7 A. Yes.

8 Q. And then you talked to them again on the 13th
9 formally on a recorded statement; right?

10 A. Yes.

11 Q. And I gave you a chance yesterday to look through
12 those written statements?

13 A. Yes.

14 Q. Do you recall mentioning something about this black
15 wig to anybody?

16 A. No.

17 Q. When did you first remember the black wig was
18 important?

19 A. When they asked if I had one on.

20 Q. When did they ask you that?

21 A. I don't remember the first time I was asked about
22 it.

23 Q. Okay. It wasn't the day that it happened?

24 A. I don't remember being asked about it. But a lot of
25 things happened that day, so ...

1 Q. But you didn't tell them about it?

2 A. No.

3 Q. You didn't discuss today's testimony with anybody,
4 did you?

5 A. No, I did not.

6 Q. Okay. Did you watch any videos or read any reports
7 to refresh your memory?

8 A. No.

9 Q. Okay.

10 MR. ROBINSON: The Court's indulgence for just
11 a minute, Your Honor.

12 THE COURT: Yes, sir.

13 Q. Ms. Caraway, when you were on the phone with the 9-
14 1-1 operator the second time, and I think there was
15 something on there that said, "Oh, my, God." Okay. Do
16 you remember that?

17 A. Yes.

18 Q. What happened when you said that? Why did you say
19 that?

20 A. That's after I realized that K.C. was outside and I
21 realized that my grandmother was outside.

22 Q. And how did you realize that?

23 A. K.C. began crying. And I asked Justin why he left
24 her outside by herself. He said that she wasn't by
25 herself. And I walked out to see who was with her.

1 Q. And y'all were having this conversation while you
2 were on the phone with the 9-1-1 operator?

3 A. Yes.

4 Q. Do you have any explanation why that conversation's
5 not on the 9-1-1 tape?

6 A. Because I moved the phone so they couldn't hear me.

7 Q. Okay. You moved the phone away from your head so
8 the man with the gun in your face, the operator couldn't
9 hear that?

10 A. Yes.

11 Q. That's your testimony?

12 A. Yes.

13 Q. And one final question just to make sure because I
14 know I've been going through a lot of stuff over and
15 over. And this is kind of confusing to me, and I want to
16 make sure I'm clear. The police, when they did your
17 gunshot residue test, that was after you left the
18 hospital back at the police station with Investigator
19 Kenny Clark about five o'clock on that afternoon?

20 A. Yes.

21 Q. And you're positive about that?

22 A. Yes.

23 Q. Okay.

24 MR. ROBINSON: I don't have any further
25 questions, Your Honor. Thank you.

1 THE COURT: Thank you.

2 Any recross [sic] from the State?

3 MR. FINNEY: If it please the Court?

4 THE COURT: Yes, sir.

5 REDIRECT EXAMINATION

6 BY MR. FINNEY:

7 Q. Good morning.

8 A. Good morning.

9 Q. Why was it important to you to talk to the police
10 officers after J.C. and Ms. Caraway's funeral about the
11 money, the ten thousand dollars?

12 A. Because I had already -- I was receiving assistance
13 from DSS. And my two years were up, and they actually
14 made the suggestion that because K.C. still needed to be
15 supported, I still had a child that was living, maybe
16 they would be able to assist being that I wasn't working.
17 I was in school.

18 Q. When the family made arrangements for the funeral,
19 was there -- was Ms. Caraway and J.C. buried on the
20 same day?

21 A. Yes. They were buried together.

22 Q. In the same casket?

23 A. Yes. He was buried in my grandmother's arms.

24 Q. When you told Mr. Robinson that there was an
25 account, did you have a PIN card, an ATM card for that

1 account?

2 A. Yes.

3 Q. I want to show you a picture of what's been marked
4 as State's Exhibit Number 7 and ask if you can identify
5 it?

6 A. That's my card for that account.

7 Q. Where did you get the card from?

8 A. It was a prepaid card.

9 MR. ROBINSON: No objection.

10 THE COURT: And State's Exhibit Number 7, no
11 objection?

12 MR. ROBINSON: No objection, Your Honor.

13 THE COURT: Without objection, State's Exhibit
14 Number 7 is admitted.

15 MR. FINNEY: Thank you.

16 (WHEREUPON, State's Exhibit Number 7 was admitted
17 into evidence.)

18 Q. Whose name is on that card?

19 A. My name.

20 Q. And was there another card too?

21 A. Yes.

22 Q. And whose name is on that card?

23 A. Justin's.

24 Q. All right. And how long had you had that account
25 before April of 2011?

1 A. It was maybe October, November. I'm not really
2 sure.

3 Q. October, November of ---

4 A. The year before.

5 Q. --- 2010?

6 A. Yes.

7 Q. And when you got the account, at the time you opened
8 the account, did you get Justin on the account?

9 A. No.

10 Q. How long before he got on the account?

11 A. It was about three months.

12 Q. All right. So maybe the end of the year beginning
13 of January?

14 A. The beginning of January, right.

15 Q. And did he have the PIN number -- from the time he
16 got authorized, did he have the PIN number?

17 A. Yes.

18 Q. And did he use the account?

19 A. Yes.

20 Q. All right. Did you all talk? In other words, did
21 you call him and say, "I've got to go downtown and I'm
22 going to use the account today"? Did he do the same
23 thing with you?

24 A. No.

25 Q. All right. How would you know when money had been

- 1 taken out of the account by Mr. Johnson?
- 2 A. I would have to look.
- 3 Q. How would you look?
- 4 A. I had online access.
- 5 Q. So on the computer?
- 6 A. Yes.
- 7 Q. All right. When you changed the PIN, you think it
- 8 was April the 5th or April the 6th in the nighttime
- 9 hours?
- 10 A. It was either late on the 5th or early on the 6th.
- 11 It was early in the morning.
- 12 Q. And before that time, his money that was going to
- 13 the account from the military would be accessible by him?
- 14 A. Yes.
- 15 Q. All right. Now, let me ask you a question. When
- 16 was the first time he knew that the PIN had been changed?
- 17 A. He mentioned it when he got back with the kids.
- 18 Q. When he got back from traveling with the kids. That
- 19 would have been on the 6th of April?
- 20 A. Yes.
- 21 Q. And what did he want you to do at that point when he
- 22 mentioned it, about knowing that -- how did you find out
- 23 that he didn't know -- excuse me. Let me change that.
- 24 How did he tell that he knew the PIN had been changed?
- 25 A. He asked if I had changed the PIN.

1 Q. All right. Did he say he had been anywhere to check
2 on the PIN being changed?

3 A. No.

4 Q. All right. Now, when he got back with the kids, was
5 he in any better mood ---

6 A. No.

7 Q. --- or spirits of talking with you?

8 A. No.

9 Q. Did he still want you to go with him after the kids
10 were brought back to the house?

11 A. Yes, he still want me to get in the car.

12 Q. And you told him, "No"?

13 A. Yes.

14 Q. Did he tell you where he wanted to take you?

15 A. No.

16 Q. All right. Now, you say you don't know when he went
17 out to the car. You didn't see him go out to the car to
18 get the gun?

19 A. No.

20 Q. All right. What was your state of mind before he
21 came in with the gun? When you saw the gun the first
22 time, what was your state of mind about what you had been
23 through with your grandmother?

24 A. As far as the fight?

25 Q. Yes?

1 A. I was nervous. I was scared because I didn't know
2 whether -- when I left out from outside, she was by her
3 car, so I didn't know whether he was still outside or
4 whether she had gotten in the car and he had gone behind
5 her. So I was upset and trying to get help.

6 Q. All right. Do you remember being interviewed by
7 police officers and telling them what Justin Johnson told
8 you after the fight regarding the account and the PIN?

9 A. No.

10 Q. When you made the 9-1-1 call, what were you trying
11 to do the first time you made the 9-1-1 call?

12 A. Get help.

13 Q. And what changed you from asking the police to come
14 to on the second call telling the 9-1-1 operator, "It was
15 just my kids playing. There's nothing to worry about"?

16 A. I had a gun pointed at me.

17 Q. At the time you made the second 9-1-1 call, did you
18 know what state your grandmother was in?

19 A. No.

20 Q. How long did it take you before you found that out?

21 A. About five minutes.

22 Q. All right. And during that time, did you have the
23 opportunity to call 9-1-1 again?

24 A. No.

25 Q. Why?

1 A. I was on the phone with them when I found out.

2 Q. Well, after that first call, after you tried to push
3 the operator away from bringing the police officers out
4 there, after that call was ended, did you have the
5 opportunity before you found out about grandmother to
6 call 9-1-1 again?

7 A. No.

8 Q. Why?

9 A. When I found her, I was already on the phone with
10 them. And after I hung up, that's when Justin said that
11 we needed to go ahead and leave before they sent someone
12 out.

13 Q. And what were you trying to do during those minutes
14 after you found out about grandmother? Before you left
15 Carissa Lane in the car, what were you trying to do as
16 far as Justin?

17 A. I was trying to just do what he said so that I
18 didn't get shot as well.

19 Q. All right.

20 MR. FINNEY: Nothing further.

21 THE COURT: Recross, Mr. Robinson?

22 MR. ROBINSON: I don't believe so, Your Honor.
23 No recross.

24 THE COURT: All right. Thank you. You may
25 step down. The State may call it's next witness.

1 MR. DURANT: Thank you, Your Honor. The State
2 calls Investigator Ricky Richards.

3 RICKY RICHARDS,

4 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

5 DIRECT EXAMINATION

6 BY MR. DURANT:

7 Q. Good morning. I believe I called you Investigator
8 Richards when I called you. But are you Captain Richards
9 now?

10 A. Yeah, I'm captain now at the Sheriff's office.

11 Q. Tell the jury where you -- the Sheriff's office?

12 A. I work at the Clarendon County Sheriff's Office.

13 I'm a captain, part of the command staff who oversees
14 daily goings on of the Sheriff's office.

15 Q. How long have you worked at the Sheriff's office?

16 A. I've been there a little bit over seven years here.

17 And prior to that, I worked at Sumter County Sheriff's
18 Office for about four and a half.

19 Q. Before being promoted to captain at Clarendon County
20 Sheriff's Office, what was your position?

21 A. I was an investigator.

22 Q. All right. Now, let me ask you now about April 6th
23 of 2011. Do you remember that day?

24 A. Yes, sir.

25 Q. At some point, were you dispatched to

1 Lane in Manning?

2 A. Yes. I was in my vehicle in Manning just riding
3 around. A call came out that there was a suspect
4 possibly at , that they'd gotten a
5 frantic call.

6 Q. Let me stop you right there. First of all, is
7 in Clarendon County?

8 A. Yes.

9 Q. All right. Now, again, do you remember exactly how
10 that call came through to you?

11 A. It just came over the radio. Normally, if the
12 dispatcher thinks it's more of an urgent call, she'll
13 just give the call out. Gave it out. And just by the
14 sound of her voice, it sounded like something was to it.
15 I activated my blue lights being in town and headed that
16 direction.

17 Q. Do you remember about what time of day it was that
18 you were dispatched?

19 A. It was around ten, give or take.

20 Q. So how far away were you?

21 A. Eight miles, seven or eight miles, maybe.

22 Q. When you arrived on the scene, were there other
23 officers present?

24 A. Yes.

25 Q. Who was there?

1 A. At that time, it was just Officer Charles Eaddy was
2 there, and a trooper had arrived a second ahead of me.
3 He was actually right in front of me while we were in
4 route.

5 Q. All right. Let me show you what's been marked as
6 State's exhibit 52 and ask you to identify that for me.

7 A. Yes, sir. That appears to be like a GPS view of the
8 residence.

9 Q. Does it appear to be an accurate representation of
10 the area?

11 A. Yes.

12 MR. DURANT: Your Honor, I'd ask to admit
13 State's 52 into evidence.

14 THE COURT: Any objection?

15 MR. ROBINSON: No objection.

16 THE COURT: Without objection, State's Exhibit
17 52 is admitted.

18 (WHEREUPON, State's Exhibit Number 52 was admitted
19 into evidence.)

20 Q. And let me -- if you would, for the jury, if you
21 would just point out, where is June Burn Road?

22 A. This will be June Burn Road here.

23 Q. And which direction is Manning?

24 A. Manning would be in this direction, Highway 301.

25 Q. When you approached the Carissa Lane or the house

1 itself, tell me where you parked.

2 A. Myself and the trooper parked right in this area
3 well away from the actual yard of the residence.

4 Q. And if you would, point out exactly which residence
5 on the map are we talking about?

6 A. It's going to be this one on the back right here.

7 Q. And in which direction does the house face? I mean,
8 where is the front of the house?

9 A. The front of the house actually faces the driveway
10 here. So it would be facing the same way as if you were
11 on June Burn going back toward Manning.

12 Q.. Okay. And so this area that juts out the front, is
13 that the porch area?

14 A. Yes, sir.

15 Q. Do you remember when you arrived on the scene, was
16 the Defendant's vehicle there already?

17 A. Yeah. He was parked -- the tree here. There was a
18 pickup truck in this area. And he was parked right over
19 in this area of the yard.

20 Q. When you drove or when you walked up into the yard,
21 tell me, what was the first thing you noticed?

22 A. A deputy was standing next to Mr. Johnson, Kaisha
23 Caraway, and there was a small child there. While in
24 route, I'd heard over the radio there was a person down
25 on the ground which would have been over to my right at

1 that point. At that time, I went over and checked that
2 person.

3 Q. Was that the victim, Maxine Caraway?

4 A. Yes, sir.

5 Q. All right. You say you went and checked her. Did
6 you check her vital signs?

7 A. Yes, sir.

8 Q. And was she responsive?

9 A. No.

10 Q. Tell the jury exactly how you found her.

11 A. She was laying flat on her back, her hands kind of
12 out to the side. Had a really bad wound to the back of
13 her head. There was -- you know, you could see brain
14 matter and blood. And on this side of her head was a
15 cell phone. The back had been -- the back was off of it
16 because it was laying kind of in -- right there in that
17 area.

18 Q. When you said the back, you mean the battery cover?

19 A. That covered the battery, yes, sir. Just at that
20 time, I checked her vitals to see where we were at in the
21 call. I didn't -- at that point didn't really take a
22 complete overview of what was -- what she looked like at
23 that time. I did at a later time. But I checked her
24 vitals. At that time, my goal was to try to secure the
25 scene. We didn't know if there was someone else, there

1 was a person with a gun. We didn't -- at that point we
2 didn't know what, you know, what was going on.

3 Q. After checking on Ms. Maxine, who we now know was
4 Kaisha Caraway's grandmother, what did you do?

5 A. I walked back in the direction of Deputy Eaddy, Mr.
6 Johnson, Kaisha and the little girl. And I made it about
7 halfway to them. And I heard Ms. Caraway make mention of
8 her baby being in the house.

9 Q. Okay. So one of the subjects with Deputy Eaddy was
10 Kaisha Caraway?

11 A. Yes.

12 Q. When I heard that, I -- at first, it didn't
13 register. So I asked them again what they'd said,
14 because I was probably twenty yards or so. At that time,
15 Deputy Eaddy kind of repeated it to me, that there was a
16 baby in the house. At that time, I -- Trooper Falls,
17 Robert Falls, was the trooper there with me. He was
18 within a few feet of me. I said, "I need you to help me
19 clear this house." Our purpose at that point was to find
20 this child.

21 Q. And did y'all enter the house at that point?

22 A. Yes, sir.

23 Q. Which door did you enter through?

24 A. We came up to the porch area, noticed some drops of
25 blood on the floor, a car seat kind of in the doorway.

1 At that point, we already had our pistols out. I was in
2 the lead, and Robert was my backup. We cleared the first
3 room to the right, the first room to the left ---

4 Q. Let me pause just for a second there. I show you
5 State's 53. This is the first room to the right that you
6 cleared?

7 A. Yes.

8 Q. What kind of room was that?

9 A. It was just a room that had a small couch or a chair
10 in it like -- I think I remember a bookshelf being in
11 there. There was a room directly to the left. It was --
12 whatever was in there was covered up with plastic, like
13 they'd been painting it.

14 Q. When you entered that room through the front door,
15 was there anything remarkable about the front door?

16 A. You could tell it had been kicked in due to the
17 tumbler on the doorknob was bent. And there was a little
18 bit of damage to the doorjamb.

19 Q. And describe what you encountered as you moved into
20 that front room there.

21 A. At the front door -- you walk in the porch -- can I
22 get up and -- it'd probably be better if I ...

23 (WHEREUPON, the witness stepped down from the
24 witness stand.)

25 THE COURT: Please speak up when you're down

1 there.

2 THE WITNESS: Yes, sir.

3 A. As we approached the front, the porch here, we
4 noticed a shotgun shell on the porch. Entered the door,
5 cleared to the right first, cleared to the left. Got to
6 this door -- let me see. Kind of quick peek the door,
7 which is just take a quick look to make sure there's no
8 one in there, to the right.

9 Q. What area of the house is that?

10 A. This would be the kitchen over here. There was a
11 table in there. Quick peek that way. Nothing. The
12 whole time, I'm advising Trooper Falls what I'm seeing.
13 I stick my head back in the door this time, a quick peek
14 to the left, and I come back and I tell Robert Falls we
15 have a child in a highchair, but the child wasn't crying
16 or anything. At that time, he just appeared to be in the
17 highchair. Advised him of that, came through -- once we
18 cleared this area and this room, I had Trooper Falls kind
19 of stand here. I went over and checked the child,
20 checked the vital signs. I could see he appeared to have
21 been shot in the face.

22 Q. Was the child responsive?

23 A. No, sir, not at all.

24 Q. At that time, we have to -- we still have to finish
25 clearing the house. We make our way down the hallway,

1 clearing rooms as we go. There's a doorway here. We
2 could notice that a shot from a shotgun -- just being
3 from years of having a shotgun -- where the pellets have
4 skidded down the wall and went through the door. Got
5 through this. This is a bathroom here. Got to the
6 bathroom and cleared that. We noticed the door had been
7 almost -- the top of the door was kind of broken in. And
8 there was a shotgun hole where a shotgun had been shot
9 through the door. And we could tell that by also where
10 the pellets had hit the wall behind the sink. And there
11 was a shotgun shell, a spent shotgun shell, and the
12 wadding was right here in the doorway. Once we got it
13 cleared, we came out, exited. Robert Falls stayed in the
14 yard at that time.

15 Q. Before we go any further, let me show you some
16 pictures.

17 (WHEREUPON, the witness resumed the witness stand.)

18 Q. State's Exhibit 11 -- it's already in evidence -- is
19 this the scene as you found it that day?

20 A. Yes, sir.

21 Q. Okay. And tell me what you see out in the yard
22 there?

23 A. Right here next to the car is Ms. Maxine. The
24 shotgun in the front yard is how we found it when we
25 arrived at the scene, just laying in the front yard. But

1 that's exactly how we found the front yard.

2 Q. I show you what's been marked as State's Exhibits 12
3 and 13, which I believe are both in evidence, and ask if
4 you recognize this?

5 A. Yes, sir.

6 Q. What is it?

7 A. Number 12 is the actual front door. It had come off
8 of the porch into that front room. That is actually
9 inside of that front room.

10 Q. Okay. So this is the front, this room?

11 A. Yes, sir.

12 Q. And what's the -- the baby car seat was it in the
13 doorway?

14 A. It was just like it is there. We stepped over
15 everything.

16 Q. And the broken chairs, that hadn't been moved?

17 A. No, we didn't touch anything.

18 Q. Did you take that picture?

19 A. I believe I may have. I know I took some pictures,
20 twenty pictures or so.

21 Q. Let me show you State's Exhibit 23 and ask if you
22 recognize that?

23 A. Yes, sir. That's going to be the door entering into
24 the house. And that's -- what I called the tumbler of
25 the knob and how it's pushed back.

1 Q. Was it in that condition when you found it?

2 A. Yes.

3 Q. Is that a fair and accurate representation of it?

4 A. Yes.

5 MR. DURANT: Your Honor, at this point I'd ask
6 to admit State's Exhibit 23 into evidence.

7 MR. ROBINSON: No objection.

8 THE COURT: Without objection, State's Exhibit
9 23 is admitted.

10 (WHEREUPON, State's Exhibit Number 23 was admitted
11 into evidence.)

12 Q. If you would, identify 24 for me as well.

13 A. That's just another angle of that same door.

14 MR. ROBINSON: And no objection to that one
15 either, Your Honor.

16 THE COURT: Without objection, State's Exhibit
17 Number 24 is admitted.

18 (WHEREUPON, State's Exhibit Number 24 was admitted
19 into evidence.)

20 MR. DURANT: Ask permission to publish it for
21 the jury.

22 THE COURT: Yes, sir.

23 (WHEREUPON, State's Exhibit Number 24 was published
24 to the jury.)

25 Q. And that's the front door to the house?

1 A. Yes, sir.

2 Q. And that's how you found it when you first arrived?

3 A. Yes.

4 Q. And you were the first officer in the house?

5 A. Yes, sir.

6 Q. And I'm going to show you what's been marked State's
7 Exhibit 17 and ask you if you recognize that.

8 A. That's the bathroom of the residence there.

9 Q. Is this in the condition you found it that day?

10 A. Yes, sir.

11 MR. DURANT: And I believe 17 is in evidence as
12 well?

13 THE COURT: It is.

14 Q. State's Exhibit 18, tell me what that is.

15 A. That's a view of straight down the doorjamb of the
16 bathroom of a shotgun, spent shotgun shell. And here's
17 the wadding or a wadding from a shotgun shell.

18 Q. And this is how you found the bathroom area that
19 day?

20 A. Yes.

21 MR. DURANT: I believe 18 is in evidence as
22 well. If not, I'd ask ---

23 THE COURT: It's not.

24 MR. DURANT: I'd ask ---

25 MR. ROBINSON: No objection.

1 THE COURT: Without objection, now it is in
2 evidence.

3 (WHEREUPON, State's Exhibit Number 18 was admitted
4 into evidence.)

5 Q. The shotgun shell that's exhibited in that picture,
6 is that a used or fired shell?

7 A. Yeah, that's a spent or a used.

8 Q. State's Exhibit 20, I ask you if you recognize that?

9 A. That's a picture from inside of the bathroom looking
10 out at the doorknob. That's the doorknob, and that's the
11 hole I was referencing to that had been shot through the
12 door.

13 Q. Is that the condition that you found the door that
14 day?

15 A. Yes.

16 Q. The bathroom door?

17 A. Yes.

18 MR. DURANT: I'd ask to admit State's Exhibit
19 20.

20 THE COURT: Any objection?

21 MR. ROBINSON: No objection.

22 THE COURT: Without objection, State's Exhibit
23 20 is admitted.

24 (WHEREUPON, State's Exhibit Number 20 was admitted
25 into evidence.)

1 Q. I show you State's Exhibit 21, which I believe is in
2 evidence already. So that would ---

3 A. It's a picture of at the end of the hall. Like I
4 said, the pellets had skidded or scraped along the edge
5 of the hallway and went through the wall.

6 MR. ROBINSON: Your Honor, I would object to
7 that characterization. He can say that's what he
8 believes it to be. He has not been qualified as an
9 expert in that, and I think the picture speaks for
10 itself.

11 THE COURT: All right. So do you have any
12 objection to the picture?

13 MR. ROBINSON: Not to the photograph, Your
14 Honor. Just to his description.

15 THE COURT: All right.

16 (WHEREUPON, State's Exhibit Number 21 was admitted
17 into evidence.)

18 Q. Captain Richards, if you would point out on the
19 diagram what area of the house this picture was taken
20 from?

21 (WHEREUPON, the witness stepped down from the
22 witness stand.)

23 A. It's going to be -- this is the hallway. It would
24 be at the end of the hallway, going into this room. A
25 little small piece of wall there at the -- that's where

1 the picture is right here.

2 (WHEREUPON, the witness resumed the witness stand.)

3 MR. DURANT: I beg the Court's indulgence, Your
4 Honor.

5 Q. All right. Finally, Officer, I'm going to show you
6 what's been marked as State's Exhibit 15, which is not in
7 evidence yet and just ask if you recognize that?

8 A. Yes, sir. That's the baby I found.

9 Q. Is that the condition and the area of the home that
10 you found the child?

11 A. Yes.

12 Q. Is that a fair representation of it?

13 A. Yeah.

14 MR. DURANT: And, Your Honor, at this time I'd
15 ask to admit State's Exhibit 15 into evidence.

16 THE COURT: Any objection?

17 MR. ROBINSON: Your Honor, I'd just renew my
18 previous objection to it.

19 THE COURT: Overruled. State's Exhibit 15 is
20 in evidence.

21 MR. DURANT: Your Honor, I'd ask permission to
22 publish to the jury.

23 THE COURT: You may publish it.

24 (WHEREUPON, State's Exhibit Number 15 was published
25 to the jury.)

1 Q. Captain Richards, is that how you found J.C.
on April 6th, 2011?

3 A. Yes, sir.

4 Q. And, again, when you checked his vital signs, was he
5 responsive?

6 A. No.

7 Q. Captain, do you remember how many spent shell
8 casings you found at the scene that day?

9 A. I believe there was four.

10 Q. Let me try to ask this in a way you can understand
11 it. Based on the impact evidence that you found at the
12 scene, how many shells had you believed had been fired
13 that day?

14 A. The four.

15 Q. What I mean, is there evidence at the scene of four
16 shells making contact with something?

17 A. Yes.

18 Q. And where were those shells? Where was that
19 evidence?

20 A. First would have been Ms. Maxine, second would have
21 the baby J.C. , third was the wall, and fourth was the
22 bathroom door.

23 Q. Do you remember where the spent shell casings were
24 located?

25 A. I remember the one on the porch, but there was two

1 in a room where J.C. was at and one inside the bathroom
2 door.

3 Q. Let me show you State's Exhibit 33 and ask if you
4 recognize that?

5 A. That's a spent shotgun shell."

6 Q. Do you remember where that shell was located?

7 A. I remember that one was on the porch because it was
8 standing up on the brass.

9 Q. It was standing up on the brass when you found it?

10 A. Yes. Just like it is.

11 Q. Do you find that odd?

12 A. It happens.

13 MR. DURANT: I'd ask to admit State's Exhibit
14 33 into evidence.

15 THE COURT: Is there any objection?

16 MR. ROBINSON: No objection.

17 THE COURT: Without objection, State's Number
18 33 is admitted.

19 (WHEREUPON, State's Exhibit Number 33 was admitted
20 into evidence.)

21 Q. I'm going to show you State's Exhibit 14 and ask you
22 if you recognize that?

23 A. That's in the same room as the kitchen, like a
24 little living area. There's a shell casing here on the
25 floor going into what looked to be like a family room

1 type room. Another shell casing here at the entrance to
2 the hallway.

3 MR. DURANT: And, Your Honor, if it's not in
4 evidence already, I'd ask to admit State's 14.

5 MR. ROBINSON: No objection.

6 THE COURT: Without objection, State's Exhibit
7 14 is admitted.

8 (WHEREUPON, State's Exhibit Number 14 was admitted
9 into evidence.)

10 Q. If you would, come up here and just point out to the
11 jurors where the shell casings were or where they are in
12 the picture.

13 (WHEREUPON, the witness stepped down from the
14 witness stand.)

15 A. The first one's going to be right here. The second
16 is here.

17 Q. Okay. And now, looking at the diagram, if you could
18 kind of point out where those shell casings would be
19 located in the diagram?

20 A. The first one would be in this doorway. The second
21 one would be right in this area here, right beside ---

22 Q. The shell casing on the porch and one here and one
23 ---

24 A. And one here.

25 Q. And, again, these are all expended shell casings?

1 A. Yes, sir.

2 (WHEREUPON, the witness resumed the witness stand.)

3 Q. I show you State's Exhibit 42, ask if you recognize
4 that?

5 A. That's a picture from a little bit farther back of
6 the baby to include the shotgun shell in the floor.

7 MR. DURANT: And I'd ask to admit State's
8 Exhibit 42 in evidence.

9 MR. ROBINSON: Your Honor, could we approach
10 real quick?

11 THE COURT: You may.

12 (WHEREUPON, a bench conference was held off the
13 record.)

14 MR. ROBINSON: Your Honor, just for the record,
15 I do object.

16 THE COURT: All right. I'll give you an
17 opportunity to put it on the record.

18 MR. DURANT: Your Honor, I'd ask to publish
19 State's Exhibit 42?

20 THE COURT: You may.

21 (WHEREUPON, State's Exhibit Number 42 was published
22 to the jury.)

23 Q. Now, Officer, if you would, point out where that
24 second spent shell casing was found in relation to J.C.

?

1 A. Over here first?

2 Q. Well, if you would just look at the picture.

3 A. The shell casing was here. This, again, would be in
4 this doorway. That picture's from this room looking out.

5 (WHEREUPON, the witness resumed the witness stand.)

6 Q. I'm going to show you State's 37 and ask if you
7 recognize that?

8 A. Yes, sir. That's Ms. Maxine.

9 Q. Okay. Is this the condition that you found Ms.
10 Maxine in on April 6th, 2011?

11 A. Yes, sir.

12 MR. DURANT: I'd ask ---

13 THE COURT: Any objection?

14 MR. ROBINSON: I renew my previous objection.

15 THE COURT: Overruled.

16 (WHEREUPON, State's Exhibit Number 37 was admitted
17 into evidence.

18 MR. DURANT: And I ask that State's 37 be
19 published to the jury.

20 (WHEREUPON, State's Exhibit Number 37 was published
21 to the jury.)

22 Q. Finally, Captain, I show you State's 39 and ask if
23 you recognize that?

24 A. That's Ms. Maxine's left hand and arm.

25 MR. ROBINSON: No objection.

1 THE COURT: Without objection, State's Exhibit
2 39 is admitted.

3 (WHEREUPON, State's Exhibit Number 39 was admitted
4 into evidence.)

5 Q. Is 39 the condition that you found Ms. Maxine in
6 that day?

7 A. Yes, sir.

8 Q. Captain, when you finished clearing the residence
9 and went outside -- and I guess -- did you see the
10 shotgun before you went inside?

11 A. Yes, sir, I did.

12 Q. Were you able to tell whether that shotgun was a
13 pump or an automatic?

14 A. I could see it was a pump shotgun, yes.

15 Q. Will you briefly explain to us what the difference
16 is?

17 A. A pump shotgun just uses -- you have to actually use
18 your muscles or whatever to take and expend a shell out
19 and put one in due to a pump action. That's why they
20 call it a pump. The other would be a semiautomatic,
21 which the mechanism in the gun does it itself.

22 Q. So a pump shotgun takes some affirmative action to
23 reload a shell?

24 A. Yes.

25 Q. And also to expend a shell?

1 A. Yes.

2 Q. Well, let me get back to -- after you cleared the
3 residence, what did you do?

4 A. By this time, there was more people there. I walked
5 out of the residence. Robert stayed in the yard. Well,
6 I don't know where Robert stayed. I walked down the
7 driveway to kind of get my composure. I passed the
8 Sheriff and I grabbed him by the shirt and told him, "No
9 one else goes in this house." I told him, "No one else."

10 Q. Had you been assigned as the chief investigator at
11 that point?

12 A. I guess you could say that. I believe Captain Baker
13 was there as well. As far as I can remember, I just told
14 him, "No one else goes in the house." I told them
15 briefly what I'd saw in the house. And at this time,
16 people were doing crime scene tape, kind of taping off
17 the area. I went to the back of my truck and knelt down
18 for a few minutes just to get my composure to clear my
19 head so I could get to work, figure out who done this.

20 Q. Once you left your vehicle, what did you do?

21 A. At that point, I walked back into the yard and
22 walked over to Mr. Johnson's car where he was standing.
23 The two-year-old girl K.C., Deputy Eaddy, and Kaisha was
24 sitting in the back seat, kind of on the edge of the seat
25 at this time, with her feet out on the ground. I walked

1 up ---

2 Q. In the passenger's side of the car?

3 A. Yeah, it was on the passenger's side. I noticed
4 kind of briefly at that time that Mr. Johnson's shirt
5 looked like it had been not ripped but pulled. The neck
6 had been pulled out and he had blood on his shirt. The
7 story I was being told at the time didn't really add up
8 to me.

9 Q. Who were you being told a story by?

10 A. I was told it was some guy named Robert driving a
11 white car ---.

12 MR. ROBINSON: Your Honor, may we ---

13 THE COURT: Hold on.

14 MR. ROBINSON: --- approach real quick?

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

17 Q. Now, let me rephrase that question. Did you have
18 any conversations with Kaisha Caraway at the back of the
19 car?

20 A. Yes.

21 Q. Did you ask her what had happened?

22 A. Yes.

23 Q. What did she tell you?

24 A. All she would -- at first all she would say is that
25 it was a guy named Robert. I asked her if she knew a

1 last name. She seemed not to -- she told me she didn't
2 know his last name. The more I asked her questions or
3 attempted to ask her questions, she wouldn't answer. And
4 every time I would ask her a question, she would look up
5 at Mr. Johnson.

6 Q. He was standing near her?

7 A. Yes.

8 Q. Where was he standing in relation to her?

9 A. Both of the passenger doors were open to the
10 vehicle. K.C. was on the front passenger seat, and Mr.
11 Johnson was standing in that doorway. The back door was
12 open, and Kaisha was sitting in the back seat of the car.
13 So they were all -- all three people were within a couple
14 feet of each other. But every time I would ask her a
15 question, she would kind of look up, and she would shake
16 her head no. And the more questions I asked, she
17 eventually slid farther back in the car. And I asked her
18 again -- I said, "You need to tell me what happened here
19 today." And she just looked up and shook her head no.
20 At that time, I got her out of the car, and we walked
21 twenty, thirty feet away from the car.

22 Q. Just you and Kaisha?

23 A. Just me and Kaisha. Where the car was sitting, I
24 was in-between her and the car with my back to Mr.
25 Johnson's car. At that time, I said, "Tell me what

1 happened." And I had a notebook pad in my hand and a
2 pen. She took the pen out of my hand and was attempting
3 to write something on the paper. But she was, all I can
4 say is -- shaking. Like violently shaking. Just
5 shaking. And what she wrote was just -- due to shaking I
6 would guess is that I couldn't understand what was on the
7 paper. So I asked her again. I said, "Tell me what
8 happened." She said, "I'm trying to tell you. He done
9 it," and pointed towards Mr. Johnson.

10 Q. The individual she pointed to she said had done it,
11 is he in the courtroom today?

12 A. Yes, sir.

13 Q. Where is he?

14 A. Right here.

15 Q. In the dark suit and blue tie?

16 A. Yes, sir.

17 Q. After Kaisha Caraway told you that Justin Johnson
18 had done it, what did you do?

19 A. I told her to stay there. I walked over a few more
20 feet toward the vehicle, and I called for Mr. Johnson to
21 come over and talk with me for a minute, mainly to get
22 him away from the two-year-old. And once he approached
23 me, I told him to turn around and put his hands behind
24 his back.

25 Q. And you arrested Mr. Johnson at the time?

1 A. I told him he was under arrest.

2 MR. DURANT: I beg the Court's indulgence. I
3 don't have any further questions of Captain Richards.

4 THE COURT: All right. We've been in here for
5 an hour and twenty minutes. We're going to take a short
6 break before we do the cross-examination.

7 Ladies and gentlemen, please do not discuss anything
8 about the case while you're back there. Thank you.

9 (WHEREUPON, the jury exited the open court at
10 approximately 11:03 a.m.)

11 THE COURT: All right. Hold on. Please sit
12 down. We're not finished in here yet. I let them out.
13 Mr. Robinson still needs to place something on the
14 record.

15 Bailiffs, do not let anyone get up until I say
16 they're excused.

17 MR. ROBINSON: Your Honor, the Court's
18 indulgence for just a minute.

19 THE COURT: Yes, sir.

20 MR. ROBINSON: I need to get the exhibit
21 number.

22 MR. FINNEY: 42, I believe.

23 MR. ROBINSON: Yes, sir, Your Honor. With
24 respect to exhibit 42, State's Exhibit 42, my objection
25 for the record, Your Honor, is I believe that that

1 particular photograph is misleading to the jury. In
2 light of the fact that the relation of the shotgun shell
3 and Investigator Richards' testimony about where things
4 were located, they would draw an improper inference that
5 there's some indication that that particular shotgun
6 shell was the shell that was fired that killed J.C. .
7 Mr. Richards is not an expert, did not offer an expert
8 opinion. But clearly, I think that the inference is
9 improper that can be drawn from that. And I think it's
10 misleading to the jury, specifically the fact that he
11 pointed it out. Now, when the exhibit was previously
12 marked, I didn't understand the significance or didn't
13 see that as a particular problem. But the context in
14 which that shotgun shell is shown with J.C. and Mr.
15 Richards' testimony clearly suggests that there's an
16 inference that that shell killed the child. I believe
17 that is ---

18 THE COURT: Well, I think you'll have ample
19 opportunity to cross-examine the ballistics expert on it
20 at that point in time.

21 Would y'all like to make a statement?

22 MR.. DURANT: Judge, I don't believe I did -- in
23 fact, I don't believe I even elicited testimony from
24 Investigator Richards later on that this was a pump
25 shotgun and it would have required some affirmative

1 action from Mr. Johnson to expend a shell, which suggests
2 that that's not necessarily where the shot was fired;
3 it's where the shell was spent.

4 THE COURT: Right. Okay.

5 As I said, I overruled your objection at the time,
6 continuing. But you wanted to put it on the record.

7 MR. ROBINSON: Thank you, Your Honor.

8 THE COURT: So you have.

9 All right. Now, we'll be in recess for the next
10 fifteen minutes. Thank you.

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

13 THE COURT: Thank you. Take your seats.

14 MR. ROBINSON: Judge, one thing ---

15 THE COURT: Hold on.

16 MR. ROBINSON: Just real quickly before you
17 bring the jury in.

18 THE COURT: Yes, sir.

19 MR. ROBINSON: Thank you, Your Honor. Just for
20 clarification, Your Honor, I wanted to put on the record
21 so it would be clear. It's more of a stipulation than
22 anything else. Defense Exhibit Number 1 is in evidence.
23 It is obviously a DVD of videotaped testimony.

24 THE COURT: Yes, sir.

25 MR. ROBINSON: It's approximately an hour and

1 some minutes long. I only played for the jury about
2 seven or eight minutes. I was going to put on the record
3 what was played, and also just put on the record that the
4 stipulation was that during deliberations if they wanted
5 to view that, we'd bring them back out here.

6 THE COURT: Watch it here rather than -- I
7 never -- I never let jurors have control of the disk to
8 watch it however they want to.

9 MR. ROBINSON: And, Your Honor, if my numbers
10 are correct, I put into evidence two minutes and twenty-
11 four seconds through seven minutes and fifty-five seconds
12 as well as thirty-five minutes and fifty seconds through
13 thirty-six minutes and two seconds. Those are the only
14 two portions I ---

15 THE COURT: Is that what y'all's understanding
16 is as well, Solicitor?

17 MR. DURANT: Yes, Your Honor.

18 THE COURT: Very well. Thank you.

19 Let's bring our jury in.

20 (WHEREUPON, the witness resumed the witness stand
21 after which the jury entered the open court at
22 approximately 11:27 a.m.)

23 THE COURT: All right. Mr. Robinson, you may
24 cross-examine the witness.

25 MR. ROBINSON: Thank you, Your Honor.

1 CROSS-EXAMINATION

2 BY MR. ROBINSON:

3 Q. Captain Richards, please forgive me if I slip up and
4 call you 'Investigator.'

5 A. That's fine.

6 Q. You've been an investigator for a while, and I've
7 addressed you as such on a number of occasions. I will
8 do my best to recognize you as Captain.

9 You talked a little bit with the jury under direct
10 examination about your experience with the Sheriff's
11 office?

12 A. Yes.

13 Q. How long were you actually in investigations?

14 A. At that point?

15 Q. Yes, sir, at that point in time.

16 A. About a year and a half.

17 Q. And before that you were a patrol officer, or were
18 you a narcotics officer?

19 A. I was a patrol sergeant. And before that, I worked
20 in Sumter as a just a patrol deputy.

21 Q. Okay. And when you moved or were promoted from
22 patrol sergeant to investigator, did you undergo any
23 additional specific training to be an investigator?

24 A. I've been to crime scene investigation. I've been
25 to murder investigation. Numerous other investigative

1 classes.

2 Q. Okay.

3 MADAM COURT REPORTER: I'm sorry. Say that
4 again. Someone coughed.

5 A. I've been to numerous investigator classes at the
6 academy.

7 MR. ROBINSON: And I'm going to move this
8 board. I believe that's blocking some of the sound to
9 the court reporter.

10 Q. And those classes obviously, in addition to your
11 general law enforcement training, teach you techniques,
12 things that you should do to make sure that an
13 investigation is handled properly; is that correct?

14 A. That's correct.

15 Q. And can you agree with me that the chief role of an
16 investigator is to not just collect evidence against a
17 specific individual, but also to eliminate all other
18 possible suspects?

19 A. Yeah.

20 Q. In other words, it's dangerous as an investigator to
21 decide in advance what happened and only collect evidence
22 towards that end?

23 A. Yeah.

24 Q. You have to look at all the available evidence and
25 eliminate all other possibilities; is that correct?

1 A. Correct.

2 Q. Okay. Now, when you placed Mr. Johnson under arrest
3 at the scene on April the 6th, 2011, I think you had
4 testified that you had gotten some information on the
5 radio, not real clear at all; correct?

6 A. Correct.

7 Q. Responded to the scene?

8 A. Yes.

9 Q. You and Trooper Falls appeared at the house?

10 A. That's right.

11 Q. And it was clearly upsetting ---

12 A. Yes.

13 Q. --- what you saw, and it's still upsetting?

14 A. Yes.

15 Q. And when you came out of the house, it took you a
16 few minutes to gain your composure?

17 A. A couple of minutes, yeah.

18 Q. And would it be fair to say that you were mad about
19 somebody killing a child?

20 A. Of course I was mad.

21 Q. Okay. And after a few minutes of gaining your
22 composure, you walked over to the car to kind of see if
23 you could figure out what was going on?

24 A. Yes.

25 Q. And Ms. Caraway gave you some signs that made you

- 1 think you needed to talk to her alone?
- 2 A. That's right.
- 3 Q. She told you that Mr. Johnson had done it?
- 4 A. Yes.
- 5 Q. And then you basically arrested him?
- 6 A. That's right.
- 7 Q. Okay. At that point, you had no -- he wasn't
- 8 holding the gun when you got there, no other evidence
- 9 other than what you've told us; is that correct?
- 10 A. That's right.
- 11 Q. Hypothetically, in that situation, given the
- 12 information that you had at that point in time, if Mr.
- 13 Johnson had called you aside and said, "Kaisha Caraway
- 14 did this," would you have immediately arrested her?
- 15 A. Yeah.
- 16 Q. Okay. And if you had immediately arrested her
- 17 during the course of your investigation, would you have
- 18 tried to eliminate Mr. Johnson as a potential suspect?
- 19 A. Yes.
- 20 Q. And tell me how you would have done that? What
- 21 steps would you have taken?
- 22 A. As far as to eliminate someone?
- 23 Q. Yes, sir.
- 24 A. That's why normally we take GSR from everyone on
- 25 scene, get statements, use the statements. Sometimes you

1 even get multiple statements. We're asking them the same
2 questions over and over. Whatever names we're usually
3 given, we try to check them out to either eliminate them
4 or have them as a suspect.

5 Q. Okay. So in this particular case, you realize there
6 was quite a lengthy interrogation of Mr. Johnson?

7 A. That's right.

8 Q. Eight hours plus or minus of questioning; is that
9 correct?

10 A. Yes, I believe that's right.

11 Q. You didn't engage in the questioning of Mr. Johnson?

12 A. No.

13 Q. And the questioning of Kaisha Caraway, a couple of
14 hours?

15 A. Possibly. I mean, I don't have a number, but, yeah,
16 it was a couple of hours.

17 Q. Much shorter than Mr. Johnson's interrogation?

18 A. That's right.

19 Q. And Ms. Caraway at the scene originally gave you the
20 Robert story?

21 A. Yes. That's the name she gave me at first. That's
22 right.

23 Q. And then at some point later changed the story?

24 A. Yeah. Within a few minutes.

25 Q. Okay. Now, let's talk about this process of

1 eliminating suspects, gathering evidence, things of that
2 nature. When you were talking to Kaisha with Justin
3 standing -- in the car, now, she was in the front seat or
4 the back seat?

5 A. She was in the back seat.

6 Q. Back seat, okay. I couldn't remember whether you
7 said front or back. And he was standing by the front
8 seat?

9 A. That's right.

10 Q. Okay. Did you get between them at some point?

11 A. The door was open. I was standing in the opening of
12 the back door maybe four feet from her.

13 Q. Okay. When you arrived and Deputy Eaddy was
14 standing there with them, did you observe either one of
15 them to be hysterical, overly emotional?

16 A. No.

17 Q. Would it be safe to say quite frankly that they
18 perhaps weren't that emotional?

19 A. Yeah, I could say that.

20 Q. Would it be fair to say that when you pulled Ms.
21 Caraway aside and talked to her that she was somewhat
22 lacking in emotion?

23 A. I mean, she wasn't crying, but I could tell she was
24 physically -- she was at least shaking quite a bit.

25 Q. And did you have any occasions to come into contact

1 with her after that, Ms. Caraway?

2 A. Once or twice, yeah.

3 Q. And did she have moments where she broke down and
4 cried with you or ---

5 A. Not with me, no.

6 Q. Okay. So have you ever seen her cry?

7 A. No, I haven't.

8 Q. Were you in the courtroom when that video was played
9 earlier of her testimony?

10 A. No, sir. I stepped out.

11 Q. Would you -- is it somewhat surprising to you that
12 she wasn't crying and more shaken?

13 A. I can't say that it was surprising. But then,
14 again, I don't know what the normal reaction would be in
15 that situation.

16 Q. She didn't react the way you would react, did she?

17 A. No, I wouldn't say that. Most people wouldn't.

18 Q. And you got a little choked up today?

19 A. Yes, I did.

20 Q. And I think a lot of people did, quite frankly,
21 including me.

22 A. That's right.

23 Q. And you would expect that to be the normal reaction?

24 MR. DURANT: Objection, Your Honor. He's not
25 an expert ---

1 THE COURT: Sustained.

2 Q. And are you still mad about this today?

3 A. Not mad, no.

4 Q. So at the point when Ms. Caraway, on April the 6th,
5 2011, told you, "Justin did it" ...

6 A. That's right.

7 Q. ... from that point forward, did you believe anybody
8 else had done it?

9 A. No.

10 Q. You were convinced right then that Mr. Johnson had
11 done it?

12 A. That's correct.

13 Q. Okay. Even though you had absolutely no evidence
14 whatsoever to connect Mr. Johnson other than her
15 statement?

16 A. That's right.

17 Q. Okay. Wouldn't you agree that it is your job as an
18 impartial, unbiased investigator to remain somewhat
19 neutral in an investigation?

20 A. Yeah.

21 Q. And that having an emotional state in an
22 investigation can lead to unintentional oversights,
23 biases, slants, things of that nature?

24 A. It can.

25 Q. Okay. Now -- and in this particular case, there

1 were some things that didn't happen the way they should
2 happen. Would you agree with that?

3 A. I would imagine so. I mean, I don't know exactly
4 what you're talking about.

5 Q. Well, let me go through a few things with you. You
6 talked about GSR earlier?

7 A. Yes.

8 Q. That's gunshot residue; right?

9 A. That's right.

10 Q. And you're not -- have you ever been qualified as an
11 expert in gunshot residue?

12 A. Not an expert, but I've taken samples before.

13 Q. Okay. And in taking samples, y'all have standards
14 or protocol that you're supposed to follow; is that
15 correct?

16 A. There's instructions on the packet we get, yeah.

17 Q. Y'all have never had any other training about how to
18 take gunshot residue from a person?

19 A. Me personally, at a crime scene class, we did cover
20 that briefly. An hour or two.

21 Q. And is it fair to say that gunshot residue, that
22 they teach you to take it as quickly as possible after an
23 arrest or after a situation?

24 A. Yeah, we normally try to do that.

25 Q. Okay. And that's because it can dissipate over

1 time?

2 A. I believe so, yeah.

3 Q. And have you ever heard the term, "bagging the
4 hands"?

5 A. I've done it on deceased people before.

6 Q. Yeah. And don't they also recommend that you wear
7 gloves before you touch somebody that's going to get a
8 gunshot residue test?

9 A. I believe so.

10 Q. Okay. And the reason for that is to avoid
11 contamination or removal; is that right?

12 A. That's right.

13 Q. And in your training, did they teach you that
14 gunshot residue can be transferred from a police officer,
15 police car, anywhere where there's been gunshot residue,
16 onto another surface?

17 A. I believe it can, yeah.

18 Q. Okay. And you had actually drawn your weapon
19 moments before you touched Mr. Johnson's hands to put him
20 in handcuffs; is that right?

21 A. Yeah, I'd drawn my weapon.

22 Q. Did you have on gloves when you cuffed Mr. Johnson?

23 A. No.

24 Q. Did you bag Mr. Johnson's hands?

25 A. No.

1 Q. Did you cuff him behind his back?

2 A. Yeah.

3 Q. So when he got into whoever's patrol car, his hands
4 were directly in contact with the seat behind him?

5 A. I didn't put him in the car, so I don't know if he
6 was in the back or the front or ...

7 Q. Whatever seat, if his hands ---

8 A. It would have to have touched the seat, of course.

9 Q. Okay. And you would agree that in your training
10 they tell you that a patrol car is a good place to get
11 contaminated with gunshot residue?

12 A. I would imagine that, you know, contaminations of
13 all types.

14 Q. Okay. And when Mr. Johnson went to the Sheriff's
15 department for his lengthy interrogation, are you aware
16 the first, or one of the first things that was performed
17 was his clothes were collected?

18 A. I wasn't there. I don't know what the first thing
19 that was done.

20 Q. Okay. As far as to your knowledge, were his clothes
21 taken and put in evidence?

22 A. At some point, because we have them in evidence, so
23 they would have had to have been taken.

24 Q. And do you know whether or not his clothing was
25 tested?

1 A. I know it was tested for DNA and some other stuff,
2 but I don't know exactly what the tests were. I didn't
3 ...

4 Q. Okay. And do you know if anybody else's clothes
5 were tested for anything?

6 A. I don't know. I can't say that I do.

7 Q. Well, let me ask you this. You're the lead
8 investigator on this case?

9 A. You could say that.

10 Q. And I'm just asking because I'm trying to figure
11 out. If you don't know, who would know exactly what was
12 done?

13 A. Well, normally a homicide case -- in investigations,
14 normally if it happens, normally the whole group of
15 investigators usually works as a team to try to get
16 things done because one person can't be in three
17 different places.

18 Q. And do y'all coordinate that or keep some kind of
19 record of who's working on what?

20 A. Most of the time, yeah.

21 Q. Okay. Do you know who was in charge of collecting
22 clothing and things of that nature?

23 A. I just knew that Kipp Coker and Mason Moore was
24 doing the interviews.

25 Q. Okay.

1 A. You know, at that time -- I know now who done it.

2 But at the time, I was at the crime scene just trying to
3 assist SLED anyway they -- whatever they needed from me,
4 if anything.

5 Q. And do you know if anybody else's clothes were
6 analyzed?

7 A. I don't know.

8 Q. Okay. And would you agree with me that in a case
9 like this everybody obviously that survived at the scene
10 should be processed to eliminate any other suspects?

11 A. I would imagine so, yeah.

12 Q. Okay. And that would probably be -- if you were in
13 charge and had done that, that's what you would think
14 would be proper?

15 A. Yeah.

16 Q. And the reason for that is, quite frankly, people
17 don't always tell the truth. Would you agree with that?

18 A. I can agree with that, yes.

19 Q. And that that is the purpose of gathering and
20 collecting evidence, to see how it adds up?

21 A. That's right.

22 Q. Okay. Do you know if y'all tested anybody's
23 clothing for gunshot residue?

24 A. I don't know for gunshot residue. I know some blood
25 tests was done on some other stuff, but I don't know if

1 gunshot residue was tested on anybody.

2 Q. And, again, I understand you're not a gunshot
3 residue expert. But in your training and knowing gunshot
4 residue, is it your understanding that gunshot residue
5 can appear on people even if they haven't fired a gun?

6 A. Not that I know of.

7 Q. Okay. So if there's gunshot residue present on
8 somebody, it's your understanding that that means they
9 fired a weapon?

10 A. Most of the time.

11 Q. You said, "Most of the time"?

12 A. I mean, I don't -- I've never dealt in a case where
13 one -- we wouldn't test just a random person to see if
14 they had gunshot residue.

15 Q. Okay.

16 A. Normally you tested if you -- we think you fired a
17 weapon.

18 Q. So -- and, again, that procedure should be done as
19 close in time as possible?

20 A. That's what they suggest, yeah.

21 Q. That's what you've been trained in?

22 A. That's right.

23 Q. Any idea in your trainings that tell you how long
24 GSR will last?

25 A. No. I've never been given a definite number.

1 Q. Okay. Now, you testified also to the Solicitor that
2 the door had been kicked in? Is that ...

3 A. Kicked in. Well, 'kicked in' is a term I use.
4 Kicked in, pushed in.

5 Q. Forced in?

6 A. Forced in. I mean ---

7 Q. There's no evidence that it was a foot or shoulder
8 or a bat or anything else?

9 A. A foot or shoulder, nothing. You're correct.

10 Q. The damage to the tumbler?

11 A. At some point that door had been forced in, yeah.

12 Q. Okay. And you testified about the shotgun shells
13 and their locations. You're not any kind of a ballistics
14 expert, are you?

15 A. No.

16 Q. Okay. So you can't offer any testimony of any
17 certainty how long those shells had been there, what gun
18 they came from, whether they were involved in this or not
19 at all, can you?

20 A. No, I can't.

21 Q. Okay. So their relation to any victims, articles of
22 furniture, that means absolutely nothing to you, does it?

23 A. No. I mean, I can't tell you what gun it came from
24 or anything.

25 Q. Now, you also told the Solicitor that it was a pump

1 shotgun?

2 A. Yes.

3 Q. And that it required, I think, affirmative action or
4 intentional effort?

5 A. Yeah.

6 Q. But would you agree in your -- you've fired a pump
7 shotgun?

8 A. Many, many times.

9 Q. Okay. Have you ever shot with female officers?

10 A. I don't understand.

11 Q. Have you ever been around a female officer that shot
12 a pump shotgun?

13 A. Yes.

14 Q. From your observation, is there anything about a
15 pump shotgun that would eliminate a woman from being able
16 to fire it or work the action?

17 A. As long as you have two arms you can normally fire a
18 pump.

19 Q. Okay. When you were at the scene, processing the
20 scene, tell me roughly how that happened. You said you
21 -- let me get us to that point, because I don't want you
22 to start from the beginning like you did in ---

23 A. How I ended up there?

24 Q. No, sir. No, sir. You cleared the house with
25 Trooper Falls?

1 A. That's right.

2 Q. Then y'all said, "Nobody else goes in." Right?

3 A. That's right.

4 Q. At what point did people then -- and I don't mean
5 people -- law enforcement personnel start going in to
6 process the scene?

7 A. When SLED crime scene arrived.

8 Q. Okay. Roughly, what time was that?

9 A. Hour and a half, two hours. I don't remember
10 exactly. However long it took them to get there.

11 Q. And did you assist SLED in processing the scene?

12 A. I did not assist in -- the only thing that we done
13 -- I done with SLED, aside from a few pictures I took of
14 the residence, was do a brief walk-through. Kind of show
15 them where ---

16 Q. What you had found?

17 A. --- what I'd seen was at. And then from there, I
18 stayed outside. They collected pictures. Everything was
19 on them once that point took place.

20 Q. Okay. Throughout the course of this investigation,
21 you've never wavered in your belief that Mr. Johnson did
22 this?

23 A. No.

24 Q. You knew from the first moment Ms. Caraway uttered
25 those words to you?

1 A. Yes.

2 Q. And you've done everything in your power since that
3 time to make sure that you bring evidence to this Court
4 to prove that?

5 A. I've done everything that -- I say we've done
6 everything, because it was a group effort, to follow
7 everything up afterwards. And whatever evidence we got
8 back is what you have, whether it's against Mr. Johnson
9 or for Mr. Johnson.

10 Q. And as far as the collection process, you've
11 testified to everything that you know about?

12 A. Yeah.

13 MR. ROBINSON: Courts indulgence?

14 MR. ROBINSON: Yes, sir.

15 Q. Investigator Richards, just a couple more quick
16 questions. When you first arrived at the scene and were
17 talking with the individuals there, I think you said you
18 noticed some blood on Mr. Johnson's shirt?

19 A. Yeah.

20 Q. Do you recall asking him at any point about whether
21 or not he had an injury or looking for an injury?

22 A. No. At that point -- you have to think about the
23 time frame. When I walk up, it's very brief to when I go
24 to check the first victim. There's only, you know,
25 thirty seconds or so, a minute, of standing there talking

1 with them. Once I saw a person on the ground, my focus
2 then went to check on that person. Then I heard there
3 was a baby in the house. My focus shifted to finding
4 that baby, seeing if they were okay, what have you, at
5 that point. So I didn't actually take -- I didn't stop
6 at that point and try to interview him at that point
7 about any blood on him.

8 Q. Well -- and the reason I asked you that, you
9 testified on direct that she was looking at you, and you
10 noticed his shirt looked like it had been pulled and had
11 blood on it?

12 A. And that was afterwards.

13 Q. Okay. That was after you had already arrested him?

14 A. No, no.

15 Q. Okay. And that's what I'm talking about. After you
16 cleared the residence?

17 A. After I cleared the residence, that's when I went to
18 my vehicle for a minute or two. In between -- well,
19 walking to the vehicle, that's when I told the Sheriff
20 and Captain Baker that no one else needed to go in the
21 house. I walked to the back, to the bumper of my truck
22 for a minute or two. From that point is when I walked
23 back to the car and was talking with Kaisha. And that's
24 when Mr. Johnson was -- he was an arm's reach away, three
25 or four feet.

1 Q. Right.

2 A. And that's when I really noticed that it had been
3 pulled. Or at least it appeared to. It had been pulled,
4 and there was blood across the front.

5 Q. And you presumed that to be evidence of guilt, not
6 evidence of being a victim?

7 A. I presumed it to be evidence.

8 Q. Okay. But you didn't ask him?

9 A. Not at that time.

10 Q. When you pulled Ms. Caraway out of the vehicle, took
11 her over there and talked to her, was she holding K.C.,
12 the daughter?

13 A. No.

14 Q. Where was K.C. ?

15 A. Mr. Johnson was standing over K.C.. She was on the
16 front seat, front passenger seat. He was standing in the
17 doorway of the front-passenger seat.

18 Q. Okay. And so you then, within a brief period of
19 time, went and arrested Mr. Johnson yourself?

20 A. No. I called him over to me.

21 Q. Okay.

22 A. Because my concern at that point was there was
23 another child there.

24 Q. Okay. I understand. So did you separate yourself
25 from Kaisha ---

1 A. Yes.

2 Q. --- and then call Mr. Johnson over?

3 A. Yes.

4 Q. Okay. And then after Mr. Johnson was arrested,

5 someone else transported him to the ---

6 A. At that point I called Tommy Burgess -- he was

7 working for the Sheriff's office at the time -- and

8 Robert Falls over. They came over. I believe it was

9 Robert that escorted him to a vehicle. I don't know

10 whose vehicle it was. They transported him to the

11 Sheriff's office.

12 Q. Okay. Did you talk with Kaisha again after that at

13 the scene?

14 A. Briefly, I did.

15 Q. And was she holding the daughter at that point?

16 A. She was then, yes.

17 Q. Okay. And did she tell you that at that point in

18 time she had changed shirts?

19 A. Said she had put on a shirt.

20 Q. Okay.

21 A. I believe she was on the phone when I walked back

22 up. At the time we had had these mobile video little

23 cameras. They turned out to be terrible because it would

24 only last for a few minutes. I had gotten that. And I

25 believe there's a few minutes of video talking with her.

1 I believe she was on the phone. And that's when I
2 believe I located -- I found out she'd been hit with a
3 pellet in the shoulder, what appeared to be hit by a
4 pellet in the shoulder.

5 Q. Do you know who she was on the phone with at that
6 point?

7 A. I have no idea.

8 Q. Have you made any effort ---

9 A. No.

10 Q. --- before today to ascertain who she was on the
11 phone with?

12 A. I don't remember asking that day.

13 Q. Did y'all subpoena her phone records?

14 A. I believe they were.

15 Q. Okay. And within minutes of all of this happening,
16 you arresting in front of her the man she claims killed
17 her mother -- I mean, her grandmother and her son, she's
18 on the phone with somebody?

19 A. That's right.

20 Q. For three years you didn't think it was important to
21 see who that may have been?

22 A. I don't remember ever asking her.

23 Q. I understand that. You don't think that could have
24 possibly been important?

25 A. I never thought about it.

1 Q. And the reason you didn't think about it, you think
2 Mr. Johnson did it?

3 A. Yeah, I think he did it.

4 Q. Okay. So there's no reason to check to see if she
5 was talking to somebody who might have been named Robert
6 or that there may be a conversation with anybody else and
7 that there may be some other evidence as a result of that
8 phone conversation?

9 A. No, I didn't check the phone. That's right.

10 Q. Thank you.

11 MR. ROBINSON: I don't have any further
12 questions.

13 THE COURT: Any redirect?

14 MR. DURANT: Yes, sir.

15 REDIRECT EXAMINATION

16 BY MR. DURANT:

17 Q. Captain Richards, there were some questions about
18 your knowledge of the gunshot residue testing procedures
19 and whether or not they needed to be done as quickly as
20 possible. Do you know which investigator did the gunshot
21 residue test of Kaisha Caraway?

22 A. I know now it was Kipp Coker and Mason Moore in the
23 room while it was being done.

24 Q. But Kaisha?

25 A. Oh, of Kaisha? I believe it was Kenneth Clark did

1 it with Kaisha at the hospital.

2 Q. At the hospital, you say?

3 A. Yes.

4 Q. And there was a question about whether you had drawn
5 your weapon a short time before cuffing Mr. Johnson. Had
6 you fired your weapon?

7 A. I'd fired it probably like a week or two, a couple
8 of weeks before. I never go a month without firing it.
9 But my normal practice, I clean it after I shoot it.

10 Q. Okay. So it hadn't been fired in a couple of weeks,
11 and you ---

12 A. It had been fired in a day or so that I can ...

13 Q. And you would have cleaned it after the last time
14 you fired it?

15 A. I did.

16 Q. Was the blood on Mr. Johnson's shirt, on the
17 Defendant's shirt at the scene, do you know whether or
18 not that was tested by SLED?

19 A. I believe it was.

20 Q. Okay. And as far as the process of eliminating
21 suspects at the scene, did you observe any injuries to
22 Kaisha Caraway?

23 A. I believe she had some blood on her face somewhere,
24 but I didn't observe any major thing that stuck out to
25 me.

1 Q. Finally, do you know whether it's standard Sheriff's
2 office procedure that a victim such as Ms. Caraway would
3 have been allowed to call her family at the scene?

4 A. Certain circumstances, yeah, I could see that
5 happening.

6 MR. DURANT: I don't have any further
7 questions.

8 THE COURT: Any recross based on his redirect?

9 MR. ROBINSON: The Court's indulgence?

10 THE COURT: Yes.

11 MR. ROBINSON: No, sir. No recross.

12 THE COURT: All right. Thank you.

13 Captain Richards, you may step down.

14 Any objection to this witness being excused?

15 MR. ROBINSON: None, Your Honor.

16 THE COURT: All right. Thank you.

17 MR. FINNEY: If it please the Court, Your
18 Honor, we have a witness that is standing by in Montana,
19 and we believe that we're going to have to hook up the
20 machine to get him connected. If we could have the jury
21 to take a five- or a ten-minute break, we believe we can
22 accomplish that now before the lunch hour..

23 THE COURT: How long do you think the
24 testimony's going to be?

25 MR. FINNEY: We think thirty to forty minutes

1 at most, Your Honor.

2 THE COURT: Okay. All right.

3 Very well, ladies and gentlemen. We'll take a short
4 break. Please do not discuss anything about the case
5 while you're back there.

6 (WHEREUPON, the jury exited the open court at
7 approximately 11:56 a.m.)

8 THE COURT: All right. The court will be in
9 recess for ten minutes.

10 (WHEREUPON, court stood in recess for a short
11 break.)

12 THE COURT: Anything before we bring the jury
13 in?

14 MR. ROBINSON: Yes, sir, Your Honor. I
15 understand we're about to get into the Skype. I just
16 want to renew the objection that I made last week just
17 for the record.

18 THE COURT: All right. Very well. I've
19 overruled your objection. Skype has been used in many
20 courts in this state and have been used in death penalty
21 trials as well, so I'm satisfied that based upon some of
22 the testimony that I heard that it'll be fine.

23 All right. Let's bring our jury in. And I'll
24 explain to them.

25 (WHEREUPON, the jury entered the open court at

1 approximately 12:12 p.m.)

2 THE COURT: All right. Ladies and gentlemen,
3 through the miracles of modern technology, you are about
4 to watch the testimony of a witness who is at this very
5 moment in Montana. Now, this witness will be sworn just
6 like any witness that is here. The witness will be
7 questioned by the Solicitor and the Defendant just as if
8 they were sitting there. And it's going to be live. So,
9 again, through the marvels of modern technology, this
10 witness is able to be here, and you should give it the
11 weight that you think it should have. But for all
12 practical practices that witness is right there.

13 All right. Is the State ready to proceed?

14 MR. DURANT: Yes, sir, Your Honor. The State
15 calls Mason Moore.

16 (WHEREUPON, Mason Moore appeared via Skype.)

17 MR. DURANT: Mr. Moore?

18 THE WITNESS: Yes, sir.

19 MR. DURANT: Can you hear me?

20 THE WITNESS: Yes, sir, I can hear you.

21 MR. DURANT: First of all, Mr. Moore, do you
22 have a notary public there with you?

23 THE WITNESS: Yes, sir, I do.

24 MR. DURANT: If you would, please have her
25 identify herself.

1 THE NOTARY: My name is Terry Major. I am the
2 Clerk of Court with the Gallatin County Justice Court in
3 Boseman, Montana.

4 MR. DURANT: Ma'am, would you please administer
5 the oath to Mr. Moore at this time?

6 THE NOTARY: (No verbal response)

7 MR. DURANT: Ma'am, would you please administer
8 the oath to Mr. Moore?

9 THE NOTARY: Yes, sir. Officer Moore, do you
10 solemnly swear that the information contained your
11 testimony is true and correct to best of your knowledge,
12 so help you God?

13 THE WITNESS: I do.

14 **MASON MOORE,**

15 BEING FIRST DULY SWORN, TESTIFIED VIA SKYPE AS FOLLOWS:

16 DIRECT EXAMINATION

17 BY MR. DURANT:

18 Q. Mr. Moore, where do you live?

19 A. I live in Three Forks, Montana.

20 Q. How long have you lived in Montana?

21 A. Almost three years now.

22 Q. Before you moved to Montana, where did you live?

23 A. I lived in Clarendon County, South Carolina.

24 Q. And where did you work when you lived in Clarendon
25 County?

1 A. I worked for the Clarendon County Sheriff's Office.

2 Q. In what capacity did you work for the Sheriff's
3 office?

4 A. As an investigator.

5 Q. How long did you work as an investigator at the
6 Clarendon County Sheriff's Office?

7 A. Two years.

8 Q. Do you remember -- were you working as an
9 investigator at the Sheriff's office back on April 6th of
10 2011?

11 A. Yes, sir, I was.

12 Q. And do you remember that day?

13 A. Yes, sir, I do.

14 Q. And tell me what you did on that day.

15 A. I interviewed Justin Johnson along with Kipp Coker
16 at the interview room of the Sheriff's office.

17 Q. Okay. Are those -- you and Mr. Johnson and Kipp
18 Coker, are those the only individuals present for that
19 interview?

20 A. Yes, sir.

21 Q. When you interviewed Mr. Johnson, did he appear to
22 be under the influence of alcohol or drugs?

23 A. No, sir, he did not.

24 Q. Did he appear to have any physical or mental
25 disability that would affect his ability to understand?

1 A. No, sir.

2 Q. Do you believe or do you know whether he was aware
3 of the nature of the investigation?

4 A. Yes, sir.

5 Q. How did that investigation come about?

6 A. (No response)

7 Q. Mr. Moore?

8 (WHEREUPON, Internet connection was lost and
9 subsequently restored.)

10 Q. Mr. Moore, can you hear me?

11 A. I can hear you, yes, sir. I don't have video
12 though.

13 Q. Is there a button you can ...

14 A. Yes, sir. I think it's working right now. I have
15 you now, sir.

16 Q. Okay. I believe my last question was, "How did the
17 investigation come about that day?"

18 A. Yes, sir. I believe a call was received by the
19 Sheriff's office about an incident occurring on, I
20 believe it was, Carissa Lane, and units responded out
21 there.

22 Q. Do you know what kind of incident?

23 A. I believe it was where somebody had been shot.

24 Q. And were there fatalities?

25 A. Yes, sir, there were.

1 Q. When you interviewed Mr. Johnson, was he advised of
2 his constitutional rights pursuant to Miranda prior to
3 any questioning?

4 A. Yes, sir, he was. I read him his rights myself.

5 Q. How many times did you read him his rights?

6 A. I believe it was three times, once when we initially
7 brought him into the room, and then when we -- and then I
8 read them a third time on the second day.

9 Q. Okay. Back up. We lost part of that last answer.
10 You read him his rights once when you brought him in the
11 room, and then ...

12 A. Again when we actually started asking him questions.
13 And then a third time the following day.

14 Q. Did you use a Miranda card to reference those
15 rights?

16 A. Yes, sir, I did.

17 Q. Did you tell him he had the right to remain silent?

18 A. I did, sir.

19 Q. Did you tell him that anything he said could be used
20 against him in a court of law?

21 A. Yes, sir.

22 Q. And did you tell him that he had a right to have an
23 attorney and have that attorney present there with him
24 during questioning?

25 A. Yes.

1 Q. And did you tell him that if he couldn't afford an
2 attorney, that one would be appointed for him?

3 A. Yes.

4 Q. And did he decide -- did you tell him that if he
5 decided to exercise his rights at any time, he had that
6 right?

7 A. Yes, sir.

8 Q. Did he appear to have any trouble understanding
9 those rights?

10 A. No, sir, he did not.

11 Q. How did he respond?

12 A. He responded to each question that he understood
13 them. When I asked him specifically if he understood his
14 rights as I read it to him, he responded with, "Yes,"
15 and did so on all of those occasions that (Skype
16 connection interrupted) Are you still there?

17 Q. Yeah.

18 MR. ROBINSON: Your Honor, could you ask him to
19 repeat his answer.

20 THE COURT: Yeah, ask him to repeat his answer.

21 Q. If you would repeat your answer to that last
22 question.

23 A. Okay. The last question I heard was whether or not
24 he responded in the affirmative to the questions that I
25 asked him about his Miranda, and he did so.

1 Q. Did he waive his rights at that time and then decide
2 to proceed with the interview?

3 A. Yes, sir.

4 Q. If you would, tell me where did the interview take
5 place?

6 A. It took place in the interview room of the Sheriff's
7 office.

8 Q. During the questioning, did his answers appear to be
9 rational and responsive?

10 A. Yes, sir, they did.

11 Q. Was he -- at any point during the interview, was he
12 so emotional that you had concerns about his ability to
13 understand his rights?

14 A. No, sir.

15 Q. Do you remember how long the Defendant was
16 questioned?

17 A. The questioning portion itself was a number of
18 hours. And sometime around noon, I think, until about
19 ...

20 Q. Okay. We missed the end of that answer. You said
21 sometime around noon until when?

22 A. Until about, I believe, five or six o'clock.

23 Q. Were any breaks taken during the questioning
24 process?

25 A. Yes, sir, there were. There were several breaks in

1 which we offered him bathroom breaks or anything to drink
2 or eat. We did that on numerous occasions.

3 Q. Was the Defendant offered food -- well, you just
4 said. How many times was he offered access to food,
5 drink, or bathroom?

6 A. A number -- I would say more than five would be my
7 guess. It was quite a number of times.

8 Q. Were there any threats or promises made in exchange
9 for his statement or speaking to you that day?

10 A. No, sir.

11 Q. To the best of your knowledge, was the Defendant
12 Justin Johnson's statement given freely and voluntarily
13 that day?

14 A. Yes, sir.

15 Q. Was it recorded?

16 A. Yes, sir, it was.

17 Q. And by video or audio?

18 A. Video and audio.

19 Q. Okay.

20 A. Both.

21 Q. All right. Let me back up to ---

22 A. I'm sorry. When it -- can you hear me, Chris?

23 Q. I can hear you, but I don't see you.

24 A. Okay. I don't see you. Hold on just a second. All
25 right. It's working on -- okay. I can see you now, sir.

1 Q. Okay. The last question I asked was whether or not
2 the interviews with Mr. Johnson was recorded by a video
3 and audio surveillance system?

4 A. It was, yes, sir.

5 Q. And you said that you read him his rights three
6 times. Was there more than one interview that you
7 conducted with Mr. Johnson?

8 A. Yes, sir. There was an interview that we conducted
9 that day. And then he requested to speak to me the next
10 day, the following day.

11 Q. So the following day interview, that was at his
12 request?

13 A. Yes, sir, it was.

14 Q. Did he contact you?

15 A. Yeah. He contacted the Sheriff's office for me.

16 Q. Okay. And let me back up. You said when you first
17 brought Mr. Johnson in that you read him his rights?

18 A. (No verbal response)

19 Q. Can you hear me, Mason?

20 A. Yes, sir, I can hear you.

21 Q. Okay. When you first brought Mr. Johnson in, did
22 you conduct any tests on him?

23 A. Yes. Yes, sir. We collected a GSR, which is a
24 gunshot residue kit. We also took pictures of his
25 person. We also collected his clothes as well.

1 Q. Was Mr. Coker in the room with you when you

2 collected that gunshot residue?

3 A. Yes, sir, he was.

4 Q. Had you done that before?

5 A. Yes, sir. I've collect quite a few gunshot residue

6 in the past. And he also read me the directions.

7 Q. Okay. You said read he you the directions. Where

8 do the directions come from?

9 A. It comes from inside the package. It comes in a

10 kit. And you open up the kit and all of the instruments

11 that they use to collect it are inside the kit along with

12 instructions, and a pair of gloves as well.

13 Q. And the instructions to tell you what to do?

14 A. Yes, sir, they give you step-by-step instructions.

15 Q. Where did the kit come from?

16 A. (No verbal response)

17 Q. Mason?

18 A. Yes, sir, I can hear you.

19 Q. The last question was where did the gunshot residue

20 kit come from? Who prepares that?

21 A. I believe it's prepared by a company that produces

22 those. I can't tell you specifically what the company

23 is. But it's a -- it comes in a sealed packet.

24 Q. When you finished collecting the gunshot residue,

25 did you put it back into a sealed packet?

1 A. Yes, sir. It provides evidence tapes or ways to
2 secure those envelopes. And you secure them. And I
3 believe I initialed and dated it. That's usually what I
4 do when I seal those.

5 Q. And after you sealed that kit, do you remember what
6 you did with it?

7 A. We turned it in to evidence to be sent to SLED for
8 processing.

9 MR. DURANT: I beg the Court's indulgence one
10 moment.

11 THE COURT: Yes.

12 Q. Mr. Moore, as a result of the interview, do you
13 remember how many CD or compact disks were recorded?

14 A. I believe your questions is, "How many CDs or
15 compact disks were recorded?" And it was multiple CDs.
16 It was several. I don't recall the specific number, but
17 it was several.

18 MR. DURANT: Your Honor, I don't have any
19 further questions for Mr. Moore.

20 Q. If you would, please answer any Mr. Robinson has for
21 you.

22 THE COURT: Mr. Robinson?

23 MR. ROBINSON: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 BY MR. ROBINSON:

1 Q. I guess it's good morning to you out there,

2 Investigator?

3 A. Yes, sir, it is.

4 Q. Let me ask you a few questions, if I could, about
5 the process. Do you remember approximately when you left
6 Clarendon County?

7 A. Yeah. It would be in October, I believe, of 2011.

8 Q. And in preparation for your testimony today, did you
9 make any notes or review any notes?

10 A. Yes. I looked at the interview.

11 Q. Okay. You watched the videotape of the interview?

12 A. Yes, sir, I did.

13 Q. Okay. Do you have -- have you reviewed any other
14 notes or anything that you have there with you today?

15 A. No, sir.

16 Q. Okay. Now, you talked with the Solicitor about your
17 interview with Mr. Johnson. And you said he didn't
18 appear to be on alcohol or drugs; is that right?

19 A. Yes, sir. We had a little break there. But as far
20 as him appearing to be on alcohol or drugs, he did not
21 appear to be under the influence of anything at all when
22 I talked to him.

23 Q. Okay. And you base that just on your life
24 experience?

25 A. Yes, sir. At that time, I'd had almost twelve years

1 of experience in law enforcement. Ten or eleven.

2 Q. Right. But you didn't have any specialized training
3 in the medical field or anything of that nature, did you?

4 A. No, sir, I did not.

5 Q. Okay. And did you administer any type of drug or
6 alcohol test to him?

7 A. No, sir.

8 Q. No taking his blood and checking it to see if he was
9 under the influence of anything?

10 A. No, sir. I'm not a medical person.

11 Q. Okay. But y'all did collect buccal swabs, DNA
12 samples, gunshot residue, all of these different things?

13 A. Yes, sir. Those are non-invasive stuff that doesn't
14 require a medical personnel to do that.

15 Q. Did you ever offer Mr. Johnson the opportunity to
16 have medical personnel check him or check him for any
17 type of injuries or anything?

18 A. Yeah, I definitely asked him if he needed anything
19 or ...

20 Q. I think the last thing I heard you say, "We
21 definitely asked him if he needed anything."

22 A. Yes, sir. But specifically if he needed medical
23 attention, I don't recall asking that.

24 Q. Okay.

25 A. Nor did he request it.

1 Q. Did y'all perform any type of test on him as far as
2 looking at his eyes to see if maybe he had a concussion
3 or was in shock or anything of that nature?

4 A. No, sir. He didn't have the -- he didn't exhibit
5 any of those things that would normally lead us to
6 believe that he was in shock or under the influence.

7 Q. Okay. And, again, you don't have any specialized
8 training that gives you the ability to determine that
9 with certainty, do you?

10 A. No. No, sir.

11 Q. Okay. Now, let's talk about the interview process
12 itself. It started sometime that morning. And I know
13 it's on the tape. And I'm not asking you the specific
14 time. But sometime within an hour or so of him being
15 arrested. Is that a fair statement?

16 A. That is -- yes, sir, that's correct. Or he had been
17 taken into custody and brought up to the Sheriff's
18 office, yes, sir.

19 Q. Okay. So he was brought to the Sheriff's department
20 directly from Carissa Lane as far as you know?

21 A. Yeah. It kind of broke up. But, yes, sir, he was
22 brought to the Sheriff's office in a very short time
23 frame from when law enforcement received the call.

24 Q. My question was as far as you know, was it directly
25 from Carissa Lane?

1 A. Yes, sir, it was.

2 Q. Okay. And y'all began the GSR collection process,
3 things of that nature, taking photographs, I believe?

4 A. Yes, sir, we did.

5 Q. Okay. And that lasted for a number of hours, that
6 part itself?

7 A. Yes, sir, it did.

8 Q. Okay. And then the actual interrogation when y'all
9 began questioning Mr. Johnson lasted for quite a few
10 hours; is that correct?

11 A. Yes, sir, it did.

12 Q. In all, roughly, Mr. Johnson was in the interview
13 room with you and Investigator Coker for about eleven
14 hours give or take that day?

15 A. That day, yes, sir, total. It would be somewhere in
16 that neighborhood. It was ...

17 Q. Okay. And y'all videotaped the entire process?

18 A. Yes, sir.

19 Q. There weren't any breaks in the videotape?

20 A. There was -- there might have been one case where we
21 had -- during that -- the computer system that we use, we
22 had to make sure that we kind of -- you probably weren't
23 able to hear me. Can you still hear me, sir?

24 Q. I lost you.

25 A. Okay.

1 Q. If you could answer that question again about
2 whether or not there were any breaks in it?

3 A. Right. I believe that computer system requires us
4 to basically reboot it to make sure that -- and I'm not
5 sure. I think we may have missed some of that, but I
6 don't know.

7 Q. Okay. So it automatically records for a certain
8 period of time; is that correct?

9 A. Yes, sir.

10 Q. And at the end of that period of time, it doesn't
11 flip to another disk. You have to leave the room and
12 manually stop it and restart it?

13 A. Or somebody has to, yes, sir.

14 Q. Okay.

15 A. And there was -- and as I recall, there was a gap in
16 there for that. That's the ...

17 Q. And at what point in the tape or -- scratch that.
18 Strike that question, please. What caused y'all to end
19 the interview that day?

20 A. What caused us to end that interview that day? I
21 believe that's what you said?

22 Q. Yes, sir.

23 A. We did ---

24 Q. You didn't?

25 A. No, sir. We did. We ended it right after his

1 confession.

2 Q. Okay. And that's fine for you to say that.

3 A. Yes, sir, his admissions to us.

4 Q. What y'all believed to be his confession; is that
5 correct?

6 A. Yes, sir. It certainly was implication into the
7 events that happened that day.

8 Q. Okay. How long did the portion that you believe
9 where he implicates himself -- how long did that portion
10 of this particular video last?

11 A. Well, sir, from the very beginning, the whole tape
12 is him talking about various things that we had to
13 disprove. But his ---

14 Q. Well, the part that you deemed a confession, how
15 long did that part last? Do you know?

16 A. It was -- I would say after we talked to him about
17 the 9-1-1 recording until the end of that tape would be
18 that section. And I would assume it would be forty --
19 thirty to forty-five minutes maybe or maybe a little less
20 than that. It's somewhere in that neighborhood.

21 Q. And y'all in one way or another had him in that room
22 for about eleven hours. And after what y'all believe was
23 a thirty or forty-five minute confession, at the very end
24 of it, that's when y'all ended the interview that day?

25 A. I said thirty or forty-five minutes.

1 Q. Okay. Let me back up because I don't know what part
2 you heard or didn't hear. My question was that y'all had
3 Mr. Johnson in custody in that room -- and I understand
4 y'all gave him bathroom breaks. I'm not saying you
5 didn't -- for roughly eleven hours that day; is that
6 right?

7 A. That is correct, yes, sir.

8 Q. And out of that eleven hours, the last thirty or
9 forty-five minutes is what ended that interview?

10 A. Yes, sir.

11 Q. Okay. What I'm asking you, y'all asked him
12 questions and he gave you answers that y'all refused to
13 accept for nine and a half or ten hours; is that right?

14 A. Yes, sir.

15 Q. Okay. And so the last thirty or forty-five minutes,
16 when he answers the questions or told you the things that
17 you believed fit, that you believe amounted to a
18 confession, you accepted that and ended the interview; is
19 that correct?

20 A. Yes, sir.

21 Q. Okay. And do you remember that portion of the
22 interview? Do you remember it well? You said you
23 watched it.

24 A. Yes, sir, I can recall it.

25 Q. Okay. Isn't it true that Mr. Johnson gives almost

1 no detail?

2 A. (No verbal response)

3 Q. Are you back with me, Mason?

4 A. Yes, sir, I'm back with you.

5 Q. My question was you said you had reviewed the video
6 and were familiar with it?

7 A. Yes, sir.

8 Q. Okay. Isn't it true that during the alleged
9 confession portion of this video, Mr. Johnson gives very
10 little, if any, details?

11 A. As I recall, he gives a fair amount of detail up to
12 the point where the murders occur. And then he can say
13 up to where he goes into the house or where he approaches
14 the house, and then where he was inside the house. And
15 then he can recall what happened right after the second
16 one, I believe. We're talking about the first interview;
17 is that correct?

18 Q. Yes, sir. The long one.

19 A. Yes, sir.

20 Q. And in reality, no information that Mr. Johnson
21 shared with y'all in that last thirty or forty-five
22 minutes was anything that you and Investigator Coker
23 hadn't already told him throughout the day at some point;
24 is that correct?

25 A. (No verbal response) Are you still there, sir?

1 Q. I'm back now.

2 A. Okay. I ---

3 Q. Do you want me to repeat my question? I'll do the
4 best I can.

5 A. Yes, sir.

6 Q. The information that Mr. Johnson gave you and
7 investigator Coker in the last thirty or forty-five
8 minutes of that interview is, in reality, nothing that
9 you and Investigator Coker had not previously told Mr.
10 Johnson; isn't that correct?

11 A. Yes, sir. I don't recall if there was anything in
12 that particular interview where we hadn't -- because we
13 pretty much discussed the whole -- the whole matter with
14 him.

15 Q. Because y'all believed he knew what happened, didn't
16 you?

17 A. As the day went on, we learned about what had
18 happened. So ...

19 Q. Somebody else told y'all what happened; right?

20 A. As the day went on and as we found things that were
21 inconsistent with his prior statements, yes.

22 Q. Okay. So during the interview process, you and
23 Investigator Coker had decided what you believed the
24 truth to be, didn't you?

25 A. He never gave us any reason to think otherwise, if

1 you're asking us whether or not we thought he was the one
2 that committed the crime.

3 Q. Right. Well, he told you he didn't do it, didn't
4 he? For about eight hours, he told you didn't do it,
5 didn't he?

6 A. Yes.

7 Q. And that's not reason to believe otherwise?

8 A. Not when your statements you're making are
9 inconsistent with what's there.

10 Q. With what somebody else is telling you; right?

11 A. With ---

12 Q. Y'all weren't at the crime scene, were you?

13 A. No, we were not at the crime scene.

14 Q. So somebody was calling you on the phone and telling
15 you this stuff, weren't they?

16 A. Yes.

17 Q. Somebody else in law enforcement; right?

18 A. Yes, sir.

19 Q. So somebody had decided what they believed happened
20 and were telling you and Investigator Coker; correct?

21 A. That's correct.

22 Q. And you and Investigator Coker believed that
23 information over that Mr. Johnson was providing; is that
24 correct?

25 A. Yes, sir.

1 Q. And you questioned Mr. Johnson for hour after hour
2 until he finally agreed with you; isn't that correct?

3 A. Yeah. Well, he could certainly end the interview at
4 any time. He wished to keep speaking to us, so we kept
5 talking to him.

6 Q. But you didn't ---

7 A. As the interview went along and disproved his
8 statements that he made to us about what was at the crime
9 scene, that was why we continued on.

10 Q. Now, you say disproved. Again, you didn't have any
11 evidence in your hand, did you?

12 A. Other than the 9-1-1 tape, no, sir.

13 Q. Okay. So you're going off what other people are
14 telling you. You're believing somebody and choosing not
15 to believe Mr. Johnson; isn't that correct?

16 A. That's correct, yes, sir.

17 Q. Okay. And you continued to question Mr. Johnson,
18 whether he asked you to stop -- and let me strike that
19 question. I'm not trying to make it misleading. He did
20 not ask you to stop. I'm not trying to infer that. You
21 didn't ever stop the interview until he told you ---

22 MR. DURANT: Objection, Your Honor. That's
23 asked and answered.

24 THE COURT: I'm going to let him go one more
25 time.

1 Q. --- until he told you the information that you
2 agreed with; is that correct?

3 A. Yes, that's correct.

4 Q. Okay. Thank you.

5 A. Sure.

6 MR. ROBINSON: No further questions.

7 THE COURT: Any redirect?

8 MR. DURANT: No, sir, Your Honor.

9 THE COURT: All right. Thank you. Have a nice
10 day in Montana.

11 THE WITNESS: Yes, sir. You too. Enjoy
12 y'all's warm weather.

13 THE COURT: Thank you.

14 All right. Ladies and gentlemen, I think this is a
15 perfect time to break for lunch. We will be in recess --
16 I'm going to go ahead and say until -- do y'all think an
17 hour and fifteen minutes will be enough lunch for you
18 here in Manning? Some places you have to go a long ways
19 to eat, but you don't have to go too far here. So please
20 be back at just a little bit before two o'clock so we can
21 continue with the testimony this afternoon. Of course,
22 do not speak with anyone concerning this. Thank you.

23 (WHEREUPON, the jury exited the open court at
24 approximately 12:45 p.m.)

25 THE COURT: All right. Y'all may be seated.

1 Is there anything we need to take up outside of the
2 presence of the jury before we start back this afternoon?

3 MR. ROBINSON: Yes, Your Honor. Just to renew
4 my motion to the Skype testimony. At this point, I
5 believe especially with the technical difficulties that
6 were there and the fact that it froze four or five times
7 at least, I think that certainly violates Mr. Johnson's
8 confrontation clause. It took away some of the effect.
9 And I understand that the answers may still have been
10 given, but the ability to watch the facial expression
11 throughout certainly was taken away. I don't know what
12 happened in those particular breaks. The jury did not
13 get a continuous uninterrupted look at the witness like
14 they would have had he been on the witness stand. I
15 would move to strike that testimony. And I would also
16 move for a mistrial based on those grounds.

17 THE COURT: All right.

18 MR. DURANT: Your Honor, I first would inform
19 the Court that my next witness will be the second officer
20 that was there present during the interview. Your Honor,
21 the State would contend that Mr. Moore was essentially an
22 ancillary witness. We didn't even need him to admit the
23 Defendant's confession. It's on video. That video
24 evidence is better evidence than what Mr. Moore could say
25 happened. There was another officer there present during

1 the interview. He's going to be our next witness, Judge.
2 Mr. Robinson will have an opportunity to ask him all the
3 questions he wants and interact with him personally in
4 the courtroom here today. Your Honor, there's -- the
5 State would contend there's no prejudice to the Defendant
6 in this case, that this was two-way live testimony.
7 There were some breaks. Mr. Robinson was certainly aware
8 of those breaks or those disconnections when they were
9 happening, when they occurred. They didn't last no
10 longer than ten or fifteen seconds. Mr. Moore was able
11 to come back. Mr. Robinson was able to repeat his
12 question and get an answer from Mr. Moore live and two-
13 way interactive testimony.

14 Judge, as you're aware, there's very little case law
15 on the issue, but other jurisdictions have allowed it.
16 It appears to be unsettled. But in this case, there's
17 been no prejudice to the Defendant, and we certainly
18 believe that he's an ancillary witness that we didn't
19 even need.

20 THE COURT: Okay. I'm denying your motion for
21 a mistrial and to strike. I think it was done fairly
22 well. I think there were a few stops. Most of them were
23 actually in front of the Solicitor's testimony. I think
24 your cross-examination there was very few freezing going
25 on. And so I don't see where the Defendant is prejudiced

1 at all. So I'm going to deny your motion.

2 All right. We will start back at two o'clock.

3 Thank you.

4 MR. ROBINSON: Thank you, Your Honor.

5 (WHEREUPON, court stood at recess for a lunch
6 break.)

7 THE COURT: Anything before we bring the jury?

8 MR. DURANT: No, Your Honor. Solicitor Finney

9 ---

10 THE COURT: Oh.

11 MR. DURANT: He's on the way in now.

12 MR. ROBINSON: Your Honor, if you want me to
13 wait for him, I'll be glad to.

14 THE COURT: He's walking to the door.

15 MR. ROBINSON: That's fine.

16 MR. DURANT: Judge, I do have one quick
17 housekeeping issue.

18 THE COURT: Yes, sir.

19 MR. DURANT: When we held the Jackson v. Denno
20 hearing last Thursday before Your Honor, I believe we
21 marked the disks from that interview as State's 1 through
22 11. We have presented evidence in this case involving
23 those same numbers. Your Honor, I'd ask that we remark
24 these as exhibits starting with the last -- the next
25 available number which is ---

1 THE COURT: It would be 54 or 55.

2 MR. DURANT: Right.

3 MADAM COURT REPORTER: 56.

4 THE COURT: Whatever.

5 MR. DURANT: 56 through 67?

6 THE COURT: Any objection to that?

7 MR. ROBINSON: No objection to re-labeling
8 them, Your Honor.

9 THE COURT: All right.

10 MR. DURANT: And may I take them ---

11 THE COURT: You may.

12 (WHEREUPON, State's Exhibit Numbers 56 through 66
13 were marked for identification only.)

14 MR. ROBINSON: I'm slow with my math, Judge.
15 56 through 66.

16 THE COURT: You want a calculator?

17 MR. ROBINSON: Your Honor, obviously, I
18 understand through the marking of those that the
19 Solicitor's office intends on introducing them through
20 their next witness. We had a Jackson v. Denno hearing
21 last week where I had full opportunity to cross-examine
22 and question, et cetera. Your Honor ruled that it was
23 admissible. Just for the record and so we don't delay
24 the matter with the jury in here, I would renew my same
25 objection that it wasn't freely and voluntarily made, et

1 cetera, under Jackson v. Denno.

2 THE COURT: Okay. So how do you want to -- do
3 you want to just listen to all the tapes and then let you
4 cross-examine Friday, tomorrow afternoon sometime? How
5 do y'all want to handle that?

6 MR. ROBINSON: That's fine.

7 THE COURT: Okay.

8 MR. ROBINSON: I mean, obviously if they're
9 going to put them in their direct examination and then
10 play them and then I can cross-examine him at the end of
11 the tapes, yes, sir.

12 THE COURT: Okay. All right. All right.
13 Let's bring our jury in.

14 (WHEREUPON, the jury entered the open court at
15 approximately 2:12 p.m.)

16 THE COURT: All right. Ladies and gentlemen, I
17 hope you had a nice lunch.

18 The State may call it's next witness.

19 MR. DURANT: Thank you, Your Honor. The State
20 calls Investigator Kipp Coker.

21 THE COURT: Come forward and be sworn.

22 **KIPPTON W. COKER,**

23 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

24 DIRECT EXAMINATION

25 BY MR. DURANT:

- 1 Q. Major Coker, where do you work?
- 2 A. Clarendon County Sheriff's Office.
- 3 Q. How long have you worked at the Sheriff's office?
- 4 A. Sir?
- 5 Q. How long have you worked at the Sheriff's office?
- 6 A. September will be fifteen years.
- 7 Q. And you are a major now?
- 8 A. Yes, sir.
- 9 Q. Before you were promoted to major, what was your
- 10 position at the Sheriff's office?
- 11 A. I was in narcotics.
- 12 Q. And in April of 2011, in what capacity were you
- 13 working at the Sheriff's office?
- 14 A. I think I was still in narcotics at that time.
- 15 Q. Do you recall the events of April the 6th of 2011?
- 16 A. Yes, sir.
- 17 Q. Tell me what happened that day.
- 18 A. The Sheriff's office received a complaint of a
- 19 shooting on Carissa Lane off of June Burn Road in
- 20 Clarendon County.
- 21 Q. And did you have any involvement with the
- 22 investigation in that matter?
- 23 A. I did. I had the involvement of interviewing Mr.
- 24 Johnson.
- 25 Q. Where did that interview take place?

1 A. Clarendon County Sheriff's Office.

2 Q. Who was present for the interview?

3 A. Myself, Investigator Moore, and at first Deputy
4 Barney Dozier.

5 Q. Did you transport the Defendant to the Sheriff's
6 office, or was he brought there?

7 A. He was brought there.

8 Q. When you met with Mr. Johnson that day, did he
9 appear to be under the influence of alcohol or drugs?

10 A. Not that I seen.

11 Q. Did he appear to have any physical or mental
12 disability that would impair his ability to understand
13 what was going on?

14 A. No, sir.

15 Q. Was he aware of the nature of the investigation?

16 A. Yes, sir. He knew why we were there.

17 Q. And do you know how Mr. Johnson was identified as a
18 suspect in that matter?

19 A. Eventually, yes. But at that time, no, when we
20 transported him.

21 Q. Where in the Sheriff's office did the interview take
22 place?

23 A. In investigations in an interview room.

24 Q. When Mr. Johnson was brought into the interview
25 room, was he advised of his constitutional rights

1 pursuant to Miranda?

2 A. Yes, he was.

3 Q. And who gave that advisement?

4 A. Investigator Moore.

5 Q. Were you present?

6 A. Yes.

7 Q. Was that advisement recorded by a video or audio
8 surveillance?

9 A. Yes, sir, it was.

10 Q. When you brought him in initially, tell me what
11 y'all were doing?

12 A. When we first got in there, I think the first thing
13 I asked him was his name, date of birth, Social Security.
14 Just general information of who he was.

15 Q. Did you then go directly into the questioning?

16 A. No, we didn't.

17 Q. What did y'all do after that?

18 A. We initiated several tests like the GSR kit, blood
19 collection kit. And I think there were photographs and
20 all taken of Mr. Johnson.

21 Q. Do you remember how long that process took of taking
22 those tests and collecting that evidence?

23 A. A couple of hours, two or three hours.

24 Q. And was that process recorded by video and audio as
25 well?

- 1 A. Yes, it was.
- 2 Q. Were you present the majority of the time?
- 3 A. Yes. I kept going in and out of the room. I was --
- 4 the majority of the time I was in the room.
- 5 Q. Were you present when Investigator Moore conducted
- 6 the GSR collection?
- 7 A. Yes, I was. I actually read the directions as he
- 8 was doing them.
- 9 Q. And are you familiar with the process of collecting
- 10 gunshot residue?
- 11 A. Yes.
- 12 Q. As far as you know, were all the proper procedures
- 13 and safeguards followed?
- 14 A. Yes, sir. We went the entire directions one by one,
- 15 and I read them as he was doing them.
- 16 Q. When that collection kit was finished, what was done
- 17 with it?
- 18 A. It was sealed.
- 19 Q. Were you there when it was sealed?
- 20 A. Yes, I think I was.
- 21 Q. As far as you know, all the proper procedures were
- 22 followed?
- 23 A. That's correct. And after it was sealed and
- 24 completed, then it was turned in to evidence.
- 25 Q. And, again, before that evidence was collected, was

1 the Defendant read his Miranda rights?

2 A. Yes.

3 Q. Was he advised that he had the right to remain
4 silent?

5 A. Yes, sir.

6 Q. Advised that anything he said could be used against
7 him in court?

8 A. Yes.

9 Q. Was he advised that he had a right to an attorney
10 and have his attorney present with him during
11 questioning?

12 A. Yes, sir.

13 Q. Okay. And was he told that if at any time he
14 desired to exercise those rights, he had that right?

15 A. Yes.

16 Q. After you finished with the collection of that
17 evidence, running those tests, what did y'all do?

18 A. After the test was completed, we then went into the
19 interview of Mr. Johnson.

20 Q. Started asking him questions?

21 A. That's correct.

22 Q. Before going into the interview and asking Mr.
23 Johnson questions, was he advised again of his
24 constitutional rights pursuant to Miranda?

25 A. Yes, sir, by Investigator Moore.

1 Q. Were you present during this second advisement of
2 rights?

3 A. Yes, sir.

4 Q. And is that recorded by video and audio?

5 A. Yes, sir.

6 Q. During this second advisement of rights, was Mr.
7 Johnson informed again that he had the right to remain
8 silent?

9 A. Yes.

10 Q. Was he again informed that anything he said could be
11 used against him in court?

12 A. Yes, sir.

13 Q. Was he again informed that he had the right to an
14 attorney and have that attorney present with him during
15 the questioning?

16 A. Yes.

17 Q. And was he again informed that if he couldn't afford
18 a lawyer, that one would be appointed for him?

19 A. Yes.

20 Q. And was he again informed that if he desired to
21 exercise those rights at any point, that he could do so?

22 A. Yes.

23 Q. At that point, did the Defendant appear to
24 understand his rights?

25 A. He said he would talk to us. He said, "Yes."

1 Q. Okay. So he ---

2 A. He understood his rights.

3 Q. And you said he said he would talk to you. So he
4 waived those rights?

5 A. That's correct.

6 Q. Did he ever later change his mind during the
7 interview and say, "I don't want to talk to you anymore.
8 I'm exercising my rights, and the interview's over"?

9 A. No, he never stopped us.

10 Q. During the questioning portion of the interview, did
11 his answers to your questions and Mr. Moore's questions
12 -- did they appear to be rational and responsive?

13 A. Yes.

14 Q. At any point, did he become so overwhelmed with
15 emotion that you had any concerns about his ability to go
16 forward?

17 A. I had no concerns.

18 Q. Ever have any concerns about whether or not he
19 understood his rights?

20 A. He understood them.

21 Q. How long was the Defendant questioned?

22 A. I don't know the exact time of day. I'd say
23 approximately eleven hours. Well, from beginning to end,
24 it was eleven hours. I think the interview itself was
25 approximately maybe eight. Somewhere in there. Seven or

1 eight hours.

2 Q. Okay. So if the interview itself was eight hours
3 and you told me the collection of evidence, that process,
4 took about three hours?

5 A. Two to three hours.

6 Q. Okay. So from the time you started asking him
7 questions until the time the interview was concluded was
8 about eight hours?

9 A. Approximately.

10 Q. Were there any breaks taken during that time?

11 A. Yes, there were.

12 Q. Do you know how many; do you recall?

13 A. It was in excess of ten. I don't know the exact
14 number, but it was a lot. And there was times that I
15 offered him breaks that he declined.

16 Q. Did you offer him food and drink during the time?

17 A. I did.

18 Q. At any point were there threats or promises made to
19 the Defendant to get him to cooperate or to get him to --
20 in exchange for a statement?

21 A. No, sir.

22 Q. To the best of your knowledge, was the Defendant's
23 statement freely and voluntarily given?

24 A. It was.

25 Q. And I asked you earlier was the -- the

1 interrogation portion of that interview, was that
2 recorded?

3 A. Yes. But there were breaks in the video.

4 Q. There were breaks in the video? Explain that to me.

5 A. Our digitized system that we have at the Sheriff's
6 office, it runs from an hour to an hour and twenty
7 minutes, give or take a few minutes. It automatically
8 cuts off. It doesn't consistently record twenty-four
9 hours. You have to manually hit start again when it runs
10 out to that particular time.

11 Q. Is there any time stamp on the video which will
12 allow us to know when that session started?

13 A. Yes.

14 Q. And where is that?

15 A. That is on the disk. I mean, you can see it on the
16 disk, if that's what you're asking.

17 Q. I mean, if we pull it up on the computer, is there
18 some place where we can see it on the computer?

19 A. Yes.

20 Q. So there's a time stamp on each disk. And at the
21 timestamp, does that reflect a certain point in the
22 video, or what does it reflect?

23 A. (No verbal response)

24 Q. Does it reflect when the video begins or when it
25 ends, or do you know?

1 A. I don't know.

2 Q. All right. I'm going to show you what's been marked
3 as State's Exhibit 59. Can you identify that for me?

4 A. Justin Johnson interview, disk number four on April
5 the 6th, 2011, at thirteen fifty-one. That is the
6 interview of disk number four.

7 Q. Disk number four. You said that there were several
8 hours of questioning ---

9 A. Tests.

10 Q. --- and tests done. Do you know what disk the
11 actual question process begins?

12 A. Four.

13 Q. Okay.

14 MR. DURANT: Your Honor, at this point I'd ask
15 to admit the Defendant's interview into evidence and ask
16 permission to publish it, disk four.

17 THE COURT: All right. Mr. Robinson?

18 MR. ROBINSON: No additional objections.

19 THE COURT: No additional objections. All
20 right.

21 (WHEREUPON, State's Exhibit Number 56 through 64
22 were admitted into evidence.)

23 THE COURT: You may publish.

24 (Brief pause to set up video)

25 Q. Investigator Coker, I want to ask you one more

1 question. If you would, just briefly come -- you see
2 where the mouse arrow is pointed. What do the numbers
3 mean associated with that file?

4 A. The 2011 is the year, 04 is the month, 06 is the
5 date, and 13:58:52 is the military time.

6 Q. All right.

7 (WHEREUPON, State's Exhibit Number 59 was published
8 to the jury.)

9 MR. DURANT: Everybody hear that? Do I need to
10 turn it up?

11 (No response)

12 (WHEREUPON, publication of State's Exhibit Number 59
13 continued.)

14 MR. DURANT: May it please the Court?

15 THE COURT: Yes, sir.

16 MR. DURANT: With the Court's permission, I'd
17 like to ask the investigator a few questions while
18 they're taking a break on the video.

19 THE COURT: Okay. Is that suitable?

20 MR. ROBINSON: Yes, sir.

21 THE COURT: All right. Go ahead.

22 DIRECT EXAMINATION

23 CONTINUED BY MR. DURANT:

24 Q. Investigator, first of all, tell me what's going on
25 at this point in the video.

1 A. Trying to gain more information from the scene.

2 Q. So you and -- was that Investigator Moore with you?

3 A. Yes.

4 Q. The same Investigator Moore that testified via
5 Skype?

6 A. Yes, sir.

7 Q. And y'all had stepped out of the interview room and
8 left the cameras running. And y'all are -- what are
9 y'all doing?

10 A. We're just calling back to the scene. We went into
11 this interview, I say, cold because neither one of us --
12 we went to the scene, but we never got past the tape. So
13 all we knew starting this interview was we had a shooting
14 and we had two deceased. And that's all we knew going
15 into it. And we were getting calls and just calling back
16 to the scene trying to just see what was going on and see
17 if they found any evidence we could use into the
18 interview.

19 Q. Do you remember about how long this break is?

20 A. No, I don't. There were several with all of them.
21 It's just different times. I don't know exactly how
22 long.

23 MR. DURANT: Your Honor, that's all for now.

24 THE COURT: All right. If any of the jurors
25 would like to stand up for just a minute while we're

1 going through this, you can stretch. If you don't need
2 to, that's fine.

3 (WHEREUPON, publication of State's Exhibit Number 59
4 continued.)

5 (WHEREUPON, the video stopped and was restarted by
6 Mr. DuRant.)

7 THE COURT: All right. I think now would be a
8 very good time for a break. We'll take a fifteen-minute
9 recess. Ladies and gentlemen, please do not discuss
10 anything about the evidence while you're back there.
11 Thank you.

12 (WHEREUPON, the jury exited the open court at
13 approximately 3:43 p.m.)

14 THE COURT: All right. The court will be in
15 recess for fifteen minutes.

16 (WHEREUPON, court stood in recess for a short
17 break.)

18 THE COURT: Is there anything we need to take
19 up before I bring the jury back in?

20 You want to give them the two-minute warning?

21 MR. ROBINSON: Nothing from the Defense, Your
22 Honor.

23 THE COURT: Let's bring them in. Thank you.
24 Mr. Durant, how long is the next disk?

25 MR. DURANT: About the same. It's an hour and

1 eighteen minutes.

2 THE COURT: Okay.

3 (WHEREUPON, the jury entered the open court at
4 approximately 4:01 p.m.)

5 THE COURT: All right. Ladies and gentlemen,
6 we have another that will continue.' I'm trying to break
7 when the disk stops. So the next one -- just so you have
8 an idea and don't think I'm going to try to torture you
9 or something like that, the next break will be in about
10 an hour and eighteen minutes. All right.

11 DIRECT EXAMINATION

12 CONTINUED BY MR. DURANT:

13 Q. Major, before we start with the next segment, I'm
14 going to ask you a couple of questions about the last
15 one. At some point you and Investigator Moore, y'all
16 take about a fifteen-minute break, and that's when I
17 asked you questions earlier. And you told me y'all were
18 out trying to gather some information from the guys on
19 the scene; is that right?

20 A. Yes, sir.

21 Q. Do you remember what information you were given at
22 that time?

23 MR. ROBINSON: And, Your Honor, I'm going to
24 object to that as hearsay unless it's something that's
25 already been testified to from the witness stand.

1 THE COURT: Rephrase your question.

2 MR. DURANT: Okay.

3 Q. Major Coker, when you came back from that fifteen-
4 minute pause in the interview, you asked the Defendant
5 several questions about the bathroom door and
6 specifically about the Defendant having to, I believe as
7 he stated, "to open or unlock the bathroom door to get
8 Kaisha following the gunshots." Do you remember asking
9 him that?

10 A. Yes, sir.

11 Q. At that point did you have any information that that
12 didn't match the information from the scene?

13 MR. ROBINSON: And, Your Honor, before he
14 answers, my objection is unless he got that from Kaisha
15 or Investigator Richards, it's hearsay.

16 THE COURT: I would sustain that at this point.

17 Q. Investigator Coker, just to be clear that 13:58:52,
18 you testified about, that's the timestamp on the video?

19 A. Yes, sir.

20 Q. And what would that be in -- that's military time.
21 What would that in a.m./p.m.?

22 A. It would be referred to as 1:58.

23 Q. Okay. So that video lasted an hour and eighteen
24 minutes -- an hour and eighteen and a half minutes.

25 Would it be fair to say it was about 3:17 p.m. that the

1 video ended?

2 A. Approximately, yes.

3 Q. Let me show you what's been marked as State's
4 Exhibit 60 and ask if you recognize that?

5 A. Justin Johnson interview, disk number five, April
6 the 6, 2011, 15:27. That is the next disk in the
7 interview.

8 MR. DURANT: Permission to admit the exhibit,
9 State's Exhibit 60, disk number five, into evidence.

10 MR. ROBINSON: It's my understanding they're
11 all admitted.

12 THE COURT: I thought they were all in.

13 MR. DURANT: Then I ask permission to publish
14 it.

15 THE COURT: You may.

16 Q. Okay, Major Coker. Will you tell us what the
17 timestamp on disk number five is?

18 A. 15:27:23 seconds.

19 Q. So if the last disk ended at 3:17, would you agree
20 with me that about ten minutes had elapsed before this
21 disk began?

22 A. Yes.

23 (WHEREUPON, State's Exhibit Number 60 was published
24 for the jury.)

25 THE COURT: Let me see the attorneys for a minute.

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

3 THE COURT: All right. Ladies and gentlemen, I
4 wanted to stay until about nine, but these attorneys
5 thought that you should go home at a reasonable time. So
6 we're going to go ahead and break for today.

7 Ladies and gentlemen, tomorrow we will have a very
8 full day. But let me kind of give you a heads-up, and
9 y'all can be thinking about this. It's quite obvious
10 that this trial will not be completed by Friday
11 afternoon. There's simply no way we can get all the
12 evidence that you'll need to hear in, so we will probably
13 be going into a couple of days next week. The question I
14 would have -- and I'll let y'all think about it overnight
15 -- is whether or not you want to work on Saturday. I
16 know this is kind of a holiday weekend with it being St.
17 Patrick's Day, and some of you may have things planned.
18 But I'm going to let y'all talk amongst yourselves
19 tomorrow morning when you come in. And if y'all want to
20 be here Saturday, I'll be here on Saturday, and I'll have
21 everybody else here with you. But if you'd rather take
22 Saturday and Sunday off and come back on Monday, that
23 would be fine as well. I've already made arrangements
24 with Court Administration to cover my week for next week,
25 so that won't be a problem. But I'm trying to give you a

1 heads-up. If you've got something -- if you need a
2 special letter from us to some of your employers, that
3 would be available to you. But you're here, and we will
4 be here through the duration. Kind of like an old World
5 War II soldier. When will I come home? When it's over.

6 So ladies and gentlemen, have a wonderful evening.
7 Be back here at nine-thirty tomorrow morning. And be
8 fresh and ready to go for a long day. Thank you.

9 (WHEREUPON, the jury exited the open court at
10 approximately 5:23 p.m.)

11 THE COURT: All right. Court's adjourned until
12 nine-thirty tomorrow morning. Thank you.

13 (WHEREUPON, court stood in recess for the day at
14 approximately 5:24 p.m.)

15 **March 13, 2014**

16 (WHEREUPON, court convened with all parties present,
17 and the following proceedings were had commencing at
18 approximately 9:39 a.m.)

19 THE COURT: Is there anything before we begin?

20 MR. ROBINSON: No, sir.

21 THE COURT: Anything from ---

22 MR. DURANT: No, sir, Your Honor.

23 (WHEREUPON, the witness resumed the witness stand.)

24 THE COURT: All right. Let's bring our jury up
25 and find out when they want to work.

1 (WHEREUPON, the jury entered the open court at
2 approximately 9:40 a.m.)

3 THE COURT: Well, good morning, ladies and
4 gentlemen. And, again, thank you for your promptness in
5 getting here. It's bright out there today, so I know
6 some of you may need to wear sunglasses because that is
7 coming in. If you want to, I won't take offense at that.

8 So, Mr. Foreman, did y'all discuss what days y'all
9 wanted to work?

10 THE FOREMAN: Yes, we did, sir.

11 THE COURT: What days do y'all want to work?

12 THE FOREMAN: We decided no to Saturday.

13 THE COURT: Okay. So we'll just break tomorrow
14 at a reasonable time and then be back on Monday?

15 THE FOREMAN: Yes, sir.

16 THE COURT: Okay. Great. Thank you very much.

17 All right. Is the State ready to proceed?

18 MR. DURANT: Yes, sir, Your Honor.

19 THE COURT: Is the Defense ready to proceed?

20 MR. ROBINSON: We're ready, Your Honor.

21 THE COURT: All right. Let's continue.

22 MR. DURANT: May it please the Court?

23 THE COURT: Yes, sir.

24 DIRECT EXAMINATION

25 CONTINUED BY MR. DURANT:

1 Q. Captain Coker, I believe when we left off yesterday,
2 we had just finished viewing State's Exhibit 61 -- or
3 State's Exhibit 60, which was disk number five. And I
4 believe your testimony was that the time stamp on that
5 video was at 3:27. Do you recall?

6 A. Yeah. I think so, yes, sir, without looking at it
7 now.

8 Q. Would you agree with me that the time stamp of 3:27
9 that that video would have lasted for an hour and
10 eighteen minutes, that the video would end somewhere
11 around 4:45?

12 A. Yes, sir, approximately.

13 MR. DURANT: Your Honor, at this time, I'd ask
14 to publish State's Exhibit 61, which is disk number six.

15 THE COURT: All right. Proceed. You say it's
16 just under what, sixty minutes?

17 MR. DURANT: Disk number six.

18 THE COURT: And how long is this one?

19 MR. DURANT: About an hour and eighteen, an
20 hour and twenty minutes.

21 THE COURT: Okay. So that will be when we take
22 our next break.

23 Q. Major Coker, if you would, would you point out the
24 timestamp on this disk?

25 A. 16:45:58 seconds.

1 Q. And what time would that be in a.m./p.m.?

2 A. 4:45 p.m.

3 (WHEREUPON, State's Exhibit Number 61 was published
4 for the jury.)

5 THE COURT: All right. Ladies and gentlemen,
6 we'll take a fifteen-minute recess. Please do not
7 discuss anything about the case while you're out. Thank
8 you.

9 (WHEREUPON, the jury exited the open courtroom at
10 approximately 11:02 a.m.)

11 THE COURT: All right. Court's in recess for
12 fifteen minutes.

13 (WHEREUPON, court stood in recess for a short
14 break.)

15 THE COURT: Anything before we bring the jury
16 back in?

17 MR. DURANT: Not from the State, Your Honor.

18 MR. ROBINSON: No, sir.

19 THE COURT: Now, as I understand the time line,
20 we'll watch one more video, and that'll get us out just
21 about to 12:30. And then if we watch three this
22 afternoon, that will complete y'all's presentation?

23 MR. DURANT: Yes, sir.

24 THE COURT: Okay. And then you will have an
25 opportunity to cross-examine. Do you want to go ahead

1 and cross-examine him today? That's going to be six
2 o'clock by the time we finish. That's with minimal
3 breaks in the afternoon.

4 MR. ROBINSON: Quite frankly, Your Honor, my
5 cross is probably not going to be short.

6 THE COURT: I kind of thought that.

7 MR. ROBINSON: Yeah. So, I mean, I'll leave
8 that up to you. It will probably be -- it's hard for me
9 to completely say at this point because we haven't
10 watched all the videos. But I would imagine thirty,
11 forty-five minutes, an hour at this point.

12 THE COURT: Okay.

13 MR. ROBINSON: So whatever you ...

14 THE COURT: All right. Well, we'll see where
15 we're at as this proceeds.

16 All right. Let's bring our jury in:

17 (WHEREUPON, the jury entered the open court at
18 approximately 11:21 a.m.)

19 THE COURT: All right. You may be seated.

20 All right. Ladies and gentlemen, to just to kind of
21 give you an idea of where we're at, we're going to watch
22 another video. It's about an hour and eighteen minutes
23 long. And then we'll break for lunch. So thank you.

24 Is the State ready to proceed?

25 MR. DURANT: Yes, sir.

1 Q. Captain Coker, I believe you stated earlier that the
2 time stamp from the last video was 4:45?

3 A. Yes, sir.

4 Q. Would you agree with me that that video was an hour
5 and nineteen minutes and that the video would have ended
6 at 6:04?

7 A. Yes, sir.

8 MR. DURANT: Your Honor, at this time I'd ask
9 permission to publish State's Exhibit 62, Defendant's
10 interview, disk seven.

11 THE COURT: All right. Please proceed.

12 Q. Deputy Coker, if you would identify the timestamp on
13 the following video?

14 A. 18:05:31 seconds.

15 Q. Okay. And that would be 6:05?

16 A. That's correct.

17 (WHEREUPON, State's Exhibit Number 62 was published
18 to the jury.)

19 THE COURT: All right. Ladies and gentlemen,
20 now is a good time to take a lunch break. We will
21 reconvene at two o'clock. Please have a nice lunch, and
22 please do not discuss anything about the case while
23 you're gone. Thank you.

24 (WHEREUPON, the jury exited the open court at 12:42
25 p.m.)

1 THE COURT: All right. Court's adjourned until
2 two o'clock. Well, excuse me. Hold on. We've got one
3 more juror.

4 (WHEREUPON, the juror exited the courtroom.)

5 THE COURT: Now court's adjourned.

6 MR. ROBINSON: Judge?

7 THE COURT: Yes, sir.

8 MR. ROBINSON: Just one thing.

9 THE COURT: Yes, sir.

10 MR. ROBINSON: It's my understanding -- and I
11 think I've got this right. On disk number eight, which
12 will be the next disk we watch after lunch, at
13 approximately one hour one minute and seven seconds,
14 there is some mention -- and I will double check it at
15 lunch. But there's some mention about my client snapping
16 during the interview, beating the table, doing stuff like
17 that, that is not shown on the videotape. I would ask
18 that that be redacted because it's commenting on
19 something that should have been on the video, and it's
20 not. And I just don't think it's proper for the jury to
21 hear that ---

22 THE COURT: Any objection to that?

23 MR. DURANT: Judge, I don't think there's any
24 requirement that they even record everything. I intend
25 to ask Captain Coker -- and I'm sure Mr. Robinson plans

1 to ask him -- what was going on when he breaks between
2 videos. I think it's fair game for him to comment and
3 the video to show that Major, in the interview, commented
4 on what happened during the break.

5 THE COURT: Well, I'm going to -- in an
6 abundance of caution, since the jury is starting to rely
7 a lot on this video, I'm sure, with so much of it being
8 played, that I'm going to -- how long is that portion?

9 MR. ROBINSON: I would have to looked, Judge.
10 I don't think it's that long. A couple of minutes at
11 max. I'll double check.

12 THE COURT: I mean, you can still ask him that
13 because then he'll get to cross-examine it. The problem
14 is on the video he doesn't get to cross-examine close in
15 time. But if you ask him that, then Mr. Robinson can
16 cross-examine on that. Okay?

17 MR. ROBINSON: Okay.

18 MR. DURANT: So is the ruling that ---

19 THE COURT: You are going to take out that
20 little portion. You can still ask him on -- in here
21 because I'm sure you're going to follow up with
22 questions. But you're going to take that portion out,
23 all right?

24 MR. ROBINSON: Thank you, Your Honor.

25 THE COURT: Court's adjourned until two.

1 (WHEREUPON, court stood at recess for a lunch
2 break.)

3 THE COURT: Is there anything else we need to
4 bring up?

5 MR. DURANT: No, Your Honor.

6 MR. ROBINSON: No, Your Honor.

7 THE COURT: All right. Let's bring in our
8 jury.

9 (WHEREUPON, the jury entered the open court at
10 approximately 2:08 p.m.)

11 THE COURT: All right. I hope y'all had a nice
12 lunch. My law clerk and I, we went all the way down to
13 Randolph. He'd rarely seen the lake down there, so it's
14 a beautiful day to be out there.

15 All right. Is the State ready to proceed?

16 MR. DURANT: Yes, sir, Your Honor.

17 THE COURT: Is the Defense ready to proceed?

18 MR. ROBINSON: We're ready, Your Honor.

19 THE COURT: All right.

20 MR. DURANT: May it please the Court?

21 THE COURT: Yes, sir.

22 Q. Captain Coker, I think when we left off we were
23 looking at State's Exhibit 62 which was disk number seven
24 of your interview with the Defendant. And you had told
25 me earlier that started at about 6:05. That disk was an

1 hour and eighteen, nineteen minutes long. Would you
2 agree with me that it would have been 7:24 when that
3 ended?

4 A. Yes, sir, approximately.

5 Q. Okay.

6 MR. DURANT: Your Honor, I'd ask permission to
7 publish State's 63?

8 THE COURT: Yes.

9 MR. DURANT: Defendant's interview, disk number
10 eight.

11 Q. Captain Coker, if you would tell me what the
12 timestamp is on disk number eight?

13 A. 19:37:18 seconds.

14 Q. Okay. If the last disk ended at 7:24 and this one
15 starts at 7:37, would you agree with me there's a
16 thirteen-minute gap in the video?

17 A. Yes, sir.

18 Q. And then what happened during that thirteen minutes?

19 A. This is where Mr. Johnson hits the table in an
20 uproar and gets up and backs his self in a corner.

21 Q. Okay. Do you remember how you got to that point?

22 When we left off at disk number seven, you were

23 questioning him about why he didn't check on his son

24 J.C. to see whether he was alive or dead. Tell me how

25 you get to that point to him, as you say, hitting the

1 table?

2 A. We were talking about his -- about the child. And
3 during that point of him checking on the child and we
4 were going back and forth talking, he snapped, in my
5 opinion, and hit the table real hard to the point that it
6 startled me. He hit the table and then backed his self
7 up in a corner. And I didn't know what was going to
8 happen next.

9 Q. And how did that situation resolve itself?

10 A. He calmed down and sat back down. And I think in
11 this video coming up, we're talking, and he's calmed
12 himself down.

13 Q. Did he make any statements about why he hit the
14 table when he did?

15 A. Obviously, I struck a nerve with him.

16 MR. ROBINSON: Your Honor, I'm going to object.
17 That's speculation. I think he asked him if he told him
18 why.

19 THE COURT: Sustained.

20 Q. Let me back up. There's some of the things that you
21 went over in that last disk, before we begin this next
22 one. You told that at one point you told Mr. Johnson
23 that there's one set of fingerprints on the car, on the
24 trunk of the car?

25 A. Yes, sir.

1 Q. And you didn't have any way of knowing that at the
2 time, did you?

3 A. No, sir.

4 Q. You also told him that at one point that there was
5 an imprint of a ring on the victim Kaisha Caraway's
6 forehead?

7 A. That's correct.

8 Q. Did you have any way of knowing that at the time?

9 A. No, sir.

10 Q. Does law enforcement maybe sometimes float
11 information out there during interrogation to kind of see
12 how the Defendant might respond?

13 A. That's correct. We're looking for his reaction.

14 Q. Let me ask you just a couple of more questions
15 before we go forward here. When the Defendant told you
16 that Kaisha Caraway had to open the bathroom door to let
17 him in to get her after the shooting, when he told you
18 that, had you already been informed that the bathroom
19 door was broken?

20 MR. ROBINSON: And, Your Honor, I'm going to
21 object to that if that answer is based on hearsay.

22 THE COURT: Sustained.

23 Q. How about when the Defendant, Mr. Johnson, told you
24 that Ms. Caraway -- or when you questioned him about the
25 shirt, Ms. Caraway's ripped shirt, according to the

1 testimony that we've seen, did you have any information
2 about the shirt? Had you seen any pictures?

3 A. No. I was told that the shirt was in the house.

4 Q. And you are -- I see you're text messaging during
5 the interview. Tell me what you're doing there?

6 A. That's individuals from the scene, investigators,
7 texting me information and also if anyone's in that
8 middle room in the investigations or in the interview
9 rooms, between the two interview rooms observing the
10 interview.

11 MR. ROBINSON: Your Honor, can we approach real
12 quickly?

13 THE COURT: You may.

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

16 Q. Captain Coker, I don't have any further questions
17 for you right now.

18 MR. DURANT: I'd ask the court's permission to
19 go ahead and publish.

20 THE COURT: You may as directed.

21 MR. DURANT: Again, this is State's Exhibit 63.

22 (WHEREUPON, State's Exhibit Number 63 was published
23 for the jury.)

24 MR. ROBINSON: Your Honor, can we approach real
25 quickly?

1 THE COURT: You may.

2 (WHEREUPON, a bench conference was held off the
3 record after which publication of State's Exhibit
4 Number 63 continued.)

5 THE COURT: If any of the jurors would like to stand
6 up and stretch for just a minute, you may do so.

7 Y'all may do so as well.

8 (WHEREUPON, State's Exhibit Number 63 was paused.)

9 MR. ROBINSON: Your Honor, at this point I have
10 a motion.

11 THE COURT: All right. Ladies and gentlemen,
12 I'm going to give you a little break early, send you back
13 to the jury room. If you want a Coca-Cola or something
14 like that ...

15 Please do not discuss anything about the case while
16 you're back there.

17 (WHEREUPON, the jury exited the open court at
18 approximately 2:58 p.m.)

19 THE COURT: All right. Mr. Robinson?

20 MR. ROBINSON: Well, Your Honor, I didn't know
21 if you wanted to hear the part after he just said, "I
22 have nothing else to say." I didn't know if you wanted
23 to hear -- basically, my motion is to suppress any
24 additional statements made by my client after that. He,
25 at this point, has invoked his Miranda right, which is

1 his right to remain silent. "I have nothing else say or
2 nothing else to say that I haven't already said." I
3 understand you may have to listen to a little bit of it
4 to put it in context.

5 THE COURT: I need to listen to a little bit
6 more.

7 (WHEREUPON, a portion of State's exhibit 63 was
8 played for the Court.)

9 THE COURT: Overruled. I'm going to go ahead.
10 We'll all take a ten-minute recess.

11 MR. DURANT: Judge, for the record, there's a
12 case directly on point.

13 THE COURT: Absolutely, I know. He immediately
14 goes back into that. So overruled.

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

17 THE COURT: All right. Let's bring our jury
18 back in.

19 (WHEREUPON, the jury entered the open court at
20 approximately 3:17 p.m.)

21 THE COURT: All right. Mr. Durant, you may
22 continue.

23 MR. DURANT: Thank you, Your Honor. Your
24 Honor, at this time, I'd ask to resume publishing State's
25 Exhibit 63.

1 THE COURT: Continue publishing.

2 (WHEREUPON, the publication of State's Exhibit

3 Number 63 resumed.)

4 (WHEREUPON, State's Exhibit Number 63 was paused.)

5 MR. DURANT: (Fast-forwards video)

6 (WHEREUPON, the publication of State's Exhibit

7 Number 63 resumed.)

8 (Cell phone interruption)

9 THE COURT: The next phone that goes off, it
10 will be a hundred-dollar fine.

11 (WHEREUPON, the publication of State's Exhibit

12 Number 63 resumed.)

13 THE COURT: All right. We'll take a short
14 break at this time. Take about ten minutes.

15 (WHEREUPON, the jury exited the open court at
16 approximately 3:53 p.m.)

17 THE COURT: All right. Court will be in recess
18 for ten minutes.

19 (WHEREUPON, court stood in recess for a short
20 break.)

21 THE COURT: Are y'all ready? All right. Bring
22 them in.

23 (WHEREUPON, the jury entered the open court at 4:05
24 p.m.)

25 THE COURT: All right. Mr. Durant?

1 Q. Captain Coker, I believe earlier you stated that
2 State's Exhibit 63, which is disk number eight, started
3 at 7:37. Would you agree with me that that segment
4 lasted an hour and nineteen minutes and that it ended at
5 about 8:56 in the p.m.?

6 A. Yes, sir.

7 Q. Okay. And what is the time stamp on State's Exhibit
8 64, which is disk number nine of the Defendant's
9 interview?

10 A. 20:57:28 seconds, which is 8:57 p.m.

11 MR. DURANT: Your Honor, I'd ask to publish
12 State's 64, disk number nine.

13 THE COURT: Certainly.

14 (WHEREUPON, State's Exhibit Number 64 was published
15 for the jury after which a bench conference was held
16 off the record.)

17 THE COURT: All right. Ladies and gentlemen,
18 we're going to go ahead and take a break. And then we've
19 got one more tape, but it's not as long as the other
20 ones. But I want to complete these as much as possible
21 today. You've been a wonderful jury, but you're going to
22 have to do a little more today. So take a short break,
23 and we're going to come on back. Thank you. Do not
24 discuss anything about the case while you're back there.

25 (WHEREUPON, the jury exited the open court at

1 approximately 5:24 p.m.)

2 THE COURT: All right. Court's adjourned for
3 about ten minutes, then we'll come back for the
4 remainder.

5 (WHEREUPON, court stood at recess for a short
6 break.)

7 THE COURT: Anything before we bring the jury
8 in? Like I said, what we intend to do this afternoon is
9 -- we've got one more tape. Then you've got a few
10 follow-up questions. You'll finish your direct, and then
11 we will start on the cross-examination in the morning.
12 All right?

13 All right. Let's bring our jury in.

14 (WHEREUPON, the jury entered the open court at
15 approximately 5:42 p.m.)

16 THE COURT: All right. Ladies and gentlemen,
17 this will be the last session of the day.

18 You may proceed.

19 MR. DURANT: Thank you, Your Honor.

20 Q. . . Captain Coker, was that the end of the interview
21 with the Defendant back on April the 6th?

22 A. Yes, sir.

23 MR. DURANT: Your Honor, at this time I'd ask
24 to publish ---

25 A. Well, y'all didn't let it go all the way to the end.

1 Q. Were there any further questions?

2 A. No.

3 Q. So the interrogation was finished at that point; is
4 that right?

5 A. The interview was completed at that point, yes.

6 MR. DURANT: Your Honor, I'd ask permission to
7 publish State's 66 at this point.

8 THE COURT: All right. Without objection.

9 MR. ROBINSON: Chris, 66?

10 MR. DURANT: Yes.

11 (WHEREUPON, State's Exhibit Number 66 was published
12 for the jury.)

13 MR. DURANT: May we approach, Your Honor?

14 THE COURT: You may.

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

17 THE COURT: All right. Ladies and gentlemen,
18 that is all the testimony that you will hear today. I
19 hope you go home and get a good night's rest. It's a
20 nice evening, and you've got plenty -- I love daylight
21 savings time because you always have some sunlight even
22 after you've had a long day.

23 Ladies and gentlemen, do not discuss the case with
24 anyone. Do not read any of the media. You're going to
25 get tired of me saying that, but I'm going to say it

1 every time. But thank you, ladies and gentlemen. Have a
2 wonderful evening. Be back at 9:30.

3 (WHEREUPON, the jury exited the open court at
4 approximately 6:24 p.m.)

5 THE COURT: Are you the last one?

6 THE JUROR: Yes, sir.

7 THE COURT: Okay.

8 (WHEREUPON, the juror exited the courtroom.)

9 THE COURT: All right. I'll remind the witness
10 that you're still on the witness stand. Therefore, you
11 cannot discuss the case with anyone tonight.

12 Anything before we break for the evening?

13 MR. DURANT: No, sir, Your Honor.

14 THE COURT: All right. Court's adjourned until
15 9:30 tomorrow morning.

16 (WHEREUPON, court stood at recess for the day at
17 approximately 6:26 p.m.)

18 **March 14, 2014**

19 (WHEREUPON, court convened with all parties present,
20 and the following proceedings were had commencing at
21 approximately 9:45 p.m.)

22 (WHEREUPON, Court's Exhibit Number 3 was marked for
23 identification only.)

24 THE COURT: Okay. As far as the inquiry from
25 the jury, y'all have an opportunity -- is my answer fine

1 with y'all?

2 MR. DURANT: It's fine with the State.

3 MR. ROBINSON: No objection from the Defendant,
4 Your Honor.

5 THE COURT: Okay. Give this to the jury and
6 then bring them in in one minute.

7 All cell phones off today? Okay. I don't want to
8 have to take a hundred bucks out of somebody on a Friday.
9 Just bring them in.

10 (WHEREUPON, the witness resumed the witness stand
11 after which the jury entered the open court at
12 approximately 9:47 a.m.)

13 THE COURT: All right. Well, good morning,
14 ladies and gentlemen.

15 THE JURORS: Good morning.

16 THE COURT: I received your note, and you've
17 received my answer. If while we're playing any of you
18 can't hear, let me know as it's playing, and I'll be sure
19 to turn it up. And sometimes I have the same problem. I
20 don't know whether I'm getting older or whatever. So
21 it's better just to turn it up and make sure.

22 All right. Mr. Durant, are you ready to proceed?

23 MR. DURANT: Yes, sir, Your Honor.

24 THE COURT: All right. Yes, sir?

25 MR. ROBINSON: Your Honor, if we could just

1 quickly poll them about did they read anything over the
2 evening?

3 THE COURT: Yeah. Nobody's read the newspaper
4 this morning or any online comments?

5 (No response)

6 THE COURT: All right. Very good.

7 MR. ROBINSON: Thank you, Your Honor.

8 THE COURT: All right. You may proceed.

9 DIRECT EXAMINATION

10 CONTINUED BY MR. DURANT:

11 Q. Captain Coker, let me just generally ask you a few
12 questions about the next to the last video we saw
13 yesterday afternoon. You weren't involved in the very
14 last video were you?

15 A. No, I wasn't.

16 Q. That was the video -- the interview on the day after
17 with Investigator Moore. So on the last video, the last
18 segment that you were involved in, if you would, just
19 kind of summarize for me what you -- what the Defendant
20 had told you?

21 MR. ROBINSON: Your Honor, I'm going to object.
22 I think that's been played. That is the best evidence.
23 If he wants to let him look at that again, but I think at
24 this point to ask him to summarize and comment on that
25 evidence ---

1 THE COURT: Yeah, I think that would be an
2 editorialization of it. He can't infer what he thought
3 he said since they have now seen it. Sustained.

4 Q. Let me ask you some specific questions then, Captain
5 Coker. Did the Defendant in your -- did he tell you that
6 he remembered shooting J.C. or Ms. Maxine Caraway?

7 A. What he said was he was holding the gun and it went
8 off.

9 Q. And did he leave out whether or not he had shot --
10 or had shot down the hallway, or did he mention that to
11 you?

12 A. He did.

13 Q. Did he tell you about ripping the shirt off of
14 Kaisha, or did he deny that? Did he say he didn't
15 remember?

16 A. I don't remember what he said there.

17 Q. Did he ever admit to punching Ms. Maxine and
18 breaking her nose?

19 A. No.

20 Q. He did tell you that he got the gun out of trunk,
21 though, didn't he?

22 A. Yes.

23 Q. Okay. And he told you that he took the gun inside
24 the house?

25 A. Yes.

1 Q. In your experience in law enforcement and
2 interrogating suspects, is it common or uncommon for
3 suspects to be reluctant to give details?

4 MR. ROBINSON: And, Your Honor, I'm going to
5 object to that as well. I think that's calling for an
6 opinion, especially a vast array of suspects. And he's
7 not been qualified as an expert in interrogations.

8 MR. ROBINSON: And I'm not asking for an
9 opinion. I'm just asking him in his experience.

10 THE COURT: I'm going to let him answer it. I
11 don't think there's any objectionable material.

12 A. In my experience, there have been suspects that gave
13 a different story than actually what happens.

14 Q. And even in your experience in interrogating
15 suspects that do give a confession, is it common or
16 uncommon for them to be reluctant to give details about
17 what actually happened?

18 MR. ROBINSON: And Your Honor, I'm going to
19 object. Now we're comparing what other people do.

20 THE COURT: Yeah, I'm going to sustain that
21 objection.

22 Q. Let me ask you, Captain Coker, or let me show you
23 some pictures. I show you what's been marked as State's
24 Exhibits 1 and 2, ask if you recognize those?

25 A. Exhibit 1 is Mr. Johnson in the interview room at

1 the Sheriff's office standing against the wall with his
2 shirt on with his hands behind his back. Exhibit 2 is
3 just a body shot of Mr. Johnson's shirt with the blood on
4 it.

5 Q. Were you present when those photographs were taken?

6 A. Yes.

7 Q. Are they fair and accurate representations of Mr.
8 Johnson the morning of the incident and before you
9 started interrogating Mr. Johnson?

10 A. Yes.

11 MR. DURANT: And I'd ask to admit State's
12 Exhibit 1 and 2 into evidence.

13 THE COURT: Any objection, Mr. Robinson?

14 MR. ROBINSON: No, sir, Your Honor.

15 THE COURT: Without objection State's Exhibits
16 1 and 2 are admitted into evidence.

17 (WHEREUPON, State's Exhibit Numbers 1 and 2 were
18 admitted into evidence.)

19 Q. At some point that day, were Mr. Johnson's the
20 Defendant's clothes collected from him?

21 A. Yes, they were.

22 Q. And who collected those clothes?

23 A. I don't recall. It was either me or Investigator
24 Moore.

25 Q. Okay. Were you present when the clothes were

1. collected?

2. A. Yes.

3. Q. While I'm marking those items, tell me when you
4. collected those items, were you -- of course, you were --
5. you had several hours with the Defendant that day on
6. April the 6th, 2011, didn't you?

7. A. Yes, sir.

8. Q. During that time period, did you observe any
9. injuries to Mr. Johnson?

10. A. I think he had a scratch on his arm, I believe.

11. Q. And other than a scratch on his arm, did you observe
12. any injuries to his person?

13. A. No, sir.

14. (WHEREUPON, State's Exhibit Number 67 and 68 were
15. marked for identification only.)

16. Q. I show you State's Exhibit 68 and ask you what that
17. is?

18. A. Mr. Johnson's shirt.

19. Q. Okay. This shirt, is it in the same condition as it
20. was the day that you removed it from him?

21. A. Can you take it out?

22. MR. DURANT: Your Honor, I'd ask permission to

23. ---

24. THE COURT: You may.

25. Q. If you would, take a look.

- 1 A. Yes, it appears to be the same as we took it that
2 day. Well, with the exception of the -- where the tests
3 were done.
- 4 Q. And what do you mean by that?
- 5 A. Where there's like the numbers, somebody wrote on
6 it.
- 7 Q. The blue numbers?
- 8 A. Right.
- 9 Q. Okay. Who did that?
- 10 A. SLED.
- 11 Q. So the holes where the numbers are, they weren't
12 there when you collected the shirt?
- 13 A. No.
- 14 Q. And that's something SLED did when they were testing
15 evidence?
- 16 A. Yes, sir.
- 17 Q. Okay. But this is the shirt that you removed from
18 Mr. Johnson that day?
- 19 A. Yes, sir. Either myself or Investigator Moore, but
20 I was present.
- 21 Q. All right. And what was done with the shirt when it
22 was removed from Mr. Johnson?
- 23 A. It was placed in a bag as evidence.
- 24 Q. And were you present when that was done?
- 25 A. Yes.

1 Q. And was that bag sealed?

2 A. We put it in a paper bag and then turned it over to
3 SLED because of the blood.

4 Q. Was the shirt tampered with in any way before it was
5 turned over to SLED?

6 A. No, sir.

7 Q. And it was in the same condition as y'all found it
8 when it was turned over to SLED?

9 A. Correct.

10 Q. I show you State's 67, and I'm going to ask you what
11 this is? And I'll be glad to get you a set of gloves if
12 you'd like.

13 A. Please.

14 (WHEREUPON, Mr. DuRant handed gloves to witness.)

15 A. Can I take it out?

16 Q. Please do.

17 THE COURT: Are you putting this into evidence
18 at this time?

19 MR. DURANT: No, sir.

20 THE COURT: Okay. I didn't think so.

21 A. It's a black tank-top tee shirt.

22 Q. Is that the shirt that you collected from Mr.
23 Johnson?

24 A. Yes, sir, either myself or Investigator Moore.

25 Q. Okay. And if it was Investigator Moore, was it in

1 your presence?

2 A. Yes, sir.

3 Q. Has that shirt been altered or tampered with in any
4 way?

5 A. There is another cut in it with numbers.

6 Q. Okay. And that's something that SLED did?

7 A. Yes.

8 Q. And before it was turned over to SLED, was the shirt
9 altered or tampered with in any way by you or
10 Investigator Moore?

11 A. No, sir.

12 Q. Was it put in a sealed bag before it was given to
13 SLED?

14 A. A paper bag.

15 Q. A SLED agent came by the Sheriff's office and picked
16 it up, or y'all took it to them?

17 A. SLED Crime Scene came to the Sheriff's office.

18 Q. Was it that same day or later?

19 A. That night when they completed the scene.

20 MR. DURANT: I beg the Court's indulgence.

21 THE COURT: Yes, sir.

22 (WHEREUPON, State's Exhibit Number 69 was marked for
23 identification only.)

24 Q. I'm going to show you State's Exhibit 69 and ask you
25 what that is?

- 1 A. A gunshot residue evidence collection kit.
- 2 Q. And who was that evidence collected by?
- 3 A. Mason -- Investigator Moore.
- 4 Q. Was it collected in your presence?
- 5 A. Yes.
- 6 Q. All the proper procedures and safeguards followed
- 7 for collecting that gunshot residue?
- 8 A. Yes, sir. I read the directions to him.
- 9 Q. And was the kit sealed in your presence?
- 10 A. Yes.
- 11 Q. Is that the same kit that was sealed in your
- 12 presence?
- 13 A. Yes, sir.
- 14 Q. What was done with the kit after it was sealed?
- 15 A. Turned over to SLED. Well, evidence and then turned
- 16 over to ---
- 17 Q. SLED Crime Scene?
- 18 A. That's correct.
- 19 Q. Would they have collected that evidence the same
- 20 night that they came and got the tee shirts?
- 21 A. Yes, sir.
- 22 (WHEREUPON, State's Exhibit Number 70 was marked for
- 23 identification only.)
- 24 Q. I show you State's Exhibit 70 and ask you to take a
- 25 look and tell me if you recognize that?

1 A. A black belt, and it looks like black jeans, black
2 pants.

3 Q. And where did that black belt and black jeans or
4 black pants come from?

5 A. Mr. Johnson.

6 Q. And who collected those?

7 A. Either myself or Investigator Moore.

8 Q. And were they altered or tampered with in any way?

9 A. From when I looked in the bag, no.

10 Q. What was done with those pants after they were
11 collected?

12 A. Turned over to -- as we collect them as evidence,
13 and then we turn it over to SLED.

14 Q. Were they collected at the same time that the tee
15 shirts were collected?

16 A. Yes.

17 Q. And SLED Crime Scene picked them up that night as
18 well?

19 A. Yes.

20 MR. DURANT: Your Honor, I don't have any
21 further questions of Captain Coker.

22 THE COURT: All right.

23 Mr. Robinson?

24 MR. ROBINSON: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. ROBINSON:

2 Q. Captain Coker, I'm going to take you back to, I
3 guess, a couple of days ago now, when you first started
4 on the witness stand. And if I could, I'd like to kind
5 of start off with some questions about the statement
6 process itself. Tell me this. And I know you probably
7 answered this in direct before it started, but just kind
8 of get me going in the right direction. Tell me how long
9 you've been with the Sheriff's department?

10 A. This September will be fifteen years, September the
11 15th actually.

12 Q. And what part of that fifteen years was spent in
13 investigations?

14 A. I'd hate to tell you a lie because it was ---

15 Q. Several years?

16 A. I mean, yeah.

17 Q. I'm not going to pin you down to days.

18 A. Yeah, because I got promoted from patrol sergeant to
19 investigations in prior -- with Sheriff Joseph (phonic).

20 Q. Okay. And on patrol, when you were on patrol, were
21 you in any special units like the aggressive crime
22 enforcement unit? And I know y'all have different
23 acronyms. Were you involved in any special units while
24 you were doing that?

25 A. Traffic. I was on the traffic team at one time.

1 Q. Okay. And what did the traffic team do? Patrol any
2 traffic?

3 A. Right.

4 Q. Okay. Any other specialized teams, the drug
5 interdiction team or anything like that?

6 A. During this incident or before?

7 Q. Just in your career.

8 A. In my career, yes. I've been on the narcotics task
9 force as a K-9 officer.

10 Q. Okay. How many times have you been promoted?

11 A. Whoo.

12 Q. That's good. Is it a bunch?

13 A. Yeah. I mean, I can't complain. I went from deputy
14 to deputy first class, and then deputy first class to
15 sergeant, from sergeant to lieutenant, lieutenant to
16 captain, now captain to major.

17 Q. Okay. You take a lot of pride in your work?

18 A. Yes, I do.

19 Q. Are you good at what you do?

20 A. Yes, sir.

21 Q. You get results?

22 A. Most of the time, yes.

23 Q. In your years of experience, have you had any
24 courses or training in the collection of evidence?

25 A. I went through basic detective at the academy.

1 Q. And did they talk with y'all at that time about
2 collection of DNA?

3 A. I can't recall that. That's been a while. A long
4 time ago.

5 Q. Well, I mean, techniques on how you handle stuff ---

6 A. Yes.

7 Q. --- so you don't contaminate it?

8 A. It's different things they teach about being a
9 detective.

10 Q. Okay. Well -- and what I'm asking is part of that
11 training, that you have to take certain measures and
12 precautions when you're handling evidence? I notice you
13 and the Solicitor both put on gloves today. Why did you
14 do that?

15 A. That's just -- there's several reasons why. Today
16 is because there were blood on them, and I didn't -- you
17 know, it was to protect myself.

18 Q. Okay. And I noticed in the video when y'all were
19 doing different things, at some point you had on gloves?

20 A. That's correct.

21 Q. What was that for?

22 A. That was for we wouldn't contaminate the kits and
23 stuff like that.

24 Q. Right. To make sure that no -- when you're
25 collecting -- for instance, I think one was the buccal

- 1 swab when you took the Q-tip and swabbed Mr. Johnson's
2 mouth ---
3 A. Yes, sir.
4 Q. --- you had gloves?
5 A. That is correct.
6 Q. And that's so none of your DNA gets on his Q-tip?
7 A. That's correct.
8 Q. Okay. And I don't think it showed on the video.
9 But y'all also collected GSR that you just identified as
10 State's Number 69. That was a kit?
11 A. Yes, sir.
12 Q. Okay. Did y'all wear gloves when you did that?
13 A. I didn't.
14 Q. Well, I understand. You didn't actually do the
15 swabbing. That was investigator Moore; right?
16 A. Right. I read the directions.
17 Q. Right. Do you recall whether or not he had on
18 gloves?
19 A. I can't recall.
20 Q. Was he supposed to have on gloves?
21 A. If the kit has a glove in it, we use it.
22 Q. Well, what if the kit doesn't have a glove in it?
23 A. I don't have a kit in front of me, but I think ---
24 Q. Well, let me ask you this. Whether the kit has a
25 glove or not, aren't you supposed to wear gloves when

- 1 you're doing a GSR swab?
- 2 A. Yes, sir. It would be beneficial to, yes.
- 3 Q. And beneficial because it makes sure that no ---
- 4 A. That's correct.
- 5 Q. --- gunshot residue or anything off of you gets in
- 6 the kit and gets associated with Mr. Johnson?
- 7 A. That is correct.
- 8 Q. Okay. As part of your training to be a detective,
- 9 did they teach y'all how to conduct interviews?
- 10 A. No. The interview process is another class.
- 11 Q. Okay. Have you taken interviewing classes?
- 12 A. I have.
- 13 Q. How many have you taken?
- 14 A. I know of one off-the-top-of-my-head.
- 15 Q. Okay. How long ago was that?
- 16 A. That was when I was in investigations. That was
- 17 prior to the task force.
- 18 Q. Roughly, give me a year or give me how long ago it
- 19 was, either one?
- 20 A. Three or four years ago from today.
- 21 Q. So around the time of this incident?
- 22 A. It was before this.
- 23 Q. Okay. This incident was almost three years ago?
- 24 A. The incident -- when this incident happened, I was
- 25 in the task force. So I was already out of

- 1 investigations. So it was prior to this.
- 2 Q. So it was probably four years ago?
- 3 A. Yeah, somewhere in there.
- 4 Q. And you testified earlier that from your
- 5 observations that this statement given by Mr. Johnson was
- 6 free and voluntary. Do you remember Mr. DuRant asking
- 7 you that?
- 8 A. Yes.
- 9 Q. That's your opinion?
- 10 A. Yes.
- 11 Q. And you also testified that nobody threatened him in
- 12 any way?
- 13 A. Yes.
- 14 Q. Nobody made him any promises?
- 15 A. Yes.
- 16 Q. Nobody held out any hope of reward?
- 17 A. Hope of reward?
- 18 Q. Uh-huh (affirmative)?
- 19 A. I don't remember no hope of reward.
- 20 Q. Well, didn't y'all tell him several times during
- 21 that interview this is your chance to help yourself?
- 22 A. I did.
- 23 Q. Okay. And isn't that some hope of reward?
- 24 A. Yes, sir.
- 25 Q. And you don't think life in prison is a threat?

- 1 A. No, I don't.
- 2 Q. You don't? If somebody threatened to put -- or told
- 3 you, "I'm going to put you in prison for the rest of your
- 4 life," you don't consider that a treat?
- 5 A. No, sir, I don't.
- 6 Q. Okay. How about if somebody says, "I'm going to
- 7 tell your daughter you're a cold-blooded killer"? Is
- 8 that a threat?
- 9 A. If I told him that?
- 10 Q. Yeah.
- 11 A. I think I asked him. I didn't tell him.
- 12 Q. Okay. Well, I'm asking you. If I told you, Major
- 13 Coker, "I'm going to tell your daughter you're a cold-
- 14 blooded killer," would you perceive that as a threat?
- 15 A. No.
- 16 Q. You would not?
- 17 A. No.
- 18 Q. Okay. And how about if I told you that you're a
- 19 liar? Is that confrontational?
- 20 A. It could be construed that way, yes.
- 21 Q. Now, Mr. DuRant asked you yesterday several
- 22 questions prior to viewing one of the tapes about some of
- 23 your interviewing techniques.
- 24 A. Yes, sir.
- 25 Q. Remember that?

1 A. Yes, sir.

2 Q. And that sometimes you use -- and I don't want to
3 put words in your mouth, but you said something like, we
4 float stuff out there?

5 A. Yes, sir.

6 Q. And then ironically enough, immediately after that
7 was a clip of you telling him for about five minutes, "I
8 haven't lied to you"?

9 A. That's correct.

10 Q. Do you remember that?

11 A. Yes, sir.

12 Q. That's not really accurate, is it?

13 A. No, that's not accurate.

14 Q. So you lied to him several times, didn't you?

15 A. Yes, sir.

16 Q. Okay. And why did you do that?

17 A. To get his reactions, like I answered yesterday.

18 Q. Okay. And for ten plus hours, his reaction didn't
19 change, did it?

20 A. It changed some, yes.

21 Q. Like when you told him about evidence that didn't
22 exist and then he responded, and you told him he made up
23 a lie; is that what you're talking about?

24 A. Say that one more time?

25 Q. Would you agree with me that there were several

1 times that you told Mr. Johnson you had evidence that did
2 not exist?

3 A. That's correct.

4 Q. And when he gave you an explanation for that, you
5 accused him of being a liar?

6 A. Yes, sir, to get a reaction out of him.

7 Q. Okay. How in the world can he be lying to a
8 question about evidence that doesn't exist?

9 A. Just to get it -- I wanted to see a reaction.

10 Q. Okay. To wear on his psyche a little bit?

11 A. Yes.

12 Q. Break him down?

13 A. Yes.

14 Q. And at the very end, the last tape that we watched
15 ---

16 A. Yes, sir.

17 Q. --- where you contend that he confessed and admitted
18 and all these different things, did he give y'all, you or
19 Investigator Moore, any information or details or
20 anything that y'all hadn't told him in the prior ten and
21 a half hours?

22 A. There was one.

23 Q. Okay.

24 A. Where he said that he was just holding the gun
25 towards his son, we didn't tell him that.

1 Q. Well, you told him he shot his son, didn't you?

2 A. Yeah, but he -- the way ---

3 Q. Well, how do you shoot somebody without pointing a
4 gun at them?

5 A. The way he described it is he was pointing the gun,
6 and it just went off.

7 Q. Okay.

8 A. We -- we didn't -- yeah, we said that you shot your
9 son.

10 Q. Okay. So ---

11 A. And obviously you have to be pointing a gun to shoot
12 somebody.

13 Q. Right. So that wasn't really a surprise or detail
14 you didn't know?

15 A. There was one more also.

16 Q. Okay.

17 A. He admitted to us during this whole interview that
18 he shot at Mr. Robert outside. He shot outside.

19 Q. Right.

20 A. Well, there was one thing that we knew and he should
21 have known was if he shot outside and he told us he shot
22 outside, there wasn't but one shell outside. And that
23 was near the door.

24 Q. How do you know he didn't step on the porch and
25 shoot on the porch at Robert and the shell landed right

1 there?

2 A. There wasn't but one shell outside, and the
3 grandmama was outside shot. So we kind of knew that.
4 That we never told him.

5 Q. Well, I understand. But tell me how do you know?
6 How do you know that shell on that porch killed Grandma?

7 A. I don't know that shell, but there was one shell
8 casing or one shell at the door. And he admitted to
9 shooting out of the door.

10 Q. Right. At Robert.

11 A. At Robert.

12 Q. So you're saying that you know that can't be true?

13 A. It's just odd to me that one shell at the door and
14 Grandmama's dead outside.

15 Q. It's a pump action shotgun, isn't it?

16 A. Yes.

17 Q. Pump actions don't eject until somebody ejects it?

18 A. That's correct.

19 Q. It's entirely possible Grandmother could have been
20 shot outside, and whoever did that could have walked in
21 the house ten miles and ejected the shell anywhere else
22 in the world?

23 A. That's correct.

24 Q. Is that right?

25 A. That's correct.

1 Q. There's absolutely no evidence that you have that
2 whoever shot Ms. Maxine would have had to eject that
3 shell in that spot?

4 A. That's correct.

5 Q. And you've got no evidence whatsoever that that
6 shell on that porch had anything to do with Ms. Maxine's
7 death, do you?

8 A. That's correct.

9 Q. And you have no evidence that that shell didn't get
10 shot at Robert, do you?

11 A. Yes. He told us he done it at the end of the
12 interview, disk number nine.

13 Q. Okay. After eleven or twelve hours of telling you
14 something different, when he relented, he gave you a
15 different story. But the first ten hours, you didn't
16 have any evidence at that time or today that what he was
17 telling you was not true, did you?

18 A. We had an eyewitness that said that he done it.

19 Q. Okay. Kaisha told you that he shot Ms. Maxine?

20 A. She told an investigator. She didn't tell me.

21 Q. That she saw that?

22 A. She told the investigator that he done it.

23 Q. Okay. I didn't ask you that. Did she tell anybody
24 to your knowledge that she saw Mr. Johnson shoot Ms.
25 Maxine Caraway?

- 1 A. To my knowledge, no.
- 2 Q. Okay. And were you in here during her testimony?
- 3 A. In and out.
- 4 Q. Okay. Do you remember while you were in here
- 5 hearing her tell anybody that in the courtroom?
- 6 A. Not while I was in here.
- 7 Q. Okay. So basically what you had that day was her
- 8 testimony, Kaisha's statement?
- 9 A. Yes, sir.
- 10 Q. That's all y'all had to go on?
- 11 A. For a little while, yes.
- 12 Q. Okay. Well, let's talk about that. Let's talk
- 13 about what you had and what you have today. Have you got
- 14 the same thing today that you had -- well, actually, you
- 15 should have more today; right?
- 16 A. Should.
- 17 Q. Because on that particular day, even if y'all had
- 18 taken fingerprints, they couldn't have been analyzed that
- 19 quickly, could they?
- 20 A. No.
- 21 Q. And if you'd gotten blood -- which y'all cut the
- 22 shirt and did some things -- that wasn't analyzed that
- 23 day, was it?
- 24 A. No.
- 25 Q. And if you claim you had a footprint off of a door

1 or something, that couldn't have been analyzed that day,
2 could it?

3 A. Actually, that could have been.

4 Q. Okay. Did you have a footprint off a door?

5 A. Not to my knowledge.

6 Q. Okay. Well, you talked about that. Do you remember
7 that several times y'all kept harping on him about
8 kicking the door in?

9 A. Yes, sir.

10 Q. Do you have any evidence today that that door was
11 kicked in?

12 A. Not me, no.

13 Q. Did you have any evidence when you were interviewing
14 Mr. Johnson that that door was kicked in?

15 A. (No verbal response)

16 Q. Evidence, not what somebody told you?

17 A. No, sir. No, sir.

18 Q. And remember in the video you said, "People lie but
19 evidence doesn't lie"?

20 A. That's correct.

21 Q. Okay. So I'm asking you about the evidence.

22 A. Okay.

23 Q. And when you said y'all dusted his car -- remember
24 that?

25 A. I think I did.

1 Q. And told him, "Guess how many prints of Robert was
2 on the car? Zero."

3 A. I remember that.

4 Q. That's exactly how many fingerprints y'all got off
5 the car, isn't it?

6 A. I don't know. My job was to interview. I didn't
7 process the scene.

8 Q. Nobody fingerprinted the car, did they?

9 A. I don't know.

10 Q. Today you don't know?

11 A. No, I don't.

12 Q. Nobody -- in three years of this investigation
13 nobody's come to you and say, hey, after your interview,
14 this is the rest of the stuff that stacks up?

15 A. My job was to interview.

16 Q. Well, during the interview you kept talking about
17 this stack of evidence that you had stacking up. And I
18 think y'all used the term -- and I'm not going to say it.
19 But y'all called BS on Mr. Johnson several times, didn't
20 you?

21 A. Yes, sir.

22 Q. That stack of evidence that you talked about, that
23 was really a stack of BS, wasn't it?

24 A. No, sir. I ---

25 Q. Well, tell ---

1 A. No, sir. Some of it was.

2 Q. Tell me what evidence you had that day that is what
3 you said it was?

4 A. We had shells.

5 Q. Okay. And we've already talked about that. Let's
6 talk about one at a time. Can you link any of those
7 shells to any specific event or person or anything else
8 other than they were in that house?

9 A. Me personally?

10 Q. Yeah.

11 A. No.

12 Q. Okay. Do you know if any of those shells were
13 fingerprinted?

14 A. I do not know.

15 Q. Do you know if any DNA was gotten off of any of
16 those shells?

17 A. That would be SLED.

18 Q. Okay. So you didn't know that that day; right?

19 A. No. I just knew they were there.

20 Q. Okay. And you don't know that today?

21 A. No, I don't.

22 Q. So those shells really are evidence of nothing as
23 far as you know?

24 A. As far as my part, yes.

25 Q. Right. So that's BS. The shells are BS. They're

- 1 not evidence of anything?
- 2 A. They was evidence of an incident.
- 3 Q. Of a gun being fired?
- 4 A. Yes.
- 5 Q. At that house?
- 6 A. Okay. That's evidence.
- 7 Q. To your knowledge, were those shells dated?
- 8 A. Not to my knowledge.
- 9 Q. Any way to prove they were fired that day?
- 10 A. Not to my knowledge.
- 11 Q. Okay. Now, tell me -- that's one thing. Go ahead
- 12 and tell me the next piece of evidence that you had in
- 13 your file that was true?
- 14 A. The statement from Kaisha.
- 15 Q. Okay. Did you take that statement?
- 16 A. I did not.
- 17 Q. And so when you say it's true, you're relying on
- 18 believing it; right?
- 19 A. Say that one more time now?
- 20 Q. You're relying on the truth of that. You have no
- 21 way to determine that. Y'all just believe it. She said
- 22 it, y'all believe it?
- 23 A. She was there.
- 24 Q. Okay. Well, he was there?
- 25 A. That's right.

- 1 Q. And you didn't believe him for ten hours?
- 2 A. That's correct.
- 3 Q. How long was Kaisha's interview?
- 4 A. I have no idea.
- 5 Q. It wasn't ten hours, was it?
- 6 A. I have no idea. I was in there with him.
- 7 Q. Have you watched her interview?
- 8 A. No, I haven't.
- 9 Q. So throughout three years of this investigation in
- 10 preparation for your testimony, to come in here and tell
- 11 me that her testimony or her statements were true when
- 12 you haven't even looked at them?
- 13 A. That's correct.
- 14 Q. Okay. You didn't need to, did you?
- 15 A. My job was Mr. Johnson.
- 16 Q. To get him to confess.
- 17 A. My job was to interview Mr. Johnson.
- 18 Q. Okay. Tell me what else is in your stack of
- 19 evidence that you had that day?
- 20 A. (No verbal response)
- 21 Q. And I'm not trying to trick you.
- 22 A. I know. There was a lot of things that I got calls
- 23 on that day.
- 24 Q. Well, let me help you with some of them.
- 25 A. Okay.

1 Q. Let's see if you remember some of these.

2 A. Thank you.

3 Q. What did you tell him about the ring. That was
4 going to be his undoing?

5 A. That's correct.

6 Q. Is that true?

7 A. I was looking for another ---

8 Q. I understand. That was a lie, wasn't it?

9 A. Yes.

10 Q. And that's -- nothing today has changed that, does
11 it?

12 A. No.

13 Q. That ring we have, other than it came off of his
14 finger, doesn't like to anything, does it?

15 A. To my knowledge, no.

16 Q. How about the 9-1-1 tape that you slammed on the
17 table?

18 A. Yes, sir.

19 Q. "Got you, old boy."

20 A. Again, trying to get a reaction.

21 Q. Right. So when you told him you clearly heard him
22 telling her what to say, that's a lie, isn't it?

23 A. Him personally?

24 Q. Yeah?

25 A. Yes. There was a ---

1 Q. Had you even listened to it when you questioned him
2 about it?

3 A. Yes, I did.

4 Q. Okay. So you knew when you told him that, that was
5 lie?

6 A. That's correct.

7 Q. And when you told him that he was in the background
8 telling her to grab a bag and to do all these different
9 things, that's not really what it says, is it? That's
10 not on that tape.

11 A. You could hear somebody, but you couldn't ---

12 Q. You can't tell who it is?

13 A. That's correct.

14 Q. And you said, well, she said your name?

15 A. That's correct.

16 Q. She also said another name, didn't she?

17 A. (No verbal response)

18 Q. On the 9-1-1 tape, Kaisha said another name, didn't
19 she?

20 A. Yes.

21 Q. What name?

22 A. Robert.

23 Q. And did you hear Justin Johnson say, "Say Robert"?

24 A. No, I did not hear Justin Johnson say that.

25 Q. When you heard his voice or the voice you say is

1 his, was he whispering?

2 A. (No verbal response)

3 Q. Or did it sound to you like he was whispering when
4 you heard it? That's a simple question.

5 A. I know that. But I'm trying to just -- people
6 whisper loudly.

7 Q. I got you.

8 A. I don't, you know.

9 Q. It was a loud whisper obviously.

10 A. I mean ---

11 Q. Kind of that investigative loud whisper like you did
12 interrogating him?

13 A. Interviewing. I like the word interview.

14 Q. All right. I'll bet you do. When you told him that
15 y'all knew that they had argued about a phone bill -- do
16 you remember telling him that?

17 A. Yeah, and I think he told me it was like a two-
18 thousand-dollar phone.

19 Q. Right. That they had argued about it that day,
20 didn't they?

21 A. I don't recall what he said when they argued about
22 it.

23 Q. Well, wait a minute, now. You don't recall when he
24 said ---

25 A. I don't remember when he said that it was the night

1 before or that day. I don't know.

2 Q. Okay. And does that matter what he said?

3 A. Yes, it matters.

4 Q. Well, how did you pick and choose what you believed
5 about what he said?

6 A. At the beginning of the interview, we let him tell
7 the whole story, like I showed in the interview. You got
8 that box as long as this table.

9 Q. Uh-huh (affirmative).

10 A. During the day that box shrank because of the story
11 he was telling. If you'll notice in each interview or
12 each disk that we dissected each part of it.

13 Q. Well, I understand you're saying that. But what
14 you're telling me is when you claim to have dissected it,
15 you asked him questions about evidence that did not
16 exist, so he gave you an answer that clearly wasn't
17 correct because there is no correct answer; isn't that
18 right?

19 A. The evidence is -- and I understand you're saying
20 that I can't say about the shotgun shells, was they fired
21 that day.

22 Q. Right.

23 A. There was four shots, there were four shells. So
24 that was evidence.

25 Q. And let me ask you, as an investigator and law

- 1 enforcement officer with fifteen years of experience,
2 what is that evidence of?
- 3 A. The shotgun shells?
- 4 Q. Yeah.
- 5 A. That they were ---
- 6 Q. Four shots got fired?
- 7 A. That's correct.
- 8 Q. And nothing else. It doesn't say who shot them,
9 does it?
- 10 A. No. It says that was an incident.
- 11 Q. Right. Did he tell you there weren't four shots?
- 12 A. Again, I'm trying to go back through the eleven and
13 a half hours, or eleven hours or whatever the ---
- 14 Q. Believe me, I feel your pain.
- 15 A. I want to -- I don't want to say wrong. So I don't
16 think he told me four shots.
- 17 Q. Okay. Did he give you a number?
- 18 A. I know of one he said because he shot that one.
- 19 Q. That he shot; right?
- 20 A. Yeah.
- 21 Q. Well, while we're talking about ---
- 22 A. Well, actually, another one because he said he shot
23 down the hall. He didn't want to hurt her, so he ---
- 24 Q. That was in the last one.
- 25 A. At the end of it.

1 Q. I'm talking about the first ten hours and the story
2 that he's lying about. I want to talk about those lies
3 for a little while.

4 A. All right. Go ahead.

5 Q. Well, I'm asking in that first part, the part about
6 Robert that you didn't believe, did he tell you anything
7 in that story or in that part of the interrogation that
8 contradicted that there were four shells?

9 A. I can't recall. I don't think he told me four
10 shots.

11 Q. Okay. Did he tell you a different number, is what
12 I'm asking you, that contradicted that? Not whether he
13 specifically told you that, but something that would make
14 that jump out as, "Ah ha, we got you. There's four
15 shells"?

16 A. For me to be honest, no, sir, I can't remember that.

17 Q. Okay. And in reality, as you sit here today with
18 your fifteen years of experience, the only, quote,
19 unquote, evidence that you had that day during that
20 interview that Mr. Johnson wasn't telling you the truth
21 was an alternate story by Kaisha; isn't that true?

22 A. I had a statement from an eyewitness, yes.

23 Q. Right. Well, he was an eyewitness. Are you
24 disputing that he was there?

25 A. He was there.

1 Q. Okay. So you have two conflicting statements?

2 A. Uh-huh (affirmative).

3 Q. And nothing else to differentiate between those two
4 statements other than which one law enforcement has
5 chosen to believe? Is that accurate or not?

6 A. That's why we interview to get to the bottom of it.

7 Q. Right, because ---

8 A. To make sure that that is true.

9 Q. --- without that confession, the evidence didn't
10 prove anything; it was a swearing contest, wasn't it?

11 A. I don't know about the evidence. As ---

12 Q. Wait a minute. Wait a minute.

13 A. Well, let me explain.

14 Q. Okay. Please.

15 A. The interview -- when we went into that interview,
16 like I said earlier, I believe, that we are men -- as far
17 as me. I can't answer for Investigator Moore. All I
18 knew going into that interview was, of course, Kaisha's
19 statement and that there was two people shot -- three
20 people shot, two dead. As I went into that interview --
21 and it was pretty much cold with the exception of the
22 statement from Kaisha. So I had to build that box and
23 then bring that box in.

24 Q. Okay. And you keep saying building a box. What in
25 the world did you build the box out of if it wasn't a

- 1 pile of BS that you're telling me ---
- 2 A. That big box is his first initial statement.
- 3 Q. Okay.
- 4 A. And then his story with Robert.
- 5 Q. Okay.
- 6 A. And then my job is to make sure he's telling the
- 7 truth about Robert.
- 8 Q. And you did that by lying to him?
- 9 A. Yes.
- 10 Q. And telling him about evidence that didn't exist?
- 11 A. That's correct.
- 12 Q. And asking him about evidence that doesn't exist?
- 13 A. That is correct.
- 14 Q. Is there a correct way to answer a question about
- 15 how did the blood get on that receptacle cover if there's
- 16 no blood on it?
- 17 A. I didn't have pictures to show him.
- 18 Q. I understand that. But you're telling me that you
- 19 fabricated evidence or stories about evidence and that
- 20 his responses to those made-up evidentiary questions
- 21 indicated he was lying?
- 22 A. My job was to let him think that I knew about the
- 23 scene because I never walked into the scene.
- 24 Q. I understand. But my question is you're sitting
- 25 here telling this jury that you dissected his statement

1 and that he gave all these conflicting stories. The only
2 conflicting evidence you got was when he answered a
3 question that was made up.

4 A. And ---

5 MR. DURANT: I'm going to object and ask Mr.
6 Robinson to ask questions. He's just commentating at
7 this point.

8 THE COURT: Yeah. Stick to questions.

9 MR. ROBINSON: Your Honor ---

10 THE COURT: No editorials.

11 MR. ROBINSON: Thank you.

12 Q. The box, tell me specifically where he deviated from
13 his story based on real evidence?

14 A. He kept -- real evidence?

15 Q. Real evidence? Yes, sir. Real evidence?

16 A. He kept adding to his story.

17 Q. After you asked him about real evidence or fake
18 evidence?

19 A. I don't recall at what point.

20 Q. Okay. Tell me what real evidence you had during
21 this interview that caused him to deviate from his story,
22 please.

23 A. The door, the bathroom door.

24 Q. Okay. Tell me specifically what you had and how it
25 changed?

- 1 A. I asked him if he grabbed the door.
- 2 Q. Okay.
- 3 A. And he couldn't tell me.
- 4 Q. Okay. And do you have evidence that he grabbed the
- 5 bathroom door? You got prints off the bathroom door?
- 6 A. Not me.
- 7 Q. Okay. They're in evidence as far as you understand?
- 8 A. I don't know. My job was Mr. Johnson, to interview
- 9 Mr. Johnson. I did not handle any evidence except for
- 10 the interview.
- 11 Q. Okay. Well, what I'm asking you ---
- 12 A. And the clothes.
- 13 Q. --- is real evidence. I mean, evidence you didn't
- 14 make up. Can you tell me whether you made up the
- 15 fingerprints or not?
- 16 A. I didn't make up anything about evidence. They were
- 17 -- except for the fingerprint in the trunk. The 9-1-1
- 18 tape had somebody on it. There were shotgun shells in
- 19 the house. The door was pushed in, the bathroom door.
- 20 There was a hole in the bathroom door. This is all
- 21 evidence. Did I personally see it? No, because I never
- 22 went into the crime scene. But investigators on the
- 23 scene was calling me saying, "Okay. There was four
- 24 shotgun shells. There were -- I got Kaisha's statement.
- 25 I got holes in the bathroom door. I got the door pushed

1 in. I have" I mean, that's evidence, and that's
2 what I was getting. And I actually laid it out to him in
3 the interview, as you saw.

4 Q. Right. You told ---

5 A. So that was evidence. You know, there was some --
6 like the voice on the 9-1-1. Yeah, that was looking for
7 an expression from your client. The fingerprint where
8 the gun was in the trunk. Yes, that was BS. That was to
9 get an expression from your client. That's a part of the
10 interview, to let him tell a story. And if he is telling
11 one hundred percent of the story, it's never going to
12 change regardless if it's ten hours or forty-two hours.
13 It's never going to change. And at the end, he felt the
14 need without us -- as you see, it was quiet there for a
15 while. And he said, "I'm sorry for wasting y'all's
16 time."

17 Q. That was after y'all said, "Do you want us to tell
18 your daughter you're a cold-blooded killer?" right?

19 A. I asked him what he wanted me to tell his daughter.
20 "And do you want me to tell your daughter you're a cold-
21 blooded killer, or was it an accident or whatever?"

22 Q. And so he then told you some information; right?

23 A. About the incident, yes.

24 Q. And you chose at that point to believe that? That
25 that was true?

1. A. Yes.

2. Q. Even though you had no physical evidence, no
3 physical evidence other than Kaisha's statement, to
4 indicate that that was any truer than the ten and a half
5 hours prior; isn't that correct?

6 A. Again, I'm going to go back to the hole in the door,
7 the four shotgun shells. That is evidence. Did I have
8 it personally? No. But I was being told about that.

9 Q. All right. Let's talk about the hole in the
10 bathroom door. That is evidence. What do you know of or
11 have that connects Mr. Justin Johnson to the hole in the
12 bathroom door other than possibly Kaisha's statement?

13 A. Mr. Johnson telling us.

14 Q. Okay. Other than his alleged confession, prior to
15 that, what did you have that told you that wasn't true,
16 that Robert didn't put the hole in the bathroom door?

17 A. I don't know exactly what he said. I mean, there's
18 a lot of interview, you know. I can't one hundred
19 percent tell you.

20 Q. Well, I understand. You're telling me about this
21 evidence.

22 A. Yeah.

23 Q. The shotgun shells, the hole in the door, the
24 fingerprints. None of this is linked to Mr. Johnson
25 except by statements; is that correct?

1 A. Statements from?

2 Q. Either him or Kaisha, however you want to break that
3 down. But at that point in time, you had Kaisha's
4 statement?

5 A. Yes.

6 Q. And you had the shotgun shells, hole in the door.
7 Did you have any link from that evidence to Mr. Johnson
8 other than Kaisha's statement?

9 A. With him saying he was there.

10 Q. Okay.

11 A. I mean, I don't mean to disappoint you, Mr.
12 Robinson. But I got -- he was there. I mean, I see you
13 just slump. But I mean, I'm not going to ---

14 Q. I understand. I just want you to answer accurately,
15 please.

16 A. Well, I'm trying..

17 Q. Did he ever say he wasn't there?

18 A. He was there. He said he was there.

19 Q. Right. So he didn't lie about being there?

20 A. That's correct.

21 Q. Do you have any physical evidence, other than
22 Kaisha's statement perhaps, that connect him to those
23 shell casings that he fired them?

24 A. Do I have evidence ---

25 Q. Do you have evidence that Mr. Johnson, other than

- 1 the statement in his alleged confession ---
- 2 A. What else do I -- he said he had it.
- 3 Q. Okay. So that's all you needed? That's what you
- 4 needed to get to was him saying that?
- 5 A. I needed to get to the truth.
- 6 Q. Okay. And that's what you believe the truth is?
- 7 A. Disk number nine.
- 8 Q. Okay.
- 9 A. And ten.
- 10 Q. Okay. And however you had to get to that is
- 11 justified because you got there; is that correct?
- 12 A. What do you mean by that?
- 13 Q. Well, you lied to him for ten hours.
- 14 A. I didn't lie to him for a straight ten hours, no.
- 15 Q. Okay. Let's talk about the specifics because I
- 16 don't want to get off and get into an argument with you.
- 17 That's not appropriate. Do you remember telling him on
- 18 disk number five that Ms. Maxine had called 9-1-1 before
- 19 she got shot?
- 20 A. I think I did.
- 21 Q. Okay. That's not true, is it?
- 22 A. (No verbal response)
- 23 Q. Ms. Maxine, now, not Kaisha saying she's Ms. Maxine.
- 24 Ms. Maxine?
- 25 A. I don't recall.

1 Q. She never called 9-1-1, did she?

2 A. Not to my knowledge.

3 Q. Okay. And in reality, at what point during this
4 interview when you say you were getting at the truth did
5 you know what the truth was or had decided what the truth
6 was? What point in the day? You said you started with a
7 big box. At what point did you know how that box was
8 going to shape up?

9 A. As the evidence that was coming in to me and his
10 story is matching up to the evidence finally.

11 Q. Well, when did you decide he was guilty?

12 A. When did I decide he was guilty?

13 Q. Yeah.

14 A. When he told. I mean, he confessed.

15 Q. Okay. You didn't decide before that?

16 A. No.

17 Q. So the whole time you said ---

18 A. If I thought he was guilty, I would have stopped at
19 two hours, you know. I'm just saying.

20 Q. Well, I'm asking you.

21 A. I wanted -- I had to get to the truth, and that was
22 the interview. And, now, as far as guilty, that's up to
23 the court.

24 Q. I understand. Well, I'm not asking you did you
25 sentence him. I'm just asking when you decided, because

1 you believe he's guilty, don't you?

2 A. When he told me out of his mouth he done it.

3 Q. Before that you had not made your mind up?

4 A. No.

5 Q. So when you were telling him, "We know it's you. I
6 promise you you wouldn't be here if I didn't have the
7 evidence to prove it was you," that was more lies to get
8 a reaction out of him?

9 A. I was trying to get a reaction.

10 Q. Okay. Let me ask you this. And you talked about
11 this some. You told him he'd changed his story two or
12 three times.

13 A. I don't know.

14 Q. And I wrote it down. Do you remember telling him
15 that?

16 A. On the interview?

17 Q. Yeah.

18 A. (No verbal response)

19 Q. On disk six.

20 A. I ---

21 Q. Which would have been three something in the
22 afternoon.

23 A. You had the luxury of writing it down as it was
24 going on. I didn't.

25 Q. Did you write anything down?

1 A. That day?

2 Q. Yeah.

3 A. Yeah. You saw me with a notebook.

4 Q. Okay. And what did you do with those notes?

5 A. That's a good question. I don't ---

6 Q. Did you review them before you came in here to
7 testify this week?

8 A. I reviewed that disk and my notes.

9 Q. Okay. And when did you review your notes?

10 A. Last week.

11 Q. Okay. And you don't know where they are right now?

12 A. Yeah.

13 Q. Can you produce them for me?

14 MR. ROBINSON: Your Honor, the Court's
15 indulgence. If we can have just a moment if he knows
16 where his notes are.

17 A. You should have them, because I think the State
18 turned them over, didn't they?

19 Q. Investigator Coker, I've just been handed something
20 that says, "K. Coker notes." I'll let you look at them
21 since I haven't seen them until just now. Does that look
22 like -- and I know that's not your handwriting. Somebody
23 typed them up. But if you would, please, take a look at
24 it real quick and see if that appears to be an accurate
25 rendition of your notes.

1 A. Yes, sir.

2 MR. ROBINSON: Your Honor, the Court's
3 indulgence for just a minute so I can look at these. I
4 haven't seen them before.

5 THE COURT: Yeah. How much time do you think
6 you need?

7 MR. ROBINSON: Five or ten minutes maybe?

8 THE COURT: All right. Then we're going to
9 take a break at this time.

10 Ladies and gentlemen, please do not discuss anything
11 while you're back there. Thank you.

12 (WHEREUPON, the jury exited the open court at
13 approximately 10:40 a.m.)

14 THE COURT: All right. Court will be in
15 recess for ten minutes.

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

18 THE COURT: All right. Let's bring our jury
19 in.

20 MR. ROBINSON: Judge, may we approach real
21 quick?

22 THE COURT: You may.

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

25 THE COURT: I would remind the spectators of

1 this trial that this trial is a serious trial, and any
2 outburst of laughter will not be tolerated. Should it
3 happen again, you will be removed from the courtroom.
4 Thank you.

5 Go get them. Bring them in.

6 (WHEREUPON, the jury entered the open court at
7 approximately 10:54 a.m.)

8 THE COURT: All right. Mr. Robinson, you may
9 proceed. Continue with your cross-examination.

10 MR. ROBINSON: Thank you, Your Honor.

11 Q. Captain? Major?

12 A. Major.

13 Q. Major. I'm sorry. I told you I was going to do
14 that. Major Coker, I'd asked you about your notes, and
15 y'all were kind enough to let me look at them. Do you
16 have them in front of you?

17 A. Yes, sir.

18 Q. And you wrote down some notes and then had somebody
19 else transcribe them; is that correct?

20 A. Well, I actually typed them.

21 Q. You typed them yourself?

22 A. Yes, sir.

23 Q. Okay. So these -- and it's really only two pages of
24 notes that ---

25 A. Correct.

1 Q. --- relate to Mr. Johnson; is that right?

2 A. Correct.

3 Q. Would you agree with me that there's nothing in
4 these notes about anything that we talked about today
5 other than evidence collection and factual information?

6 A. Correct. Yes, sir.

7 Q. You didn't note in here two or three times where Mr.
8 Johnson had changed his story like you said on the tape?

9 A. I did not transcribe the videos because I was going
10 to watch them, just like everybody else.

11 Q. Not the videos. You said on the video that you
12 wrote it down when he changed his story two or three
13 times?

14 A. That's correct. It's not in these notes.

15 Q. Not in there. There's nothing honestly about
16 anything that happened that day in your notes?

17 A. Not in those, no.

18 Q. And these are the only notes?

19 A. Yes.

20 Q. Mr. Johnson's confession, what y'all deem his
21 confession, occurred in disk nine; is that correct?

22 A. Yes.

23 Q. Okay. Do you recall on disk eight, about an hour
24 into it -- and I'll be glad to play it if we need to. I
25 just don't want to go through that for everybody's sake

1 if I don't need to -- where y'all were talking with him
2 about who was gathering the evidence, you and Mason.
3 That the evidence doesn't lie. "The people that are out
4 there gathering the evidence don't work for the Sheriff's
5 department ..."?

6 A. I think Investigator Moore said that.

7 Q. Right. "... don't have a dog in this fight?

8 A. SLED, he was talking about.

9 Q. Right. Okay. "They don't work in this county.
10 This didn't happen in their county"?

11 A. Correct.

12 Q. Do you know what he meant by that statement?

13 A. That the Sheriff's office wasn't collecting the
14 evidence; South Carolina Law Enforcement Division was.

15 Q. And that the Sheriff's office had a dog in the
16 fight?

17 A. No. It was just to tell that SLED was the one that
18 was processing the house, collecting the evidence and
19 stuff.

20 Q. And why would that matter?

21 A. I don't know. He asked that, I believe.

22 Q. Y'all didn't discuss that during the interview
23 process, you and Mr. Moore?

24 A. Prior to going in there and talking to him?

25 Q. Uh-huh (affirmative).

1 A. Not to my knowledge.

2 Q. You don't remember? And I know it wasn't on camera.

3 But during one of the breaks or outside of the room you

4 didn't say, "Listen, this guy doesn't trust us. Let's

5 tell him SLED's getting this," anything of that nature?

6 A. I don't recall that.

7 Q. Okay. You don't have any idea why Mason would have

8 told him that to give him assurance?

9 A. No. In interviews sometimes he answers our

10 questions. It generates another question or statement.

11 Sort of like what you do.

12 Q. Okay. With regard to the tapes themselves, I think

13 Mr. DuRant asked you about one specific event that

14 happened when the tapes were off. Do you remember what

15 else happened while the tapes were off?

16 A. It's was just the interview.

17 Q. The only part that you have specific memory of is

18 the part where Mr. Johnson acted out?

19 A. Yes, sir. At that point he scared me. I can

20 remember that pretty well.

21 Q. At the end of disk four where you're yelling at him

22 and telling him he's a liar, do you remember that? The

23 tape cut off. Y'all were pretty deep into that, weren't

24 you?

25 A. It was at one point. I don't know which tape.

1 Q. Okay. Do you recall during that heated part what
2 happened when the tape cut off?

3 A. Only I can assume. I don't know exactly.

4 Q. Do you remember -- did you threaten Mr. Johnson at
5 that point?

6 A. No, sir. I never threatened Mr. Johnson.

7 Q. You're sure?

8 A. Positive.

9 Q. And you had lost your temper at that, wouldn't you
10 say?

11 A. I wouldn't call it lost temper. It's just a
12 technique.

13 Q. Okay. You were playing games with him?

14 A. I wouldn't say games, but I was ...

15 Q. Well, let me ask you this. Did you get emotional
16 during this? I mean, I know you didn't cry. But I mean,
17 did you get mad with him?

18 A. I guess -- it got heated. I don't think I got mad.

19 Q. Well, what did you get when it got heated? What was
20 that?

21 A. It was just a part of the interview. I mean, it was
22 a technique. It was to get an expression or anything
23 from him. An arousalment.

24 Q. So everything that you did telling the truth,
25 telling a lie, getting heated, touching him or Mason

- 1 touching him, being all friendly, talking about God,
2 talking about his daughter, talking about you could have
3 saved your son, trying to put a guilt trip, all of that
4 was just playing mind games to get a confession?
- 5 A. It was part of the interview.
- 6 Q. Okay. Well, I'm asking. That's what I'm asking.
- 7 A. It's part of the interview.
- 8 Q. That was intentional on y'all's part?
- 9 A. Yes.
- 10 Q. And in doing that, you intentionally tried to appeal
11 to, perhaps his temper at some point, to get him to lose
12 his temper and say something before he thought about it;
13 is that correct?
- 14 A. Correct.
- 15 Q. And at some point you tried to make him feel guilty
16 or sorry or ashamed and maybe say something out of shame?
- 17 A. Correct.
- 18 Q. At one point you tried to make him think, "Hey, if I
19 don't tell this, I'm going to jail for the rest of my
20 life," or "I'm going to get killed," whatever y'all were
21 telling him. You remember those parts?
- 22 A. Say that again, now?
- 23 Q. In some parts you told him, "If you stick to this
24 story, you're ..."
- 25 A. Yeah, I did. Yeah.

1 Q. So you tried to scare him at some point?

2 A. Uh-huh (affirmative). Yes, sir.

3 Q. Okay. But I thought your testimony earlier was that
4 y'all didn't use any type of fear or intimidation to get
5 this statement out of him?

6 A. That wasn't intimidation. It was just a part of --
7 that's what we're trained to do. To play on his
8 emotions, as you want to say.

9 Q. So even when he told you for ten hours a different
10 story -- and at one point told you, I don't want to talk
11 to you anymore?

12 A. He did say that. But he also said, "You can ask me
13 more questions if you want."

14 Q. Different questions; right?

15 A. I don't know exact words, but he said. Because I
16 stopped it and said, "You don't want to talk to us
17 anymore?" And he said, "Yeah, I'll answer your
18 questions." But exact words, I don't know.

19 Q. All right. So throughout that process, your job as
20 an interviewer is to overcome his will and get him to
21 tell you what happened?

22 A. The interview process -- I see what you're asking.
23 But our job is to get the truth.

24 Q. Okay. And how did you know what he told you at the
25 end of that tape was the truth?

1 A. Again, we had a statement from Kaisha. We had holes
2 in the wall. We had shells, four shells. Had the door
3 pushed in. We had a baby in a highchair. We had a
4 grandmama outside. I mean, that -- all of that was being
5 told to me that I didn't know going into the interview.
6 So I was learning -- like I told him that day, I was
7 learning more and more as the hour, minute -- I believe I
8 said minutes was going by.

9 Q. It's going minute by minute?

10 A. Minute by minute. And that's the way we went. And
11 then that's why I keep saying that box, that first story
12 he told, our job was to narrow that box down and he kept
13 adding stuff. So we kept going. And he continued to
14 talk.

15 Q. The story he told you about Robert, right? Does
16 that story provide an explanation for four shotgun
17 shells? Said that Robert shot Miss Maxine, right? Shot
18 J.C. , shot the bathroom door, and that Justin shot at
19 Robert. How many shells is that?

20 A. Four.

21 Q. Okay. Would that account for the hole in the
22 bathroom door?

23 A. Yes.

24 Q. Would that account for the shells scattered around?

25 A. Yes.

1 Q. Would that account -- and then I think he told you
2 that at one point when he jumped on Robert that Robert
3 actually ran into the bathroom door?

4 A. Yes, sir, in the hallway.

5 Q. Would that account for the bathroom door being
6 broken?

7 A. Yes.

8 Q. The furniture broken in the hallway, he says he and
9 Robert were fighting, rolling around?

10 A. I think I asked him about the furniture. He
11 couldn't remember that.

12 Q. Okay. But I mean, he said he and Robert were
13 fighting in that area, didn't he?

14 A. He was dragging him down the hall.

15 Q. Okay. Would that account for the broken furniture
16 at the scene?

17 A. He couldn't remember about the broken furniture. We
18 didn't ask anything else about the furniture.

19 Q. Okay. So what about Robert didn't account for the
20 information that you just told us, other than Kaisha's
21 story and his confession after that?

22 A. Kaisha's story from the beginning.

23 Q. Okay. So that's what I'm asking you. What was in
24 Kaisha's story?

25 A. Kaisha's story.