

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Greenville County

Honorable John C. Hayes, Circuit Court Judge

JOSEPH WALKER,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-000059

APPENDIX

LARA M. CAUDY
Appellate Defender

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

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

DESHAWN MITCHELL
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA,)
)
 PLAINTIFF,)
)
 -VS-)
)
 JOSEPH WALKER,)
)
 DEFENDANT.)
 _____)

2011-GS-23-08458 & 08459

TRANSCRIPT OF RECORD

APRIL 1 - 2, 2013
GREENVILLE, SOUTH CAROLINA

BEFORE:

THE HONORABLE C. VICTOR PYLE, JR.

APPEARANCES:

ATTORNEY FOR PLAINTIFF:

L. MARK MOYER, ASSISTANT SOLICITOR

ATTORNEY FOR DEFENDANT:

CHRISTOPHER LANCE SHEEK, ESQUIRE

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME: Victor C. Pyle Jr. VALUES (Ret)

TRIAL TYPE: Criminal

PANEL ID: PYLE 4/1/13

DESCRIPTION: PYLE 4/1/13

Sorted by: Random Nbr

Trial

State V. Joseph Walker

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strk	Chal	Strk		
DX 1 Minette, Iris M	108	222884	()	()	()	()	()	WF
DX 2 Frederick, Patricia Jean	49	109097	()	()	()	()	()	WF
✓ 3 Rabb, Willie A	125	261074	()	()	()	()	()	BM
✓ 4 Parsons, Jennifer M	115	245873	()	()	()	()	()	OF
✓ 5 Harrington, Paulette L	64	137164	()	()	()	()	()	WF
SX 6 Wade, Adam B	156	332420	()	()	()	()	()	WM
✓ 7 Vaquier-Luna, Nichelle	92	330895	()	()	()	()	()	BF
SX 8 Rainey, Paul W Jr.	126	261906	()	()	()	()	()	WM
✓ 9 Holmes, Yolanda G (F)	181	151957	()	()	()	()	()	BF
○ 10 Gruenefeld, Lars C	61	129803	()	()	()	()	()	WM
SX 11 Ford, Tamara M	46	105678	()	()	()	()	()	BF
✓ 12 Luther, Ronald G	93	198021	()	()	()	()	()	WM
DX 13 Strawhorn, Kenneth Richa	144	309526	()	()	()	()	()	WM
✓ 14 Gannom, April L	51	113341	()	()	()	()	()	WF
DX 15 Carter, Marvin E Jr.	21	53439	()	()	()	()	()	WM
✓ 16 Marburger, Ted P	95	202313	()	()	()	()	()	WM
DX 17 Allen, Lori	2	4409	()	()	()	()	()	WF
✓ 18 Danley, Traci L	35	76966	()	()	()	()	()	WF
✓ 19 Graef, James H	58	123905	()	()	()	()	()	WM
SX 20 Carver, Steve F JR	22	53853	()	()	()	()	()	WM
✓ 21 Brady, Bobby R	10	33669	()	()	()	()	()	WM
22 Morris, Frances T	187	228193	()	()	()	()	()	
DX 23 Keeton, Catherine M	81	174400	()	()	()	()	()	WF
✓ 24 Williams, Robert H (A)	171	348266	()	()	()	()	()	WM
25 Cobin, Matthew S	30	62969	()	()	()	()	()	

Greenville County Courthouse

RANDOM STRIKE SHEET

JUDGE NAME : Victor C. Pyle Jr. VALUES (Ret)

Sorted by: Random Nbr

TRIAL TYPE : Criminal

PANEL ID : PYLE 4/1/13

DESCRIPTION : PYLE 4/1/13

Trial

NAME	REF NUMBER	JUROR NBR	PLAINTIFF		DEFENDANT		Court	Remarks
			Chal	Strike	Chal	Strike		
~~26 Dorsey, Glenn T~~	~~39~~	~~87724~~	~~()~~	~~()~~	~~()~~	~~()~~	~~()~~	~~()~~
27 Ross, Mary E	135	276745	()	()	()	()	()	
28 Harrel, Logan P	63	137003	()	()	()	()	()	
29 Lewis, Michael S	88	191882	()	()	()	()	()	
30 Ciardi, Kathryn T	27	59851	()	()	()	()	()	

Total Number of Jurors:

30

** END OF REPORT **

1 **THE COURT:** All right. What we got?

2 **MR. MOYER:** May it please the Court, Your Honor. The
3 State is ready to proceed with the case against Joseph
4 Walker for attempted murder. The indictment should be
5 before you. It's indictment number 2011-GS-23-8458.

6 **THE COURT:** Mr. Sheek, you got a list of your witnesses
7 you can give to me?

8 **MR. SHEEK:** Your Honor, at this point we don't
9 anticipate ---

10 **THE COURT:** All right.

11 **MR. SHEEK:** --- any witnesses.

12 **THE COURT:** That's fine. Anything before I bring a
13 panel of jurors up?

14 **MR. MOYER:** Not from the State, Your Honor.

15 **THE COURT:** Let's see. We'll need probably thirty-
16 five.

17 **MR. MOYER:** And just so -- to make clear, it's my
18 understanding the strikes are five and five? I was just
19 looking at the statute again this morning.

20 **THE COURT:** So it's not -- it's not five and ten?

21 **MR. SHEEK:** I think it's five and ten, Your Honor, ---

22 **MR. MOYER:** Your Honor, I'm looking at ---

23 **MR. SHEEK:** --- I believe.

24 **MR. MOYER:** --- 14-7-1110, which gives the number of
25 peremptory challenges. That is not on the list of ten

1 strikes.

2 **THE COURT:** There's ten for murder.

3 **MR. MOYER:** I'm sorry, Your Honor.

4 **THE COURT:** It is ten for murder. So why ---

5 **MR. MOYER:** Yes, sir. Well, the statute just says
6 murder, manslaughter, burglary, arson, criminal sexual
7 conduct, armed robbery, grand larceny, breach of trust,
8 perjury and forgery.

9 **MR. SHEEK:** I believe that statute, and I may be wrong,
10 was actually written before the new law that codified
11 attempted murder as a charge.

12 (Pause)

13 **THE COURT:** Mr. Sheek, unless you can come up with some
14 case law or something to show me otherwise, then I think the
15 solicitor's correct, it's five and five.

16 **MR. SHEEK:** Your Honor, I don't have any case law.

17 **THE COURT:** All right. So it's five and five. All
18 right. Thirty will be plenty.

19 (Pause)

20 (Whereupon the jury panel entered the courtroom at
21 11:17 am)

22 **THE COURT:** Ladies and gentlemen, if I can have your
23 attention. At this time we will select a jury in the case
24 of the State against Joseph Christopher Walker. Mr. Walker,
25 would you please stand up and turn around and face the jury

1 panel for me, please. Thank you. You can be seated.

2 Mr. Walker is indicted for attempted murder. The
3 indictment alleges that on or about July 20, 2011 that he
4 unlawfully and with malice aforethought and with the intent
5 to kill attempted to kill Tyler Mattress by means of
6 pointing a gun and firing at him.

7 Now, potential witnesses in this case will be Tyler
8 Mattress, Amanda Ray, Sharanda Ray, Bobby Golden, Turonnie
9 Lewis, Tomeka Dennis and Beverly Henderson and also Jonathan
10 Rackley, Phillip Barham, Mary Ashley Thomas and Jared Mann
11 all with the Greenville Police Department and Iona Ooten
12 with the Greenville County Forensics Department.

13 I would inquire at this time if any member of the jury
14 panel is related by blood or marriage or connected by
15 employment to the Defendant or to any potential witness in
16 this case. Are you sensible or aware of any bias or any
17 prejudice with respect to the Defendant, to the State, or to
18 the subject-matter of the case, that being an alleged
19 attempted murder, or do you know any reason why you could
20 not give this Defendant and the State a fair and impartial
21 trial based on the law and evidence to be presented? If so,
22 would you please stand and give me your name.

23 (No response)

24 **THE COURT:** Do I have any member of the panel who has
25 any connection, family, business, social or otherwise with

1 Walt Wilkins, the Solicitor, or any member of his staff
2 including Mark Moyer, who is handling this case, or with law
3 enforcement, whether that be Federal, State, County or
4 Municipal? If so, would you please stand and give me your
5 name.

6 (No response)

7 **THE COURT:** Lance Sheek represents the Defendant. Do I
8 have any clients now or formerly of Mr. Sheek? If so,
9 please stand and give me your name.

10 (No response)

11 **THE COURT:** Do I have any member of the panel or any
12 member of your family who has been the victim of a crime,
13 including attempted murder or any similar type crime? If
14 so, would you please stand and give me your name.

15 (No response)

16 **THE COURT:** All right. Any other questions I've
17 overlooked, counsel?

18 **MR. MOYER:** Not from the State, Your Honor.

19 **MR. SHEEK:** None from the Defense, Your Honor.

20 **THE COURT:** All right. Strikes five for the State,
21 five for the Defense. Ladies and gentlemen, when your name
22 is called I'll ask that you come forward up front to this
23 podium, turn around, face counsel and await further
24 instructions. Thank you.

25 **MADAME CLERK:** Juror number 108, Iris Minette. Please

1 come forward.

2 (Whereupon Iris Minette, a white female, came forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please present Ms. Minette.

5 **MADAME CLERK:** What says the Defendant?

6 **MR. SHEEK:** Please excuse Ms. Minette from the trial of
7 this case.

8 **MADAME CLERK:** You may sit down. Juror number 49,
9 Patrick [sic] Jean Frederick.

10 (Whereupon Patricia Frederick, a white female, came
11 forward)

12 **MADAME CLERK:** What says the State?

13 **MR. MOYER:** Please present Ms. Frederick.

14 **MADAME CLERK:** What says the Defendant?

15 **MR. SHEEK:** Please excuse Ms. Frederick from the trial
16 of this case.

17 **MADAME CLERK:** You may have a seat. Juror number 125,
18 Willie Rabb.

19 (Whereupon Willie Rabb, a black male, came forward)

20 **MADAME CLERK:** What says the State?

21 **MR. MOYER:** Please present Mr. Rabb.

22 **MADAME CLERK:** What says the Defendant?

23 **MR. SHEEK:** Please swear Mr. Rabb.

24 **MADAME CLERK:** Mr. Rabb, you may have a seat in the
25 jury box. Juror number 115, Jennifer Parsons.

1 (Whereupon Jennifer Parsons, other female, came
2 forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please present Ms. Parsons.

5 **MADAME CLERK:** What says the Defendant?

6 **MR. SHEEK:** Please swear Ms. Parsons.

7 **MADAME CLERK:** You may have a seat. Juror number 64,
8 Paulette Harrington.

9 (Whereupon Paulette Harrington, a white female, came
10 forward)

11 **MADAME CLERK:** What says the State?

12 **MR. MOYER:** Please present Ms. Harrington.

13 **MADAME CLERK:** What says the Defendant?

14 **MR. SHEEK:** Please swear Ms. Harrington.

15 **MADAME CLERK:** You may have a seat, Ms. Harrington.
16 Juror number 156, Adam Wade.

17 (Whereupon Adam Wade, a white male, came forward)

18 **MADAME CLERK:** What says the State?

19 **MR. MOYER:** Please excuse the juror in this case.

20 **MADAME CLERK:** You're excused from this case. Juror
21 number 92, Nichelle Vaquier-Luna.

22 (Whereupon Nichelle Vaquier-Luna, a black female, came
23 forward)

24 **MADAME CLERK:** What says the State?

25 **MR. MOYER:** Please present Ms. Luna.

1 **MADAME CLERK:** What says the Defendant?

2 **MR. SHEEK:** Please swear Ms. Luna.

3 **MADAME CLERK:** You may take your things and go sit in
4 the jury box. Juror number 126, Paul Rainey.

5 (Whereupon Paul Rainey, a white male, came forward)

6 **MADAME CLERK:** What says the State?

7 **MR. MOYER:** Please excuse the juror in this case.

8 **MADAME CLERK:** Juror number 181, Yolanda Holmes.

9 (Whereupon Yolanda Holmes, a black female, came
10 forward)

11 **MADAME CLERK:** What says the State?

12 **MR. MOYER:** Please present Ms. Holmes.

13 **MADAME CLERK:** What says the Defendant?

14 **MR. SHEEK:** Please swear Ms. Holmes.

15 **MADAME CLERK:** You may have a seat in the jury box.
16 Juror number 61, Lars Gruenefeld.

17 (Whereupon Lars Gruenefeld, a white male, came forward)

18 **MADAME CLERK:** What says the State?

19 **MR. MOYER:** Please present Mr. Gruenefeld.

20 **MADAME CLERK:** What says the Defendant?

21 **MR. SHEEK:** Please swear Mr. Gruenefeld.

22 **MADAME CLERK:** You may have a seat in the jury box.
23 Juror number 46, Tamara Ford.

24 (Whereupon Tamara Ford, a black female, came forward)

25 **MADAME CLERK:** What says the State?

1 **MR. MOYER:** Please excuse the juror in this case.

2 **MADAME CLERK:** You may have a seat. Juror number 93,
3 Ronald Luther.

4 (Whereupon Ronald Luther, a white male, came forward)

5 **MADAME CLERK:** What says the State?

6 **MR. MOYER:** Please present Mr. Luther.

7 **MADAME CLERK:** What says the Defendant?

8 **MR. SHEEK:** Please swear Mr. Luther.

9 **MADAME CLERK:** You may have a seat in the jury box.
10 Juror number 144, Kenneth Strawhorn.

11 (Whereupon Kenneth Strawhorn, a white male, came
12 forward)

13 **MADAME CLERK:** What says the State?

14 **MR. MOYER:** Please present Mr. Strawhorn.

15 **MADAME CLERK:** What says the Defendant?

16 **MR. SHEEK:** Please excuse Mr. Strawhorn from the trial
17 of this case.

18 **MADAME CLERK:** You are excused. Juror number 51, April
19 Gannom.

20 (Whereupon April Gannom, a white female, came forward)

21 **MADAME CLERK:** What says the State?

22 **MR. MOYER:** Please present Ms. Gannom.

23 **MADAME CLERK:** What says the Defendant?

24 **MR. SHEEK:** Please swear Ms. Gannom.

25 **MADAME CLERK:** Juror number 21, Marvin Carter.

1 (Whereupon Marvin Carter, a white male, came forward)

2 **MADAME CLERK:** What says the State?

3 **MR. MOYER:** Please present Mr. Carter.

4 **MADAME CLERK:** What says the Defendant?

5 **MR. SHEEK:** Please excuse Mr. Carter from the trial of
6 this case.

7 **MADAME CLERK:** Juror number 95, Ted Marburger.

8 (Whereupon Ted Marburger, a white male, came forward)

9 **MADAME CLERK:** What says the State?

10 **MR. MOYER:** Please present Mr. Marburger.

11 **MADAME CLERK:** What says the Defendant?

12 **MR. SHEEK:** Please swear Mr. Marburger.

13 **MADAME CLERK:** Juror number 2, Lori Allen.

14 (Whereupon Lori Allen, a white female, came forward)

15 **MADAME CLERK:** What says the State?

16 **MR. MOYER:** Please present Ms. Allen.

17 **MADAME CLERK:** What says the Defendant?

18 **MR. SHEEK:** Please excuse Ms. Allen from the trial of
19 this case.

20 **MADAME CLERK:** Juror number 35, Traci Danley.

21 (Whereupon Traci Danley, a white female, came forward)

22 **MADAME CLERK:** What says the State?

23 **MR. MOYER:** Please present Ms. Danley.

24 **MR. SHEEK:** Please swear Ms. Danley.

25 **MADAME CLERK:** You may have a seat in the jury box.

1 Juror number 58, James Graef.

2 (Whereupon James Graef, a white male, came forward)

3 **MADAME CLERK:** What says the State?

4 **MR. MOYER:** Please present Mr. Graef.

5 **MADAME CLERK:** You may have a seat ---

6 **MR. SHEEK:** Please swear Mr. Graef.

7 **MR. GRAEF:** Have a seat?

8 **MADAME CLERK:** Yes, sir. Have a seat in the jury box.

9 Juror number 22, Steve Carver.

10 (Whereupon Steve Carver, a white male, came forward)

11 **MADAME CLERK:** What says the State?

12 **MR. MOYER:** Please excuse the juror in this case.

13 **MADAME CLERK:** Juror number 10, Bobby Brady.

14 (Whereupon Bobby Brady, a white male, came forward)

15 **MADAME CLERK:** What says the State?

16 **MR. MOYER:** Please present Mr. Brady.

17 **MR. SHEEK:** Please swear Mr. Brady.

18 **MADAME CLERK:** Mr. Brady, you can have a seat.

19 **THE COURT:** Ms. Holmes, come take this first seat and
20 serve as the foreperson for me, please, ma'am. And give me
21 one alternate. One for the State, two for the Defense.

22 **MADAME CLERK:** Juror number 81, Catherine Keeton.

23 (Whereupon Catherine Keeton, a white female, came
24 forward)

25 **MADAME CLERK:** What says the State?

1 **MR. MOYER:** Please present Ms. Keeton.

2 **MR. SHEEK:** Please let -- excuse Ms. Keeton from the
3 trial of this case.

4 **MADAME CLERK:** Juror number 171, Robert Williams.

5 (Whereupon Robert Williams, a white male, came forward)

6 **MADAME CLERK:** What says the State?

7 **MR. MOYER:** Please present Mr. Williams.

8 **MR. SHEEK:** Please swear Mr. Williams.

9 **MADAME CLERK:** You may have a seat in the jury box.

10 **THE COURT:** Okay. Go on and swear the jury, please.

11 **MADAME CLERK:** Please stand up. The correct response
12 to the oath is I will. Will you raise your right hand. You
13 shall well and truly try the case, 2011-GS-23-8458, the
14 State versus Joseph Christopher Walker, indicted for
15 attempted murder and a true verdict rendered according to
16 the law and the evidence so help you God?

17 **THE JURY:** I will.

18 **MADAME CLERK:** Thank you. Have a seat.

19 **THE COURT:** Ladies and gentlemen, I'll give you a short
20 recess before we start the trial. While on recess do not
21 talk about this case. Take the jury out, please.

22 (Whereupon the jury exited the courtroom at 11:35 am)

23 **THE COURT:** And at this time, ladies and gentlemen, I
24 need the balance of the panel to report back downstairs to
25 the jury assembly room. Thank you.

1 (Whereupon the remaining jurors exited the courtroom)

2 **THE COURT:** All right. Anything before we start?

3 **MR. SHEEK:** Your Honor, the Defense would ask to
4 sequester the witnesses with the exception, of course, of
5 the chief investigating officer ---

6 **THE COURT:** All right.

7 **MR. SHEEK:** --- or the victims.

8 **THE COURT:** That's fine. Now, does anyone need a short
9 recess before we start?

10 **MR. SHEEK:** No, sir. I believe we're ---

11 **THE COURT:** You're ready?

12 **MR. SHEEK:** --- ready to go.

13 **MR. MOYER:** Okay.

14 **THE COURT:** Okay.

15 **MR. SHEEK:** I'm sorry, Judge. Before we bring the jury
16 in.

17 **THE COURT:** Sure.

18 **MR. SHEEK:** The State has provided me with the criminal
19 rap sheets on several of their witnesses. I noted on a
20 couple of the charges it does not show a disposition.

21 **MR. MOYER:** And, Judge, I'm afraid I don't know the
22 answer to his question. There is a charge on one of the rap
23 sheets that doesn't show -- and I just -- I don't know
24 anything further than what's on the rap sheets.

25 **THE COURT:** Well, why do you need that information?

1 **MR. SHEEK:** If there's a conviction, then, Your Honor,
2 it would be subject to be used for impeachment should the
3 witness testify. If it's a non-conviction, then, obviously,
4 I don't want to bring it up.

5 **THE COURT:** I think you can impeach, but the amount of
6 term -- the time of the sentence is not admissible to the
7 jury.

8 **MR. SHEEK:** Well, what I'm saying, Judge, is I'm not
9 sure if they were convicted of it or if they were charged
10 with an offense that would be subject to impeachment ---

11 **THE COURT:** All right.

12 **MR. SHEEK:** --- if convicted or pled guilty.

13 **THE COURT:** Can you find that out, solicitor?

14 **MR. MOYER:** Yes, we can get on it. If I can just find
15 out ---

16 **THE COURT:** Can you get somebody to do it while we --
17 while we start?

18 **MR. MOYER:** I would say ---

19 **THE COURT:** Who is your first witness?

20 **MR. MOYER:** The first witness is Tyler Mattress, who
21 you probably don't need ...

22 (Whereupon the attorneys were conferring off the
23 record)

24 **MR. SHEEK:** Then there's no other issues, Your Honor.

25 **THE COURT:** Okay. All right. Now, you want to make

OPENING STATEMENTS - MR. MOYER

20

1 brief opening statements to the jury.

2 **MR. MOYER:** Yes, sir, Your Honor.

3 **THE COURT:** And no arguing in your opening statement.

4 **MR. MOYER:** Yes, sir.

5 **MR. SHEEK:** Yes, sir.

6 **MR. MOYER:** Just to make sure before we get started, is
7 there anything you need us to check on then for ---

8 **MR. SHEEK:** The only thing I would have is the CDV,
9 third, on Mr. Golden.

10 **MR. MOYER:** Okay.

11 (Whereupon the attorneys were conferring off the
12 record)

13 **THE COURT:** All right. Bring our jury if they're
14 ready.

15 (Whereupon the jury entered the courtroom at 11:41 am)

16 **THE COURT:** All right, solicitor, brief opening
17 statement.

18 **MR. MOYER:** Thank you, Your Honor. May it please the
19 Court. Good morning, ladies and gentlemen.

20 **THE JURY:** Good morning.

21 **MR. MOYER:** My name is Mark Moyer. I'm an assistant
22 solicitor. I work here in Greenville County. I work for
23 the Solicitor, Walt Wilkins. There are about thirty
24 attorneys who work for him. Walt Wilkins is the Solicitor
25 of the Thirteenth Circuit, which is made up of Greenville

OPENING STATEMENTS - MR. MOYER

21

1 and Pickens Counties.

2 We are here today because the Defendant, as you have
3 heard, has been indicted and charged with attempted murder.
4 It's my job as the prosecutor to bring forth the facts from
5 witnesses which will prove this case beyond any reasonable
6 doubt.

7 Now the case you're going to hear about today involves
8 a relationship triangle. You're going to hear it involves a
9 relationship triangle that led to jealousy and rage in a
10 situation where a man very easily could have lost his life.

11 You're going to hear testimony in this case that on
12 July 20th of 2011 this Defendant seated across the room,
13 Tyler Mattress [sic], fired a pistol three times at Tyler
14 Mattress, who's seated right over here. And I misspoke,
15 James Walker is the Defendant who fired three times at Tyler
16 Mattress, who's sitting here on the front row of the case --
17 of the courtroom.

18 You're going to hear testimony in this case that the
19 Defendant used to date a woman by the name of Amanda Ray.
20 In fact, they've had two children. She had two children by
21 him. You're going to hear that they broke up. You're going
22 to hear that she moved on with her life.

23 And you're going to hear that in July of 2011 Amanda
24 Ray was dating Tyler Mattress. And you're going to hear
25 evidence in this case that this Defendant could not take

OPENING STATEMENTS - MR. MOYER

22

1 that. He could not take the fact that she was seeing
2 somebody else, and that it enraged him. And you're going to
3 hear that that reached a boiling point on July the 20th of
4 2011.

5 You're going to hear that on that date Tyler Mattress
6 was over at her house spending the day with her. In the
7 afternoon of that day you're going to hear testimony that
8 this Defendant began calling Amanda Ray, calling her and
9 calling her over and over. You're going to hear that Amanda
10 Ray did not answer the phone because, of course, Tyler
11 Mattress was with her and she didn't want to get in that
12 situation.

13 You're going to hear that this went on about all
14 afternoon until finally close to 7:00 in the afternoon
15 Amanda Ray saw an incoming call from her sister's phone.
16 What she did not realize is that this Defendant was on the
17 other end of that phone.

18 You're going to hear testimony that she answered the
19 phone and that what she found out is that this Defendant had
20 gone to her sister and had used her phone so -- to get her
21 to answer the phone. Well, you're going to hear that an
22 argument ensued.

23 You're going to hear that he wanted to come see Amanda
24 Ray. And you're going to hear testimony that she told him
25 that she did not want to and that he made threats to her.

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1 You're going to hear testimony that Tyler Mattress, who's
2 lying next to her, heard these threats and that he then
3 started exchanging words with this Defendant and he was
4 threatened as well.

5 Well, shortly after that phone call ended Tyler
6 Mattress went outside the apartment complex and was waiting.
7 And as expected, about ten minutes or so later a car pulled
8 up. And you're going to hear testimony that this Defendant
9 stepped out of that car.

10 And you're going to hear that what was not expected is
11 that when he did so he was holding a pistol. You're going
12 to hear that Tyler Mattress saw that pistol and he began to
13 run and that shots were fired at him by this Defendant as he
14 tried to flee from this Defendant, Joseph Walker.

15 Now that is essentially the story that you're going to
16 hear in this case. Now this is going to be a relatively
17 short trial. You're going to hear from somewhere in the
18 vicinity of eight to ten or eleven witnesses who are going
19 to come and testify from this witness stand.

20 This is not the kind of case that is proven by
21 scientific sort of testimony, like, say, a DUI where you
22 would have a data master and a video or, say, a burglary
23 where you would have fingerprints or some kind of sexual
24 assault where you would have DNA testimony. By its very
25 nature, this is the kind of case that is proven by witness

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1 testimony. And that is what you're going to hear in this
2 case.

3 You're going to see very few exhibits. There will be
4 some shell casings that will be introduced and a handful of
5 photographs. But other than that, you're going to have --
6 you will hear witness testimony.

7 At this point I am going to ask you to reserve
8 judgment. I am going to ask you to listen closely to the
9 witnesses that you hear in this case. At the end of this
10 case I will have a chance to come up before you again and
11 argue to you why the testimony that you heard proves beyond
12 any reasonable doubt why this Defendant is guilty of this
13 charge of attempted murder.

14 But for now all I'm asking is that you listen closely,
15 use your common sense and your good judgment to weigh the
16 testimony that you hear and then at the end of this case do
17 justice. Thank you.

18 **THE COURT:** Mr. Sheek.

19 **MR. SHEEK:** Thank you, Your Honor. May it please the
20 Court. Madame Forelady and ladies and gentlemen of the
21 jury, my name is Lance Sheek. I live just up the road
22 towards Greenwood up 25. I don't work in an office with
23 thirty other attorneys, I work by myself. And today I have
24 the honor to come in here and represent Joe Walker, James or
25 Joseph.

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1 Joe has been charged with attempted murder. Now the
2 solicitor started his statement off a few minutes ago by
3 saying this case is about a love triangle, this case is
4 about jealousy. I want to go ahead and get that out of your
5 minds right now.

6 This case is about a citizen of Greenville County
7 charged with a crime, who has pled not guilty and is having
8 his day in court. That's what the case is about. Don't get
9 sidetracked by any drama, or emotion or anything else
10 because what we're doing here is a serious, serious
11 business.

12 One thing I like about trying cases in Greenville
13 County is all of you sat downstairs just a few minutes ago
14 and you got to watch a video that told you about your jury
15 service and what to expect. A lot of counties I've been in,
16 you don't have something like that.

17 So you sit here on this bench for the first time having
18 been chosen as a jury wondering what is it we expect you to
19 do. And I like the video that they show you there. And
20 then the judge takes time to talk to you as he goes through
21 the qualifications.

22 But you were told some things I really want you to keep
23 in your mind. Joe Walker, our law says, is presumed
24 innocent. When the solicitor stands up here in opening
25 statement and says we're going to show you why he's guilty,

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1 why he's guilty, he's presumed innocent. The law says that.
2 And nobody can take that away from him except you, the jury,
3 and then only after the presentation of evidence.

4 The solicitor says his job is to bring forth facts.
5 His job is to present evidence. As that video told you, if
6 y'all remember, who's the only people in this courtroom that
7 are going to determine the facts? It's you people.

8 His Honor is the sole judge of the law. And if I say
9 something about the law that's different from what he tells
10 you, it's his job to tell you what the law is, not me. But,
11 likewise, I can stand up here all day long and tell you what
12 I think the facts are, but you and you alone are going to
13 determine what the facts are because as we come into this
14 courtroom as that video told you, you often have the case of
15 having to determine who's telling you the truth. Because as
16 I said, Joe Walker is presumed innocent.

17 Now, when you presume someone is innocent, then the
18 State has to come in and prove their guilt and prove it
19 beyond a reasonable doubt. But why is that important?
20 Well, if you think about it, how does someone prove a
21 negative? In other words, how do I prove something didn't
22 happen?

23 If I were to, last night, get in an argument with this
24 young man sitting right here, walk outside my house, fire a
25 gun in the air, call the police and say he just drove over

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1 and tried to kill me, if there's not a witness around, how
2 does he prove it didn't happen? Well, luckily he doesn't
3 have to prove it didn't happen, the State's got to prove it
4 did. And they've got to prove it beyond a reasonable doubt.

5 And that's important, because trust me, allegations are
6 easy to make. Proof is a different ball game. And you and
7 you alone are judged with -- charged with judging
8 credibility for the witnesses that talk to you. And that is
9 their believability.

10 And the video talked to you about several different
11 ways you might want to do that, but most of all you've got
12 your common sense that you brought into this courtroom. You
13 work at jobs. You may have raised a family. You judge
14 credibility of people that talk to you all the time.

15 You look at them, listen to them testify, listen to the
16 extenuating facts around their testimony. Do they have a
17 good track record? Do they have a motivation for telling
18 you a certain story? Those are things you want to look at
19 because that and that alone is where you've got to base your
20 verdict, not on what I tell you or Mr. Moyer tells you, but
21 on the witnesses that sit in that chair right there, swear
22 to tell the truth and then testify to you.

23 Now, when the State brings a charge they also undertake
24 an obligation. What is that obligation? Well, they're
25 going to empanel a jury and as the solicitor just told you,

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1 he's going to, at the end of this case, ask you to find the
2 Defendant guilty. He's going to tell you the reasons why
3 he's guilty.

4 Well, what do they have to do? They have to equip you
5 with the tools to reach that verdict because verdict
6 literally comes from a word that says to speak the truth.
7 And that's all anybody really wants of you here today.

8 Because in our system of justice, I'll give you just a
9 brief history of how it works here so you can understand
10 how we got to today from July of 2011 to today. The State
11 can bring a charge, that is, they can say something
12 happened, believe something happened and go to a summary
13 court judge, which is a municipal judge or a magistrate and
14 swear a warrant. If the judge finds probable cause, then he
15 signs a warrant.

16 There's no proof beyond a reasonable doubt standard at
17 this point. Nor does the defendant get to participate or
18 have an attorney present, call witnesses or have any kind of
19 a hearing. If that warrant is issued, then it's served on
20 him. He is arrested, he's charged.

21 They'll have a bond hearing in which case a judge only
22 sets the conditions of his release for him to show up at
23 court. It is not a trial to determine guilt. He doesn't
24 get to call witnesses again. That's not the process.

25 The solicitor told you he's then indicted. What

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1 happens there? Well, there a grand jury is empaneled. The
2 State goes in and presents their evidence for what they
3 believe the person should be indicted.

4 The defendant doesn't get to participate. He doesn't
5 even get to have an attorney present. He doesn't get to
6 call any witnesses. He doesn't get to cross examine anybody
7 because that's not the point of the system that we're at.
8 An indictment's issued.

9 The first time Joe Walker gets to have someone stand up
10 on his behalf and test this evidence, question what the
11 State is saying, is today, April 1st, 2013. Now why is that
12 important? Well, writers of Proverb wrote something in the
13 eighteenth chapter. He said, he who tells the story first
14 seems right until another comes along to question you. Paul
15 Harvey used to call it the rest of the story.

16 The State has made claims of what they're going to
17 prove, but listen carefully. Wait til that evidence is
18 tested, til another comes along to question it. And you
19 keep an open mind until it comes time for you to deliberate
20 your verdict.

21 That's all I'm going to ask of you at this point. I'm
22 not going to tell you what the testimony is or isn't going
23 to be. We're going to hear it together from that witness
24 stand. But when they tell their story, you wait until
25 another comes along to question it.

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1 Another thing the State has at their disposal, the
2 police department. He talks about forensic evidence. This
3 isn't something that's tested by scientific means or proven
4 by scientific means. But you think about what was available
5 to them as they did this investigation, and more
6 importantly, what they did not do when they charged a
7 citizen of Greenville County with a very serious crime that
8 they knew eventually would have to come to court.

9 And you ask yourself, why was it not done? Well,
10 ladies and gentlemen, this ain't the first rodeo for
11 Greenwood [sic] Police Department -- Greenwood? Greenville
12 City Police Department. Listen to the evidence. What is
13 there and what isn't there? You keep an open mind until the
14 end of this trial. Thank you.

15 **THE COURT:** All right, solicitor.

16 **MR. MOYER:** Your Honor, may it please the Court. The
17 State calls Tyler Mattress to the stand.

18 **MADAME CLERK:** Come forward and place your hand on the
19 -- raise your right hand and put your left hand on the
20 Bible.

21 **Tyler Mattress, being**
22 duly sworn testified as follows:

23 **MADAME CLERK:** You can have a seat. Can you state your
24 name for the record?

25 **MR. MATTRESS:** Tyler Mattress.

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1 Direct Examination by Mr. Moyer:

2 Q. All right, Mr. Mattress. I'm going to ask you to make
3 sure you speak into that microphone that's right in front of
4 you there so we all can hear you. I'm going to stand back
5 here so if I can hear you, I believe all these jurors will
6 be able to also, okay?

7 A. Yes, sir.

8 Q. Okay. That was good. Start off by telling us your
9 full name.

10 A. Tyler DeMarco Mattress.

11 Q. Okay. How old are you, Mr. Mattress?

12 A. Thirty.

13 Q. Okay. Now we have to get one thing out of the way
14 before we get started further. And that is the fact that
15 you actually have been convicted of some crimes, haven't
16 you?

17 A. Yes, sir.

18 Q. Okay. Back in 2000 you were convicted of an armed
19 robbery.

20 A. Yes, sir.

21 Q. And about ten burglaries?

22 A. Yes, sir.

23 Q. And grand larceny?

24 A. Yes, sir.

25 Q. I think five grand larcenies, is that right?

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- 1 A. Yes, sir.
- 2 Q. And attempted burglary. And that all -- that was back
- 3 in 1999 and 2000, is that right?
- 4 A. Yes, sir.
- 5 Q. Okay. Now, let me ask you this. You're not married
- 6 now, is that correct?
- 7 A. No, sir.
- 8 Q. Okay. Do you have any children?
- 9 A. One.
- 10 Q. How old is your child?
- 11 A. One.
- 12 Q. One years old. Okay. Are you working?
- 13 A. Yes, sir.
- 14 Q. Where do you work?
- 15 A. At Key Electrical in Spartanburg.
- 16 Q. Okay. What kind of business is that?
- 17 A. Electric -- electrical engineering company.
- 18 Q. Okay. And what do you do for them?
- 19 A. Pull wires, rewire commercial and residential business.
- 20 Q. Okay. How long have you been doing this now?
- 21 A. For about three years now.
- 22 Q. Now, let's talk first off about how you know some of
- 23 the people in this case. Do you know Amanda Ray?
- 24 A. Yes, sir.
- 25 Q. Okay. When did you first meet her?

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1 A. I met her in 2010, like August.

2 Q. Okay. And you started dating her?

3 A. Yes, sir.

4 Q. And y'all were dating back in July of 2011 when this
5 incident happened?

6 A. Yes, sir.

7 Q. How long had you been dating at that time?

8 A. Since August 2010.

9 Q. Okay. So about a year, not quite a year?

10 A. Yes, sir.

11 Q. Now, are y'all still dating now?

12 A. No, sir.

13 Q. Now, --

14 A. On and off.

15 Q. I'm sorry?

16 A. On and off a little bit.

17 Q. On and off a little bit still?

18 A. Yes, sir.

19 Q. Okay. But now did you get to know this Defendant
20 through her?

21 A. Yes, sir.

22 Q. And what was his relationship to Amanda Ray?

23 A. She had two kids by him.

24 Q. Okay. And how old were her -- do you know how old her
25 kids are, her children?

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1 A. One just turned eight yesterday and one is six.

2 Q. Okay. All right. Now, had you met him before you knew
3 Amanda?

4 A. No, sir.

5 Q. Now, before this incident happened in July of 2011 had
6 you met him, or talked to him or seen him before that --
7 this incident happened?

8 A. Yes, sir.

9 Q. Can you tell us roughly how many times you think you
10 had run into him, or seen him, or ...

11 A. Probably about three or four.

12 Q. About three or four times? Okay. So you knew what he
13 looked like?

14 A. Yes, sir.

15 Q. And did you know what kind of car that he used to drive
16 around in?

17 A. Yes, sir.

18 Q. What kind of car would you see him in?

19 A. I'd seen him in like old '70 model Camaro, or Trans Am,
20 and it was a gray Honda Accord, a 2000.

21 Q. Okay. You've seen him in a gray Honda Accord also?

22 A. Yes, sir.

23 Q. And do you know who that car belonged to?

24 A. The girl that he was staying with, Tomeka Dennis.

25 Q. Tomeka Dennis. That was her car?

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- 1 A. Yes, sir.
- 2 Q. You've seen him in her car -- did you know her, Tomeka
- 3 Dennis?
- 4 A. Yes, sir.
- 5 Q. So you had seen him in that car before this incident
- 6 that happened in July of 2011?
- 7 A. Yes, sir.
- 8 Q. All right. Now, let me take you to July of 2011 and
- 9 ask you about that date. So you were dating Amanda Ray.
- 10 Did you used to go over there and visit her sometimes?
- 11 A. Yes, sir.
- 12 Q. Now on these -- where did she live?
- 13 A. .
- 14 Q. . What is ?
- 15 A. Apartment complex.
- 16 Q. Okay. And is that in Greenville City here?
- 17 A. Yes, sir, off of , apartment
- 18 Q. That's where Amanda stayed, in
- 19 A. Yes, sir.
- 20 Q. Okay. And where is -- that's kind of off
- 21 over there, isn't it?
- 22 A. Yes, sir, off the . As soon as you turn
- 23 off of , turn right and take the first left.
- 24 Q. Okay. There used to be people from Greenville -- there
- 25 used to be a Steak and Ale right there in the front? Did

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- 1 you know about that?
- 2 A. Yes, sir.
- 3 Q. I think it's closed now?
- 4 A. Yes, sir.
- 5 Q. Okay. So it's kind of back behind there. Okay. So
- 6 you used to go over there. Did you go over there and visit
- 7 her frequently at this time?
- 8 A. Every day. I was spending the night and everything.
- 9 Q. Okay. Let me take you to July 20th, 2011. Were you
- 10 there on the date this incident happened? Were you ---
- 11 A. Yes, sir.
- 12 Q. --- there that day? Do you remember -- do you remember
- 13 what time it was that you went over there that day?
- 14 A. I went over there earlier in the daytime. And I was
- 15 staying over there all day.
- 16 Q. Okay. Now at some point do you remember a phone call
- 17 to Amanda Ray that got your attention?
- 18 A. Yes, sir.
- 19 Q. Where were you when that phone call ---
- 20 A. Me and her -- I had arrived earlier in the day. We was
- 21 laying in the bed all day. And then a phone call had done
- 22 been coming, several. She never answered the phone. Her --
- 23 there was a phone call came from her sister. She picked up
- 24 the phone. And then I heard him, Joseph Walker, arguing on
- 25 the phone with her about wanting to come over there and get

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1 the kids and come to see her.

2 And then she told him that the kids would be over at
3 his -- over at her parents' house, that she would have to
4 get them over there. And she told him that. Then he
5 started cussing at her.

6 And then I grabbed the phone, I said, man, you always
7 trying to come over here and jump on this girl. Since you
8 want to fight a girl, come fight me. And then he ---

9 Q. Okay. Now, let me stop you for just a second now.
10 Now, you knew it was Joseph Walker on the phone?

11 A. Yes, sir. He's called my phone several times. I done
12 met him at his mother's house, personally, about this
13 incident before 'cause he would come looking for me and
14 everything.

15 Q. So you recognized his voice?

16 A. Yes, sir.

17 Q. Okay.

18 A. I recognized the phone -- the phone number from the
19 sister, his voice over the phone. And then he was talking
20 to her and arguing with me, the same arguments that I've had
21 with him before in the past.

22 Q. Okay. And did he like the fact that you were seeing
23 Amanda Ray?

24 A. No, sir, because he's called my phone several times,
25 he's come asking her who I was, asking her who I was. So I

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1 went to his mother's house off of _____ , and I
2 talked to him about the incident then.

3 Q. That was before this ---

4 A. Before this incident, yes, sir.

5 Q. Okay. So you had had some arguments with him over the
6 fact that you were seeing Amanda Ray?

7 A. Yes, sir.

8 Q. So was he happy or unhappy that you were seeing her?

9 A. He was unhappy 'cause he always called my phone
10 constantly telling me about I'm disrespecting these kids,
11 his kids said this or he can't see the kids because of this
12 reason or different issues.

13 Q. Okay.

14 A. He always called my phone about -- he always telling my
15 brother everything about ---

16 Q. Okay. Well, let's ---

17 A. --- this incident.

18 Q. Okay. Let's get back to this phone call on July the
19 20th, 2011. So you said you spoke to him then on the phone?

20 A. Yes, sir.

21 Q. And what did he tell you at that time? What was your
22 exchange of conversation?

23 A. He was -- he was arguing with her. And I was laying
24 right here beside her on the bed. I snatched the phone ---

25 Q. Um-hum (affirmative).

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1 A. --- from him -- from her and I told her since you, I
2 mean, I told him on the phone, on her phone, since you
3 always want to keep on calling her like you want to jump on
4 a girl or something, coming up here trying to jump on her,
5 you want to fight a girl, fight me.

6 Q. Okay. And what was his response to that?

7 A. He said, don't worry about it, I'll be over there in a
8 minute, I'm gonna do something to ya'. And I walked
9 outside.

10 Q. Okay. So that was how the phone call ended then?

11 A. Yes, sir.

12 Q. He said I'm going to do something?

13 A. He said I'm going to do something to ya'. He hung up
14 the phone. And I -- he said -- he said, don't worry about
15 it, I'm gonna do something to ya', I'll be over there, and
16 then hung up the phone. And I walked outside.

17 Q. Okay. So you went outside. What happened when -- how
18 much time went by before something happened?

19 A. Probably about ten or fifteen minutes because he was
20 over at her mother's house in Nicholtown. And he drove from
21 her mother's ---

22 Q. Okay.

23 A. --- house over to where we was at in
24 Apartments.

25 Q. All right. So you were waiting outside. Tell us what

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1 happened while you were waiting there.

2 A. I went outside and I knocked on my home-boy, Bobby
3 Golden's door, and I told him this dude's trying to come and
4 get me, I just need you to watch out for me because I'm
5 fixin' to fight him.

6 Q. Okay. Now, did you have any -- did you have any
7 weapons on you?

8 A. When I went in Bobby Golden's house, I grabbed a knife.

9 Q. Okay. And what did you do with that knife?

10 A. I put it in my pocket.

11 Q. Did you ever take that knife out of your pocket?

12 A. No, sir.

13 Q. And we'll get to that in just a minute, but during this
14 whole incident did you ever waive that knife, or show that
15 knife or ---

16 A. No, sir, I didn't have a chance to.

17 Q. Okay. All right. So you were waiting outside. And
18 tell us what happened.

19 A. As I was waiting outside Bobby Golden was standing
20 right there with me. A gray Honda Accord pulled up, four
21 door, tinted windows. And I had done seen him previously in
22 that car. I told my home-boy, Bobby Golden, I said, there
23 he go right there, man, just step back and watch.

24 Q. Okay. Let me stop you for just a minute. Tell us a
25 little bit more about that car that you saw. Can you

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1 describe -- describe that car ---

2 A. It was a gray, four door, Honda Accord with tinted
3 windows.

4 Q. Okay. And that's the car you had seen him in before?

5 A. Yes, sir.

6 Q. That belonged to Tomeka Dennis?

7 A. Yes, sir.

8 Q. Now when the car -- did the car pull up and stop?

9 A. It pulled in diagonally and like in front of apartment
10 .

11 Q. Okay.

12 A. He got out of the driver's side. I was ---

13 Q. What did you do when he got out of the driver's side?

14 A. When he got out of the driver's side I was facing
15 toward his passenger door ---

16 Q. Okay.

17 A. --- 'cause he was -- he drove in diagonally. I got off
18 the sidewalk, I walked up to him -- towards him. As he came
19 around the trunk area of the car, I seen he had a gun in his
20 hand. By the time he was getting ready to raise the gun, I
21 took off running up the apartment complex and around the
22 building.

23 Q. Okay. And what happened when -- what ---

24 A. As I -- as he raised up the gun, I seen the gun, he
25 raised up the gun and shot a numerous amount of times. I

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1 can't remember how many because it was in the midst of the
2 heat of the moment, and I was taking off running.

3 But I heard several gunshots ---

4 Q. Okay.

5 A. --- as I stepped off the apartment complex, and I seen
6 him walking around the trunk area. And I seen visible a
7 gun. I didn't have a chance to pull out the knife.

8 I was fixin' to get ready to walk up on him to fight
9 him, but I seen the gun, and I know I didn't have enough
10 time to get to him. So I took off running, and he shot at
11 me.

12 Q. Okay. So the knife never came out of your pocket?

13 A. No, sir.

14 Q. Did -- were there any exchange of words between the two
15 of y'all?

16 A. When he pulled up and he was walking around, I said,
17 you want to fight a girl, fight me. And then as he came
18 around the trunk I seen the gun. And then he shot. And
19 then as I was running off I heard him say, shit real. And
20 then I kept on running around the apartment complex. When I
21 came out from around the apartment complex I ran to my home-
22 boy, Bobby Golden's apartment.

23 Q. Okay. Now, tell the jury what this gun looked like to
24 the best of your recollection.

25 A. It was chrome at the top and it was black on the

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- 1 bottom.
- 2 Q. Okay.
- 3 A. A semi-automatic handgun.
- 4 Q. Okay. How close did you get to him? Now, I know you
- 5 don't know the exact distance ---
- 6 A. If this is the sidewalk -- if this is the sidewalk,
- 7 what I was standing on, it was probably from -- to that
- 8 table right there where you're in front of ---
- 9 Q. How about this, I'm going to start walking towards you
- 10 and you stop me when you see how, roughly, how close he was
- 11 to you, okay?
- 12 A. Right there.
- 13 Q. Somewhere around right here? So what do you think that
- 14 is, maybe ten or ---
- 15 A. About ten feet.
- 16 Q. Ten to twelve ---
- 17 A. Ten, twelve, ---
- 18 Q. --- feet?
- 19 A. --- fifteen feet, yes, sir.
- 20 Q. Okay. And so that's when you saw him with the gun?
- 21 A. Yes, sir, at the back of the trunk area right there.
- 22 Q. Okay. And you remember which hand it was in?
- 23 A. It was in his right hand.
- 24 Q. Okay. Was he holding it up or was he holding it down
- 25 by his side?

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1 A. When he came out from around the trunk he had it -- he
2 had it in his -- by his side. And then when I -- when I
3 said, you want to fight a girl, fight me, he raised it up
4 and I took off running.

5 Q. And when he -- tell us how he raised it up. Did he
6 point it ---

7 A. He ---

8 Q. --- in any direction?

9 A. Yeah, I just seen it like that. And as I seen it like
10 this, it was raising up, I turned off.

11 Q. You saw it raising up towards you?

12 A. Yes, sir.

13 Q. Okay. And then you turned ---

14 A. And I turned and took off running, I heard multiple
15 gunshots.

16 Q. That's when you heard the shots, okay. How far did you
17 -- how far did you run?

18 A. I ran all the way as far as I could to the top of the
19 apartment complex. And as I was running I heard him say
20 shit real. And then I ran around the apartment complex.

21 And I steered into a apartment -- off of a apartment
22 balcony. I was trying to get into the other lady's door.
23 She wouldn't let me in. I took off running out from her
24 balcony and ran into another balcony, and I called the
25 police.

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1 And then I asked -- and then I called the police and I
2 told what happened, I need the police out there. And then I
3 called my home-boy, Bobby Golden, and I asked him where he
4 was at. And then he said that the man had done drove off.

5 And then I ran back around into his apartment building.
6 By that time the police came out there. And I walked out
7 there and told them what happened.

8 Q. Okay. So you -- so when you went back around the
9 apartment that was right before the police got there?

10 A. Yes, sir. I ran into my home-boy, Bobby Golden's
11 apartment, and asked him what happened.

12 Q. Okay.

13 A. I mean, what was -- I asked him where was he at before
14 I got in there. And then I ran around to the apartment.
15 And he said the dude's gone. So I ran back into the -- I
16 ran in his apartment. And then the police came out there.
17 And I came out there and told the police what the story was.

18 Q. Okay. Now, let's talk about something that happened a
19 couple of weeks later, okay? You went to a court hearing
20 for a charge that was related to this, right?

21 A. Pointing and presenting a -- discharging a firearm in
22 the city limits against Joseph Walker.

23 Q. That was in the Municipal Court? In the ---

24 A. Yes, sir.

25 Q. --- smaller court? Okay. Now, that was October the

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1 5th, 2011? Does that sound right?

2 A. Yes, sir.

3 Q. Okay. Now, when you went to that hearing you were
4 called as a witness?

5 A. Yes, sir.

6 Q. And what did you say when you were called as a witness
7 to testify on that date? What happened?

8 A. The day when he was being released out of jail ---

9 Q. We'll get to that in a minute. First let's start off
10 with what you said. When you got called to testify to the
11 judge ---

12 A. In Judge Holly's office.

13 Q. Uh-huh (affirmative).

14 A. I told him I do not remember what happened.

15 Q. You said you didn't remember what happened?

16 A. Yes, sir.

17 Q. Okay. And you told ---

18 A. Judge Holly that.

19 Q. Okay. Now, tell the -- and so tell the jury why you
20 said that.

21 A. Because on the day when he got out of incarcerated, as
22 a victim they called me and told me that he was being
23 released. So I called the probation office, I called
24 different people trying to see could they hold him in jail.

25 So they told -- I went to Judge Edwards ---

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1 **MR. SHEEK:** Objection to what anybody told him, Your
2 Honor.

3 **THE COURT:** Yes.

4 **Q.** Let's go to what happened at the courthouse that day.

5 **A.** I was approached by Joseph Walker and another
6 individual that was with him. And he was telling, there go
7 the nigga right there, man, why he show up, would you leave,
8 why you -- if you get locked up, I'm going to pay all fees
9 or whatever, why you showing up, why you coming up here like
10 that, man, what you going to do, man, I'm fixin' to go to
11 jail for this right here and all this extra stuff and what
12 he going to do to me if he go to jail.

13 **Q.** Okay.

14 **A.** So I went to the officer to try to get the officer to
15 tell him on this date what was happening because I had a
16 restraining order, and we was not supposed to be that close
17 together in the first place.

18 **Q.** So you ---

19 **A.** My ---

20 **Q.** --- got a restraining order?

21 **A.** My life is on the line. And I'm going to say all this
22 right here. Y'all didn't try to protect me in coming in
23 here ---

24 **Q.** Hold on, hold on. Slow down. And so this was all said
25 to you while you were waiting before that hearing?

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1 A. Yes, sir, in the hallway of the courtroom.

2 Q. And how did it make you feel when you ---

3 A. I was intimidated because I don't know who this other
4 guy was who was with him and I don't know what's going on.
5 If I leave out this door, I don't -- I'm saying I don't know
6 if he's going to follow me or whatever, I don't know what
7 the situation may be.

8 Q. Okay. So then you got called as a witness right after
9 that?

10 A. And then -- yes, sir.

11 Q. That's when you refused to testify?

12 A. Yes, sir. I told them that I didn't remember what
13 happened at the time because I didn't know the proper code
14 of ethnics [sic] of the courtroom to say at the time. So I
15 just say I didn't remember what happened.

16 Q. And then what happened to you when you said that?

17 A. When I -- when I said I didn't remember what happened,
18 the judge say, what, you don't remember what happened? Sit
19 down right there. I sat down. He charged me with contempt
20 of court for perjury.

21 Q. Okay.

22 A. And then I was incarcerated. And then the officer told
23 me, you stupid, you going to sit up ---

24 Q. Okay.

25 A. --- here and be the victim and let -- and let this man

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 go, and you going to jail ---

2 MR. SHEEK: Objection to what someone else said ---

3 THE COURT: Yes, sir, don't tell me what anyone told
4 you.

5 Q. Now, what -- so you actually went to jail for that?

6 A. Yes, sir.

7 Q. How long did you sit in jail?

8 A. Six days.

9 Q. Six days. Okay. All right. I'm going to ask you
10 this. This person that you just testified about who shot at
11 you on July the 20th of 2011, is he here in this courtroom
12 today?

13 A. Right there.

14 (Whereupon the witness pointed to the Defendant)

15 Q. Pointing to the Defendant, Joseph Walker?

16 A. Yes, sir.

17 Q. All right. Please answer any questions that the
18 defense attorney may have.

19 THE COURT: Mr. Sheek.

20 MR. SHEEK: Thank you, Your Honor.

21 **Cross Examination by Mr. Sheek:**

22 Q. Mr. Mattress, you said that you and Ms. Ray are still
23 on and off?

24 A. Yes, sir.

25 Q. Were you at her house last night?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 A. Yes, sir. I seen you outside.

2 Q. That's right. What were y'all doing there, just
3 spending time together?

4 A. Yes, sir.

5 Q. Okay. So you're on as of last night, right?

6 A. Yes, sir.

7 Q. Well, why wouldn't you just tell the jury I'm dating
8 her, I'm seeing her? Why say I'm not seeing her, well,
9 we're still on and off?

10 A. Because, I mean, you know how it be, attitudes get to
11 changing and certain things like that. And sometimes she
12 say, I don't want to deal with you no more because you
13 dealing with different issues and whatever.

14 Q. So you're saying you were wording it that way because
15 you didn't want to upset Ms. Ray?

16 A. I was what?

17 Q. You were wording it that way because you didn't want to
18 upset Ms. Ray?

19 A. I'm telling you that way because it's the truth. Me
20 and her date on and off sometimes. When we be together,
21 sometimes she's mad at me, sometimes I'm mad at her.

22 Q. Okay. When you get mad at people what kind of things
23 do you do?

24 A. Don't talk to them.

25 Q. Okay. Sounds ---

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 A. Don't be around.

2 Q. --- like you don't like Joe Walker. You don't like
3 him, do you?

4 A. I have no problem with him.

5 Q. You have no problem with the man that you say shot ---

6 A. Not before ---

7 Q. --- at you?

8 A. Not before this incident.

9 Q. Well, you went to his mama's house to have it out with
10 him because he was always upset with you, you testified to.

11 A. No, ---

12 Q. Isn't that right?

13 A. --- because he was calling my phone, always looking for
14 me, telling me what he going to do to me.

15 Q. Okay. So you got a man that's always calling your
16 phone telling you what you're going to do to you -- what
17 he's going to do to you. So you go to his mother's house to
18 confront him, but you've got no problem with him. That's
19 what you're telling this jury?

20 A. No, I didn't -- I had a problem up until that day when
21 I went to his house, when the incident happened.

22 Q. What day was that that you went to his mama's house?

23 A. About a month before the incident happened.

24 Q. Okay. So you went to his mama's house, not because you
25 were scared of him, were you?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 A. No.

2 Q. You went to confront him, didn't you?

3 A. If I was scared of him, I would have fought him -- I
4 wouldn't have been trying to fight him that day.

5 Q. Wasn't trying to fight him what day?

6 A. The day when he shot at me.

7 Q. Okay. So your intention that day was to go outside and
8 wait on him to fight him?

9 A. Yeah.

10 Q. Now you called the police, right?

11 A. Yes, sir.

12 Q. At the time you called the police you were hiding
13 behind apartment , correct?

14 A. It was -- I can't recall. It was behind somebody's
15 apartment.

16 Q. Okay. Well, so the jury understands, let's say that
17 wall behind is a row of apartments where Ms. Dennis lives.
18 She lives in apartment correct?

19 A. Ms. Dennis don't stay in ---

20 Q. I'm sorry, Ms. Ray. Lives in apartment right?

21 A. Yes, sir.

22 Q. Okay. And is roughly in the middle of this row of
23 apartments, isn't it?

24 A. About the third breeze-way down.

25 Q. Okay. How many breeze-ways are there?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 A. I don't recall.

2 Q. You don't recall?

3 A. I don't count them every day. I just know the
4 apartment crease is right there. Her breeze-way is the
5 third breeze-way from the crease. I don't know ---

6 Q. Now, when ---

7 A. --- about no ---

8 Q. --- you say a breeze-way, is that a way to go through
9 to the back of the apartment?

10 A. No, sir. It's a walkway where you walk up the wood
11 steps and get to two doors.

12 Q. Okay. Because the only way you can get to the back of
13 the apartments is go around one end of this row of
14 buildings, correct?

15 A. Yes, sir.

16 Q. And would you agree with me if I were to say that row
17 of buildings is forty-four apartments long? Does that sound
18 about right?

19 A. I don't know. I can't recall. It's somewhere
20 probably.

21 Q. Well, ---

22 A. I mean, it's several car lengths.

23 Q. All right. When you walked out of that apartment to
24 wait on Mr. Walker, as you've testified to, where were you
25 standing?

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 A. I was standing at the point where you was -- where I
2 seen you last night.

3 Q. You were out in the parking lot or were you standing
4 ---

5 A. I was standing on the breeze-way, on the sidewalk.

6 Q. Okay. You were on the sidewalk. Were you standing in
7 front of apartment

8 A. No, sir. I was standing probably around .

9 Q. Okay. And why had you walked down there?

10 A. 'Cause I walked to my home-boy, Bobby Golden's house.
11 He stays in . I went and got him.

12 Q. Okay.

13 A. And as we was standing on the sidewalk talking, telling
14 that the dude fixin' to come out here, that I need you to
15 watch me fight this dude.

16 Q. Okay. Why did you need him to watch you?

17 A. I mean, because I didn't know who he was going to have
18 with him or what.

19 Q. That's the reason you went armed with a weapon?

20 A. I had a knife out of his apartment.

21 Q. Okay. Well, a knife is a weapon, wouldn't you agree?

22 A. Yes, sir.

23 Q. And you took it out there with you to fight Mr. Walker?

24 A. Yes, sir.

25 Q. All right. So you're standing on the sidewalk roughly

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 in front of apartment ?

2 A. Yes, sir.

3 Q. Okay. And the parking places there are numbered,
4 correct?

5 A. Yes, sir.

6 Q. Now, when you say you saw this gray Honda Accord come
7 in, which direction did it come from, your right or your
8 left?

9 A. If I'm standing on the apartment -- and her apartment
10 is behind me, ---

11 Q. Uh-huh (affirmative).

12 A. --- and I'm on the breeze-way, ---

13 Q. Yes, sir.

14 A. --- he came from the left.

15 Q. Okay.

16 A. Towards the entrance, coming around the curve, going
17 over the speed bumps. Then he pulled in diagonally.

18 Q. Okay. And pulled in diagonally where?

19 A. In front of apartment .

20 Q. Okay.

21 A. In between and .

22 Q. Okay. When he gets out of the car are you standing in
23 front of him, to the right of him, to the left of him?

24 Where were you standing?

25 A. When he gets out of the car, the car was like right

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- 1 there in this area. He walks around -- get out the driver
2 side door, ---
3 Q. Uh-huh (affirmative).
4 A. --- when he gets to the trunk, I'm standing like a
5 diagonal angle, ---
6 Q. Diagonally ---
7 A. --- in front of another car. A gray car is right
8 behind me.
9 Q. Okay. Now, were you to his left diagonally, I mean,
10 his right diagonally or to his left diagonally?
11 A. To his -- if me and you -- you are him, ---
12 Q. Direct me which way to go.
13 A. That way.
14 Q. Okay. So when he comes out he's standing shooting at
15 you at a diagonal ---
16 A. No. I'm over -- he's over there. I'm over this way.
17 Q. Okay.
18 A. He gets out of the car this way, walks around the
19 trunk, ---
20 Q. Okay. So you're standing there, apartments are behind
21 you?
22 A. Yes.
23 Q. Okay.
24 A. And he -- and you are him.
25 Q. And you said this is about the right distance when you

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1 were demonstrating with ---

2 A. A little farther up, right there around the edge of
3 that table.

4 Q. Okay. Is this about the right angle?

5 A. Yes, sir.

6 Q. Okay. And when he pulls the weapon out how far do you
7 run before he fires the first shot?

8 A. I didn't run towards him. When I seen the -- when I
9 seen the gun, I ran off, away from him.

10 Q. I understand that. How far did you run before he fires
11 the first shot?

12 A. Wasn't nothing but a couple of steps.

13 Q. Okay.

14 A. As soon as I turn I hear a couple -- as soon as I turn
15 I hear pow, pow, pow, pow.

16 Q. Now these apartments that are behind you are two
17 levels, right?

18 A. Yes, sir. Three if you count the one that's up under
19 the ground.

20 Q. Okay. I'll hand you a series of photographs that was
21 provided to me by the Greenville forensics. Is that a --
22 look like a copy of photographs of the ---

23 A. Yes, sir.

24 Q. Okay. I tell you what, let me hand you a better
25 photograph the solicitor's provided me. Does that look like

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1 an accurate description of this parking lot at these
2 apartment buildings?

3 A. Yes, sir.

4 Q. And so Mr. Walker's standing roughly at this angle.
5 Your back's to the apartments, correct?

6 A. Yes, sir.

7 Q. He fires how many shots to your recollection?

8 A. It was multiple amounts. I don't remember how many
9 exactly because I was running for my life.

10 Q. Okay. Was he pointing the gun in your direction?

11 A. Yes, sir. I seen him when he -- as he raised up -- I
12 don't know which way he was pointing the gun, I just seen --
13 as he raised it -- I'm not trying to see if he's going to
14 shoot me in the face, I just turned and ran.

15 Q. Okay. So he would have been shooting directly towards
16 these apartment buildings?

17 A. A car was behind me. He would have shot one of them
18 cars, or the apartment buildings, or something, something
19 like that. Kids was on the porch up there.

20 Q. And, Mr. Mattress, you just told us you were standing
21 on the sidewalk.

22 A. I walked off the sidewalk when I walked towards him.
23 And as I -- as he got to the trunk I seen the gun and I seen
24 him fixin' to raise the gun up, and I took off running.

25 Q. You got to the trunk of what when you saw ---

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1 A. I said he got out his driver side door of the gray
2 Honda Accord.

3 Q. Okay.

4 A. He was walking towards the trunk of his car. I got off
5 the sidewalk and I was walking towards him. As he got
6 towards the trunk I seen him raising up the gun when I seen
7 his -- half of his body visible.

8 Q. Okay. How far did you make it towards him before ---

9 A. Probably ---

10 Q. --- the shots ---

11 A. --- two or three steps. And then I turned and ran.

12 Q. If you made it two or three steps and you were standing
13 on the sidewalk you could not have been more than a step or
14 two off onto the pavement, correct?

15 A. Yeah.

16 Q. All right. So he would have been shooting towards the
17 apartment complex?

18 A. I said that, and cars and whatever.

19 Q. Now, that's a gray Mitsubishi Gallant parked ---

20 A. That's the car -- when he pulled in right there, that
21 car was not right there. He pulled in right there. And I
22 was on the sidewalk. And then as he got off -- as he got
23 out the car, I came off the sidewalk. When I seen half this
24 area visible, which is when he got to his trunk area, when
25 he was walking around the trunk, I took off running. And I

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1 ran in between these cars and ran up the sidewalk and ran
2 all the way up this way and around the apartment building.

3 Q. Okay. That's my question. You ran to the right?

4 A. Yeah, I ran up towards his -- yes, sir, and around the
5 apartment building. I came back at Bobby Golden's
6 apartment, which is on the other end.

7 Q. So you would have -- the apartment you were hiding
8 behind, though, is on the left hand, right?

9 A. What you mean?

10 Q. 243. You were at the mailboxes behind apartment ,
11 isn't that correct?

12 A. I ain't never said I was at no mailboxes behind no .

13 Q. Where were you when you were hiding on ---

14 A. I was at somebody's breeze-way. I was running for my
15 life. I didn't know if this guy was chasing after me. I
16 stopped and called the police and I called my home-boy,
17 Bobby Golden. And I asked him where was the guy? He said
18 the guy had just done left, to ---

19 Q. Listen to my ---

20 A. --- come on.

21 Q. --- questions. Mr. Mattress, listen to my questions.
22 When you were on this breeze-way, where was it? Was it
23 towards the center complex? Was it on the end?

24 A. On what breeze-way?

25 Q. When you were hiding behind the apartments.

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1 A. It was like in the -- in the -- I ran behind the
2 apartment building. I tried to run into this lady's door.
3 I don't know which -- in front of which apartment it was.
4 It couldn't have been no 2 -- I don't know about no . I
5 don't know which one it was. I was running for my life. It
6 was in the back. It ain't no number right there on the
7 door. If I'm running for my life, I'm not looking on
8 nobody's door trying to see what number they in. I'm in
9 , ---

10 Q. Mr. Mattress, ---

11 A. --- come and ---

12 Q. --- listen to my question.

13 A. I done been shot at by a guy named Joseph Walker is
14 what I told the officer.

15 Q. And you're adamant about that, right?

16 A. What?

17 Q. You're adamant about that?

18 A. No, I'm just telling you what happened. I'm not
19 looking for the details and people's apartment buildings and
20 how many steps ---

21 Q. That's fine, ---

22 A. --- that I took when I'm running for my life.

23 Q. --- Mr. Mattress.

24 **THE COURT:** All right. Slow down. Slow down.

25 Q. Listen to me now. We are looking for details here:

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1 You understand that?

2 A. Well, you asking me for details that I can't give you
3 while I'm running for my life.

4 Q. That's fine. If you -- if you don't know, then tell us
5 you don't know.

6 A. I done told you several amount of times.

7 Q. Well, you haven't listened to the question yet. You
8 want to hear the question before you answer it?

9 A. (No response).

10 **THE COURT:** All right. Ask him the question again.

11 Q. Do you recall, yes or no, where in the back of these
12 apartment complexes you were hiding?

13 A. I ran into several like I told you before.

14 Q. Did the police give you an opportunity to give a
15 written statement?

16 A. Yes, sir.

17 Q. And did you give them a written statement?

18 A. Yes, sir.

19 Q. I'm going to hand you a copy of that and ask you is
20 that the written statement that you gave the police?

21 A. Yes, sir.

22 Q. Okay. Can you please reference on there where it says
23 that Mr. Walker called you and said I got something for you,
24 I'm going to come do something to you or whatever -- however
25 you put it to the jury? Direct me to that part there.

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1 A. It ain't on this statement where he said ---

2 Q. Why?

3 A. Huh?

4 Q. Why?

5 A. Because she wrote that part or whatever, I guess. They
6 asked me who shot at me.

7 Q. Well, I'm sure they ---

8 A. They asked me -- they said that I was shooting. They
9 asked me who shot at me. I had on a number 5 jersey. And
10 then they said somebody who was running around the back of a
11 number 5 jersey must have been a suspect or the shooter.

12 And then they came -- as soon as I came out of Bobby
13 Golden's apartment, they got me. They didn't ask me about
14 what did the guy shoot at me over. They asked -- I told
15 them, I'm the one that called them because Joseph Walker
16 shot at me out here. It wasn't about no -- a phone call or
17 none of that. I didn't tell them ---

18 Q. Didn't talk about that?

19 A. --- that at the point. I didn't -- I told them that
20 Joseph Walker shot at me in in front of Amanda
21 Ray's apartment. That's what I told them.

22 Q. Okay. And you told them nothing else?

23 A. No, not til they got there because I was running for my
24 life. And I called Bobby Golden as soon as I got off the
25 phone.

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1 Q. Well, Mr. Mattress, you didn't give the written
2 statement until after the police were there ---

3 A. Yeah.

4 Q. Okay. And nowhere in the written statement did you put
5 anything about phone calls from Joseph Walker or him making
6 any threats to you anywhere in there, is there?

7 A. No.

8 Q. And that's because you didn't tell the police that,
9 isn't it?

10 A. No, it wasn't serious, I mean, it wasn't about no
11 threats. He came over there and he shot at me 'cause I told
12 him that I'd be right here.

13 Q. Okay. Well, tell me in there where you said I told him
14 I'll be right here.

15 A. He knew where I was at. I was laying in the bed with
16 the phone number where he called. He knew where I was at.

17 Q. It's not in there, is it?

18 A. It didn't have to be there. It was on the phone. He
19 ---

20 **THE COURT:** All right.

21 A. --- called directly to her ---

22 **THE COURT:** Hold ---

23 A. --- house phone number.

24 **THE COURT:** Hold on, hold on, hold on. Let's move on
25 to something else now, Mr. Sheek.

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 **MR. SHEEK:** Okay.

2 **THE COURT:** He's answered.

3 Q. Now you've described this gun. Describe it for me to
4 the best of your ability, everything you can remember about
5 it.

6 A. It was black and it was silver at the top.

7 Q. Okay. You're sure of that?

8 A. Yep.

9 Q. Okay. Describe the car that Joseph Walker, you say,
10 was driving ---

11 A. It was a gray, four door, Honda Accord.

12 Q. Okay. Dark gray, light gray?

13 A. Light gray, smoke gray. I mean, light gray with black
14 tint.

15 Q. Okay. Four door?

16 A. Yes, sir.

17 Q. You're sure of that?

18 A. Yes, sir.

19 Q. Now, have you ever been shown a photo line-up? That
20 is, a series of pictures where you're asked to pick out
21 which individual shot at you?

22 A. The day of the incident when they called me to the car
23 showing me several pictures and asked me which one -- which
24 one is the guy.

25 Q. So it's your testimony you were shown more than one

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 photograph?

2 A. I was showed the photo when I was in front of the car
3 after it happened.

4 Q. How many photographs -- how many different individuals
5 were you shown pictures of?

6 A. I don't recall the exact amount. It was a couple of
7 different photos.

8 Q. Okay. And they were different individuals?

9 A. Yes, sir.

10 Q. And you were asked to pick out ---

11 A. Which one was him.

12 Q. Okay. Who did that?

13 A. The officer that was -- I don't know which officer it
14 was, but it was several different officers. One took my
15 statement, one called me to the car. It was another woman
16 that was out there. They called me to the car and they
17 asked me which one of these is him. They flipped through
18 different photos. And it didn't have no name or nothing.
19 It was just a picture. And then when they got to it, I said
20 that one right there.

21 Q. Okay. And of that you're positive?

22 A. Sir?

23 Q. And of that you are positive?

24 A. Yes, sir.

25 Q. Now, you were currently charged, as you said to Mr.

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1 Moyer, with perjury relating to this event, correct?

2 A. Yes, sir.

3 Q. And you said the judge charged you. I want to hand you
4 a copy of your warrant.

5 MR. MOYER: I would object to this warrant. I mean,
6 it's out there that he's been charged with perjury. I don't
7 think there's anymore relevance to any further details ---

8 A. Officer Rackley charged me ---

9 THE COURT: Hold on. Take the jury out, please.

10 (Whereupon the jury exited the courtroom at 12:26 pm)

11 THE COURT: All right. Now, what's the relevance of
12 the warrant?

13 MR. SHEEK: Your Honor, his testimony to the jury was
14 that the jar -- the judge, excuse me, had him charged with
15 perjury. And I just want to clarify he was charged with
16 perjury by the Greenville City Police Department.

17 A. Officer Rackley.

18 THE COURT: Hold on.

19 MR. SHEEK: It was not a judicial action because it was
20 an action of the police department.

21 MR. MOYER: Well, Judge, -- I'm sorry, I didn't mean to
22 cut you off.

23 MR. SHEEK: No, no, no.

24 MR. MOYER: I wanted to say that, I mean, that officer
25 is going to, you know, would testify according to his

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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1 reports that Judge Holly looked at that and said -- charge
2 like that with perjury. So while, yes, I mean, only an
3 officer can take out a warrant, Judge Holly, ---

4 **THE COURT:** Well, and what do you want to do with this
5 witness?

6 **MR. SHEEK:** I'm going to follow up with is the charge
7 still pending? And does his testimony here today ---

8 **THE COURT:** Well, I mean, why do you need the paper
9 warrant?

10 **MR. SHEEK:** I was simply going to clarify for the jury
11 the judge didn't charge him with anything. He was charged
12 by the police department.

13 **THE COURT:** Well, ---

14 **MR. MOYER:** I mean, I think that's a distinction
15 clearly, I mean, I'm not sure what the relevancy of that is.

16 **THE COURT:** Well, and, of course, that would not be
17 something that he would necessarily know. So we're not
18 going to use the warrant, okay?

19 **MR. SHEEK:** That's fine.

20 **THE COURT:** All right. Bring the jury.

21 (Whereupon the jury entered the courtroom at 12:30 pm)

22 **THE COURT:** All right. You may continue, Mr. Sheek.

23 **MR. SHEEK:** Thank you, Your Honor.

24 **Cross Examination by Mr. Sheek Continued:**

25 Q. Mr. Mattress, so that I'm clear, this happened about

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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- 1 7:00, is that correct?
- 2 A. Somewhere right in there, yes, sir.
- 3 Q. Daylight outside?
- 4 A. (Affirmative nod).
- 5 Q. Is that a yes?
- 6 A. Yes, sir.
- 7 Q. Plenty of visibility?
- 8 A. Yes, sir.
- 9 Q. Now the solicitor asked you about a number of prior
- 10 convictions. I just want to make sure I've got it right.
- 11 Did you say ten burglaries?
- 12 A. Something like that. I don't know.
- 13 Q. You don't remember how many burglary convictions you
- 14 have?
- 15 A. (Negative nod).
- 16 Q. Five grand larcenies?
- 17 A. (Affirmative nod).
- 18 Q. Does that sound about right?
- 19 A. Yes, sir.
- 20 Q. Is that what you said yes to when he asked you?
- 21 A. Yes, sir.
- 22 Q. Okay. Malicious injury to property?
- 23 A. Yes, sir. Armed robbery.
- 24 Q. And you're currently indicted for perjury wherein the
- 25 State alleges that you lied under oath about this incident

TYLER MATTRESS - CROSS EXAMINATION BY MR. SHEEK

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- 1 involving Mr. Walker, correct?
- 2 A. Yes, sir.
- 3 Q. Has that charge been disposed of?
- 4 A. No, sir.
- 5 Q. Still pending?
- 6 A. Yes, sir.
- 7 Q. And how does your testimony here today affect that
- 8 charge?
- 9 A. It doesn't.
- 10 Q. It doesn't?
- 11 A. (No response).
- 12 Q. When's the last time you talked with the solicitor
- 13 about what you were going to testify to?
- 14 A. I ain't talked to him until out here.
- 15 Q. You talked to him ---
- 16 A. Out here when they subpoenaed me to come to court and I
- 17 came here today.
- 18 Q. Okay. And that's the first time you've talked to
- 19 anybody about your testimony?
- 20 A. My lawyer.
- 21 Q. Your lawyer. Is that relating to the perjury charge?
- 22 A. Yes, sir.
- 23 Q. Y'all trying to get something worked out on that?
- 24 A. Ain't no trying to get -- whatever he going to do,
- 25 however he going to do it. I don't know.

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. And are you telling this jury you don't expect
2 your testimony here today to help you out on your pending
3 perjury charge?

4 A. No.

5 Q. You don't expect it to help you out?

6 A. Uh-uh (negative).

7 Q. When you told that judge in October of 2011 that you
8 didn't remember anything, were you lying?

9 A. Yes, sir.

10 Q. And you were lying under oath?

11 A. Yes, sir.

12 Q. Well, why didn't you just plead guilty to it?

13 A. Why didn't I just plead guilty to it?

14 Q. I mean, why is it still pending?

15 A. I don't have no -- I have no jurisdiction to when they
16 call me to court.

17 Q. Okay. But you were charged in October of 2011, right?

18 A. Yes, sir.

19 **MR. SHEEK:** I've got no further questions.

20 **THE COURT:** Any redirect?

21 **MR. MOYER:** I do have a few questions, Your Honor.

22 **Redirect Examination by Mr. Moyer:**

23 Q. First off, Mr. Mattress, to make sure we're clear on
24 one thing, now you've met with me several times, right,
25 before court?

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

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1 A. The other day, I mean, this morning.

2 Q. Okay. You've met with me a few times in the past few
3 months?

4 A. October, November, something like that ---

5 Q. In my office?

6 A. Something -- November, something, one of them days.

7 Q. Okay. And about a week ago or so we met and talked
8 about ---

9 A. Yes, sir.

10 Q. At any point did I or any of these officers tell you
11 what to say?

12 A. Nobody has never told me what to say, coerced me what
13 to say, or promised me anything about no perjury charge ---

14 Q. Okay.

15 A. --- or how if I say something about this today that it
16 would affect the outcome of that.

17 Q. Did anyone insinuate ---

18 A. No, sir.

19 Q. --- in any way to you what to say?

20 A. No, sir.

21 Q. Did we kind of ask you to tell us what happened, is
22 that right?

23 A. I'm telling what happened, the truth.

24 Q. Okay. There was a few -- you were questioned quite a
25 bit on where you were standing and where this happened. I

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

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1 want to go over that just a little bit more with you just to
2 make sure we're clear on that.

3 (Whereupon State's exhibit 1 was marked for
4 identification)

5 Q. So to do so let me ask you to take a look -- take a
6 look at State's exhibit number 1. Do you recognize what's
7 shown in that photograph?

8 A. Yes, sir.

9 Q. Is that the apartments out there at ?

10 A. Yes, sir.

11 Q. Is that a true and accurate representation of the way
12 things looked the day this incident happened?

13 A. Yes, sir, except for that car wasn't right there.

14 Q. Okay.

15 **MR. MOYER:** Your Honor, at this time I'd move to have
16 State's exhibit 1 entered into evidence.

17 **THE COURT:** Any ---

18 **MR. SHEEK:** No objection.

19 **THE COURT:** --- objection? Without objection.

20 (Whereupon State's exhibit 1 was admitted into
21 evidence)

22 Q. Okay. I'm going to ask you -- we're going to show this
23 behind you. Let me ask you to step around over here, okay?
24 Can you step off the witness stand?

25 (Whereupon the witness left the witness stand)

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

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1 Q. I'm not sure I can reach that screen, but I'm going to
2 try. Maybe step around to where that microphone is in front
3 of the Court. All right, Mr. Mattress. This is State's
4 exhibit number 1 being shown on the screen. And let's take
5 just a minute here to show the jury what we're looking at.

6 Here, I'm going to ask you to take this pen. See that
7 button on top, that's a laser pointer, okay? Can you start
8 off by showing us where Amanda Ray's apartment was?

9 A. Right there.

10 Q. Right where those people are standing?

11 A. That's me.

12 Q. Okay. And, in fact, that's you right there. Okay.

13 Now, can you show us where Joseph Walker's car parked when
14 he pulled up?

15 A. Right here in this area.

16 Q. Right in that area there. Okay. Now, can ---

17 A. I was on the sidewalk right up there.

18 Q. Kind of behind that car?

19 A. That car wasn't there.

20 Q. So that car wasn't there when the shooting happened?

21 A. No, sir.

22 Q. How about that car behind it, was that car there?

23 A. That car was there.

24 Q. Okay. And so when he parked where did you walk?

25 A. I was standing right there when he came out from around

TYLER MATTRESS - REDIRECT EXAMINATION BY MR. MOYER

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1 the car this way right til he got to the trunk area and I
2 seen him visible, had the gun. And I ran off -- I got off
3 the -- came off the sidewalk while he was walking around to
4 that. And then by the time I got right around to this area
5 I noticed he was coming around the car and the trunk ---

6 Q. Okay.

7 A. --- area and raised the gun up.

8 Q. So kind of show us -- you've got to show us where you
9 were when you saw him raise the gun and you turned around to
10 run away.

11 A. Right around this area.

12 Q. Right around where the back end of that car is?
13 Somewhere in that area?

14 A. Uh-huh (affirmative).

15 Q. Show us where you ran. Use that laser pointer.

16 A. I ran -- I was right there. I ran around that car
17 right there and ran up this way right there all the way
18 around the apartment complex ---

19 Q. And then that's where you ---

20 A. --- to the back.

21 Q. --- started hiding in people's breeze-ways ---

22 A. When I got around to the back.

23 Q. Okay. Okay. You can have a seat again, please. Thank
24 you.

25 (Whereupon the witness returned to the witness stand)

TYLER MATTRESS - RECROSS EXAMINATION BY MR. SHEEK

76

1 Q. So there was plenty of light out there when this
2 happened? You didn't have any trouble seeing him?

3 A. No, sir.

4 Q. Is there any question in your mind that the person you
5 saw shooting at you was this Defendant, Joseph Walker?

6 A. No, sir.

7 Q. Okay.

8 MR. MOYER: Nothing further.

9 MR. SHEEK: Brief on recross.

10 **Recross Examination by Mr. Sheek:**

11 Q. Mr. Mattress, you told me, and I asked you if you were
12 sure, that you hadn't talked to anybody from the Solicitor's
13 Office from the day this happened until this morning when
14 you got to court. Isn't that what you told me?

15 A. Just after I got a card from him yesterday, talked to
16 him the other day.

17 Q. All right. And when he got up on redirect he said now
18 you've talked to me several times over the last few months,
19 right?

20 A. It ain't been over no few months. It was November or
21 something.

22 Q. Okay.

23 A. The last time I talked to him. And I talked to him the
24 other day.

25 Q. Okay. So you have talked to him several times?

TYLER MATTRESS - RECROSS EXAMINATION BY MR. SHEEK

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1 A. Yes, sir.

2 Q. Okay. So when you told me you hadn't, why did you tell
3 me that?

4 A. Because you asked me was it concerning something that
5 got to do with that case, perjury case.

6 Q. No, sir. I asked you when the last time you met with
7 the solicitor was, didn't I?

8 A. You asked me did it have something to do with that
9 perjury case and do it affect the perjury case. That's what
10 you asked me.

11 Q. Really ---

12 A. Have I met with him concerning this perjury case and
13 the effects -- have I been promised -- do anything to affect
14 this perjury case.

15 Q. Okay.

16 (Pause)

17 **THE COURT:** All right. Anything else?

18 **MR. SHEEK:** No, sir. That's fine.

19 **THE COURT:** Thank you. Step down. All right. Ladies
20 and gentlemen, at this time we'll suspend for lunch and
21 we'll pick back up after lunch.

22 Before I let you go I want to read to you an order
23 issued by the Chief Justice of our Supreme Court concerning
24 your duty as a juror on this case. So if you would please
25 give me your attention.

1 The use of personal communication devices has continued
2 to increase dramatically. Accordingly, I find it necessary
3 to supplement my order of August 25, 2000 related to the use
4 of pagers, cell phones and other personal communication
5 devices in courtrooms to include the following direction to
6 the court.

7 The court shall instruct jurors selected to serve on a
8 jury that until their jury service is concluded they shall
9 not (A) Discuss the case with others, including other jurors
10 except as otherwise authorized by the court. (B) Read or
11 listen to any news reports about the case. (C) Use a
12 computer, cellular phone or other electronic device with
13 communication capabilities while in attendance at trial or
14 during deliberation. These devices may be used during lunch
15 breaks, but may not be used to obtain or disclose
16 information prohibited in subsection (D) below.

17 And subsection (D) below reads, use a computer,
18 cellular phone or other electronic device with communication
19 capabilities or any other method to obtain or disclose
20 information about the case when they're not in court.
21 Information about the case includes, but is not limited to
22 the following; information about a party, witness, attorney
23 or court officer, news accounts about the case, information
24 collected through juror research on any topics raised or
25 testimony offered by any witness and, finally, information

1 collected through juror research on any other topic the
2 juror might think would be helpful in deciding the case.
3 Notice of the contents of this order shall be given to
4 jurors.

5 Now, with that, we'll recess for lunch. During the
6 recess do not talk to this case [sic] among yourselves or
7 with anyone else. If anybody contacts you and tries to talk
8 to you about the case, get their names and addresses and
9 report that to me.

10 Please keep your badges on during the lunch recess. I
11 ask that you do that so that everyone involved with this
12 case will know that you are a juror and it would be highly
13 improper for them to talk about or discuss this case in your
14 presence. So please keep your badges on during recess.

15 I'll ask that you be back in your juror room where
16 you've been on recess at 2:15, 2:15. Thank you. See you
17 back then.

18 (Whereupon the jury exited the courtroom at 12:42 pm)

19 **THE COURT:** All right. See you back at 2:15.

20 (Whereupon court was in recess at 12:42 pm)

21 (Whereupon State's exhibits 2 - 6 were marked for
22 identification)

23 (Whereupon court resumed at 2:19 pm)

24 **THE COURT:** Be seated. Be seated. All right.

25 Gentlemen, anything before I bring the jury?

TOMEKA DENNIS - DIRECT EXAMINATION BY MR. MOYER

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1 **MR. MOYER:** Judge, I'm not sure if the witnesses are
2 back yet. They weren't as of a minute ago. Let me go out
3 and see what's going on.

4 THE COURT: Well, how about check and see.

5 MR. MOYER: I will.

6 (Pause)

7 **MR. MOYER:** Judge, I'm told they're coming up the
8 elevator now.

9 (Pause)

10 **MR. MOYER:** We're ready to go, Judge.

11 **THE COURT:** All right. Bring our jury, please.

12 (Whereupon the jury entered the courtroom at 2:24 pm).

13 **THE COURT:** Okay. Solicitor, you may proceed.

14 **MR. MOYER:** Thank you, Your Honor. May it please the
15 Court. The State calls Tomeka Dennis to the stand.

16 **MADAME CLERK:** Put your left hand on the Bible and
17 raise your right.

18 **Tomeka Dennis**, being duly
19 sworn testified as follows:

20 **MADAME CLERK:** Please have a seat. And state your full
21 name for the record.

22 MS. DENNIS: Tomeka Shontay Dennis.

23 Direct Examination by Mr. Moyer:

24 Q. All right, Ms. Dennis, how old are you?

25 A. Thirty-one.

TOMEKA DENNIS - DIRECT EXAMINATION BY MR. MOYER

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- 1 Q. Thirty-one years old. Now you have how many children?
- 2 A. I have a total of three.
- 3 Q. Okay. And do you know this Defendant seated over here,
- 4 Joseph Walker?
- 5 A. Yes.
- 6 Q. Okay. How do you know him?
- 7 A. We have kids together.
- 8 Q. You have two children together, right?
- 9 A. Yes.
- 10 Q. How old are your two children with him?
- 11 A. They're twelve months.
- 12 Q. Okay. So how long -- so you -- do you still -- well,
- 13 how long ago were you dating Joseph Walker?
- 14 A. We've been dating for quite some time on and off.
- 15 Q. Okay. What do you mean by quite some time?
- 16 A. Probably since '99.
- 17 Q. Okay. So over ten years?
- 18 A. Um-hum (affirmative).
- 19 Q. Now, in fact, you still see him about once a week. You
- 20 take the children ---
- 21 A. Yes.
- 22 Q. --- and you still see him, is ---
- 23 A. Yes, I do.
- 24 Q. --- that right? Okay. Now, what kind of car do you
- 25 have?

TOMEKA DENNIS - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. A 2004 Honda Accord.
- 2 Q. What color is it and how many doors?
- 3 A. It's a four door, silver.
- 4 Q. Okay. Silver. And how long have you had that car?
- 5 A. Maybe two years, three years.
- 6 Q. Okay. You had it back in July of 2011?
- 7 A. Yes, sir.
- 8 Q. Okay, when this incident happened. And Joseph Walker,
- 9 did he used to stay with you?
- 10 A. No. He used to visit.
- 11 Q. He used to visit?
- 12 A. Yes.
- 13 Q. But he used to use your car a lot, isn't that right?
- 14 A. No. He used to use it from time to time, not a lot.
- 15 Q. Okay. You would allow him to use it?
- 16 A. Yes.
- 17 Q. Okay. And did -- and he would use it -- well, you know
- 18 who Amanda Ray is, don't you?
- 19 A. I do.
- 20 Q. Okay. And you know he has two children with Amanda
- 21 Ray?
- 22 A. I do.
- 23 Q. And he used to go get the children, wouldn't he?
- 24 A. Yes.
- 25 Q. And he used to use your car to go get the children over

TOMEKA DENNIS - CROSS EXAMINATION BY MR. SHEEK

83

1 there?

2 A. Yes.

3 Q. Okay. Okay.

4 **MR. MOYER:** Nothing further for this witness.

5 **Cross Examination by Mr. Sheek:**

6 Q. Ms. Dennis, let me hand you a copy of a photo, 2004
7 silver Honda Accord. Does that look like your car? I'm not
8 saying is it your car, but does that ---

9 A. It's similar, but the wheels are different.

10 Q. Okay. So other than the wheels, that's the year and
11 make, model ---

12 A. Yes.

13 Q. --- of your car?

14 A. Um-hum (affirmative).

15 **MR. SHEEK:** I'd move to mark that into evidence as
16 Defense 1.

17 **MR. MOYER:** Okay. I have no objection.

18 **THE COURT:** Without objection.

19 (Whereupon Defendant's exhibit 1 was marked and
20 admitted into evidence)

21 Q. Ms. Dennis, did the police come and talk to you about
22 this incident?

23 A. Never.

24 Q. Do you recall them coming and talking to you in March
25 of 2013?

TOMEKA DENNIS - CROSS EXAMINATION BY MR. SHEEK

84

1 A. Yes.

2 Q. Is that the first time they approached you and talked
3 to you?

4 A. It was.

5 Q. Have they ever come out and asked to look at your car,
6 take pictures, take a statement or anything prior to talking
7 to you in March of this year?

8 A. No, sir, never.

9 Q. When the police talked to you did they put pressure on
10 you to give a statement or anything of that nature?

11 A. When the Detective Thomas came out she kept stating
12 that she just needed a statement from me stating that I
13 wasn't in the car. But as I stated to her, I never recalled
14 this incident until Joseph was arrested from my house.

15 Q. Do you recall any incidents where Joseph left your
16 house angry or upset in your car?

17 A. No, sir.

18 Q. Do you recall him coming home agitated, upset or angry?

19 A. No, sir.

20 Q. So the first you know about it is when he got arrested?

21 A. Correct.

22 Q. Thank you.

23 MR. SHEEK: That's all I have.

24 THE COURT: Step down.

25 MR. MOYER: Your Honor, just a follow-up question.

TOMEKA DENNIS - REDIRECT EXAMINATION BY MR. MOYER

85

1 THE COURT: Okay.

2 Redirect Examination by Mr. Moyer:

3 Q. Just to make sure we're clear on this. This photograph
4 that's been entered, that's not actually your car, ---

5 A. Correct.

6 Q. --- right?

7 A. No.

8 Q. Okay. So this is just the same year, make?

9 A. Right.

10 Q. Okay. And it's kind of a black and white photograph.
11 So we can't even tell if it's the same color, right?

12 A. I mean, it is -- it looks silver from the photo.

13 Q. It looks similar to that?

14 A. Yeah, I mean, the same make and model.

15 Q. Same make and model?

16 A. Um-hum (affirmative).

17 Q. Same year?

18 A. Right.

19 Q. But just -- that's not your car? I just want to make
20 sure we're clear on that.

21 A. (Affirmative nod).

22 Q. Is that true?

23 A. I mean, I can't tell if it's my car because ---

24 Q. Okay.

25 A. --- I don't see the tag number or anything. I mean, it

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

86

1 could be. I'm not sure. I can't even determine ---

2 Q. Okay.

3 A. But, no, I don't think it is.

4 Q. Okay. And there's no question you were not with Joseph

5 Walker over at on July 20th of 2011?

6 A. No.

7 Q. You were not in the car with him?

8 A. I can't even recall this day, sir. So I can't say that

9 he even had -- this incident occurred or if he was in my

10 car.

11 Q.. Okay. Thank you.

12 **MR. MOYER:** Nothing else. The State calls Amanda Ray.

13 **MADAME CLERK:** Ms. Ray, if you'd come forward. If

14 you'd put your left hand on the Bible and raise your right.

15 **Amanda Ray,** being duly

16 sworn testified as follows:

17 **MADAME CLERK:** Will you, please, come around and have a

18 seat and state your full name for the record.

19 **MS. RAY:** Amanda Latonya Francella Ray.

20 **Direct Examination by Mr. Moyer:**

21 Q. Okay, Ms. Ray, I'm going to ask you questions from over

22 here. And I want to make sure that when you answer the

23 question don't just do a nod, yes or no. Make sure you

24 answer -- answer yes or no. And you can speak into the

25 microphone so everybody can hear you, okay?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. Um-hum (affirmative).
- 2 Q. Okay. All right. Now, how old are you?
- 3 A. I'll be thirty-three in August.
- 4 Q. Okay. Let me ask you to move up a little bit closer to
- 5 that microphone. You'll be thirty-three in August?
- 6 A. Um-hum (affirmative).
- 7 Q. Okay. That was a yeah. Just like I said a minute ago,
- 8 you have to say -- you can't just nod because the court
- 9 reporter has to take down everything you say. So you have
- 10 to answer yes or no.
- 11 A. Okay.
- 12 Q. Okay. So tell us your age once more.
- 13 A. Thirty-two.
- 14 Q. Thirty-two years old. Okay. And you went to JL Mann
- 15 High School, ---
- 16 A. Um-hum (affirmative).
- 17 Q. --- is that right?
- 18 A. Um-hum (affirmative). Yes.
- 19 Q. Okay. Thank you. And you graduated?
- 20 A. No.
- 21 Q. Okay. How far did you go in school?
- 22 A. Eleventh grade.
- 23 Q. Okay. And you are single, isn't that right?
- 24 A. Um-hum (affirmative).
- 25 Q. And how many children do you have?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

88

1 A. Two.

2 Q. And, actually, before I get to that, looks like you --
3 did you just hurt your finger over the weekend? I noticed
4 you're in a ---

5 A. Yeah, last night.

6 Q. Last night?

7 A. Um-hum (affirmative).

8 Q. Is it affecting -- are you on any pain medication or
9 anything ---

10 A. Yeah.

11 Q. Okay. Is it a -- are you okay? You understand ---

12 A. Yes.

13 Q. You have a clear -- clear mind? You can answer
14 questions?

15 A. Um-hum (affirmative).

16 Q. Okay.

17 A. Yes.

18 Q. Now, who is the father of your children?

19 A. Joseph Walker.

20 Q. Okay. The Defendant seated here today?

21 A. Um-hum (affirmative). Yes.

22 Q. How old are your children?

23 A. One just turned eight yesterday. And I have a five
24 year old.

25 Q. Okay. How long have you known Joseph Walker?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

89

- 1 A. Like almost ten years, ten years.
- 2 Q. Okay. And he was your boyfriend for a while, is that
- 3 right?
- 4 A. Yes.
- 5 Q. When did y'all -- when were y'all boyfriend/girlfriend?
- 6 A. I couldn't -- it's been off and on.
- 7 Q. Okay. When did it -- did it start right around the
- 8 time y'all had the children, your child? Or was it before
- 9 then?
- 10 A. It was before my daughter, yeah.
- 11 Q. Okay. So at least eight years then?
- 12 A. Yeah, at least.
- 13 Q. Okay. Now, did y'all ever live together?
- 14 A. Yes.
- 15 Q. And when did y'all live together?
- 16 A. From the time my son was born until, what, I don't --
- 17 until he went to jail.
- 18 Q. Okay. So just ---
- 19 A. Off and on, ---
- 20 Q. Five years ---
- 21 A. --- off and on.
- 22 Q. Okay. So off and on. Now, -- okay. Now, he -- before
- 23 this incident happened that we're here to talk about today
- 24 did he used to come over and see the children?
- 25 A. Yes.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 Q. And he would sometimes take the children?
- 2 A. Um-hum (affirmative).
- 3 Q. How often would he come over there?
- 4 A. I don't know. He's their -- he's their daddy.
- 5 Q. Pretty regularly? Like once a week? Once a month?
- 6 A. I couldn't -- I don't even know.
- 7 Q. Okay. But fairly regularly, is that right?
- 8 A. Yeah.
- 9 Q. Okay. And what kind of vehicle would he come over in?
- 10 A. Different cars.
- 11 Q. Different cars? Now, do you know Tomeka Dennis?
- 12 A. Yeah, she went to school with me.
- 13 Q. Okay. And did you know he was dating her around the
- 14 time this happened?
- 15 A. I heard, yeah.
- 16 Q. Okay. Have you ever seen her car?
- 17 A. I mean, nobody's ever said this is her car, but ---
- 18 Q. Okay. Well, have you ever seen him in a car that
- 19 looked -- I'm going to show you State's exhibit number 1.
- 20 Ever see him in a car that looked sort of that like?
- 21 A. Um-hum (affirmative).
- 22 Q. Okay. And this is Defendant's exhibit number 1, a
- 23 Honda Accord?
- 24 A. Yeah, I -- yeah.
- 25 Q. So he used to come over and get the children in a car

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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1 like that sometimes?

2 A. He has came to my mom's house and got in -- got the
3 kids in that car before.

4 Q. Okay. Now, so sometimes he would go to your mom's
5 house?

6 A. Um-hum (affirmative).

7 Q. And why was that?

8 A. 'Cause that's where they'd be at.

9 Q. So the children would sometimes be where your -- with
10 your mother?

11 A. Um-hum (affirmative).

12 Q. Okay. And sometimes they'd be with you?

13 A. Yes.

14 Q. All right. Now, where did you live?

15 A. .

16 Q. Okay. And that's here in Greenville?

17 A. Um-hum (affirmative). Yes.

18 Q. What apartment did you live in?

19 A.

20 Q. Now back in July of 2011 were you seeing -- were you
21 dating this gentleman seated right here, Tyler Mattress?

22 A. Yes.

23 Q. And did the Defendant, Joseph Walker, know that you
24 were dating him at that time?

25 A. Yeah.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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1 Q. He'd seen y'all together or he knew about it?

2 A. He had never seen -- I don't know if he seen us
3 together, but he knew about it.

4 Q. Okay. And what did he think of you seeing Tyler or any
5 other guy for that matter?

6 A. I don't think he really cared, but, you know, except
7 for the children.

8 Q. Okay. But did he give you a hard time about it
9 sometimes?

10 A. Just about the kids, making sure nothing happened to
11 the kids because he didn't know him.

12 Q. But he gave you a hard time about seeing other guys,
13 about having other guys ---

14 MR. SHEEK: Objection ---

15 Q. --- around?

16 MR. SHEEK: --- to the leading, Your Honor.

17 THE COURT: All right. Don't lead.

18 MR. MOYER: Okay.

19 Q. Well, would he give you a hard time about having other
20 guy friends?

21 A. I mean, of course he would if -- if we're dating, yeah.

22 Q. Okay. So he would. And, in fact, did he -- you
23 considered him jealous, isn't that right?

24 MR. SHEEK: Again, Your Honor, objection to the
25 leading.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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1 **THE COURT:** Yeah, ---

2 **MR. MOYER:** I'll rephrase the question.

3 Q. Would you consider him jealous back then?

4 A. Maybe a little bit, a little bit.

5 Q. Okay. Well, let me -- you remember you gave a
6 statement the day this incident happened?

7 A. Yes.

8 Q. Okay. And do you remember in your statement saying
9 that he's real jealous?

10 A. I don't -- that was ---

11 Q. Would you like to take a ---

12 A. --- a while ago.

13 Q. Would you like to look at your statement again?

14 A. I can.

15 Q. Okay. Take a look at that. Is that your statement?

16 A. Yeah. I mean, I didn't -- I was shook up at the time.

17 Q. Okay.

18 A. I didn't even write this. Somebody, you know, the --
19 the detective wrote it for me because I was shook up.

20 Q. Okay. And you were telling the detective what to write
21 then ---

22 A. Yeah, me and the detective were having a conversation.
23 So she was writing as I was talking.

24 Q. And then at the end you signed the statement ---

25 A. Um-hum (affirmative).

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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1 Q. --- saying it was your statement?

2 A. Yeah.

3 Q. Well, now by taking a look at your statement, about the
4 fourth line down, does -- will you -- just take a look at
5 that for a moment.

6 (Pause)

7 A. Um-hum (affirmative).

8 Q. Does that refresh your memory about what you said about
9 him being jealous?

10 A. Yeah.

11 Q. And what did you say about him at that time?

12 A. I said that he was real jealous.

13 Q. Okay. Now, let me take you back to July the 20th of
14 2011, the date of this incident. And you were living in
15 at that time?

16 A. Yes.

17 Q. And did you see Tyler Mattress on that day?

18 A. Um-hum (affirmative). Yeah.

19 Q. He came over to your apartment?

20 A. Yes.

21 Q. Now, did Joseph Walker try to talk to you on that day,
22 during the day?

23 A. Um-hum (affirmative).

24 Q. Okay. And ---

25 A. Yes.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 Q. --- how was he trying to talk to you?
- 2 A. By phone.
- 3 Q. And what -- you recognized his phone number?
- 4 A. Yes.
- 5 Q. Did you answer the phone?
- 6 A. No, I didn't.
- 7 Q. And why was that? Because you and Tyler were over
- 8 there?
- 9 A. Um-hum (affirmative). Yes.
- 10 Q. And was he calling -- did he call for a good -- a good
- 11 while that day?
- 12 A. Yeah, he called, I mean, I wasn't looking at the clock,
- 13 but, yeah, he called a few times.
- 14 Q. Okay. Throughout the afternoon, is that right?
- 15 A. Um-hum (affirmative). Yes.
- 16 Q. Okay. So you ignored his phone calls, but at some
- 17 point did you speak to him on the telephone that day?
- 18 A. I did.
- 19 Q. And why did you answer the phone that time?
- 20 A. Because my sister called. My sister called me.
- 21 Q. It was your sister's phone?
- 22 A. Um-hum (affirmative).
- 23 Q. So your -- and when you answered the phone who was on
- 24 the phone?
- 25 A. She was.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

96

- 1 Q. Okay. Did you talk to this Defendant?
- 2 A. Um-hum (affirmative).
- 3 Q. Okay. And tell us about that conversation. Where were
- 4 you when you answered the phone?
- 5 A. At home.
- 6 Q. Okay. And you were with Tyler. He was next to you,
- 7 right?
- 8 A. Yeah, Tyler was there.
- 9 Q. Okay. Now what did -- tell us about that conversation
- 10 that you had with Joseph Walker at that time.
- 11 A. I think he had told my son that he was coming -- he
- 12 wanted to come and get them to take them to shoot basketball
- 13 or something, but he told my son. So he didn't -- I didn't
- 14 know anything about it.
- 15 Q. Okay. Well, I'm just -- I'm just asking about the
- 16 conversation he had with you.
- 17 A. Yeah. He told me that he was -- he wanted to take the
- 18 kids, my son to play basketball and that's why he had been
- 19 calling. And he was asking me why I wasn't answering the
- 20 phone. And I told him that because I wasn't at home.
- 21 Q. Okay. And the conversation got heated, didn't it?
- 22 A. Um-hum (affirmative).
- 23 Q. Okay. And he started threatening you?
- 24 A. Yeah.
- 25 Q. Do you remember what he said?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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1 A. That he'd do something to me. I don't remember exactly
2 what it was.

3 Q. Well, once again, maybe you can refresh your memory if
4 you had a chance to take a look at your statement again.

5 A. I didn't -- I didn't look at ---

6 Q. Okay. Once again, I'm going to hand you your statement
7 and ask you to look down near the bottom of the statement
8 and see if that refreshes your memory about what he said to
9 you.

10 (Pause)

11 A. Oh, that he'd crack my skull.

12 Q. Crack your skull and what else?

13 A. That's all it says.

14 Q. It says ---

15 A. And other things.

16 Q. And other bad things, right?

17 A. Yeah, but we do that all the time. It's just somebody
18 else was involved this time.

19 Q. Okay. So he threatened to crack your skull and do
20 other things like that. Now, Tyler was close enough to hear
21 that conversation?

22 A. Yes.

23 Q. And then what did he do?

24 A. He got the phone and said something to Joseph.

25 Q. And so they exchanged words back and forth?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

98

1 A. I don't -- he said what he had to say and ...

2 Q. Okay. I'm not asking you what they said. You heard
3 them have a conversation?

4 A. I don't know what Mr. Walker said. I don't know ---

5 Q. Right.

6 A. --- what Joseph was saying.

7 Q. Okay. But you heard Tyler having a conversation on the
8 phone with him, right?

9 A. Yes.

10 Q. Now what did you do after that phone call?

11 A. I don't -- I called my sister. I called my sister
12 back.

13 Q. Okay. Asked her why she -- well, what did you -- why
14 did you call your sister?

15 A. Because she had called me for him.

16 Q. Okay. Well, then what did Tyler do after that
17 conversation?

18 A. He went outside.

19 Q. Okay. And you stayed inside?

20 A. Um-hum (affirmative).

21 Q. And then what happened after that?

22 (Pause)

23 Q. What do you remember hearing or seeing after Tyler went
24 outside?

25 A. I heard gunshots.

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 Q. Okay. More than one?
- 2 A. Yeah.
- 3 Q. And what did you do when you heard the gunshots?
- 4 A. I made sure my kids were in the house.
- 5 Q. Okay.
- 6 A. And I locked the front door.
- 7 Q. Okay. And did you stay inside the house?
- 8 A. Um-hum (affirmative).
- 9 Q. And did you try to call anybody?
- 10 A. I don't know -- my sister called -- my sister called
- 11 the police.
- 12 Q. Okay. Do you remember trying to call Tyler?
- 13 A. Did I? I don't know. I think so. I think I did.
- 14 Q. Okay.
- 15 A. 'Cause he was outside where the gunshots were.
- 16 Q. And you wanted -- you ---
- 17 A. Make sure he was all right.
- 18 Q. Make sure he was okay. All right. And did you stay
- 19 inside the apartment until the police got there or did you
- 20 stay outside -- inside?
- 21 A. No, I was in the house.
- 22 Q. Okay. And when the officers showed up, you -- did you
- 23 go outside or talk to the officer?
- 24 A. Yeah, the detective.
- 25 Q. Was it this detective right here?

AMANDA RAY - DIRECT EXAMINATION BY MR. MOYER

100

1 A. Um-hum (affirmative).

2 Q. Okay. And you gave -- that's when you gave your
3 statement, right?

4 A. Yeah. I got in the car with her and we rode around the
5 corner. And, yeah.

6 Q. Okay. You actually left , didn't you, to
7 give a statement?

8 A. No, we didn't leave .

9 Q. But you went out to like a closed business or you drove
10 away a little bit?

11 A. I don't know -- I don't remember if we went -- 'cause
12 there's a parking lot right in front of the building. I
13 don't think -- I don't know if we were in the other parking
14 lot or in .

15 Q. Okay. But you left from ---

16 A. But I left from in front of my apartment, yeah.

17 Q. Okay. Why did you want to leave the apartment?

18 A. I don't know. She just asked me would I feel
19 comfortable riding around the corner.

20 Q. And you would feel more comfortable leaving right there
21 then to give a statement?

22 A. I guess at the time it didn't matter.

23 Q. Okay. All right. And once again, you actually didn't
24 write the statement, did you?

25 A. No.

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

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1 Q. You -- 'cause you were so shaken up -- shaken up?

2 A. Yeah. My hands and stuff were shaking.

3 Q. So you asked her to write it for you as you told her
4 what happened?

5 A. She just -- yeah, she told me she would write it for me
6 since she -- she could see that I was shook up.

7 Q. Okay. All right. Please answer any questions Defense
8 has.

9 **Cross Examination by Mr. Sheek:**

10 Q. Ma'am, is it true that you told the detective that day
11 that you knew Mr. Walker had been driving off and on a
12 silver Honda Accord for about three months?

13 A. Yeah, he had -- yeah.

14 Q. Okay.

15 A. I guess. I don't even -- I don't remember how long he
16 had been driving the car. I know I've seen it before.

17 Q. Okay. Well, and again, I'll let you hold a copy of
18 your written statement if you want to. But when you look at
19 that does it indicate that you told the police officer that
20 you knew he'd been driving a silver Honda Accord for about
21 three months?

22 A. I don't even see that, but okay.

23 Q. Well, you can ---

24 A. Let's see.

25 Q. --- take as much time as you want to, Ms. Ray, ---

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

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1 A. Let's say I did.

2 Q. Okay.

3 A. Yeah. Okay.

4 Q. That was information you had at the time, correct?

5 A. Yeah. I guess. I don't remember.

6 Q. And Mr. Mattress knew that, didn't he?

7 A. Knew what?

8 Q. What kind of car Mr. ---

9 **MR. MOYER:** Objection. I would object to her getting
10 into the state of mind of another witness.

11 **THE COURT:** Well, what -- finish your question you
12 started.

13 Q. Do you know whether or not Mr. Mattress was aware that
14 Mr. Walker would drive that silver Honda Accord?

15 **THE COURT:** That's all right.

16 A. Yeah, I'm sure he was.

17 Q. Now, where in the apartment were you when you had this
18 telephone conversation with Mr. Walker on June -- July the
19 11th -- 20th?

20 A. I don't know. I think I was in my room.

21 Q. Okay. Do you recall how long Mr. Mattress had been
22 with you that day?

23 A. No. I don't -- all day, I think.

24 Q. Do you recall what y'all were doing?

25 A. No, I can't recall.

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

103

1 Q. When Mr. Mattress got on the phone did he ask you for
2 the phone, did you hand it to him, how did he get the phone
3 to talk to Mr. Walker?

4 A. He just took it out of the hand.

5 Q. Okay. And then how long did he talk with Mr. Walker?

6 A. Not long.

7 Q. What do you recall Mr. Mattress saying?

8 A. I -- I think he said come and crack my skull or
9 whatever replying to whatever he had heard Mr. Walker
10 saying.

11 Q. Was it immediately after that phone call that Mr.
12 Mattress went outside?

13 A. I think so.

14 Q. Did he indicate to you where he was going or what he
15 was going to do?

16 A. No. He's grown.

17 Q. Well, you said when you heard the gunshots, the first
18 thing you did is check on your children.

19 A. Um-hum (affirmative).

20 Q. And they were inside?

21 A. They were.

22 Q. Where were they?

23 A. They were in my son's room.

24 Q. Okay. Is that upstairs in your apartment?

25 A. It is.

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

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1 Q. Okay. Was it after that you went and checked this
2 front door?

3 A. Yeah, after that.

4 Q. When you went down to check the front door was it
5 locked or unlocked?

6 A. I don't even -- I can't -- it was unlocked. It was
7 unlocked.

8 Q. How long did it take you from the time you heard the
9 gunshots to go check on your children and then go downstairs
10 to check on this front door?

11 A. Immediately after I went and checked on the children, I
12 went and locked my door.

13 Q. Okay. Do you ever recall ---

14 A. Now my kids were upstairs at the time, but I -- I think
15 I was downstairs. I had to go up there and check on them
16 because they had been outside playing. I didn't even know
17 if they were in the house or not.

18 Q. Okay. And then you came back down and checked on the
19 door?

20 A. Yes.

21 Q. Okay. Do you ever recall Mr. Mattress trying to come
22 in the door?

23 A. Uh-uh (negative).

24 Q. Ever knocking on it, asking you to let him in, anything
25 of that nature?

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

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1 A. No, somebody else knocked on the door.

2 Q. Okay. But it wasn't Mr. Mattress?

3 A. Uh-uh (negative).

4 Q. All right. And when someone else knocked on the door
5 did you go to see who it was? I'm not asking you who it
6 was, but did you go see who it was?

7 A. Um-hum (affirmative).

8 Q. Okay. And when the police came did they knock on your
9 door?

10 A. I don't -- I might have been standing in the door and I
11 saw the detective and she motioned for me to come on out. I
12 don't -- I don't -- I don't even remember.

13 Q. Okay. Well, is there any reason why you would have
14 been uncomfortable letting the detective come in your
15 apartment and giving the statement?

16 A. Uh-uh (negative).

17 Q. Okay. So that would have been fine. There would have
18 been no reason for you to ask to leave the apartment to give
19 a statement, would there?

20 A. No.

21 Q. Had you talked to Mr. Mattress before the police got
22 there?

23 A. He was at my house.

24 Q. Okay. Was he at the house when the police arrived?

25 A. Uh-uh (negative). What do -- what do you mean?

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

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1 Q. Well, ---

2 A. Like after the shots, did I talk to him before -- no.

3 Q. Okay. So you don't know where he was between the time
4 you heard the shots and the time the police got there?

5 A. Sir, you have to -- I mean, I do apologize, but this
6 was a while ago.

7 Q. Well, ---

8 A. So I don't ---

9 Q. --- I understand.

10 A. --- remember exactly what happened.

11 Q. Okay. Can you give us an idea of how long it took the
12 police to get there and when you saw them arrive? From the
13 time you heard the gunshots, that is.

14 A. It wasn't long, but, no, I can't tell you an exact
15 time.

16 Q. Had other people gathered out in this parking area?

17 A. Um-hum (affirmative).

18 Q. How many people do you think were gathered out there
19 before the police arrived?

20 A. It was a lot of people outside by the time I got out
21 there.

22 Q. Were your lights ---

23 A. Time the police got there.

24 Q. I didn't mean to cut you off. Go ahead.

25 A. By the time the police got there there was plenty of

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

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- 1 people outside.
- 2 Q. Okay. 'Cause it's July, which means it's still
- 3 daylight at 7:20, right?
- 4 A. Um-hum (affirmative).
- 5 Q. Warm weather?
- 6 A. Um-hum (affirmative).
- 7 Q. A lot of people off work at 5:00. So it was -- would
- 8 you say one of the most active times for that parking area?
- 9 A. I don't know -- by the time I got outside there were
- 10 plenty of people out there.
- 11 Q. Okay. When you got outside and you saw there was
- 12 plenty of people, was Mr. Mattress one of them?
- 13 A. I think he got -- he came -- he came back around, I
- 14 guess, when the police got there.
- 15 Q. Do you know where he came back around from?
- 16 A. No. I guess the -- I think it was the lady at the --
- 17 somebody told me he had ran around the block, the girl that
- 18 knocked on my door ---
- 19 Q. Okay.
- 20 A. --- told me that he ran. So when I went outside, yeah,
- 21 he was -- I think he was out there with the police.
- 22 Q. Okay. What about Mr. Golden, was he out there?
- 23 A. I couldn't even -- I wasn't paying attention to Mr.
- 24 Golden.
- 25 Q. All right. Do you recall him coming and talking to you

AMANDA RAY - CROSS EXAMINATION BY MR. SHEEK

108

- 1 prior to the police getting there?
- 2 A. Uh-uh (negative).
- 3 Q. Okay. Do you know Bobby Golden?
- 4 A. Yeah, he lives down the street from me.
- 5 Q. Okay. He and Mr. Mattress friends?
- 6 A. Yeah.
- 7 Q. Did you hear anything in this conversation that
- 8 indicated that Mr. Mattress was upset with Mr. Walker?
- 9 A. What conversation?
- 10 Q. The phone conversation when Mr. Mattress took the phone
- 11 from you and talked to Mr. Walker. Did you hear anything
- 12 that'd make you think that he was upset?
- 13 A. I mean, he was probably upset from what he heard Mr.
- 14 Walker say. But other than that, no.
- 15 Q. Okay. Did he ever indicate to you I'm going to go out
- 16 and fight him, I'm going to go ---
- 17 A. No. Uh-uh (negative).
- 18 Q. --- get a weapon, a knife to keep with me and I'm going
- 19 to go out and wait on him? Anything like that?
- 20 A. Uh-uh (negative).
- 21 Q. I mean, up until today has he ever told you that that's
- 22 what he did, that he went and got a weapon and waited so
- 23 that he could fight Mr. Walker?
- 24 A. No.
- 25 Q. Would that surprise you for him to do something like

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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1 that?

2 A. To do something like what?

3 Q. To go out, get a weapon and wait on Mr. Walker to
4 arrive.

5 A. Would that surprise me?

6 Q. Yes, sir. Yes, ma'am. Would that surprise you?

7 A. Yeah. I've never seen either one of them with a
8 weapon.

9 Q. Thank you.

10 **MR. SHEEK:** I've got no further questions.

11 **MR. MOYER:** Nothing else for this witness.

12 **THE COURT:** Thank you. You can step down.

13 **MR. MOYER:** The State calls Sharanda Ray.

14 **MADAME CLERK:** Ms. Ray, would you come forward and put
15 your left hand on the Bible and raise your right.

16 **Sharanda Ray,** being duly
17 sworn testified as follows:

18 **MADAME CLERK:** And come have a seat. And please state
19 your full name for the record.

20 **MS. RAY:** My name is Sharanda Ray.

21 **Direct Examination by Mr. Moyer:**

22 Q. Hi, Ms. Ray. I'm going to be asking you questions from
23 over here. I want to make sure you speak into the

24 microphone so that everybody can hear you real well, okay?

25 How old are you?

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. Twenty-five.
- 2 Q. Okay. And are you married or single?
- 3 A. Single.
- 4 Q. Where do you work?
- 5 A. At Gannett.
- 6 Q. Okay.
- 7 A. Greenville News building downtown.
- 8 Q. How long have you been working there?
- 9 A. Six months.
- 10 Q. And you are related to Amanda Ray?
- 11 A. That's my older sister.
- 12 Q. Okay. Now you know this Defendant, Joseph Walker,
- 13 seated over here?
- 14 A. Yes.
- 15 Q. How long have you known him?
- 16 A. For about nine years, eight years.
- 17 Q. Okay. And how -- you got to know him because Amanda
- 18 was seeing him?
- 19 A. Yes.
- 20 Q. So that -- the way you got to know -- to know him?
- 21 A. Yes.
- 22 Q. Where did you live back in July of 2011?
- 23 A. At
- 24 Q. Who did you live with?
- 25 A. My parents.

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 Q. Okay. You know Tyler Mattress, this gentleman seated
2 right here in the front row?
- 3 A. Yes.
- 4 Q. And how did you get to know him?
- 5 A. Because my sister has dated him.
- 6 Q. Okay. Your sister was dating him?
- 7 A. Um-hum (affirmative).
- 8 Q. Okay. Now, let me take you to July 20th of 2011. Were
9 you staying with your mother back ---
- 10 A. Yes.
- 11 Q. --- during that time? Now did you see the Defendant,
12 Joseph Walker, on that day?
- 13 A. Yes.
- 14 Q. Where did you see him?
- 15 A. At my mom's house, at
- 16 Q. Now before he showed up did you know he was coming over
17 to your house?
- 18 A. No.
- 19 Q. Okay. What happened when he -- what did he say, what
20 did he do when he got over there?
- 21 A. When he got there and asked -- well, he got there and I
22 heard -- I heard a car pull up. So I went to the door
23 before he knocked at the door and he asked was the kids
24 here. And I said, no. And he said, ---
- 25 Q. And whose kids was he asking about?

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. His kids, Amanda's kids.
- 2 Q. Amanda's kids. Would they sometimes be there -- be
- 3 there with you and your mother?
- 4 A. Yes, all the time.
- 5 Q. Okay. So he asked if they were there.
- 6 A. Um-hum (affirmative).
- 7 Q. What did you say?
- 8 A. No, they're not.
- 9 Q. What did he do then?
- 10 A. He asked to use my phone.
- 11 Q. Okay.
- 12 A. To call my sister.
- 13 Q. To call your sister?
- 14 A. Um-hum (affirmative).
- 15 Q. Did that seem odd to you? Did he have a telephone?
- 16 A. I didn't see it. I wouldn't suppose he did if he asked
- 17 to use mine.
- 18 Q. Okay. So back at that time did you ever used to have
- 19 telephone conversations with him that you recall?
- 20 A. No.
- 21 Q. So you don't remember if you did or not?
- 22 A. No.
- 23 Q. Okay. So he asked to use your phone.
- 24 A. Um-hum (affirmative).
- 25 Q. Did you give him his -- did you give him your phone?

SHARANDA RAY - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. Yes.
- 2 Q. And so he told you he was going to call your sister?
- 3 A. Well, I dialed the number and then I went in the house.
- 4 Q. Okay. You dialed your sister's number?
- 5 A. Um-hum (affirmative).
- 6 Q. Okay. Then you went inside the house?
- 7 A. Yes.
- 8 Q. Did you hear the conversation that he had on your cell
- 9 phone ---
- 10 A. I didn't.
- 11 Q. You did or did not?
- 12 A. I did not.
- 13 Q. Okay. And then you got the phone back later?
- 14 A. Yes. He knocked at the door and gave me the phone
- 15 back.
- 16 Q. Okay. And then he left?
- 17 A. Yes.
- 18 Q. Now later did you go over to Amanda Ray's apartment?
- 19 A. Yes.
- 20 Q. Was that that same day?
- 21 A. Yes, I did.
- 22 Q. What led you to go over there?
- 23 A. Because my -- Miranda, which is my other sister, had
- 24 called and said that someone was shooting in the
- 25 neighborhood.

SHARANDA RAY - CROSS EXAMINATION BY MR. SHEEK

114

1 Q. Okay. So you were concerned about your sister?

2 A. Yes.

3 Q. What was going on when you got over there?

4 A. It was a lot of police and, I mean, I really didn't
5 know what was going on until I got in the house.

6 Q. Okay. Okay. Please answer any questions the Defense
7 might have.

8 THE COURT: All right. Mr. Sheek.

9 MR. SHEEK: Thank you, Your Honor.

10 **Cross Examination by Mr. Sheek:**

11 Q. How long was Mr. Walker on the phone?

12 A. Not long. Maybe like two or three minutes.

13 Q. Okay. And was it a heated conversation?

14 A. I don't remember 'cause I went in the house. I didn't
15 stay outside on the porch.

16 Q. Okay.

17 A. But he wasn't mad or anything.

18 Q. When he gave you the phone back was he mad or upset?

19 A. No.

20 Q. Anything out of the ordinary whatsoever?

21 A. No.

22 Q. And he left from your residence or your mom's residence
23 after that?

24 A. Yes.

25 Q. Okay.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

115

1 **MR. SHEEK:** That's all I have.

2 **THE COURT:** Thank you. Step down.

3 **MR. MOYER:** The State calls Jonathan Rackley.

4 **MADAME CLERK:** Put your left hand on the Bible and
5 raise your right.

6 Jonathan Rackley, being
7 duly sworn testified as follows:

8 **MADAME CLERK:** Please take a seat. And then state your
9 full name for the record.

10 **MR. RACKLEY:** Jonathan Heath Rackley.

11 Direct Examination by Mr. Moyer:

12 Q. Okay. Where are you employed?

13 A. Greenville City Police Department.

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

15 A. Five years.

16 Q. Has it all been with the Greenville City Police
17 Department?

18 A. Yes, sir.

19 Q. What is your position now with the City Police
20 Department?

21 A. Uniform patrol.

22 Q. Okay. What are your duties as a uniform patrol
23 officer?

24 A. I'm just considered a beat officer. Just answering
25 calls for service, just a wide range of things.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

116

1 Q. Okay. So y'all are usually the first responders then
2 when incidents break out?

3 A. Yes, sir.

4 Q. For example, the one that we're talking about here
5 today?

6 A. Yes, sir.

7 Q. Okay. Now were you working on July the 20th, 2011?

8 A. Yes, sir.

9 Q. Did you get a call for the -- for this case?

10 A. Yes.

11 Q. And what time did the call go out?

12 A. 7:15 in the evening.

13 Q. Okay. What was the nature of the call?

14 A. Shots fired call.

15 Q. Okay. And for what location?

16 A. -- apartments,

17 Q. Okay. And are those apartments in the City of
18 Greenville?

19 A. Yes, sir.

20 Q. And just to give us an idea of where that is, it's off
21 of ?

22 A. Yes, near 385.

23 Q. All right.

24 A. Off , behind the old Steak and Ale.

25 Q. Okay. Now what time did you arrive?

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

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1 A. 7:25. About ten minutes later after the call went out.

2 Q. Okay. And what did you find upon your arrival there?

3 A. I was training another officer. We just -- we'd came
4 up to the incident location and Mr. Mattress, the victim,
5 came towards us in the car. And we got out and started
6 speaking with him.

7 Q. Okay. You talking about Mr. Mattress here?

8 A. Yes.

9 Q. And how was he acting when you saw him?

10 A. Very distraught, kind of very excited. We kind of
11 jumped out because we didn't know what was going on ---

12 Q. Um-hum (affirmative).

13 A. --- at the time. But, yeah, he approached us.

14 Q. Okay.

15 A. That's when we got kind of his story and everything.

16 Q. Okay. And what was his story? What did he tell you
17 had taken place?

18 A. He said pretty much that he was over at his
19 girlfriend's house, they'd been there for a while. At that
20 point I believe -- he just said he was -- they were on the
21 phone, him and his girlfriend, or his girlfriend was on the
22 phone with Mr. Walker, they were arguing back and forth.
23 And then -- I'm trying to remember ---

24 Q. Okay.

25 A. --- all ---

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

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1 Q. And would it refresh your memory if you had a chance to
2 take a look at your report?

3 A. Yeah.

4 Q. Okay. I'm going to hand you these documents. Is that
5 -- is that your report that you made ---

6 A. Yes, sir.

7 Q. --- at the time? Okay. Just refer to your report and
8 tell us what he -- what Tyler Mattress told you about what
9 had taken place.

10 A. He told us that Amanda Ray had had several unanswered
11 phone calls. She finally began to talk to him. Mattress
12 overheard some statements loud enough for -- let's see. He
13 -- Mr. Mattress said some statements loud enough for Walker
14 to hear. And then he made threatening comments back, he was
15 coming over to the apartments.

16 And that's when Mattress just told us that he went
17 outside and Amanda stayed inside. And then he said that a
18 Honda drove up with Joseph Walker in it. He jumped out
19 saying what's up -- what's up, niggas?

20 And then he fired three shots. And then he said, this
21 shit is real. And then that's when he -- both Golden and
22 Mattress ran in separate directions.

23 Q. Okay. So he told you that he overheard the
24 conversation between Amanda Ray and Joseph Walker ---

25 A. Yes.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

119

1 Q. --- on the telephone? Okay. Now, you said he seemed
2 pretty shaken up when you were -- when you were talking ---

3 A. Yeah, he couldn't sit still. I remember we had to
4 bring him over to get his statement and everything and calm
5 him down a little bit.

6 Q. Okay. Now, did you call for a forensics officer to
7 come out there to ---

8 A. Yes.

9 Q. --- the location?

10 A. Yes, sir.

11 Q. Now while -- before the forensics officer came out
12 there did y'all look around for any -- for any evidence or
13 any signs of what may have taken place?

14 A. Yeah, we looked around and we found the shell casings
15 of the 9mm shell casings and kind of just marked them with a
16 piece of paper until the forensics unit came to do her part
17 of that.

18 Q. Okay. So did you move those shell casings before she
19 got there?

20 A. No, sir.

21 Q. How many shell casings were there?

22 A. Three.

23 Q. Okay. And so you just kind of marked them and left
24 them there for the forensics ---

25 A. Yeah.

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

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1 Q. --- officer to get? Okay. When the forensics officer
2 came out there did you point out those shell casings to her?

3 A. Yes, sir.

4 Q. Okay. And did she collect them?

5 A. Yes. She photographed, collected them, all that kind
6 of ...

7 Q. Were they moved or disturbed before she did so?

8 A. No, sir.

9 Q. Okay. I'm going to ask you to take a look at State's
10 exhibits numbers 2 and 5 and just tell us do you recognize
11 what is shown in those two photographs?

12 A. Yes.

13 Q. Okay. And what is shown in those photographs?

14 A. That's the incident location where we pulled up.
15 That's my car right there.

16 Q. Okay.

17 A. Where we started.

18 Q. So is that the location where you went after this
19 shooting happened at ?

20 A. Yes, sir.

21 Q. Both those pictures, are they true and accurate
22 representations of the way that area looked that day?

23 A. Yes, sir.

24 Q. Do they show the shell casings that you were talking
25 about?

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

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1 A. Yes, sir. You can see the three white pieces of paper
2 that we marked them with.

3 Q. Okay.

4 MR. MOYER: Your Honor, at this time we'd move to have
5 State's exhibits 2 and 5 entered into evidence.

6 MR. SHEEK: No objection.

7 THE COURT: Without objection.

8 (Whereupon State's exhibits 2 and 5 were admitted into
9 evidence)

10 Q. Okay. Officer Rackley, I'm going to ask you, if you
11 would, to step down here for just a minute so we can show
12 these photographs behind you.

13 (Whereupon the witness left the witness stand)

14 Q. I'm going to hand you a laser pointer. This button
15 right here activates it. Okay. Let's start with State's
16 exhibit number 5. And using the laser pointer can you point
17 out the shell casings that you were talking about?

18 A. Right there, I believe right there and right there.

19 Q. Okay.

20 MR. MOYER: Can you turn on one of the lights, please?

21 Yeah, that looks a little bit better.

22 Q. Okay. And you say your car is shown in that
23 photograph?

24 A. Yes, sir.

25 Q. Where is that?

JONATHAN RACKLEY - DIRECT EXAMINATION BY MR. MOYER

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1 A. It's right there.

2 Q. Okay. I'm going to show you State's exhibit number 2
3 now. A little closer photograph of that same area, is that
4 correct?

5 A. Yes, sir.

6 Q. And would you, once again, just sort of point out to
7 the jury where they are?

8 A. (Whereupon the witness pointed on the photograph).

9 Q. Okay. Okay. Thank you very much. You may have a
10 seat.

11 (Whereupon the witness returned to the witness stand)

12 Q. Now did you get a suspect's name while you were out
13 there?

14 A. Yes, sir.

15 Q. And from whom did you get that name?

16 A. Mr. Mattress told us first.

17 Q. And when you got that name did you do anything to make
18 sure you had the right person?

19 A. Yeah. We kind of got -- got the name from him and, I
20 believe, other officers talked to Amanda Ray about it, too.
21 And we kind of got the identity, pulled it up on the DMV
22 database and just got a positive ID just to confirm the ID.

23 Q. You mean the Department of Motor Vehicles?

24 A. Yes.

25 Q. So you got a photograph of him?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

123

1 A. Yes.

2 Q. Did you pull up a photograph of him?

3 A. Yes.

4 Q. Y'all have in-car computers, right?

5 A. Yes, sir.

6 Q. And that's what you were able to pull that up on?

7 A. Yes, sir.

8 Q. And did you show it to Mr. Mattress?

9 A. Yeah, I pulled it up, enhanced the -- made it larger,
10 the picture of the Defendant and just -- where he could just
11 see his face. And he said, yeah, that -- just confirmed the
12 ID.

13 Q. And he did confirm that's who it was?

14 A. Yes.

15 Q. Okay. All right. Please answer any questions the
16 Defense might have.

17 **Cross Examination by Mr. Sheek:**

18 Q. Officer, what other photos did you show Mr. Mattress
19 that day, other individuals?

20 A. No other ones.

21 Q. None?

22 A. None.

23 Q. Okay. So the only photo you showed him was one of
24 Joseph Walker and that's the one you pulled up on the DMV
25 database?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 A. Yes, sir.

2 Q. And where was Mr. Mattress when you pulled this up on
3 the database?

4 A. He was nearby. I'm not sure exactly where he was, but
5 he was close by where I -- I believe I had my computer out
6 of the car.

7 Q. Okay.

8 A. Probably on my hood, I think.

9 Q. And was he standing there when you pulled it up?

10 A. No, he wasn't there when I got it -- I was in my car
11 when I pulled it up to get -- and then I zoomed in on it.

12 Q. Okay.

13 A. But there was no writing around it and just showed it
14 to him.

15 Q. Why did you not want any writing around it?

16 A. Because I wanted him to positively identify the
17 suspect. He already knew his name. So we were just
18 confirming it.

19 Q. Well, have you ever seen a process where police will
20 use a photo line-up?

21 A. Yes, sir.

22 Q. Usually of six or eight different individuals?

23 A. Yes, sir.

24 Q. And you ask the suspect [sic] which one and see if they
25 can identify the person that you believe is the suspect?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 Did you do that in this case?

2 A. No, sir, 'cause he already knew the suspect by name.

3 Q. Okay. Well, if he already knew him, then showing him a
4 DMV photo didn't break any new ground, did it?

5 A. No, he had already identified him. We just wanted to
6 confirm the -- make sure we had the right person.

7 Q. Okay. And the solicitor asked you to read from your
8 incident report.

9 A. Yes, sir.

10 Q. Which is a two-page incident report. Did you actually
11 prepare that incident report?

12 A. Yes.

13 Q. And I noticed that the last paragraph says that you
14 reported to a local judge and warrants were issued for Mr.
15 Walker's arrest.

16 A. Yes, sir.

17 Q. Okay. Did you do that?

18 A. Yes, sir.

19 Q. Okay. When did you do that?

20 A. I believe it was probably a couple of hours after we
21 left the scene from out there after we took, you know,
22 waited for forensics and everything. And then we probably
23 went from -- immediately from there to the judge's office.

24 Q. Okay. So basically then within a couple of hours the
25 complete investigation on this case was finished?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 A. I would say close to it.

2 Q. Okay. From your conversation and investigation where
3 approximately -- I tell you what, this might make it easier.

4 A. You want me to come back down there?

5 Q. Bear with me, officer, I'm new to this technology.

6 (Whereupon the witness left the witness stand)

7 Q. Okay. Looking at what's been marked as Defendant's
8 exhibit number 1 -- I'm sorry, State's exhibit number 1,
9 where did Mr. Mattress indicate to you he was standing at
10 the time of the shooting? Do you need the pointer again?

11 A. Yeah. I believe it was somewhere right in this area
12 right here.

13 Q. Okay. And ---

14 A. Between that area there. I'm not sure exactly where.

15 Q. Well, did he indicate where the shooter was standing?

16 A. If I remember right, I believe he pulled up somewhere
17 right in here. And he didn't -- I don't know exactly where
18 he was standing, near the cars.

19 Q. Well, to try to judge the trajectory of the shells and
20 see if they struck an apartment or something like that it'd
21 be important to know where each participant was standing,
22 right?

23 A. Yes, sir. And I know other officers in the area -- we
24 looked around to see if any other rounds had hit any other
25 -- any other ---

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 Q. Did anybody ever make a diagram of the scene to say to
2 Mr. Mattress, now, tell us where you were standing, tell us
3 where the shooter was, anything of that nature?

4 A. No, sir.

5 Q. Were there ever any places discovered that it appeared
6 a bullet had struck? Well, first let me ask you this
7 question. That was a wide open question. Did you ever find
8 any bullet holes in any of the apartments?

9 A. Not that I know of because we were kind of -- me and --
10 the officer that I was training, we were just dealing with
11 Mr. Mattress on that side -- on that side of it.

12 Q. When you pulled up is that where you initially parked
13 your car and got out?

14 A. Yes, sir.

15 Q. Where did Mr. Mattress approach you from?

16 A. I believe he was coming in between one of those, I
17 believe, somewhere in there. He was coming in between those
18 cars over there.

19 Q. Okay. So he was somewhere in the neighborhood ---

20 A. Yeah, he told us he ran -- ran back that way.

21 Q. Okay. Did he tell you where he had run to after he ran
22 that direction?

23 A. I believe he just said he ran that way just to get
24 away.

25 Q. Okay. Did he ever indicate whether or not he tried to

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 go back into the apartment that he was staying in, apartment

2

3 A. Not that I can remember.

4 Q. Now, you also said you called forensics out.

5 A. Yes, sir.

6 Q. You can go ahead and have a seat.

7 (Whereupon the witness returned to the witness stand)

8 Q. Now, the forensics department with the Greenville City

9 Police Department, what kind of capabilities do they have?

10 For instance, do they have the capability to check for

11 fingerprints?

12 A. I believe so.

13 Q. Do they have the capability to check for gunshot

14 residue?

15 A. I think so, yes, sir.

16 Q. And are you familiar with what a gunshot residue test

17 is?

18 A. I mean, I've seen it used, but I don't know the details

19 of it. You'd have to ask a forensics specialist.

20 Q. Well, to your knowledge and based on your training --

21 how long have you been with the police department?

22 A. Five years.

23 Q. Based on your training and knowledge are you aware that

24 gunshot residue tests are used to determine whether or not

25 someone may have fired a gun ---

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 A. Yeah.

2 Q. --- recently? And it's a test where they swab the
3 hands to see if there is what we call gunshot residue.

4 A. Yeah.

5 Q. Basically the leftovers from the primer and the
6 propellant, right?

7 A. Right.

8 Q. Okay. And that is something commonly used, as I said,
9 to see if someone may have fired a gun because if someone
10 fires a gun and then that propellant is expelled from the
11 gun and onto the hands and the clothing, correct?

12 A. Yes, sir.

13 Q. Now when the police first arrived y'all thought that
14 Mr. Mattress had done the shooting, right?

15 A. No, he had -- right when he approached us he had -- he
16 kind of identified himself as the victim.

17 Q. Okay. So no one ever thought he had done the shooting?

18 A. Not that I know of, no.

19 Q. Well, did you ever ask for a gunshot residue test on
20 Mr. Mattress or Mr. Golden to determine whether or not
21 either one of them had fired a gun?

22 A. No, sir.

23 Q. And why not?

24 A. The shots fired call came out, and it just was pretty
25 cut and dry that the suspect had came and shot and then left

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 the area in the Honda.

2 Q. Now you say that was cut and dry. What made it cut and
3 dry in your mind?

4 A. Just the way the call came out.

5 Q. Okay. So if I walked out the back of the courthouse,
6 fired a gun and called the police and said someone just shot
7 at me, it's pretty cut and dry that someone shot at me,
8 right?

9 A. No, I mean, not necessarily. I'm just saying that when
10 he approached me he told me what had happened. He came --
11 he came to us saying -- giving us a quick statement ---

12 Q. Okay.

13 A. --- and saying what went on.

14 Q. So based on your acceptance of the veracity of his
15 statement you did no further tests to ---

16 A. No, I didn't.

17 Q. --- check up on him?

18 A. No, I didn't. No.

19 Q. Do you know if any other officers did?

20 A. Not that I know of.

21 Q. Who is the chief investigating officer on this case?
22 Who was in charge of investigating this case?

23 A. I would have been at the first because I was the first
24 one there.

25 Q. So ultimately the decision on whether or not to do a

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 gunshot residue test was yours?

2 A. Yes, sir.

3 Q. Okay. Now, the shell cases that you found on the
4 scene, were they checked for fingerprints?

5 A. I believe so. But I believe Officer Ooten would have
6 done that.

7 Q. Okay. Were any fingerprints identified on them?

8 A. I don't know. I don't know what her ---

9 Q. Okay.

10 A. --- her investigation revealed.

11 Q. Did the victim indicate to you that it -- the gun was a
12 semi-automatic?

13 A. I believe he told us it was a Glock handgun.

14 Q. Okay. That it was actually -- he knew the brand.

15 A. Yeah, that's what he -- he told us.

16 Q. Okay. Did he say what color it might have been?

17 A. Not that -- I don't remember he said a color.

18 Q. Did you take the statement from Mr. Golden or did
19 someone else?

20 A. I believe I did.

21 Q. Now, when someone loads a semi-automatic they have to
22 actually put the shells into a magazine, correct?

23 A. Yes.

24 Q. And, as a matter of fact, I think your service weapon
25 is a Glock, is it not?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 A. It's a Sig.

2 Q. It's a Sig?

3 A. Yes.

4 Q. Okay. Did y'all change from Glocks recently or did you
5 have Sigs the whole time?

6 A. I think we -- we've had them ever since I've been here.

7 Q. Okay. And to load that magazine you actually have to
8 press the shells in one at a time, right?

9 A. Yes, sir.

10 Q. So you're going to leave a fingerprint on it unless
11 you're wearing gloves or something of that nature, right?

12 A. I -- I don't know the scientific part of it, but I
13 would think you would, yes.

14 Q. And when someone is charged with attempted murder don't
15 you think it would be important to get every single piece of
16 available evidence to bring to the jury?

17 A. Not when we had a positive ID and someone's name. I
18 didn't -- I thought once we had a positive ID from Mr.
19 Mattress, he knew the suspect by name and pointed him out,
20 at that point that was the -- that's what I needed ---

21 Q. Okay.

22 A. --- from him.

23 Q. So in your mind all you need was Mr. Mattress'
24 statement?

25 A. I wouldn't say that's all I need, but I knew I had the

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 casings and other evidence, too.

2 Q. When you were deciding that it was cut and dry based on
3 what Mr. Mattress told you were you aware he had ten
4 burglary convictions?

5 A. No, sir.

6 MR. MOYER: Objection, ---

7 Q. Five ---

8 MR. MOYER: --- Your Honor.

9 Q. --- grand larcenies?

10 MR. MOYER: There's no relevancy for this.

11 THE COURT: I sustain the objection.

12 Q. You will agree with me, however, that there was no
13 forensic investigation done whatsoever on the scene, was
14 there?

15 A. Officer Ooten came out and did her investigation with
16 the shell casings, and pictures and photographs.

17 Q. Okay. What's his name? Full name? I'm sorry.

18 A. Oh, Officer Ooten? I'm not sure of her first name.

19 It's a woman.

20 Q. It's a woman?

21 A. Yes, sir.

22 Q. Okay. Now, the car that they -- the victim said Mr.
23 Walker drove up in, can you show me the pictures you took of
24 that car?

25 A. That he drove up in? Mr. Walker?

JONATHAN RACKLEY - CROSS EXAMINATION BY MR. SHEEK

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1 Q. Yes.

2 A. Oh, no. It was -- it wasn't there anymore. It had
3 left the scene.

4 Q. Well, I'm assuming that someone must have told you he
5 was driving a car that belonged to his girlfriend, right?

6 A. Um ---

7 Q. We've heard testimony to that effect.

8 A. I believe so. I just know he said it was a gray Honda
9 Accord pulled up in front of the apartment. That's what he
10 told us.

11 Q. Okay. Did you ever go to Ms. Dennis and ask to see the
12 car?

13 A. No, sir.

14 Q. Did you ever ask to interview Ms. Dennis?

15 A. No, sir.

16 Q. Check the Honda Accord for gunshot residue or anything
17 of this nature?

18 A. No, sir.

19 Q. Even find out what year, make or model Honda she had?

20 A. No, sir.

21 Q. If hypothetically you had gotten two different
22 descriptions of this car would you have then went to check
23 and done the things I just asked you about?

24 A. Not necessarily. When he told us it was Joseph Walker
25 that did this, my investigation just went to who is Joseph

JONATHAN RACKLEY - REDIRECT EXAMINATION BY MR. MOYER

135

1 Walker kind of and went to just that -- just to try to
2 positively ID -- identify him.

3 Q. So basically then it'd be fair to sum it up to say you
4 were told there were gunshots, Tyler Mattress said Joseph
5 Walker did it and from there on you're just looking for
6 Joseph Walker?

7 A. Well, yeah, at that point I was -- yes, ---

8 Q. Okay.

9 A. --- because he was telling me who actually shot at him
10 and everything.

11 Q. Well, was there someone else doing some other
12 investigation that we don't know about?

13 A. Not that I know of.

14 Q. Okay. Thank you.

15 MR. SHEEK: I have no further questions.

16 MR. MOYER: Just a couple of follow-up questions.

17 **Redirect Examination by Mr. Moyer:**

18 Q. Now, you're not a forensics officer, right?

19 A. No, sir.

20 Q. Okay. You've not been trained in forensics?

21 A. No, sir.

22 Q. And that's not something that y'all do on the scene?

23 A. No, sir. We call the forensic specialist out.

24 Q. Someone -- a forensic specialist, someone who's been
25 trained, and they come out and handle all of that ---

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

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1 A. Right.

2 Q. --- for you, is that right?

3 A. Yes, sir.

4 Q. Okay. Thank you.

5 **MR. MOYER:** Nothing else.

6 **THE COURT:** Thank you. Step down.

7 **MR. MOYER:** Iona Ooten.

8 **MADAME CLERK:** Will you come forward and place your
9 left hand on the Bible and raise your right.

10 **Iona Ooten,** being duly
11 sworn testified as follows:

12 **MADAME CLERK:** Please have a seat. And then state your
13 full name for the record.

14 **MS. OOTEN:** My name is Iona, I-o-n-a, Ooten, O-o-t-e-n.

15 **Direct Examination by Mr. Moyer:**

16 Q. Okay. And where do you -- where are you employed?

17 A. I'm employed with Greenville County Department of
18 Public Safety's forensic division.

19 Q. Okay. And what is that? What is that department and
20 what do you do as part of that department?

21 A. I'm part of the crime scene unit where primarily we
22 respond out to a crime scene after it's occurred. Our
23 purpose is to go out and to examine the area, collect any
24 evidence that may pertain to that case.

25 Q. Okay. You process scenes as well?

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1 A. Yes.

2 Q. And what does that mean?

3 A. Typically we'll go out and either photograph it, we'll
4 process it for any form of latent prints, we'll look for
5 evidence, any type of footwear impressions, casings,
6 whatever the situation might call for, whatever the scene
7 is. We can process things there such as homes, residences
8 of that set case. If there's items that we have to collect
9 we will bag them, take them back to our office and process
10 them in our lab.

11 Q. Okay. How long have you worked for the forensics
12 division?

13 A. I've been there six years.

14 Q. And this is under what department? You said Department
15 of Public Safety?

16 A. The Department of Public Safety, forensic division,
17 yes.

18 Q. And so what agencies do you support?

19 A. We work with all the law enforcement agencies in
20 Greenville County, be the Sheriff's Office, Greenville City,
21 Simpsonville, all of the law enforcement departments. We
22 also work with the federal departments such as FBI, ATF,
23 DEA, any of them that call us out to assist them.

24 Q. Okay. So you're not employed by Greenville Police
25 Department or Greenville County Sheriff's ---

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- 1 A. No, I'm not.
- 2 Q. It's a separate agency?
- 3 A. Correct.
- 4 Q. Okay. And -- all right. Well, let me take you back to
- 5 July the 20th of 2011.
- 6 A. Okay.
- 7 Q. Were you called -- called out to a scene on that
- 8 particular day?
- 9 A. I was.
- 10 Q. And what was the location?
- 11 A. May I look at my report to ---
- 12 Q. Yes.
- 13 A. It was in Greenville.
- 14 Q. Okay. And what time did you get the call?
- 15 A. I got the call at 19:40 hours, which is roughly 7:40
- 16 pm.
- 17 Q. Okay. And when did you arrive?
- 18 A. I arrived on-scene at 19:47.
- 19 Q. So it was still light out?
- 20 A. It was.
- 21 Q. Did you take photographs?
- 22 A. I did.
- 23 Q. So the photographs that have been introduced -- and you
- 24 haven't had a chance to see them, but these photographs that
- 25 we have seen that are being used in this case, these are

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

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1 photographs that you took?

2 A. They are.

3 Q. Okay. And I'm going to hand you State's exhibits
4 numbers 3 and 4, which have not been entered into evidence
5 yet, but let me ask you if you could take a look at those
6 and see if you recognize what is displayed in those
7 photographs?

8 A. Yes. This is the parking lot of the apartment complex.
9 And I have them placard -- of what is placard are the
10 casings that were -- came from the firearm.

11 Q. Okay. And are they true and accurate representations
12 of what you just described as you saw it on July 20th ---

13 A. They are.

14 Q. --- of 2011?

15 A. They are.

16 **MR. MOYER:** Your Honor, I move to have State's exhibits
17 3 and 4 entered into evidence.

18 **THE COURT:** Any objection?

19 **MR. SHEEK:** No objection, Your Honor.

20 (Whereupon State's exhibits 3 and 4 were admitted into
21 evidence)

22 Q. Okay. So you mentioned that you saw some shell
23 casings. These were pointed out to you by the officers?

24 A. The officer that was on-scene, yes.

25 Q. Okay. And what did you do with regard to those

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1 casings?

2 A. After I photographed them I then collected them in
3 separate envelopes each, labeling them with my initials. I
4 then took them back to our office where I placed them in a
5 -- do you want me to go ahead and describe how we process
6 them ---

7 Q. No, we'll ---

8 A. Okay.

9 Q. --- get to that in a minute. But you ended up taking
10 them back to your office?

11 A. I did. I collected them, sealed them on-scene and then
12 took them back to the office and put them in a secured
13 locker there.

14 Q. Okay. Now, let me ask you, if you would, just to step
15 down. We're going to show these photographs on this behind
16 you.

17 (Whereupon the witness left the witness stand)

18 Q. And if I could ask you to maybe step over here and use
19 this laser pointer.

20 A. All right.

21 Q. Let's start off with State's exhibit number -- the one
22 that's up there, State's exhibit number 1. Can you point
23 out to the jury where the shell casings were as you found
24 them?

25 A. Right here in front of -- in front of this empty

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1 parking space. I was told that the casings were located
2 around this vicinity. I went over and searched it. Here
3 would be the first one that I found. This is number two.
4 This is number three.

5 Q. Okay. And then you took close-up photographs of those
6 as well? Let's start with State's exhibit number 3.

7 A. I did.

8 Q. And, once again, that's the three shell casings that
9 you saw?

10 A. Right there is one, two, three.

11 Q. And, finally, State's exhibit number 4. Is this just
12 another closer shot of those?

13 A. You know, we take photographs in an overview range, in
14 a mid-range and then close up. And this is just basically
15 zoning in on the area of where the shell casings were
16 located.

17 Q. Okay.

18 A. Located in the parking lot according to the building.

19 Q. Okay. When you zoom in can you actually see the shell
20 casing there?

21 A. Yeah, you can see it right in that area, you know.

22 Q. If I can find it.

23 A. Yeah.

24 Q. Okay.

25 A. And then there's the other casing.

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- 1 Q. Okay. And then the final one, number three?
- 2 A. Three is right there.
- 3 Q. Okay. You can have a seat again, please.
- 4 (Whereupon the witness returned to the witness stand)
- 5 Q. Now, you say you collected those photographs, I mean,
- 6 those shell casings?
- 7 A. Yes.
- 8 Q. Can you tell us what caliber and any other identifying
- 9 features about those shell casings?
- 10 A. They all three were 9mm Rugers. They all had the same
- 11 headstamp, FC 9mm Ruger.
- 12 Q. Okay. I'm going to hand you State's exhibit number 6
- 13 ---
- 14 A. Okay.
- 15 Q. --- and ask you, if you would, take a look at that
- 16 envelope and the contents and see if you can identify what
- 17 that is.
- 18 A. These are the three casings I collected from the scene.
- 19 Q. And how are you able to recognize those?
- 20 A. They're sealed on the back with my initials, and I made
- 21 the bar code for the label.
- 22 Q. Okay. You did that all by yourself?
- 23 A. I did.
- 24 Q. And then you ended up putting them into the property
- 25 and evidence room?

IONA OOTEN - DIRECT EXAMINATION BY MR. MOYER

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1 A. Correct.

2 Q. What is the property and evidence room?

3 A. Property and evidence is where all the evidence is
4 stored after the -- after it's been collected from the scene
5 or processed. It's also where deputies, if they respond to
6 a scene, they can collect the evidence themselves and place
7 it in there. And then we also can respond to property and
8 evidence, which we call P&E to pull out and examine in our
9 office. So it's just where all the evidence is eventually
10 stored.

11 Q. Okay. And it's a secure location, ---

12 A. Yes.

13 Q. No person can just walk up and ---

14 A. No.

15 Q. Okay.

16 MR. MOYER: Your Honor, at this time I move to have
17 State's exhibit 6 added into evidence.

18 THE COURT: Any objection?

19 MR. SHEEK: No objection, Your Honor.

20 (Whereupon State's exhibit 6 was admitted into
21 evidence)

22 Q. Okay. Let me ask you, if you would, -- okay. Are you
23 able to open those envelopes?

24 A. Yes.

25 Q. Okay. If you would.

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1 A. Open all three?

2 Q. Yes, please. Are the shell casings in each of those?

3 A. Yes, they are.

4 Q. In fact, would you just take one out. And can you hold
5 it up for the jury to see.

6 (Whereupon the exhibit was shown to the jury)

7 Q. Okay. Thank you. I'd ask you to put it back in the

8 ---

9 A. Okay.

10 Q. --- envelope. Okay. Now, -- now you've said that you
11 brought them back to your office for further processing.

12 Tell us about that, what you did with them.

13 A. Typically when we're processing evidence in our lab we
14 have a fuming chamber where we use cyanoacrylate. And that
15 is just a nice fancy word for glue. The item is placed in
16 the fuming chamber and the machine's turned on and the glue
17 adheres to, if there was any form of a latent print on, and
18 that being a fingerprint, on the casing to show anyone who
19 had touched it. But, unfortunately, there were no prints to
20 come back on the casings.

21 Q. Okay. So you weren't able to lift any fingerprints on
22 those ---

23 A. No.

24 Q. --- casings? Is that common or uncommon for shell
25 casings?

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1 A. It's very common for a shell casing because when a
2 bullet is fired through a gun, the chemical process and how
3 it twirls through the barrel pretty much burns anything off
4 of that casing. Sometimes the casings will have a print on
5 it if someone has touched it afterwards. Or if there is a
6 small amount of ridge detail on it we try and get whatever
7 we can, but it's very common for it to not be there.

8 Q. So it's very uncommon to find a fingerprint on those
9 ---

10 A. Correct.

11 Q. --- shell casings, is that correct? But you try?

12 A. Yes.

13 Q. Okay. All right. Let me ask you, if you would, put
14 those back in the -- Okay. Thank you. Now, so you took the
15 photographs out there at the scene, you collected these
16 shell casings. Was there anything else for you to do out
17 there at the scene on July 20th, 2011?

18 A. No. Through my -- my process of searching the area I
19 did try to locate any form of projectiles or gunshot holes
20 to the building or any other surrounding surfaces, but there
21 was nothing else I could locate.

22 Q. Okay. And you didn't have any -- were you given any
23 information about anything to process for fingerprints or
24 any other kind of evidence?

25 A. No. The information I was given was strictly that the

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1 incident occurred in the parking lot and that there was no
2 other surfaces touched or anybody was around anything that
3 would require a latent processing.

4 Q. Okay. Please answer any questions the Defense has.

5 A. Okay.

6 **Cross Examination by Mr. Sheek:**

7 Q. Now, ma'am, in your forensics lab what capabilities do
8 you have other than latent fingerprint testing?

9 A. We also do swabbing for DNA. We do any type of -- we
10 try to list any form of trace evidence, if there's any form
11 of hair or anything of that nature.

12 Q. What about GSR?

13 A. That is something that we do on someone who has fired a
14 weapon.

15 Q. Okay. So if you were trying to determine if someone
16 fired a weapon what would you do?

17 A. If we were -- if we were trying to determine that, we
18 would use a GSR kit, which is a gunshot residue kit. And
19 that would be applied to the suspected shooters hands or
20 whoever would be in question to obtain any type of GSR from
21 their hands so that it could be sent off to another agency.

22 Q. Okay.

23 A. We do not do the actual GSR results in our lab.

24 Q. But you -- you do the collection of the ---

25 A. Correct.

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1 Q. Okay. And did you have those kind of kits available to
2 you on that day?

3 A. I did.

4 Q. Did anybody ever ask you to GSR test anyone?

5 A. No.

6 Q. And you weren't doing any investigation, you were only
7 doing what you were directed to do?

8 A. Correct. Well, I do not work for them. I have to go
9 out and I work my -- I get debriefing, as you will, from
10 them, advised what the scene was, but I was not made aware
11 of the victim or anyone else in the area who could have been
12 involved with a firearm.

13 Q. Okay. If you had of been made aware of it would you
14 have tested them for GSR?

15 A. Yes.

16 Q. Okay. Is that something that should be done in these
17 type of cases?

18 A. That is something that's typically requested by the
19 investigator. Usually we don't just do them on our own. We
20 have them on us, on our kits, but that's typically something
21 passed down by an investigator.

22 Q. When -- is part of your job investigations?

23 A. Yes.

24 Q. You've done that? Would you say it's good
25 investigation techniques to keep your mind open to

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1 possibilities when investigating an allegation?

2 A. Well, it's good to be thorough, yes.

3 Q. So if a gun has been fired and you were trying to
4 determine who fired it, you would GSR all of them?

5 A. Typically, yes.

6 Q. Okay. Now, in the projectiles that the solicitor asked
7 you about, the three that were gathered, you said that it's
8 typical not to find fingerprints, one, because the
9 projectile goes down the barrel, twisting as it's fired.

10 A. Well, just for correction, it's a casing.

11 Q. Well, that's right. Those don't go down the barrel, do
12 they?

13 A. Yes.

14 Q. They do?

15 A. Well, I'm sorry. The projectile goes down the barrel.
16 The casing shoots out the side of the gun.

17 Q. So the casing is actually ejected out ---

18 A. Correct.

19 Q. --- of the ejection port? It doesn't go twisting down
20 the barrel at all, does it?

21 A. No. I was just describing the heat impact in the gun
22 when it is being shot through the barrel of the gun. And
23 the heat and the force that's involved in it typically burns
24 any type of latent print off of a casing.

25 Q. Okay. So you don't typically find fingerprints, then,

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1 on shell casings?

2 A. It's not common.

3 Q. Okay. What is touch DNA?

4 A. Touch DNA is a procedure where the casing can be sent
5 to the DNA lab for it to be swabbed to see if any kind of
6 pressure would have been put on the case, the cartridge or
7 bullet when it was being loaded into the magazine to see if
8 any DNA would be left there.

9 Q. And the reason we call it touch DNA is because we are
10 all constantly giving off dead skin cells, aren't we?

11 A. Correct.

12 Q. And a single skin cell contains our complete DNA code,
13 doesn't it?

14 A. You might need a DNA expert on that. I'm not as up to
15 being able to answer that, I'm afraid.

16 Q. Well, were any of these shell casings checked for touch
17 DNA?

18 A. No. They can only be checked for one or the other. If
19 you process them for latents, you're pretty much going to
20 ruin any other type of evidence on it such as the DNA. If
21 you check it for DNA, you could possibly damage a latent.
22 It's really a 50/50 situation.

23 Q. Well, if you believe that it is very uncommon to find
24 fingerprints, why not go ahead and check for the touch DNA?

25 A. That, once again, is something that's requested by the

IONA OOTEN - REDIRECT EXAMINATION BY MR. MOYER

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1 investigator. But, as I was saying, it's also an iffy
2 situation just the same as a latent.

3 Q. Were you ever asked to check or examine any vehicles?

4 A. No. I examine vehicles on my own looking for any type
5 of a gunshot hole to them, but I didn't locate any at the
6 time.

7 Q. And no gunshot holes in any of these apartment
8 buildings?

9 A. Not that I could see.

10 Q. Or any fresh strike marks on the pavement where it
11 appears a gun -- a bullet had hit and bounced off the
12 pavement?

13 A. Not that I could locate.

14 Q. Okay. So indications from the forensics were these
15 bullets were all fired in the direction they didn't strike
16 anything?

17 A. Correct.

18 MR. SHEEK: I've got no further questions, Your Honor.

19 MR. MOYER: Just a couple of follow-up, Your Honor.

20 THE COURT: All right.

21 **Redirect Examination by Mr. Moyer:**

22 Q. So as far as the gunshot residue test goes, were you
23 given any indication that anybody -- that there was any
24 evidence that anybody else out there had had a weapon?

25 A. No.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay.

2 A. There was no indication made at all.

3 Q. So that's the reason there wasn't any gunshot ---

4 A. Correct.

5 Q. --- residue test? Okay. And as far as what you said

6 about the touch DNA, testing for DNA or testing for

7 fingerprints, you said you could only do one or the other?

8 A. Correct.

9 Q. And is it uncommon to find DNA off shell casings also?

10 A. It's -- it's almost as catchy as it is with latent

11 prints. It's -- I haven't really heard the results coming

12 back as more positive ---

13 Q. Okay.

14 A. --- than latents.

15 Q. So you pretty much have to do one or the other?

16 A. Correct.

17 Q. In this case y'all -- the decision was made to do

18 fingerprints?

19 A. Correct.

20 Q. Okay. Okay. Thank you.

21 **THE COURT:** Thank you. Step down.

22 **MR. MOYER:** The State calls Turonnie Lewis.

23 **MADAME CLERK:** Mr. Lewis, would you come forward, put

24 your left hand on the Bible and raise your right.

25 **Turonnie Lewis,** being

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1 duly sworn testified as follows:

2 **MADAME CLERK:** Please come and take a seat and then
3 state your full name for the record.

4 **Direct Examination by Mr. Moyer:**

5 Q. Okay. Mr. Lewis, I'm going to be asking you questions
6 from over here. Would you please state your full name.

7 A. Turonnie Javon Lewis.

8 Q. Okay. Yeah, make sure you speak into that microphone
9 so we can all -- all hear you pretty well. How old are you,
10 Mr. Lewis?

11 A. Thirty-three.

12 Q. And you -- where did you live back in July of 2011?

13 A. I stayed like apartment next to -- I stayed in .

14 Q. ---

15 A. Um-hum (affirmative).

16 Q. --- in what apartment complex?

17 A. Apartments.

18 Q. Apartments. Now you don't live there now,
19 right?

20 A. No.

21 Q. You moved a little while ago?

22 A. Um-hum (affirmative).

23 Q. You lived there then. And did you live near Amanda
24 Ray?

25 A. Yeah. She stayed like right next door to me.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. So you lived next door to her?

2 A. Um-hum (affirmative).

3 Q. How long did you live there?

4 A. Approximately two years, ---

5 Q. Okay.

6 A. --- I want to say.

7 Q. So you'd been there for a little while in July of 2011?

8 A. Um-hum (affirmative).

9 Q. How long had you been living there in July of 2011?

10 A. Oh, how long, I'm sorry.

11 (Pause)

12 Q. And just roughly. I'm not asking for specific dates.

13 Six months? A year?

14 A. About a year.

15 Q. About a year ---

16 A. Yeah.

17 Q. --- at that time? Okay. Now, did you -- do you

18 remember when the shooting incident happened in July of

19 2011?

20 A. Correct.

21 Q. Okay. On July 20th of 2011, you remember that

22 incident. Did you see it?

23 A. No, I didn't see it.

24 Q. Where were you when it happened?

25 A. I was actually in the house in the shower.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. Did you even hear the gunshots?

2 A. No, I didn't.

3 Q. How did you find out something had happened?

4 A. Well, I had came outside. I was getting ready to leave
5 actually. And my brother told me, you may need to check
6 your car because some guy was out here shooting and it might
7 have put a bullet hole in your car because they put a bullet
8 hole in somebody else's car.

9 Q. Okay. Well, did you -- did you look around?

10 A. I did at the time. I browsed right through it,
11 rushing, because I was leaving.

12 Q. So you were kind of in a rush at that time?

13 A. Yeah.

14 Q. All right. Did you see anything at that time?

15 A. Not at that time.

16 Q. Now were the police still there when you looked?

17 A. They was.

18 Q. Okay. And then you -- you left in your car. What kind
19 of car did you have?

20 A. Mitsubishi Gallant.

21 Q. Do you still have that car?

22 A. I don't.

23 Q. Okay. Now, after the shooting, the day after this
24 shooting did you notice anything different with your car?

25 A. Yeah, I did. I had got off work and then as I was

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

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1 walking towards my car I seen a little hole in my car and I
2 noticed it. So I went and I looked at it. And I got on my
3 knees and I looked like where the little bumper, the front
4 of the bumper and I seen like a little bullet hole had
5 grazed right through it and hit right there where my
6 condenser at.

7 Q. Where your what was at?

8 A. Condenser.

9 Q. Condenser?

10 A. Um-hum (affirmative).

11 Q. That's something for your?

12 A. Air conditioner.

13 Q. Air conditioner?

14 A. Um-hum (affirmative).

15 Q. Was there any damage to your air conditioner?

16 A. There was. It had a little hole right there where it
17 was leaking at.

18 Q. Okay. So you saw a hole in your car?

19 A. Um-hum (affirmative).

20 Q. Where in your car was the hole?

21 A. It was like ---

22 Q. Well, we'll show -- we'll look at a picture in just a
23 minute, but can you give us a general location ---

24 A. Okay, like the tire is right here.

25 Q. Um-hum (affirmative).

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1 A. And the front bumper, it was like right here like in
2 the center piece.

3 Q. Right next to the tire, right ---

4 A. Yeah, right -- like right before the tire.

5 Q. The left front, left rear, right front, right rear?

6 A. Right front.

7 Q. Right front?

8 A. Um-hum (affirmative).

9 Q. Okay. And then you said behind the hole you could see
10 ---

11 A. Yeah, you could see like where it had hit and hit the
12 air conditioning condenser.

13 Q. Okay.

14 A. Right there at the bottom.

15 Q. Now, what did you do when you saw -- when you noticed
16 that?

17 A. Well, when I noticed it I had came home and I seen one
18 of my neighbors and they told me ---

19 **MR. SHEEK:** Objection to what someone else said, ---

20 **THE COURT:** Yeah, don't ---

21 **MR. SHEEK:** --- Your Honor.

22 **THE COURT:** --- tell us what they said.

23 A. Oh, I'm sorry.

24 Q. Yeah, don't tell us what somebody else said. But ---

25 A. I called the police.

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

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1 Q. You called the police?

2 A. Yeah. And they came out and ...

3 Q. They just came out and took a report?

4 A. Um-hum (affirmative).

5 Q. Okay. Now, I know you just got comfortable there in
6 that seat, but let me ask you, if you would, to come around.
7 We're going to show some photographs here behind you, okay?

8 (Whereupon the witness left the witness stand)

9 Q. If you could stand right over here. And we've got a
10 laser pointer with a button there. I'm going to ask you to
11 hold that. Just step over here. Okay. Let's start off
12 with -- I'm going to start off showing you State's exhibit
13 number 5. Can you use that laser pointer and point out your
14 vehicle?

15 A. Right there.

16 Q. And where did you live? Do you remember?

17 A. Right -- I actually stayed right here.

18 Q. Right here.

19 A. Where this guy -- this lady's right here.

20 Q. Okay. And so that's the way your car was parked there
21 that day when this incident happened?

22 A. Yes, sir.

23 Q. Okay. Let's look now at State's exhibit number 2.

24 This is another -- is that -- let's pull this screen down.

25 All right. Once again, would you just point out your car

TURONNIE LEWIS - DIRECT EXAMINATION BY MR. MOYER

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1 again.

2 A. Right there.

3 Q. Okay. We're going to look at one more that shows a
4 little bit of a closer view of it, State's exhibit number 3.

5 A. Um-hum (affirmative).

6 Q. Now, using that laser pointer can you kind of point out
7 where it is you noticed this hole in the car.

8 A. Actually about right about here.

9 Q. Right about there?

10 A. Um-hum (affirmative).

11 Q. And this was the next day when you saw it, ---

12 A. Right.

13 Q. --- it wasn't the day of the incident. And how big or
14 small was that hole?

15 A. It was a pretty small hole. It's not very noticeable.

16 Q. Okay.

17 A. Unless you just walk up to it and you can see it.

18 Q. Okay. And you -- that hole wasn't there before July
19 20th of 2011?

20 A. No.

21 Q. Okay. Have a seat please. Thank you.

22 (Whereupon the witness returned to the witness stand)

23 Q. So you've been living there for somewhere maybe up to a
24 year before this happened?

25 A. Right.

TURONNIE LEWIS - CROSS EXAMINATION BY MR. SHEEK

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1 Q. Had you ever seen this Defendant, Joseph Walker?

2 A. I've seen him a couple of times.

3 Q. And where would you see him?

4 A. Actually next door.

5 Q. Next door at Amanda Ray's house?

6 A. Yes, sir.

7 Q. And did you see what he was doing over there?

8 A. No, I didn't -- I didn't pay attention because I don't
9 stay outside.

10 Q. Okay. You would just see him come over there?

11 A. (Affirmative nod).

12 Q. Okay. More than one time?

13 A. Yeah, just twice. I know he got kids over there. So
14 -- 'cause when my kids come over they all play out together.

15 Q. Okay. Okay. Please answer any questions Defense might
16 have.

17 **THE COURT:** Mr. Sheek.

18 **Cross Examination by Mr. Sheek:**

19 Q. Sir, the pictures the solicitor showed you, is that
20 where your car was parked on that day?

21 A. Yes, sir.

22 Q. You had to have moved it prior to the police coming and
23 taking pictures that ---

24 A. I couldn't move because they had me blocked in.

25 Q. Okay. And so it didn't move until after the police

JARED MANN - DIRECT EXAMINATION BY MR. MOYER

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1 were completely finished?

2 A. Yes, sir.

3 Q. All right. Thank you.

4 **MR. SHEEK:** That's all the questions I have.

5 **THE COURT:** Thank you. You can step down.

6 **MR. MOYER:** The State calls Jared Mann.

7 **MADAME CLERK:** Please step forward and put your left
8 hand on the Bible and raise your right.

9 **Jared Mann,** being duly
10 sworn testified as follows:

11 **MADAME CLERK:** Please come and have a seat and state
12 your full name for the record.

13 **MR. MANN:** My name is Jared Keith Mann.

14 **Direct Examination by Mr. Moyer:**

15 Q. And where are you employed, sir?

16 A. Greenville City Police Department.

17 Q. How long have you been with the City Police Department?

18 A. A little more than three years now.

19 Q. Okay. What is your position?

20 A. Uniform patrol officer.

21 Q. All right. Let me ask you if you responded to a call
22 at Apartments in July of 2011?

23 A. I did.

24 Q. What was the date that you ---

25 A. I don't recall off the top of my head.

JARED MANN - DIRECT EXAMINATION BY MR. MOYER

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1 Q. Okay. If you had a chance to look at your report would
2 that refresh your memory?

3 A. Yes, sir, it would. Thank you. The date was July
4 21st.

5 Q. Okay. Of 2011?

6 A. Yes, sir.

7 Q. And where did you respond at Apartments?

8 A. I responded to apartment at
9 Apartments. That was where the complaint -- the person who
10 called resided.

11 Q. And who was the person that you met with?

12 A. Mr. Turonnie -- Mr. Lewis Turonnie.

13 Q. Okay. Was it the gentleman that just walked out of the
14 courtroom?

15 A. Yes, sir.

16 Q. Now what was your reason for responding out there?

17 A. Mr. Turonnie had called and stated that during that day
18 he had located what appeared to be a bullet hole in his car.

19 Q. Okay. And did you look at the car?

20 A. I did.

21 Q. And did you see anything?

22 A. I did see a small round hole at the front right or the
23 front passenger's side of the car, just above the tire.

24 Q. Okay. Let me show you State's exhibit number 5. And
25 do you recognize the car in that photograph?

JARED MANN - CROSS EXAMINATION BY MR. SHEEK

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1 A. I do.

2 Q. Okay. And was it -- you said it was near the front
3 right tire is where you saw the hole?

4 A. Yes.

5 Q. Okay. And did you notice anything -- you saw a hole in
6 the -- in the exterior of the car itself. Did you look any
7 closer and did you see anything else?

8 A. When I looked closer at the car I remember seeing where
9 it looked like something had passed through the exterior of
10 the car and hit just inside the wheel well of the car. I'm
11 not familiar, you know, with the terms of the car, but ---

12 Q. Okay. You just know it's another ---

13 A. An indentation -- it looked like to be an indentation.

14 Q. Okay. And about what time of day was it that you went
15 out there?

16 A. I believe the call came in for me to go out there at
17 approximately -- actually, I'm not even sure. It was during
18 the middle of the day, if I remember correctly.

19 Q. Okay. All right.

20 A. I remember it being daylight out.

21 Q. Okay. If you would, please answer any questions
22 Defense may have.

23 **Cross Examination by Mr. Sheek:**

24 Q. Officer, were you out there on the scene the day before
25 when this alleged shooting occurred?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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1 A. No, sir, I was not.

2 Q. Okay. So you had no involvement in this case other
3 than going and identifying a hole in this Mitsubishi?

4 A. Yes, sir, the next day.

5 Q. Okay. Thank you.

6 **MR. SHEEK:** That's all I have.

7 **THE COURT:** Thank you. Step down.

8 **MR. MOYER:** The State would call Beverly Henderson.

9 **MADAME CLERK:** Ms. Henderson, would you come forward
10 and put your left hand on the Bible and raise your right.

11 **Beverly Henderson,** being

12 duly sworn testified as follows:

13 **MADAME CLERK:** You can have a seat. And please state
14 your full name for the record.

15 **MS. HENDERSON:** Beverly Henderson.

16 **Direct Examination by Mr. Moyer:**

17 Q. Okay. Ms. Henderson, I'm going to ask you to make sure
18 you lean forward and speak into that microphone so we can
19 hear you.

20 A. All right.

21 Q. Okay. Now, how old are you, ma'am?

22 A. Fifty-four.

23 Q. Okay. And are you married?

24 A. Separated.

25 Q. You're separated. Okay. You have any children?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. One.
- 2 Q. And where do you live?
- 3 A. , Apartment , I mean, .
- 4 Q. Okay.
- 5 A. .
- 6 Q. Apartments?
- 7 A. Yes.
- 8 Q. And do you know Amanda Ray, the lady who was here
- 9 earlier today?
- 10 A. Yes.
- 11 Q. Okay. And do you live near her?
- 12 A. Yes.
- 13 Q. How close to her do you live?
- 14 A. Up the steps.
- 15 Q. Up the steps?
- 16 A. Yes.
- 17 Q. So she's above you or you ---
- 18 A. She's like -- I'm here -- I'm here. She's like
- 19 upstairs.
- 20 Q. Okay. So there's like two levels of ---
- 21 A. Yeah.
- 22 Q. --- apartments?
- 23 A. It's two levels. It's two levels on both sides.
- 24 Q. And so you're down -- if you walked up, you have to go
- 25 down the steps to your apartment?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. Yes.
- 2 Q. And you'd have to go up some steps to her apartment?
- 3 A. Yes.
- 4 Q. Okay. Now, how long did you -- do you remember when
- 5 you moved into Apartments?
- 6 A. Yes. I've been there two years now.
- 7 Q. Okay. So were you there in July of 2011?
- 8 A. Yes.
- 9 Q. Do you remember about how long you'd been living there
- 10 at that time?
- 11 A. Not quite a year.
- 12 Q. Okay. Now do you know this gentleman, Tyler Mattress?
- 13 A. Yes.
- 14 Q. Would you have seen him over there?
- 15 A. Yes.
- 16 Q. And where would you see him over there?
- 17 A. Getting the kids off the bus.
- 18 Q. Okay. And would you see him with Amanda?
- 19 A. Yes.
- 20 Q. Okay. You'd see him there at her apartment sometimes?
- 21 A. Yes.
- 22 Q. Okay. Now, do you remember a shooting that took place
- 23 on July 20th of 2011?
- 24 A. Yes.
- 25 Q. Where were -- were you home?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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1 A. Yes.

2 Q. Where were you when that took place?

3 A. Sitting on the steps. Sitting on the sidewalk, not the
4 steps, the sidewalk.

5 Q. You were sitting on the sidewalk?

6 A. Yes, sir.

7 Q. Okay. And do you remember -- did you see this shooting
8 take place?

9 A. Yes, sir.

10 Q. Okay. And what did you see?

11 A. I seen Tyler come from the left.

12 Q. You talking about this ---

13 A. Mr. Tyler come from the left.

14 Q. Come from your left?

15 A. Yes.

16 Q. So you're seated with the apartments behind you?

17 A. Yes.

18 Q. And Tyler came walking from the left?

19 A. Yeah.

20 Q. Okay. Then what did you see?

21 A. And then I seen that gentleman right there come around
22 and approach Tyler.

23 Q. This Defendant right here, Joseph ---

24 A. Yes.

25 Q. --- Walker? Okay. And then what happened?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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1 A. And then after Tyler, Mr. Tyler realized that he had a
2 gun, he had a gun, then he ran. And the gentleman over
3 there ran. And then he started shooting. And that's when I
4 covered up the kids.

5 Q. Okay. What do you mean you covered up the kids?

6 A. 'Cause kids was out there.

7 Q. There were some children outside?

8 A. Yes, sir.

9 Q. And so when you say covered them up, what do you mean
10 by covered them up?

11 A. It was either three or four shots.

12 Q. Okay.

13 A. The three shots -- the shots that he had with him, that
14 he -- that he did, he could have shot Mr. Tyler, but I don't
15 know what happened. I think some of them ricocheted.

16 Q. Okay. Well, let me talk about the children first.

17 A. It was about three or four kids out.

18 Q. Okay. And you went -- after the shooting you went over

19 ---

20 A. The kids was sitting right there beside me.

21 Q. Okay.

22 A. Because the kids live right there beside me up the
23 steps.

24 Q. Okay. So you took them somewhere?

25 A. No. I just covered them up.

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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- 1 Q. You covered them up?
- 2 A. Yes.
- 3 Q. Okay. And so did you ever see the gun?
- 4 A. No, sir.
- 5 Q. But you ---
- 6 A. I just heard the shots.
- 7 Q. You heard the shots?
- 8 A. Yes, sir.
- 9 Q. Did you see any movement with the man?
- 10 A. Yeah, I seen him -- the gentleman right there, I seen
- 11 him take off running.
- 12 Q. Okay.
- 13 A. And then so did Tyler.
- 14 Q. After or before the shots?
- 15 A. After.
- 16 Q. After the shots?
- 17 A. Yes, sir.
- 18 Q. So could you see who shot who?
- 19 A. Yeah. The gentleman right here was shooting at Mr.
- 20 Tyler.
- 21 Q. Okay. And could you see where he was aiming, where he
- 22 was pointing? Was he pointing at Mr. Tyler?
- 23 A. Yes.
- 24 Q. Okay. And was Mr. Tyler close to him when the shooting
- 25 happened?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. Yes, sir.
- 2 Q. How close would you say? And use me because I know
- 3 it's been a while.
- 4 A. Okay. So ---
- 5 Q. But use me ---
- 6 A. --- you want me to get up to show you?
- 7 Q. Well, just say -- use me as an example.
- 8 A. You've got to come up ---
- 9 Q. You said even closer than this?
- 10 A. Yes, sir.
- 11 Q. Okay.
- 12 A. Because he had -- Tyler went around the -- went around
- 13 the curve to approach him, which I -- I can't say -- I don't
- 14 guess I can say that.
- 15 Q. Well, you can say what you saw.
- 16 A. Okay.
- 17 Q. You saw him walking ---
- 18 A. I think -- I thought they was getting ready to fight.
- 19 Q. Um-hum (affirmative).
- 20 A. But once he pulled out the gun, that's when Tyler took
- 21 off.
- 22 Q. Okay. Now did you hear either one of them say
- 23 anything?
- 24 A. Yes, sir.
- 25 Q. What -- who did you hear say what?

BEVERLY HENDERSON - DIRECT EXAMINATION BY MR. MOYER

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- 1 A. The gentleman right there.
- 2 Q. What did you hear him say?
- 3 A. He said I finally caught up with you.
- 4 Q. Okay. And he said that before he shot?
- 5 A. Yeah.
- 6 Q. Okay.
- 7 A. When he was coming around the curve. He was coming
- 8 around my right, Tyler was coming around my left.
- 9 Q. Okay.
- 10 A. And that's when he told him.
- 11 Q. And it was more than one shot?
- 12 A. Yes, sir.
- 13 Q. And you saw Mr. Tyler take off running?
- 14 A. Yes, sir.
- 15 Q. Had you ever met this man before?
- 16 A. No, sir.
- 17 Q. Did you know him before that day?
- 18 A. No, sir.
- 19 Q. But do you recognize him today?
- 20 A. Yes, sir.
- 21 Q. Is there any doubt in your mind he's the man you saw
- 22 shooting?
- 23 A. No, sir.
- 24 Q. Okay. Please answer any questions Defense has.
- 25 **THE COURT:** All right, sir.

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 MR. SHEEK: Please the Court.

2 Cross Examination by Mr. Sheek:

3 Q. Ma'am, if you'll bear with me a second, I want to show
4 you a photograph, maybe, and see if you can tell me now
5 where you were sitting so we can understand what you're
6 telling us. Okay. If you want to, ma'am, you can get up
7 and walk around here.

8 (Whereupon the witness left the witness stand)

9 Q. Come right over this way so you're not in front -- now,
10 you lived in apartment, you said, ?

11 A. Yes, sir.

12 Q. Now, if I'm facing the apartments right here at
13 are you on the right hand side or ---

14 A. I'm right here.

15 Q. --- or the left hand side? Okay. Here, you want to
16 use the pointer, ma'am?

17 A. Yeah, I can.

18 Q. Sure. Just press this button right there and it makes
19 that red light. You point out where you live.

20 A. Right there right beside the white car.

21 Q. Okay. And you were sitting where?

22 A. Right there beside the white car.

23 Q. Okay. You were sitting right beside where ---

24 A. Yes.

25 Q. --- that car is now parked? And you were on the

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 sidewalk?

2 A. Yes, sir.

3 Q. And you said Tyler came from your left?

4 A. Yes.

5 Q. Okay. Were you with your back to the apartments or
6 facing the apartments?

7 A. My back was to the apartments.

8 Q. Okay. So he came from the left hand side, ---

9 A. Um-hum (affirmative).

10 Q. How far down was it?

11 A. It's not that far because he's going to come right
12 there where I'm at.

13 Q. Okay. And when he was approaching Mr. Walker, that you
14 say was out there, Mr. Walker was on your right hand side?

15 A. Uh-huh (affirmative). That's the way -- where I was
16 sitting at, looking to my left and my right.

17 Q. So let me see the pointer one second. So if you're
18 sitting right where this white car is, ---

19 A. Um-hum (affirmative).

20 Q. --- Mr. Walker's on this side, ---

21 A. Um-hum (affirmative).

22 Q. --- and Mr. Tyler ---

23 **MR. MOYER:** I object, Your Honor. That's the exact
24 opposite of what she just testified to.

25 Q. Mr. Walker came from which side, right or left?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 A. Mr. Tyler come from my left. He came from my right.

2 Q. Okay. So when you're sitting with your back to that
3 apartment, ---

4 A. Yes.

5 Q. Okay. Then Mr. Walker's over here?

6 A. The apartment where the people at, that's the way Ms.
7 What's her name live at.

8 Q. That's fine.

9 A. Okay.

10 Q. And Mr. Tyler was up here.

11 A. No.

12 Q. Mr. Tyler was on the right side also?

13 A. No, I didn't say that. I said Mr. Tyler was on my
14 left.

15 Q. All right.

16 A. He was on my right.

17 Q. Okay. So when you're sitting with your back to the
18 apartment at the white car, Mr. Tyler Mattress ---

19 A. The cars ---

20 Q. --- was up here.

21 A. The cars wasn't out there then.

22 Q. I understand that. But according to your testimony,
23 Mr. Tyler Mattress is up here.

24 A. Um-hum (affirmative).

25 Q. Right?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 A. Um-hum (affirmative).

2 Q. Okay. Not at apartment , which would have been way
3 down this way?

4 A. When Mr. Tyler passed by me with the kids all sitting
5 right there, when he got up to him, which would be, I don't
6 know his name, when he got to him, that's when this -- that
7 happened. He said that I finally caught up with you.

8 Q. Okay. Was that car there parked there that day?

9 A. That car right there?

10 Q. Yes.

11 A. No. It was parked across the street 'cause that's my
12 parking space right there.

13 Q. Okay. So that car wouldn't have been parked there ---

14 A. Uh-uh (negative).

15 Q. --- because you would ---

16 A. Because -- yes.

17 Q. Okay. That's fine. I'm not trying to trick you. I
18 just want you to understand. Use that pointer again, ma'am.
19 Were there any cars in those parking places between the
20 white car and the one on the far end down here?

21 A. No, sir.

22 Q. Okay. When Mr. Walker come in what was he driving?

23 A. I don't know that.

24 Q. Okay. Do you remember if it was a car, a truck ---

25 A. I don't know. He -- all -- both of them was walking.

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 Q. Okay.

2 A. I don't know what they came in.

3 Q. I mean, if he had of pulled in and parked ---

4 A. If he'd pulled in -- if he would have pulled in and
5 parked, then he had to park on the other side of the
6 building.

7 Q. That's right because sitting there -- if he'd parked
8 right there, you ---

9 A. I would have ---

10 Q. --- would have clearly seen that?

11 A. --- seen him, yes.

12 Q. Okay. You can have a seat.

13 (Whereupon the witness returned to the witness stand)

14 Q. Now, how far did Mr. Tyler Mattress walk towards Mr.
15 Walker? How far did he walk before he saw a gun, ---

16 A. They was ---

17 Q. --- as you said?

18 A. They was right up on each other.

19 Q. Okay.

20 A. If you go to walk down the sidewalk, you going to pass
21 people.

22 Q. Okay.

23 A. And then you going to be right there up on them.

24 Q. Okay. So you saw Mr. Walker walking one way and Mr.
25 Mattress walking another?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 A. Yeah.

2 Q. When they got in close proximity you said ---

3 A. And he said that I finally caught up with you.

4 Q. Did you hear anything else said?

5 A. No. All I heard after that was gunshots.

6 Q. Okay. And you said you covered up her kids. Her who?

7 A. I didn't say her.

8 Q. Okay. Who ---

9 A. I said I covered up kids.

10 Q. Whose kids were they?

11 A. The kids from upstairs.

12 Q. Okay. Were they Ms. Ray's kids?

13 A. No, they wasn't.

14 Q. Okay.

15 A. These are all the kids -- most of all the kids from
16 comes to my house.

17 Q. Okay. How long had you been out there that day?

18 A. Probably about five or six hours.

19 Q. Okay. And in that one spot?

20 A. Yes, because I have -- I have five chihuahuas. And I
21 take them out walking.

22 Q. Okay. How long had Mr. Mattress been out there?

23 A. I have no idea.

24 Q. Did you see him come out of Ms. Ray's apartment at any
25 time?

BEVERLY HENDERSON - CROSS EXAMINATION BY MR. SHEEK

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1 A. I have no idea.

2 Q. Okay. But you were sitting where you could have seen
3 that ---

4 A. Yeah.

5 Q. --- if it had happened?

6 A. Yeah. With my back turned. With my back turned. If
7 he come down the stairs I could see him.

8 Q. Okay. But he wasn't standing around there for any
9 length of time?

10 A. No.

11 Q. All right. Now, ma'am, since you were out there when
12 the shooting happened did you see the police arrive?

13 A. Yes.

14 Q. Did you talk to them?

15 A. Yes.

16 Q. Did you give them a statement?

17 A. Yes.

18 Q. Did you give them a written statement?

19 A. They just took my name and telephone number.

20 Q. So you've never given anybody a written statement
21 regarding this incident?

22 A. Nobody never got in touch with me.

23 Q. Did you tell them the story that you've told us today?

24 A. Yes.

25 **MR. SHEEK:** I've got no further questions, Your Honor.

1 **THE COURT:** Step ---

2 **MR. MOYER:** Nothing ---

3 **THE COURT:** --- down.

4 **MR. MOYER:** --- further, Your Honor. Your Honor, may
5 we approach?

6 **THE COURT:** Sure.

7 (Whereupon a bench conference was held off the record
8 in the presence of the jury, but out of their hearing)

9 **THE COURT:** All right. Take the jury out.

10 (Whereupon the jury exited the courtroom at 4:02 pm)

11 **THE COURT:** All right. Solicitor.

12 **MR. MOYER:** Your Honor, I just wanted to ask if we
13 could take a break now. We've been going for close to two
14 hours.

15 **THE COURT:** All right.

16 **MR. MOYER:** And I think we're going to rest, but I just
17 want a minute to ---

18 **THE COURT:** All right. We'll take a very short ...

19 (Whereupon the attorneys were conferring off the
20 record)

21 **THE COURT:** All right. Take about a five minute break.

22 **MR. MOYER:** Thank you, Judge.

23 (Whereupon court was in recess at 4:04 pm)

24 (Whereupon court resumed at 4:11 pm)

25 **THE COURT:** All right, solicitor.

1 **MR. MOYER:** Yeah, the State's going to rest, Your
2 Honor.

3 **THE COURT:** All right. Do you have any motions, Mr.
4 Sheek? Any motions?

5 **MR. SHEEK:** Your Honor, for the record I'll make a
6 motion for directed verdict, but understanding in the light
7 most favorable to the State, the burden you have there. But
8 I would argue that no reasonable jury could find beyond a
9 reasonable doubt that he committed an intent to kill based
10 on the testimony that they've heard.

11 **THE COURT:** And I'd have to deny your motion.

12 **MR. SHEEK:** I understand.

13 **THE COURT:** Now, will you have some testimony?

14 **MR. SHEEK:** I was just talking with my client about
15 that. Yes, sir, we will intend to call -- the solicitor's
16 agreed to hold Mr. Bobby Golden under subpoena so that I
17 won't have to serve him with our own, but we would intend to
18 call Mr. Golden as a witness.

19 **THE COURT:** All right.

20 **MR. SHEEK:** At this point I don't anticipate Mr. Walker
21 testifying, ---

22 **THE COURT:** Okay.

23 **MR. SHEEK:** --- but that final decision has not been
24 made.

25 **THE COURT:** That's fine.

25 A. Thirty-eight.

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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1 Q. And prior to coming up here and sitting on the stand
2 just now have you and I ever spoken?

3 A. No, sir.

4 Q. Where do you live, sir?

5 A.

6 Q. Okay. And in July of 2011 where did you live?

7 A.

8 Q. And were you living alone at apartment or ---

9 A. No, I wasn't.

10 Q. --- were you living with somebody?

11 A. No, sir.

12 Q. And do you know this gentleman seated right here on the
13 front row, Mr. Tyler Mattress?

14 A. Yes, sir.

15 Q. Do you remember him coming to your apartment on July
16 20th of 2011?

17 A. Yes, sir.

18 Q. Okay. When did he come down to your apartment,
19 roughly?

20 A. What do you mean when? Can you be more specific?

21 Q. Yeah. Did he come down in the afternoon, in the
22 evening?

23 A. In the evening.

24 Q. Okay. Do you recall what time, roughly?

25 A. It had to be -- it was before 6:00. Between -- I would

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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1 say between four and six, somewhere around in there.

2 Q. Okay. And what did he want when he came down to your
3 apartment?

4 A. He was telling me that someone -- he had been arguing
5 with someone on the phone and someone was coming down there,
6 they was about to fight or whatever. But I was telling him,
7 you know, just go ahead and go, but, unfortunately, he
8 didn't have time to leave.

9 Q. Okay. Now, what do you mean by unfortunately he didn't
10 have time to leave? What happened?

11 A. Because as we was leaving the apartment, walking down
12 the sidewalk, that's when Joseph pulled up in the Honda,
13 four door, gray Honda.

14 Q. Okay. Now, you gave a written statement to the police
15 on July the 20th of 2011, didn't you?

16 A. Yes, sir.

17 Q. Let me hand you a copy of this and ask you does that
18 look like the written statement you gave the police?

19 A. That's it.

20 Q. And is that your signature at the bottom?

21 A. Yes, sir.

22 Q. And were you telling them the truth when you talked to
23 them?

24 A. Yes, sir.

25 Q. Okay. And what kind of car did you tell the police

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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- 1 pulled up?
- 2 A. A gray Honda.
- 3 Q. Read from your statement. What did you say it was?
- 4 A. It doesn't say what kind of car it was.
- 5 Q. Okay. Let me help you out here.
- 6 A. No, that -- it just says -- it just states he got out
- 7 of a car.
- 8 Q. Okay. Look at the second line where it starts when a
- 9 gray Honda ---
- 10 A. Oh, okay. When a gray Honda, two door, pulled up and
- 11 parked.
- 12 Q. Okay. The gray Honda, two door?
- 13 A. Um-hum (affirmative).
- 14 Q. That's what you told the police, right?
- 15 A. Yeah.
- 16 Q. Okay. I'm going to hand you a picture of a 2004, two
- 17 door Honda Accord. Does that look like the car?
- 18 A. No, uh-uh (negative).
- 19 Q. What's different about it?
- 20 A. What's different? This is a -- this is a coupe. And
- 21 this must be a later model.
- 22 Q. Now you did say it was a two door, right?
- 23 A. Yeah.
- 24 Q. Okay. And you put that in your written statement in
- 25 parentheses, two door, right?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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- 1 A. Two door, yes.
- 2 Q. And you remembered that specifically, didn't you?
- 3 A. From what I could remember, yes.
- 4 Q. Now just now when you testified you said four door.
- 5 Why the difference?
- 6 A. Yeah. Well, I must have meant to say two.
- 7 Q. When the car pulled up where were you standing?
- 8 A. On the sidewalk.
- 9 Q. Okay. Let me show you a picture. If you would, sir,
- 10 if you'll stand up and come down here with me.
- 11 (Whereupon the witness left the witness stand)
- 12 Q. All right. Come this way, Mr. Golden, if you wouldn't
- 13 mind, sir. Now, do you remember the day that the shooting
- 14 happened?
- 15 A. Yes.
- 16 Q. Okay. You remember that car being parked there?
- 17 A. Um-hum (affirmative).
- 18 Q. And is that Amanda Ray's apartment there?
- 19 A. I don't know. I can't see the number on it.
- 20 Q. Okay. Well, if that is apartment let's just
- 21 assume it is, is your apartment ---
- 22 A. My apartment is up from there.
- 23 Q. Is it to the left this way or up that way?
- 24 A. To the left.
- 25 Q. Okay. So it's up this way?

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1 A. Yeah.

2 Q. Okay. And if she's in you said your apartment was
3 number what?

4 A. .

5 Q. Okay. So you're down close to the end of the
6 apartments?

7 A. Exactly.

8 Q. All right. When you and Mr. Mattress came out of the
9 apartment was Mr. Walker already pulling up or did you walk
10 for some distance? What happened?

11 A. No, he was -- he wasn't already out there. We walked
12 about ten feet and that's when he was coming up -- coming
13 into .

14 Q. Okay. So y'all would have been down -- you'd have been
15 down to this side a good bit when he pulled up?

16 A. No, we wasn't. We just about two or three apartments
17 down from mine.

18 Q. Okay. Well, ---

19 A. 'Cause we was walking real slow. We wasn't walking
20 that fast.

21 Q. Right. But this is How far down ---

22 A. We didn't get ---

23 Q. --- is your apartment?

24 A. We didn't get nowhere near

25 Q. That's right. You were down this way, ---

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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1 A. Exactly.

2 Q. --- aren't you?

3 A. Exactly.

4 Q. All right. When the car pulled up -- go ahead, you can
5 have a seat.

6 (Whereupon the witness returned to the witness stand)

7 Q. What does Mr. Walker do when the car pulls up?

8 A. What does he do?

9 Q. Yes, sir.

10 A. Well he drove up and jumped out of the car.

11 Q. Okay. Describe in detail the best you can remember
12 everything that happened.

13 A. Okay. Me and Tyler was standing there talking. By
14 that time Joseph pulled up and parked at an angle, jumps out
15 of the car. Tyler walks around the car like he about to
16 fight him. But at that time, simultaneously, as he was
17 raising the gun, he turned around and took off running.
18 That's when he got to shooting.

19 So he took off. He jumped back in the car. And I --
20 that's when I -- that's when I went back in the house, got
21 to calling Tyler to see if he was all right. So I jumped in
22 my car and rolled around. He was like, is that guy still
23 out there? I was like, no.

24 So he -- I told him to go to my apartment. So he went
25 to my apartment. When I came back, that's when he was

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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1 there.

2 Q. Where was Tyler when you asked -- when he asked you if
3 the guy was still out there?

4 A. Oh, I don't know. He was running. I don't know. He
5 was in the back.

6 Q. Okay.

7 A. He had ran to the back. He had run to the back. I was
8 calling him.

9 Q. Okay. Now, you say that Mr. Walker got out. Did he
10 say something to someone?

11 A. No, uh-uh (negative). Wasn't nothing said.

12 Q. Did he say something after he shot?

13 A. Yeah.

14 Q. What did he say?

15 A. He said, this shit real, nigga.

16 Q. Okay. And that's all that was said?

17 A. That's all that was said.

18 Q. And can you describe the gun that he had?

19 A. It was a black gun.

20 Q. Okay. Now, when you told the police that did you tell
21 them it was a black Glock?

22 A. Yeah, I told them that.

23 Q. Okay. How did you know that?

24 A. 'Cause I know what a Glock looks like.

25 Q. Okay. Solid black?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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- 1 A. Yes.
- 2 Q. Okay. How many times did he shoot?
- 3 A. I would say three times. I heard three shots.
- 4 Q. Okay. How close was Mr. Walker to Mr. Mattress when he
- 5 shot?
- 6 A. I'd say you Mr. Walker and Tyler was about right there
- 7 where the jury thing starts there where the wood at right
- 8 there.
- 9 Q. Over in this corner?
- 10 A. No, right where you at right there. Go a little
- 11 further right there where the table at.
- 12 Q. Okay. Right here?
- 13 A. (Affirmative nod).
- 14 Q. So he was -- he was real close?
- 15 A. Yeah.
- 16 Q. All right. Now where was Tyler standing? Was he on
- 17 the sidewalk, in the parking lot?
- 18 A. No, he had walked -- he was already hitting the parking
- 19 lot.
- 20 Q. Okay. Now if I'm facing the apartment complex was
- 21 Tyler in front of Mr. Walker, to his right or to his left?
- 22 A. To his right 'cause he went around. He had to go
- 23 around the car.
- 24 Q. So when Mr. Walker pulled in which direction did he
- 25 come from?

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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1 A. He come from the top of , like -- but in
2 the front. He came from the top.

3 Q. So when he pulled in and parked he parked right in
4 front of y'all?

5 A. No. He parked -- he parked at an angle.

6 Q. Right.

7 A. But, yeah, he pulled in front of us and parked at an
8 angle, yeah.

9 Q. Right in front of where y'all were standing?

10 A. Exactly.

11 Q. Okay. And you say Tyler went around the car? Did he
12 go around the front or around the back?

13 A. Around the front, went around that side.

14 Q. Okay. And did Mr. Walker get out and go around towards
15 the back ---

16 A. Yeah.

17 Q. --- or did he come towards ---

18 A. No, he came around towards the back, like towards --
19 and stood at the back of the car.

20 Q. Okay. So he was going the opposite way from Tyler
21 Mattress?

22 A. No. They was coming around like this. If you -- if he
23 gets out of the car and comes around the back side and
24 Tyler's in the front coming around to the side, they met up
25 right there.

BOBBY GOLDEN - DIRECT EXAMINATION BY MR. SHEEK

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1 Q. At the front?

2 A. No, at the back, on the side of the car. 'Cause ---

3 Q. So Tyler was going ---

4 A. --- he was at the back of the car ---

5 Q. --- around the back of the car?

6 A. No, Tyler was going around the front of the car.

7 Q. So they met up at the back?

8 A. If the car's at an angle -- if this is the car at an

9 angle, he jumped -- Mr. Walker jumps out of the car and

10 Tyler's standing right here, he comes around the back, Tyler

11 comes around here. Joseph was right here behind the car.

12 Tyler was right here on the side. That's when he pulled out

13 the gun and Tyler turned around simultaneously and took off

14 running.

15 Q. Okay. So what you're saying is when Mr. Walker got

16 out, Tyler was in front of the car?

17 A. No, Tyler was walking around.

18 Q. Okay. So he's going the opposite direction. And are

19 you sure about that?

20 A. Yes, I'm positive.

21 Q. About all the facts you just testified to the jury

22 about?

23 A. (Affirmative nod).

24 Q. No doubt in your mind?

25 A. No doubt in my mind.

1 **MR. SHEEK:** I've got no further questions.

2 **THE COURT:** All right. Solicitor.

3 **MR. MOYER:** I have no questions, Your Honor.

4 **THE COURT:** Thank you. Step down. All right. Take
5 the jury out just a minute, please.

6 (Whereupon the jury exited the courtroom at 4:24 pm)

7 **MR. SHEEK:** Your Honor, if we could go over what the
8 State would intend to impeach my client with so that he
9 could make a decision on whether or not to testify.

10 **THE COURT:** Sure.

11 **MR. MOYER:** Your Honor, I would -- in 2002 he has
12 convictions for distribution of crack cocaine. He had
13 another jail time -- so that even though if that's beyond
14 ten years, he served enough jail time so that it's within
15 the ten year period.

16 **THE COURT:** Okay.

17 **MR. SHEEK:** I agree.

18 **MR. MOYER:** In 2008, assault with intent to kill and
19 two counts of distribution of crack cocaine and two counts
20 of distribution of crack cocaine within proximity of a
21 school or park.

22 He has other charges that carry less than a year that I
23 would not seek to impeach him on. But those are the ones
24 that I would seek to impeach him on.

25 **THE COURT:** All right. Those would be ...

1 **MR. SHEEK:** And that is, based on my review of the rap
2 sheet, I agree with the solicitor that the release on the
3 first charge was within the ten years even though the
4 sentence was ---

5 **THE COURT:** Okay.

6 **MR. SHEEK:** --- outside it. I would ask, Judge, if you
7 would go over ---

8 **THE COURT:** Sure. All right. Put him under oath,
9 please. Stand up just a minute and let her swear you.

10 **MADAME CLERK:** Raise your right hand. Do you swear or
11 affirm to tell the truth, the whole truth and nothing but
12 the truth so help you God?

13 **MR. WALKER:** I do.

14 **THE COURT:** All right. Now you can sit down now. All
15 right. Now, Mr. Walker, we've reached a point in your trial
16 where you will have to make a decision as to whether you,
17 yourself, will take the stand and testify, okay? You
18 understand that?

19 **MR. WALKER:** Yes, sir.

20 **THE COURT:** Now, I tell you that you don't have to take
21 the stand and testify in your defense. And that's because
22 that's your constitutional right. You have absolutely no
23 burden in this case. You don't have to take the stand and
24 testify because, as I said, that is your constitutional
25 right and because the burden is always on the State to prove

1 you guilty beyond a reasonable doubt. Do you understand
2 that?

3 MR. WALKER: Yes, sir.

4 THE COURT: And if you chose not to take the stand and
5 testify, I would tell the jury that they in no way could
6 hold that against you. You understand that?

7 MR. WALKER: Yes, sir.

8 THE COURT: With that understanding I tell you that you
9 have a perfect right -- you have a perfect right to take the
10 stand and testify and tell the jury your side of the story,
11 all right?

12 MR. WALKER: All right.

13 THE COURT: If you do that, then you become like any
14 other witness in the case subject to being cross examined by
15 the solicitor. You understand that?

16 MR. WALKER: Yes, sir.

17 THE COURT: And you've heard the criminal record for
18 which the solicitor says he will use that to impeach you.
19 You understand that?

20 MR. WALKER: Yes, sir.

21 THE COURT: Now, are you under the influence of any
22 alcohol, drug or any other substance right at this moment?

23 MR. WALKER: Not at all, sir.

24 THE COURT: You sober?

25 MR. WALKER: Yes, sir.

1 **THE COURT:** You know what you're doing?

2 **MR. WALKER:** Yes, sir.

3 **THE COURT:** And you will make a decision as to whether
4 or not to testify. Now, has your lawyer put any pressure on
5 you to take the stand, or to testify or not to take the
6 stand and testify?

7 **MR. WALKER:** Not at all, sir.

8 **THE COURT:** All right. Have you made a decision?

9 **MR. WALKER:** Yes, sir.

10 **THE COURT:** And what is that?

11 **MR. WALKER:** I ain't going to take the stand, sir.

12 **THE COURT:** All right. And as I say, your lawyer's not
13 put any pressure on you to not testify, is that correct?

14 **MR. WALKER:** That's correct.

15 **THE COURT:** All right. Anything in reply, solicitor?

16 **MR. MOYER:** No, Your Honor.

17 **THE COURT:** All right. We'll argue and charge in the
18 morning.

19 **MR. MOYER:** Yes, sir.

20 **THE COURT:** All right. Bring the jury.

21 (Whereupon the jury entered the courtroom at 4:30 pm)

22 **THE COURT:** Ladies and gentlemen, in the trial of a
23 criminal case a defendant has absolutely no burden. A
24 defendant does not have to take the stand and testify or
25 present evidence. And that's because that's a defendant's

1 constitutional right.

2 The burden is always on the State to prove a defendant
3 in a case guilty beyond a reasonable doubt. I will more
4 fully explain that right to you when I charge -- give you my
5 charge.

6 The Defendant in this case has exercised his
7 constitutional right not to take the stand and testify in
8 his defense. So the testimony in this case is complete.
9 What we have remaining is the final arguments by the
10 attorneys and then my charge on the law. We'll do that in
11 the morning.

12 So we are concluded for today. We'll start back
13 tomorrow morning at 9:00. Now please remember the
14 admonition that I read to you from the order of the Chief
15 Justice. If anybody contacts you and tries to talk to you
16 about this case, get their names and addresses and report
17 that to me.

18 Please keep your badges on. Have them on when you come
19 back tomorrow morning. Again, I ask that you do that so
20 that everyone involved with this case will know that you are
21 a juror. And it would be highly improper for them to
22 discuss or talk about the case in your presence. So with
23 those admonitions, I'll see you back at 9:00 in the morning.
24 Thank you.

25 (Whereupon the jury exited the courtroom at 4:32 pm)

1 **THE COURT:** All right. See you back in the morning.

2 **MR. MOYER:** Thank you.

3 (Whereupon court was in recess at 4:33 pm)

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1 **Tuesday, April 2, 2013:**

2 (Whereupon court resumed at 9:35 am)

3 **THE COURT:** All right. Solicitor, you waive opening
4 argument?

5 **MR. MOYER:** I do, Your Honor.

6 **THE COURT:** You ready to talk to the jury, Mr. Sheek?

7 **MR. SHEEK:** Yes, sir.

8 **THE COURT:** All right. Bring them on.

9 **MR. MOYER:** Could I have one minute to make this ---

10 **THE COURT:** Hold ---

11 **MR. MOYER:** --- equipment go on?

12 (Pause)

13 **MR. MOYER:** Thank you, Judge. We're ready now.

14 **THE COURT:** All right. Bring the jury.

15 (Whereupon the jury entered the courtroom at 9:38 am)

16 **THE COURT:** Good morning.

17 **THE JURY:** Good morning.

18 **THE COURT:** Okay. Ladies and gentlemen, at this time
19 we'll have the concluding arguments by the attorneys. When
20 they have concluded, then I'll give you the law on this
21 case. All right, Mr. Sheek.

22 **MR. SHEEK:** Thank you, Your Honor. May it please this
23 Court. Madame Forelady, ladies and gentlemen of the jury,
24 good morning.

25 **THE JURY:** Good morning.

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1 **MR. SHEEK:** You have heard all the evidence that you're
2 going to have to do the job that you've been asked to do in
3 this case. You watched the video, like I said yesterday.
4 You've heard us talk to you. We're going to ask you to now
5 do the hardest job in this courtroom because we all have
6 different roles to play.

7 But we're going to ask you to find the facts and to
8 speak justice. And I understand that, I've been doing this
9 for twenty-one years, that that is by far the hardest job
10 any of us have to do.

11 And I appreciate you being here. I mean, I know you've
12 got other things to do. You've got lives. You've got jobs.
13 You've got families. And your time here takes away from
14 that.

15 But just as you heard yesterday, what you're doing is
16 so very important because Judge Miller talked to you after
17 the video and he said this is your system of justice. And
18 it is. And the reason we have this system of justice is so
19 that a panel of unbiased citizens will sit and listen to the
20 testimony and the evidence.

21 Because, as I told you, Joe Walker sits here in this
22 seat charged with a crime. He's been indicted. And that's
23 a scary prospect when you read that indictment, the State of
24 South Carolina versus, and there you see your name. And you
25 wonder what it would be like to sit in that seat. I've

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1 often wondered that as I've represented these individuals.

2 And I was thinking last night as I drove home and as I
3 came back this morning and thought about that, that seat,
4 you know, they told you yesterday, I think, last year
5 Greenville County handled over thirteen thousand warrants.
6 That's a lot of cases. That seat is sat in by many people.

7 One thing I told you was, though, that the State has to
8 prove and prove it beyond a reasonable doubt. Now, His
9 Honor is going to charge you in the law in a few minutes.
10 After I talk to you, after Mr. Moyer talks to you, he's
11 actually going to read you the law that you have to apply to
12 this case.

13 And he's going to give you a definition of reasonable
14 doubt. I think most of us probably know what a reasonable
15 doubt is. I've heard a couple of definitions that our court
16 has come up with. One that's a reasonable doubt is the kind
17 of doubt that would cause a reasonable person to hesitate to
18 act.

19 Another one is the kind -- beyond a reasonable doubt is
20 evidence that leaves you firmly convinced of the existence
21 or non-existence of a fact. And that's the standard that
22 the State is shooting for here. And it's much like climbing
23 a staircase, with that upper step being beyond a reasonable
24 doubt:

25 The best way I heard it put when I was a young lawyer

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1 when I was trying a case and the other attorney got up and
2 told the jury if you go back there and you listen to all
3 this evidence and you talk about it and you decide, you know
4 what, Joe Walker probably did this, then it's clear your
5 verdict is not guilty because probably never gets you to
6 where you have to be.

7 Now why is that important? The Judge told you Joe
8 Walker's been charged with a crime to which he's pled not
9 guilty. If somebody accuses you of something of which
10 you're not guilty how do you prove it didn't happen? Well,
11 it would be great if you could come in with, you know, that
12 receipt that shows you were at a restaurant, you know, in
13 another county or something like that.

14 But let's say you don't have that. You don't have
15 that. Because let's face it, the simple fact is I could
16 create the same evidence the State has brought to you in
17 thirty seconds if I wanted to, if I wanted to.

18 If I was the kind of person that wanted to set up
19 someone who wasn't guilty -- this young man sitting here
20 that I used as an example yesterday is actually my son.
21 Let's say he and I had somebody we were upset with, and we
22 were the kind of people that didn't worry about truth, or
23 honesty, or justice, or anything else and we went last night
24 and said, all right, we know how to do this. Go get my gun
25 out of the counter, go outside, fire four shots off, go

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1 inside, call 911 and say John Doe just came over here and
2 shot at me. There's the shell casings. They're laying
3 right there on the ground.

4 Now, let's assume that happened. And then the police
5 show up and say who did it? Well, John Doe -- John Doe did
6 it. And the police say, well, that's good enough for me.
7 All right. My investigation's done. Let me go get a
8 warrant. Then that seat is now occupied with John Doe. And
9 I've just created the exact same evidence that the State has
10 brought to you here today.

11 Now why is that important? The video talked to you
12 about and I talked to you about judging the credibility of
13 the people who talk to you. Because most of us come in here
14 and think, well, yeah, that could happen, Mr. Sheek. But
15 let's face it, we don't do that kind of stuff. Who's going
16 to set somebody up like that?

17 Well, the case the State has brought to you stands and
18 falls on Tyler Mattress. Right? That's what the State told
19 you. That's what the officer who investigated the case told
20 you. I came in and I talked to Tyler Mattress. Once he
21 said it was Joe Walker, I was done.

22 Well, Tyler Mattress, is he the kind of person that
23 would do that? Because you've got to judge his credibility
24 as he testified to you. Now what he told you when the State
25 questioned him was, yeah, I've got ten burglaries, five

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1 larcenies, a malicious injury to personal property and an
2 armed robbery. You remember when I cross examined him I
3 forgot that and he corrected me, and armed robbery, Mr.
4 Sheek. And I'm indicted now for perjury related to this
5 case.

6 So the State has brought a charge that I have lied
7 under oath in a courtroom setting about this. That's the
8 State's witness, they, themselves, say is a liar and will
9 lie under oath.

10 Now, ladies and gentlemen, I told you yesterday you
11 bring in here your common sense. Now do you think for a
12 second that man indicted in this courthouse for perjury
13 related to this case got up here and sat on that stand while
14 that charge is still pending, hadn't been taken care of,
15 even though he says, yeah, I lied that day, I did it, but he
16 hasn't come in here and pled guilty to it, that charge is
17 still pending, but he's up here to testify.

18 Now, you know and I know why he's doing that. When
19 that testimony is bought and paid for, we've just got to
20 sign the check when we do the deal on the perjury later.

21 Would he be the kind of person that would lie or set
22 someone up? Well, I don't know. He's the kind of person
23 that would commit armed robbery. He's the kind of person
24 that would commit ten burglaries. He's the kind of person
25 that would commit five petty -- not petty larcenies, five

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1 larcenies.

2 Larceny's just a fancy word that means stealing. He's
3 the kind of person that would commit perjury. So I know
4 he's a liar, an armed robber, a burglar and a thief. I know
5 that. He admitted that to you. It's not a big step to lie
6 about something else. It just isn't.

7 Now he said something here on the stand, look at the
8 common sense part of his testimony, oh, I didn't have a
9 problem with Joe Walker. I didn't have a problem with Joe
10 Walker.

11 Oh, yeah, I went over to his mama's house and
12 confronted him because of what he had said to me. Yeah, I
13 went and got a knife at Bobby Golden's house and got Bobby
14 to watch my back because I was going to fight him. I didn't
15 have a problem with him.

16 Of course you had a problem with him. You don't go arm
17 yourself and go out and wait for somebody that you don't
18 have a problem with. You just don't.

19 Then you've got to look at the consistency of the
20 stories of the people that talked to you. It was
21 interesting. I told you we were going to learn about this
22 case together.

23 Other than the documents that the State has that they
24 showed me before we come to trial, I don't talk to these
25 witnesses. They don't have to come talk to me. I can't

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1 make them come to my office or give a deposition. That's
2 just not the way our criminal system works. So as we heard
3 the testimony, I heard it with you for the first time.

4 I heard what Tyler Mattress said. One thing I've
5 learned in twenty-one years of doing this thing is one
6 thing, you sequester the witnesses. That's why you see the
7 witnesses weren't all in the room while other people were
8 testifying.

9 Why do we do that? So that they don't hear what
10 someone else says so they can match their story. And then
11 when you get on that stand, you ask them for the details.
12 You ask them for the details. Because I can get the main
13 story straight. He came over, he was driving a Honda, he
14 shot at me. I can get that straight.

15 But then I ask for the details. Well, where was he
16 standing? And we're going to talk about all this in a
17 minute. But where was he standing? What angle was it? You
18 know, what did he say? What was he driving?

19 Because you've got to look at who the State talked to.
20 They took two written statements from -- let me rephrase
21 that. They took a written statement from Tyler Mattress, a
22 written statement from Bobby Golden. They were the two
23 people supposedly standing there together when Joe Walker
24 was shooting according to their story, right?

25 They took a statement from Amanda Ray. Now, Amanda Ray

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1 wasn't outside. It's interesting when Amanda Ray says this
2 conversation comes in and Tyler takes the phone and has this
3 conversation. Was it angry? Was it threatening? What did
4 she say?

5 And I'm going to tell you now, if I misquote what
6 anybody said, you ignore me and you rely on your memory or
7 if you want to in your deliberations to hear testimony, you
8 can ask to hear it again. So I don't want to misquote
9 anything. But what did she say?

10 Now, Tyler's supposedly laying there in the bed with
11 her and he can hear what Joe Walker is saying when Amanda's
12 talking to him, but Amanda doesn't hear what Joe Walker's
13 saying when Tyler's talking to him. That's their story. So
14 Tyler leaves. Doesn't say what he's going to do.

15 You've got Tyler saying he comes over in a silver, four
16 door, Honda Accord. Now, how would he know about that if he
17 didn't actually see it?

18 Well, we see it in Amanda Ray's statement. She tells
19 the police, I know he's been driving a silver, Honda Accord
20 for about three months. She wasn't outside. She didn't see
21 him. She knew that car from beforehand. And Tyler knew
22 that car from beforehand and he said that.

23 Well, what did Bobby Golden say he arrived in? Bobby
24 wanted to say to you on the stand, oh, it was a four door,
25 Honda, silver, Accord. But when I gave him the written

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1 statement that he actually gave on the same day it was a two
2 door, gray, Honda Accord. Two doors specifically put in
3 parentheses. It was a point that he remembered. And he
4 said to me, I'm positive about that. Sure about it. Okay.

5 He comes over there 7:00 in the evening in July.
6 Amanda tells you there was a lot of people around out there.
7 But you know what they don't have? Other than Bobby Golden,
8 and other than Tyler Mattress, they don't have anybody that
9 saw a Honda Accord pulling in, parking at an angle, somebody
10 shooting at someone or getting out except for one witness
11 that interestingly police never took a written statement
12 from.

13 But she came in and testified. And that was probably,
14 to me, one of the most interesting witnesses. And that was
15 Ms. Beverly Henderson.

16 Ms. Beverly Henderson, who lived in apartment says
17 that she was sitting out there and had been out there for
18 some time, didn't she? But she saw Joe Walker walking from,
19 let me get this right, from her left and Tyler coming from
20 her right and that they met, exchanged words and shots were
21 fired at a fairly close range, much closer than what Mr.
22 Mattress said.

23 She didn't see anybody come in and park. And I said,
24 well, you would have seen that because you were sitting
25 outside. Absolutely, I would have seen that. But according

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1 to her, nobody came in and parked.

2 Now why is her story that different? And I don't mean
3 a little bit different, I mean that different. I understand
4 that after three years, three witnesses that do witness
5 something may have little differences. Was it 7:20, was it
6 7:30? Did he park at an angle? Did he park at less of an
7 angle? But when you're talking about people with completely
8 different stories, that's where you've got a problem.

9 Now why do I say completely different stories? Let's
10 see. You remember in the cross examination I asked him, is
11 this one row of apartments? It is. Are there any ways you
12 can cut through without going around the end of the
13 building? There's not. And I said would you agree with me
14 that these are forty-four apartments long? This whole row
15 of buildings from off this side of the picture to off that
16 side of the picture.

17 Now the police told us that when he pulled up, this is
18 the cars that were parked there. None of them moved while
19 they did their investigation, right?

20 The gentleman that owns this car and lives in the
21 apartment next door agreed, yeah, that's my car. It was
22 parked there. I couldn't leave until after the police left.
23 He's the one that said I had a hole in my front bumper here.
24 Okay?

25 Ms. Henderson said none of those cars were parked

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1 there. I was sitting at That was her apartment,
2 remember? She was sitting right in front of it. That's
3 just two doors from Ms. Ray's. And she's sitting on that
4 sidewalk and none of those cars were parked there. Well, of
5 course, we know they were, but she says they weren't.

6 Now, where were they standing when these shots were
7 fired? Now there's a reason I was asking that. There was a
8 reason I was asking that. According to Mr. Mattress they
9 were standing -- if he were standing on the sidewalk, it was
10 roughly this angle that Mr. Walker got out of the car,
11 right? His back to the apartments, roughly this angle, he
12 fires the shots at him.

13 Ladies and gentlemen, if he parks in this area, gets
14 out, Mr. Mattress is standing there, and he fires four --
15 three or four shots at him, what's it going to hit? It
16 doesn't hit Mr. Mattress. What's it going to hit? Look at
17 the height of those apartments. It goes all the way down
18 this way to apartment , all the way up off the screen
19 that way. How do you miss that? Mr. Mattress is what,
20 6'0", 6'1", somewhere in that area? How do you miss that?

21 So that's the reason I was asking for the details.
22 Because let's face it, if you park in this area and shot and
23 hit that car there, like they're going to have to say he did
24 to make their story make sense, he's not shooting at anybody
25 standing over here. Just can't be. Who fired those shots?

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1 Mr. Mattress also said something else that was very
2 interesting when he testified. What did he say, when the
3 police got there who did they think had done the shooting?
4 They thought I had done the shooting, he said, because
5 somebody had seen me running and hiding.

6 So let me get this straight. According to Mr.
7 Mattress' testimony, as soon as he sees the gun coming up,
8 what's he do? As soon as I see the gun coming up, I take
9 off running, right? That's what he said. And that he's
10 running while the shots are fired.

11 So this witness that tells the police that they thought
12 it was Mattress shooting, because they saw him running,
13 would have had to have been looking at the same time that
14 Joe Walker's car was parked there and Joe was standing there
15 firing that gun if Mr. Mattress' story's true. Had to be.
16 If you see Mattress running, you see Joe standing there. No
17 other way around it.

18 But apparently that witness was never interviewed by
19 anybody. No statement taken from that witness. And we
20 don't know who said that, but Mattress was very adamant
21 about it.

22 So if the police showed up and thought he might have
23 been shooting, what do you do? How do you check that?
24 Because the State had told you at the beginning of this
25 case, this is not a scientific case. Well, you know what,

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1 it's not, but it should have been.

2 Because if you've got a statement that Mattress may
3 have shot the gun, do a GSR test. It's real simple. Cotton
4 swabs, drop it in the bag, send it to the lab. And what
5 they're checking for is residue from gunshot residue, which
6 is not lead as a lot of people think, but it's the residue
7 from the primer and the propellant.

8 If you fire a gun it expels not only out of the barrel,
9 it expels out of the ejection port and it usually ends up on
10 the hand of the person that shoots. That's what the
11 forensic person told you. That's why I asked her that. If
12 you fire a gun do you expect to find it? Oh, yeah. And
13 would good investigation techniques be to check the people?
14 Absolutely.

15 So why didn't we check? If you got there and the first
16 indication you got was that Tyler Mattress might have been
17 shooting, why didn't you gunshot residue his hand? Real
18 simple. It's real quick. But they didn't.

19 Now, Joe Walker has a problem because Joe doesn't have
20 the opportunity to be there at that scene conducting this
21 investigation. He doesn't even know about it until the
22 police show up to arrest him. When he comes and hires me, I
23 don't have the forensics labs and the personnel that they
24 have. I simply don't.

25 But I also don't have the obligation to come and prove

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1 to you beyond a reasonable doubt what he's been charged
2 with. Plus, after -- they're going to tell you after six or
3 ten hours they don't do a gunshot residue test anyway. So
4 it wouldn't have mattered three or four days or four months
5 later.

6 And you know the reason they didn't check? Because
7 Tyler said Joe did it. That was what they told you.
8 Because Tyler said Joe did it. The term the officer used
9 was cut and dry. Cut and dry. Because the statement of a
10 man with ten burglaries, five grand larcenies, malicious
11 injury and an armed robbery, good enough for me. That's
12 what the State's telling you.

13 So when we pressed at other people for details, this is
14 the reason I pressed for details. Because let's face it, if
15 you asked me what I was doing on July 20th of 2011, I
16 couldn't begin to tell you. I don't remember.

17 But I know back about fifteen years ago my house was
18 burglarized. I can remember everything from when I got home
19 and found that house was burglarized when I walked in to
20 find that mess, can remember every detail of it. And you
21 know why? Because it was important. It was shocking. It
22 was traumatizing. I could tell you where I went, when I
23 made a call, who I talked to, what I did after that. A lot
24 of you if you think back to September 11th, 2001 can
25 remember exactly where you were when you found out what had

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1 happened to the World Trade Centers, twelve years ago,
2 because it was important.

3 When a man pulls a gun out and shoots at you, it's
4 important. When you go out with your friend, as Bobby
5 Golden says he did, to watch his back and you get shot at
6 because Bobby was standing there too, it's important. When
7 Ms. Beverly sits there and watched this shooting, it's
8 important. You remember things. You don't get the details
9 of this wrong.

10 Tyler Mattress says he was standing right down here a
11 little ways because was the apartment he was staying in.
12 He said he was down around apartment , right, standing
13 there waiting. He had went and got Bobby, got a knife, went
14 out and they were waiting.

15 Tyler says Joe pulls up. He doesn't make it a couple
16 of steps, he says, when he sees a gun coming up and he takes
17 off running and the shots happen. Bobby Golden says, well,
18 I live down in apartment, I believe he said Y'all
19 remember what he said. It was in the s. So he's -- he
20 said a good bit down here.

21 They had come out of his apartment and only made it a
22 little ways. At one point he said about ten feet. Another
23 time he said maybe three or four. But you're talking from
24 to a long ways.

25 He says we had just made it a little ways when the car

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1 pulls up. Joe pulls out the gun. Now he says the car
2 pulled up right in front of them. Well, ladies and
3 gentlemen, this area right here where these shell casing's
4 found are not in front of , or anything else. We're
5 talking on down here. He says that's when the shooting
6 happened.

7 Now he puts the distance of the shooting roughly like
8 this, okay? So let's assume that Joe pulls out a gun and
9 shoots and, again, is a bad shot. But again, you're
10 shooting at somebody this close. Those apartments are right
11 there. And there's not a single bullet hole in any part of
12 it. But there is one up here.

13 So where did it happen and how did it happen? Bobby
14 Golden and Tyler Mattress disagree on the color of the car,
15 the type of the car, where the shooting occurred, the gun
16 that was used because Bobby Golden was positive it was a
17 solid black Glock. I said, are you sure? I'm sure.

18 Tyler Mattress was just as sure that it had silver
19 chrome on top. He, of course, didn't know what kind of a
20 gun it was, just chrome on top with a black handle. Tyler
21 Mattress -- Bobby Golden was just as sure it was a black
22 Glock. He knows that because he knows what a Glock looks
23 like. It was a Glock.

24 So you've got -- and then, of course, poor Ms.
25 Henderson says, well, none of these cars were here and the

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1 shooting actually happened over here. Joe Walker comes
2 walking from this way. Tyler Mattress comes walking from
3 this way. There was no car pulling in. They met up and
4 that's where the shooting happened. That's your three
5 State's witnesses.

6 Now, they can bring in the forensic person. They can
7 bring in the arresting officer and try to make up for
8 quantity what they don't have in quality. And that's
9 something we see from time to time when a case just doesn't
10 have quality, we'll bring in a lot of witnesses.

11 But it really boils down to one question. And don't
12 mistake what this is about. Did Joe Walker pull up there
13 and attempt to murder Tyler Mattress? That's the only
14 question in this case.

15 The State will try to argue to you there was motive.
16 Oh, Joe was jealous. You know, Joe was jealous and angry at
17 Tyler and he comes over to settle the score. Well,
18 interestingly, when you talk to Amanda Ray, what did she
19 say? What did she say?

20 She said, well, we talked about -- they were talking
21 specifically about a statement, I'll crack your skull, bust
22 your skull or something like that. And she said, we did
23 that all the time. She said, I guess he didn't like Tyler.
24 I mean, you know, I'm seeing somebody else. I guess he
25 doesn't like that.

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1 But what did they not have? They don't have a history
2 of any problems between Joe Walker and Tyler Mattress even
3 though Tyler says he'd been seeing the woman for about a
4 year.

5 What was Joe doing that day according to Sharanda?
6 When he come over to make a call from her house, who was he
7 looking for? Was he looking for Tyler Mattress? Was he
8 angry? Was he trying to find out if Amanda Ray was with
9 somebody else? No. He was looking for his kids.

10 Amanda Ray even said that. When he called he wanted to
11 come and take the kids to play basketball. We're not
12 talking about a man that made a call to come over there and
13 fight somebody because he's mad that someone's with his ex-
14 girlfriend. We're talking about a man who is looking to
15 spend time with his kids. Ms. Ray tells you that. Sharanda
16 tells you that. But from there he supposedly went into this
17 enraged killer coming over here and shooting at somebody.

18 You know, I submit to you, yeah, there was a problem
19 between Tyler Mattress and Joe Walker. I think Tyler's
20 telling you the truth there. But you've got to decide for
21 yourself what really happened. Who fired those shots? And
22 if Joe Walker parked that car right there in broad daylight
23 in July with the people standing around that were apparently
24 there at that time and fired those gunshots, why do we have
25 these three witnesses and why do we have three different

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1 stories?

2 Now the State is going to have to ask you to convict
3 and to do so beyond a reasonable doubt. To do that they owe
4 you an explanation of a couple of things. One, how do you
5 fit those stories together between Tyler Mattress, Beverly
6 Henderson and Bobby Golden? How do you even come close to
7 doing that?

8 Two, why did the Defense have to call Bobby Golden to
9 the stand? If he was an eyewitness standing out there with
10 Tyler Mattress, the closest one to him when it went on, why
11 did the State not call him up there? Why did the Defense
12 have to call that witness?

13 I mean, I understand it, and I think you probably do,
14 too. Because he was the one that gave a written statement
15 saying it was a different kind of car, a different color of
16 gun. He says the shooting happened in a different place.
17 So if you're wanting to win a case, you don't call him.

18 Let me tell you something, ladies and gentlemen, the
19 State has an obligation. When these witnesses came up and
20 put their hand on that Bible and raised their right hand,
21 what did they swear? They swear to tell the truth, the
22 whole truth and nothing but the truth.

23 The State's obligation is to give you the facts, give
24 you the facts. He told you that, my job is to bring to you
25 the facts. Well, then bring to me all of them. All of

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1 them. Don't hide a witness outside because he says
2 something that doesn't fit with what everybody else says.

3 Don't fail to interview these other witnesses who were
4 standing out -- not a single one other statement given?
5 This person that says Tyler Mattress was doing the shooting?
6 You didn't even go look for him? They didn't. Didn't even
7 go look for him.

8 Not one statement from anybody because I asked this
9 guy. I mean, he was the first responder. So I said, well,
10 are you the chief investigating officer? Because I want to
11 know who did the investigation. Because I want to know when
12 you knocked on these other doors and you asked these other
13 people what did you see, what did you hear, what happened?
14 But we don't know that because nobody other than that
15 uniform patrol officer got on that stand to tell you they
16 did anything, did they?

17 Now, they talked about the other detective that came
18 out and took a statement because they took it from Amanda
19 Ray. Remember that? Amanda said she was a female officer.
20 And they had to drive off-scene to do this statement.

21 Now, that didn't make any sense to me, but whatever.
22 She wanted to go off-scene to give the statement. Just stay
23 in the house even though Amanda Ray said I'd been happy to
24 do it in my house didn't matter. But for some reason the
25 police took her away to give this statement.

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1 So I thought, well, at some point then we're going to
2 hear from this detective and they're going to tell us what
3 they did as far as canvassing and talking to other people.
4 Or maybe they're the ones who took the statement from
5 somebody that saw Tyler Mattress run and hide.

6 They're the ones that said Tyler Mattress was doing the
7 shooting. Nobody. Never called. Never put up there. Now
8 why is that? The same reason Bobby Golden wasn't put up
9 there? That's a question you've got to ask yourself.

10 But more importantly, you've got to ask this question.
11 When Mr. Moyer gets up here in a few minutes he's going to
12 get a chance to respond to everything I've said. I don't
13 get a chance to get up and explain what he says. It's just
14 the way our system works. And I'm sure when I sit down I'll
15 think of something I should have said that I didn't.

16 When Mr. Moyer gets up here to respond to everything I
17 said and tell you why it really doesn't matter, he owes you
18 an explanation. Why didn't they call Bobby Golden? Where
19 are the other witnesses? What other investigation was done?

20 Because let me tell you something, this is Joseph
21 Walker. He was introduced to you at the beginning of the
22 case. He's sat here beside me the whole time. And he's
23 just Joseph Walker. If he were Dr. Walker, if Joe was an
24 actor, if Joe was Senator Walker or Legislator Walker, do
25 you think that investigation would have been done? Bet it

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1 would. But he's just Joe.

2 Ten minutes of investigation and we're ready to sign a
3 warrant on him, bring him to trial, sit him in front of you
4 people, ask you to convict him of attempted murder based on
5 an inconsistent statement of a man with a criminal record
6 that you've heard about that they've charged with perjury.

7 The statement of Beverly Henderson, who tells a
8 completely different story, and the statement of Bobby
9 Golden, that they didn't bring up here, who tells a third
10 story, and based on that and based on a conjecture of
11 jealousy that they have no evidence of, they're going to
12 tell you in just a few minutes, I want you to go back, I
13 want you to find this man guilty, I want you to convict him.
14 That's what they're going to do.

15 What I'm going to ask you to do, though, is to follow
16 your oaths. Your oaths were to truly find this case based
17 solely on the evidence. I would have loved for this to have
18 been like Law and Order where we can bring in the surprise
19 witnesses that have the video and show what happened, but
20 it's simply not that way.

21 Joe Walker pled not guilty to this case. There's not
22 much more than that he can do. If you ask me to produce
23 evidence about the Jodi Arias trial in Florida, there ain't
24 a thing I can help you with 'cause I wasn't there. Joe
25 can't tell you about what he wasn't there for or call

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1 witnesses about it, but then he didn't have the obligation,
2 he didn't have the opportunity. The police were there.
3 They did the investigation. They have the obligation.

4 Reasonable doubt, the kind of doubt that would cause a
5 reasonable person to hesitate to act. I think one of the
6 best examples I ever heard of that was say you went to a
7 doctor and the doctor examined you and said, I think you
8 need to have this surgical procedure. It's a pretty
9 important thing. You have to decide whether or not to do
10 it.

11 And the reason the doctor gave you for those -- for you
12 to have that procedure was like the evidence the State has
13 brought to you today. We've got three opinions, they're all
14 different. The main one was given to you by a liar, that we
15 say is a liar, who's lied about this, who's got a criminal
16 record of ten burglaries and all the thefts.

17 So here's what I want you to do, the doctor says, based
18 on the testimony of a liar, a thief, a cheat and an armed
19 robber, had some inconsistent testimony from his friend, and
20 no other physical tests whatsoever, I think you need to have
21 the surgery. Do you go say schedule it? Or do you say I
22 want a second opinion? If you want a second opinion, you've
23 got reasonable doubt.

24 Reasonable doubt, ladies and gentlemen, is something
25 that you've got to look at carefully. This case is not

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1 fraught with just reasonable doubt. I don't know this case
2 rises to the level of probable cause. And that's the lowest
3 standard.

4 Joe sits in that chair right now. And, I guess, if my
5 ex-wife, who I have two children with, were to hook up with
6 someone like Tyler Mattress, if they wanted to get me in
7 trouble for whatever reason, I could be sitting in that
8 chair based on the exact type of situation. I hope to
9 goodness, though, before I ever sit in that chair that I can
10 rely on the State when they're investigating it to do the
11 job properly.

12 Please listen carefully and keep an open mind. You
13 look at this evidence when you go back in your room to
14 deliberate. If you want to hear the testimony, you hear it.
15 You look at these pictures, and you look at these
16 photographs and what they don't have and what didn't happen.
17 And you ask yourself, am I convinced beyond a reasonable
18 doubt that Joe Walker attempted to kill Tyler Mattress?
19 Thank you.

20 **THE COURT:** Solicitor.

21 **MR. MOYER:** Thank you, Your Honor. May it please the
22 Court? Good morning, ladies and gentlemen. I appreciate
23 also your interest in this case, and your diligence that
24 you've given to this, and your degree of attention that
25 you've paid. We've watched you throughout the trial. And

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1 we've seen how closely you've watched it, and you've
2 listened and observed. And we want to thank you for that as
3 well.

4 My remarks here are going to be short. As I told you
5 at the beginning of this case, when I have my last
6 opportunity to talk to you, I'm going to ask you to find
7 this Defendant guilty. I'm going to appeal to you, I'm
8 going to argue to you why the evidence shows beyond any
9 reasonable doubt whatsoever that this Defendant is guilty of
10 this charge.

11 The first thing I want to mention to you, as His Honor
12 has instructed to you, the evidence phase of this case is
13 over. You can't hear anymore witnesses. You can't get any
14 statements or police reports.

15 Sometimes we have jurors come back with a question
16 while they're deliberating saying we'd like to see so and
17 so's report or we'd like to look at a statement. Except in
18 very rare situations police reports and witness statements
19 are not admissible into court. And what they say on the
20 stand is what is admissible and what you are to take with
21 you as you go back there to take -- to make -- do your
22 deliberations.

23 Now, I want to comment on something that you heard a
24 lot about so far from the Defense and you'll hear His Honor
25 instruct you on as well, and that is the burden of proof.

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1 You've heard a number of times, and as I said, you're going
2 to hear some more, that the Defendant comes into this
3 courtroom innocent. He comes in cloaked in the presumption
4 of innocence. You've heard that the Defendant cannot be
5 convicted unless the evidence proves him guilty beyond a
6 reasonable doubt.

7 And I want to say this right off the bat before I start
8 my remarks is that we agree with that one hundred percent.
9 The State gladly accepts that burden. The police officers
10 and I, we understand that it is a fundamental concept of
11 American Law and we embrace that burden.

12 But I want you to remember this, every criminal
13 defendant who has ever been convicted, who has ever been
14 held responsible for what he or she did, for that crime, has
15 started off presumed innocent. In every case from the most
16 seemingly insignificant to the most seemingly significant
17 case, that burden is the same.

18 And in South Carolina you could have a jury trial for
19 speeding. A lot of people don't know that. Maybe I --
20 maybe I shouldn't plant that seed. But you would have a
21 jury convened. There would be six instead of twelve. And
22 before you could be found guilty of speeding, that jury
23 would have to be convinced beyond a reasonable doubt that
24 you were speeding.

25 If we were to have a capital murder case, that burden

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1 is just the same. So for all cases, both extremes and for
2 all in between, if a person is convicted, that means a group
3 of citizens like you here today have found that person
4 guilty beyond a reasonable doubt.

5 If the government could never overcome the presumption
6 of this burden of proof, there would be no convictions.
7 There would be no consequences to criminal wrongdoing and no
8 one would be convicted. So keep that in mind.

9 Keep in mind also, ladies and gentlemen, that it is a
10 reasonable doubt. It is not beyond all doubt. It is not
11 beyond a -- every doubt or what I heard someone say once, a
12 shadow of a doubt, whatever that is. I'm not sure. There
13 are very few things in this world, if any, that you can know
14 beyond any doubt. And our criminal justice system does not
15 require that as well. It's a reasonable doubt.

16 Now, in analyzing this case I would suggest to you that
17 you will probably have to look at it in two -- in a two-step
18 sort of way. First off, did the crime happen? Secondly, is
19 this person, Joseph Walker, the one who committed that
20 crime.

21 So let's talk first just very briefly about what
22 attempted murder is. His Honor is going to instruct you
23 about the law in this case. What murder is, the killing of
24 a person with malice aforethought, either express or
25 implied. That's what murder is. So attempted murder would

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1 be the attempted killing of a person with malice
2 aforethought, either express or implied.

3 So the key concept to this crime is this term -- this
4 idea of malice. What is malice? Under the law there's a
5 legal definition of that. It's a term of art that means --
6 has a connotation of ill-will or hatred. It's a term of art
7 importing wickedness and excluding a just cause or excuse.
8 And a better way of understanding that is it's the
9 intentional doing of a wrongful act without just cause or
10 excuse. That's what malice is.

11 And we have two kinds of malice. And we have express
12 malice and we have inferred malice. It has to be either
13 express or implied. Express malice means there's actual
14 direct evidence of ill-will, that that person did not like
15 or that person was out to get another person. And in rare
16 situations we have that.

17 The other kind of malice is inferred. And what the law
18 says regarding that is you don't have to try to get inside
19 the mind of a person. You can infer from the circumstances
20 that there was malice.

21 Now, ladies and gentlemen, I would argue to you that in
22 this case we have both. This is one of the rare situations
23 where we have both express malice and implied malice.

24 There's express malice -- and this Defendant, Joseph
25 Walker, made it very clear that he was out to get Tyler

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1 Mattress. We know there was a history there. This
2 Defendant did not like the fact that Tyler Mattress was
3 spending time with Amanda Ray and those two children. He
4 did not want another man around his children.

5 You heard Tyler Mattress say how he had received phone
6 calls from him saying that you're disrespecting me in front
7 of my children. He did not like that. And they had words
8 about it. They had words several times on the telephone, at
9 his mother's house. There was a history.

10 And on the day of this incident, on that telephone,
11 there's no getting around it, the Defendant called over, and
12 over, and over trying to get in touch with Amanda Ray. And
13 he finally went to such extremes that he went to Sharanda's
14 house and got her phone so she would answer it.

15 And when he got her on the phone he was angry.
16 Remember the phrase he used, he said, I'm going to crack
17 your skull. He said that to Amanda. Now the Defense tried
18 to just brush over that aspect of it.

19 And, Amanda, you could tell when she testified, she was
20 a reluctant witness, wasn't she? You could tell she didn't
21 want to be here. And it's understandable. Who are we
22 talking about? We're talking about, despite the problems
23 that they had, we're talking about the father of her two
24 children. She had been put in the position of being part of
25 the prosecution of putting her father's [sic] children in

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1 jail.

2 So, of course she's reluctant. And they'd had a
3 relationship. What did she say, for ten to twelve years?
4 They were together for a long time. So, of course she was
5 reluctant.

6 And I had to spend a little bit of time pulling this
7 information out of her. I had to show her her statement.
8 She said, yeah, he was a little jealous. Well, wait a
9 minute, let's talk about that. Let's look at your
10 statement. What did you say? Okay. I said he was real
11 jealous when other men were around. He didn't like that.

12 Well, did he threaten you? Well, yeah, he sort of --
13 well, what did he say? Oh, I don't -- let's look at your
14 statement. He said he was going to crack my skull. Crack
15 my skull. Now, let's not brush over the severity -- the
16 severity of that statement. He was going to come over and
17 crack her skull.

18 So what does Tyler Mattress do? He finally took the
19 phone and said, all right, you're going to go -- you're not
20 going to go crack the skull of some woman this time. You
21 want to fight, come and pick me, come and pick me.

22 And the Defendant said, all right, I'm going to do
23 that. I'm on the way and I've got something for you. So
24 there was express malice. He -- he was angry, he was
25 threatening, and he came over there for that reason.

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1 But there was also inferred malice. And I would say by
2 the use of a deadly weapon, by the use of a gun in this
3 situation, that's malice.

4 Think through the steps of what had to happen for him
5 to go over to that apartment that day. Get in that car,
6 before he got in that car he had to go pick up a gun, a gun
7 to take with him to go over where his children are. He had
8 to put that gun in the car. He had to drive over there with
9 that gun. And when he got -- when he parked and he got out
10 of that car he had to step outside of that car holding that
11 gun.

12 He didn't go get that gun when he saw Tyler Mattress
13 coming around towards him. He stepped out of the car with
14 that gun. Ladies and gentlemen, all of that is malice.

15 Now, another way of analyzing this, the law of whether
16 or not -- of attempted murder, whether or not he's guilty of
17 attempted murder is this way. If he had killed Tyler
18 Mattress would this be a murder case? And, of course, it
19 would be. There's no excuse. There's no excuse. There's
20 no justification. This isn't a self-defense case. This
21 isn't a defense of others case.

22 I can't think of another defense that could possible
23 apply. It's not accident. It's not mistake. If he had hit
24 Tyler Mattress and that bullet had killed Tyler Mattress,
25 we'd be in here on a murder case. And if that's the case,

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1 then shooting at the man is attempted murder.

2 But did he shoot at him? Was he shooting at him? And
3 there's been a lot of time spent by the Defense talking
4 about that, about whether or not that shot was fired in his
5 direction or not and where possible bullets could be and
6 that sort of thing.

7 And I want you -- I want you to think back with me
8 about the testimony that we've heard regarding where people
9 were standing, where people were. And keep in mind, this is
10 a year and nine months ago or a year and eight months ago
11 when this happened. People are trying to remember back.

12 Someone is firing shots. People are ducking and
13 running. Trying to piece back exactly where you were is
14 difficult. But both Bobby Golden and Tyler Mattress were
15 absolutely clear on where he was.

16 As you recall, he said -- they both testified that this
17 Defendant came driving up in that Honda and parked on a
18 diagonal right here, facing this way. Joseph Walker gets
19 out of the driver's side and starts walking around to the
20 back of the car. Tyler Mattress, who had been somewhere
21 around here, steps off the curb and he comes around this
22 side of the car. He comes around the passenger's side of
23 the car.

24 And they -- they meet somewhere -- well, they don't
25 meet. They're getting ready to meet, but getting close

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1 together somewhere around the back of the car, because they
2 were going to fight. In Tyler's mind, they were going to
3 fight. So he's coming around this way.

4 He said he was somewhere around here when the shots
5 were fired. Tyler Mattress or Joseph Walker is somewhere
6 around here. And it fits with the evidence. It fits
7 absolutely because we know that a bullet hole hit this car
8 right here as Tyler is running away from Joseph Walker to go
9 get away, he's going that way, the bullet is fired there.

10 Now where are the other two bullets? I mean, who
11 knows. They could be anywhere. You saw how Mr. Lewis, he
12 didn't even notice that bullet hole in his car until the
13 next day. It was a small little hole.

14 Did it ricochet and fly on down the road? Actually,
15 you may remember one little comment Mr. Lewis mentioned is
16 that he'd heard someone else's car had been hit that day.
17 So maybe someone else's car had been hit and they just
18 didn't bother telling the police or whatever.

19 Bullets could have hit in the shrubs, could have hit
20 into a -- there's no telling where -- what happened to it.
21 It's a red herring. We know at least one of these shots hit
22 that car, which is in the direction where Tyler was.

23 All the witnesses stated that Joseph Walker pointed the
24 gun at Tyler before he shot. Tyler said as he was walking
25 around the back of the car, Joseph Walker was raising that

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1 pistol, pointing it at him. And he turned and ran.

2 Bobby Golden testified that this Defendant pulled that
3 pistol up and he pointed it at him. Beverly Henderson, God
4 bless her, who couldn't remember a lot of the details, she
5 remembered one thing, and that's very important, is that she
6 remembers that this Defendant's the one who fired and she
7 remembered that he was pointing it at Tyler Mattress.

8 Now, Ms. Henderson, let me make just one comment about
9 her. She's an -- she's the one along with possibly Bobby
10 Golden, unbiased witness in this case. She doesn't have a
11 stake in the outcome of this case.

12 Now, she may not have seen the car pull up. We know
13 she was sitting on the curb. She probably, I mean, why
14 would she be paying attention up until that point, until she
15 saw shots fired? I mean, we don't know. We know how
16 people's memories are. She didn't remember that part. But
17 she remembers he shot at -- and she has no reason to lie
18 about it.

19 In fact, I would argue to you, ladies and gentlemen,
20 that she came in and she just parroted everything Tyler
21 said. Then you might have to stop and think, well, wait a
22 minute, why does she remember these details so clearly? Why
23 does she know every single detail? Maybe they did get
24 together and conspire.

25 But, no, she came in and testified as she remembered

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1 it. And it's unequivocal that this Defendant shot at him.
2 Now -- so the evidence points to it, the witness testimony
3 points to this -- the Defendant shooting at Tyler Mattress,
4 trying to kill him.

5 This is probably a good time to mention -- to just talk
6 about the scientific evidence that the Defense tried to tell
7 you is so important in this case. As I stated in my
8 opening, this is not the kind of case that is solved by
9 scientific evidence. It's just simply not.

10 If this were one of those cop or forensic shows on TV,
11 of course, we would have, you know, some kind of fancy
12 scientific evidence, and videos and whatnot coming in here
13 to prove the case. But the truth of the matter is, you
14 can't pull DNA out of the air. You can't pull fingerprints
15 out of the air. It's just not the way it is.

16 This isn't a burglary. This isn't the kind of case
17 where you leave some kind of evidence behind of what
18 happened. It comes down to witness testimony.

19 And you heard the forensic officer testify. She did
20 all she could. She even took those little shell casings
21 back to her office, put them in that chamber to try to see
22 if she could pull a fingerprint off of it, and she could
23 not.

24 Now the Defense wants you to say, oh, they should have
25 gone around and started doing gunshot residue tests on

CLOSING ARGUMENTS - MR. MOYER

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1 everybody. I contend to you, ladies and gentlemen, I don't
2 care what these police officers would have done in this
3 case, the Defense is going to -- the Defense attorney is
4 going to have a way to spin that around and say, well, they
5 should have done something different, they should have done
6 this or that. It's an endless cycle. It's an endless
7 argument no matter what they do.

8 Ladies and gentlemen, as Forensics Officer Ooten told
9 you, there's no reason to check to test for gunshot residue
10 when you don't have any reason to believe somebody had a
11 gun. There was no reason to think -- there was no reason at
12 the time this happened on July 20th or after listening to a
13 day of testimony yesterday, there was no reason to even
14 speculate that Tyler, or Bobby or anybody else had a pistol.

15 Now, yeah, okay, the officers when they pulled up, when
16 they first saw Bobby, I mean, Tyler, they didn't know what
17 was going on. All they knew was, hey, somebody had been
18 firing shots out here.

19 They pull up and here comes some guy coming at them.
20 So is this the guy? Is this the guy who has the gun? So
21 they didn't know. They started talking to him. They find
22 out there's absolutely no reason to suspect that he fired a
23 gun.

24 And let's say the officers had done a gunshot residue
25 test on him. Then what would we hear from the Defense?

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1 Well, why are they doing gunshot residue tests on him?
2 Police mustn't have believed him, mustn't they? He told
3 them one thing, now they're -- they don't believe him.
4 Wanted to double check. They're going -- they're going back
5 on him. So no matter what these officers had done it would
6 have been spun around.

7 The bottom line is Tyler and Bobby stayed there on the
8 scene. That's what innocent people do. This Defendant
9 fled. They couldn't test his gunshot residue. That's what
10 the guilty do.

11 Now, we had several -- we had Tyler Mattress testify.
12 The Defense, I believe, it seemed like the majority of the
13 closing argument from the Defense seemed to focus on Mr.
14 Mattress' past, because once again, just like the gunshot
15 residue, they want to focus you away from the evidence to
16 something else.

17 Tyler was open and up-front with you. That was the
18 very first thing we asked him when he took the stand. Yes,
19 he has a past. Back in 1999 he was convicted of these
20 crimes.

21 But you know what? He's moved on. He has a job. He
22 has a one year old child. He's been working for three
23 years, he testified to you. He's moved on. And, ladies and
24 gentlemen, I would implore you not to take that step, which
25 I believe is being inferred to you, to not take this case

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1 seriously because of Mr. Mattress' past.

2 If it were not for some good fortune, Mr. Mattress
3 could have been killed that day. If it were not for some
4 fortune, a child could have been hit. There's no telling
5 where those bullets could have gone when they were flying
6 around in that parking lot.

7 Now, the Defendant has a motive, in closing. He has a
8 motive. There was nobody else brought up in this case who
9 would have motive to be out there to shoot at Tyler
10 Mattress. This Defendant was angry. Amanda said he was
11 jealous. He was real jealous. He didn't want other men to
12 be with her, with Amanda Ray, this Defendant did not.

13 When he got in touch with her on July 20th, 2011 on the
14 phone, he said he's going to crack her skull. When Tyler
15 had heard enough of that conversation and he took the phone,
16 he said don't -- don't go after a girl, come after me. And
17 the Defendant decided he was going to do that. He has
18 motive to do it. And he was observed by three witnesses
19 doing it.

20 I told you at the outset of this case that at the end I
21 would ask you to do justice. The Defense has demonstrated
22 how important of a day this is for Joseph Walker, but this
23 is as equally an important day for the State.

24 The State, the people of Greenville County have an
25 interest that people who commit crimes like this are brought

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1 to justice. As I stated a minute ago, Tyler Mattress is not
2 the only person who was put in danger that day, but there
3 was a whole apartment complex full of people who were put in
4 danger as well.

5 The evidence shows beyond any reasonable doubt that
6 this Defendant fired a pistol at Tyler Mattress out of sheer
7 anger and jealousy on that day. That is attempted murder,
8 ladies and gentlemen. And I ask you, I implore you that
9 justice demands holding him responsible for that crime and
10 finding him guilty. Thank you.

11 **THE COURT:** Now, Madame Foreman, ladies and gentlemen
12 of the jury, as you know, this Defendant is charged with and
13 has been indicted for attempted murder. This is a statutory
14 offense. And section 16-3-29 of our code of laws reads in
15 part as follows; a person who with the intent to kill
16 attempts to kill another person with malice aforethought,
17 either express or implied, commits the offense of attempted
18 murder.

19 Now in order for you to understand this charge it is
20 first necessary for me to define murder for you. And murder
21 also is a statutory offense. And section 16-3-10 of our
22 code reads murder is the killing of any person with malice
23 aforethought, either express or implied. Of course, I don't
24 need to define for you the killing of another.

25 So the second element of murder is that it is done with

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1 malice aforethought, express or implied. Malice
2 aforethought, ladies and gentlemen, is a legal -- malice is
3 a legal term of art which implies wickedness and excludes a
4 just cause or excuse. It means a condition of the mind or
5 heart which prompts one to take the life of another without
6 just cause or excuse. Now, our Supreme Court has defined
7 malice by saying it springs from a heart devoid of social
8 duty or obligation and is one fatally and deliberately bent
9 on mischief.

10 Now, to prove malice it is not necessary for the State
11 to prove the Defendant had a feeling of hatred or ill-will
12 toward the person killed. The statute says that malice must
13 be a forethought. A forethought simply means deliberate or
14 planned.

15 In other words, a forethought means that malice must be
16 in the mind a sufficient length of time to have produced the
17 act that caused the death. Now, no long period of time must
18 have existed. If it was there long enough to bring on the
19 act that caused the death, it would be sufficient in point
20 of time.

21 The statute, as I read to you, says that malice may be
22 express or it may be implied. Express malice means there is
23 some direct proof of malice as, for example, where a person
24 by word of mouth states his hatred or ill-will for another
25 or where there is evidence of previous threats of lying in

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1 wait or making plans to take human life. That is express
2 malice.

3 Implied malice, on the other hand, may be shown from
4 the facts and circumstances surrounding an event. Implied
5 malice exists where there is no actual intent to kill any
6 person, but death is caused by conduct which the law regards
7 as showing such an abandoned state of mind as to be the
8 equivalent to an actual intent to kill.

9 Stated somewhat differently, ladies and gentlemen,
10 murder is the malicious taking of human life. It is nothing
11 more or less than the evil, wicked intent to take human
12 life. It may be expressed by the evil expression of the
13 human lips indicating the intent on the part of the human
14 heart or it may be implied where the killing takes place
15 under such circumstances as indicate that it first had been
16 prompted by a wicked, evil, depraved heart devoid of social
17 duty and fatally bent on mischief. That, ladies and
18 gentlemen, is murder.

19 Now, the Defendant in this case is charged with
20 attempted murder. Ladies and gentlemen, attempt in criminal
21 law is an endeavor to accomplish a crime carried beyond mere
22 preparation, but falling short of execution or completion of
23 the ultimate design. In other words, an attempt includes an
24 intent to do a particular criminal thing combined with an
25 act falling short of the thing intended.

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1 Now, an attempt has two elements. First of all, it
2 must have been a specific intent to commit a particular
3 crime, in this case, murder. And, secondly, -- and,
4 secondly, a direct ineffectual act towards its completion.
5 That, ladies and gentlemen, is the law with respect to
6 attempted murder.

7 Now, as jurors in this case you have a function or a
8 responsibility that is entirely separate and distinct from
9 my function in the case as the trial judge. I am the judge
10 of the law, but you are the judges of the facts.

11 And the Constitution of our State does not allow me to
12 charge you on the facts of this case or to discuss the facts
13 with you or in any way or manner let you know what my
14 personal feelings, if any, are about this case. That's
15 because you and you alone are the judges of the facts.
16 Therefore, if during the course of this trial or if during
17 the course of my charge you have a feeling or you have been
18 left with the impression that I have a personal feeling
19 about this case one way or another, then you disregard that
20 feeling or that impression.

21 Now, it's your duty and your duty alone to weigh the
22 testimony and evidence in this case and to pass upon the
23 credibility or the believability of the witnesses you heard
24 testify. In this connection you have the right to believe
25 all that a witness told you or you can disbelieve all a

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1 witness told you. You can believe part of what a witness
2 told you and disbelieve a part of what a witness told you.

3 You can believe one witness as against several or you
4 can believe several as against one. You also have the right
5 to take into consideration any bias, or prejudice or
6 interest you feel a witness in the case might have.

7 Now, I told you that I am the judge of the law in this
8 case. And it is my duty to charge you the law that applies
9 to the facts. It's not a question of what you feel the law
10 might be or what it should be. It is not necessarily what
11 the laws may have told you it is because under your oath you
12 are required to take the law as I give it to you, apply that
13 law to the facts as you determine those facts to be and to
14 write your verdict accordingly.

15 Now, in this case as in all criminal cases this
16 Defendant comes into this courtroom presumed to be innocent.
17 And this presumption continues and carries through the
18 entire trial until and unless it is removed by evidence that
19 satisfies you of his guilt beyond a reasonable doubt. The
20 burden is on the State in this case to prove this Defendant
21 guilty and to prove each and every element of the offense
22 with which he is charged beyond a reasonable doubt.

23 Now, some of you may have in the past served as jurors
24 on civil cases. And if so you were most likely told that it
25 was only necessary that a fact was more likely true than not

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1 true. But in criminal cases the State's proof must be more
2 powerful. As I told you, it must be beyond a reasonable
3 doubt.

4 Now, proof beyond a reasonable doubt is proof that
5 leaves you firmly convinced of this Defendant's guilt.
6 There are very few things in this world that we know with
7 absolute certainty. And in criminal cases our law does not
8 require proof that overcomes every possible doubt.

9 If, based on your consideration of the testimony and
10 evidence in this case, you are firmly convinced that this
11 Defendant is guilty, then you must find him guilty. If, on
12 the other hand, you think there is a real possibility that
13 he's not guilty, then you must give him the benefit of that
14 doubt and find him not guilty.

15 Ladies and gentlemen, under the oath you took in this
16 case you swore to try this case based only and solely on the
17 testimony presented in this courtroom. I tell you that it
18 is your duty to lay aside all outside opinions, bias,
19 prejudice or sympathy you may have in reaching your verdict.

20 The word verdict is taken from the Latin word *veredicto*
21 that means to speak the truth. You have no enemies to
22 punish or friends to reward. I charge you to abide by your
23 oath and return a verdict that speaks the truth.

24 You'll have in the jury room with you the indictment in
25 this case. This indictment does not constitute evidence.

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1 It simply sets forth the allegations by the State. This
2 indictment is the legal document that brings the case into
3 the courtroom and presents it to you for your
4 determinations.

5 There are one of two verdicts in this case, guilty or
6 not guilty. And whatever that verdict is it must be
7 unanimous. That is all twelve of you must agree.

8 Madame Foreman, you'll see on the back of this jury
9 [sic] where the word verdict is printed. Whatever the
10 unanimous verdict of the jury is, guilty or not guilty,
11 please write it out in that space and sign your name on the
12 line where it says Foreperson of the petit jury.

13 At this time I'm required to suspend and go over my
14 charge with the lawyers. I need for you to go back into
15 your jury room, but do not begin deliberating until I send
16 word in for you to do so. Thank you.

17 (Whereupon the jury exited the courtroom at 10:43 am)

18 **THE COURT:** All right. Anything further from the
19 State?

20 **MR. MOYER:** No, Your Honor.

21 **THE COURT:** Anything further from the Defense?

22 **MR. SHEEK:** No, sir.

23 **THE COURT:** All right. Tell them to deliberate. And
24 bring the alternate, Mr. Williams, back in.

25 (Whereupon the jury began deliberating at 10:43 am)

1 (Whereupon the alternate entered the courtroom at 10:43
2 am)

3 **THE COURT:** Mr. Williams, since our twelve jurors have
4 made it through this case, this will conclude your service
5 on this case.

6 **MR. WILLIAMS:** All right.

7 **THE COURT:** I'm not sure what the balance of the day
8 holds for you. But what I need you to do is to report back
9 downstairs to the jury assembly room, and Judy will let you
10 know what to do.

11 **MR. WILLIAMS:** All right. Thank you.

12 **THE COURT:** Thank you very much. Appreciate it.

13 **MR. WILLIAMS:** Thank you.

14 **THE COURT:** All right. Gentlemen, don't leave the
15 courthouse. Stay close.

16 **MR. SHEEK:** Yes, sir.

17 **MR. MOYER:** Yes, sir.

18 **THE COURT:** I'm sure we'll probably be having some
19 questions.

20 (Whereupon court was in recess at 10:45 am)

21 (Whereupon court resumed at 12:01 pm)

22 **THE COURT:** All right. Anything before I bring the
23 jury, gentlemen?

24 **MR. MOYER:** No, Your Honor.

25 **MR. SHEEK:** No, sir.

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1 **THE COURT:** All right. Come around, please.

2 **MR. SHEEK:** Just so my client understands, your
3 question with regard to did I have any questions regarding
4 the documents, was whether or not we had been served as the
5 solicitor stated, is that correct?

6 **THE COURT:** Yes.

7 **MR. SHEEK:** And we have been served with those
8 documents.

9 **THE COURT:** Okay. All right. Mr. Walker, you elected
10 not to take the stand and testify in your defense. At this
11 time you have a right to address the Court with respect to
12 sentence. I have no discretion with respect to that based
13 on the information submitted to me by the solicitor. Do you
14 have anything that you would like to address at this time?

15 **MR. WALKER:** No, sir.

16 **THE COURT:** Anything further, solicitor?

17 **MR. MOYER:** No, Your Honor. Since there's no
18 discretion I don't think there's any reason to go into his
19 criminal record or anything like that.

20 **THE COURT:** All right. And this notice of intent to
21 seek life without parole will be made a part of the record.

22 (Whereupon Court's exhibit 1 was marked)

23 **MR. SHEEK:** At this point, Your Honor, I would note my
24 client is obviously wondering why I'm not putting up some
25 facts in mitigation in arguing for the sentence to be lower

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1 than life without parole. I understand legally it's out of
2 your discretion.

3 THE COURT: Exactly.

4 **MR. SHEEK:** And I want him to understand that's the
5 reason at this point I'm not putting up any mitigating
6 circumstances.

7 **THE COURT:** I understand that. I accept that.

8 MR. SHEEK: Yes, sir.

9 **THE COURT:** All right. Mr. Walker, the sentence of the
10 Court is you be committed to the Department of Corrections
11 for a period of life. That is without parole.

12 (Hearing ended at 12:10 pm)

13 (End of requested transcript of record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth 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/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 1st and 2nd day of April 2013.

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

November 6, 2013


Circuit Court Reporter

Circuit Court Reporter

FORM 5

STATE OF SOUTH CAROLINA

COUNTY OF GreenvilleJoseph WALKER, #285497

Full name and prison number (if any) of Applicant.

v.

State of South Carolina

IN THE COURT OF COMMON PLEAS

2015-CP-23-04239

APPLICATION FOR

POST-CONVICTION RELIEF

ENTERED COMPUTER

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and veified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make ~~ch~~ to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exeise care to assure that all answers are true and correct.

If the application is taken in forma pauperis it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay thfees and costs of the proceedings. When the application is completed the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention S.C.D.O.C. at Perry Corr. Inst.; 430 Oaklawn Rd.; Pelzer, S.C. 29669.
2. Name and location of Court which imposed sentence Greenville County General Sessions; 305 E. North St.; Greenville, S.C. 29601.
3. Name(s) of co-defendant(s) (if any) none.
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2011-GS-23-8458 / Attempted Murder.
 - (b) ~~2011-GS-23-8458~~
 - (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) April 2, 2013 / life without parole under 17-25-45.
 - (b) _____

- (c) _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes.
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals _____
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. APPEAL DISMISSED _____
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. May 6, 2015 _____
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. 2015-UP-230 _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

- (a) Ineffective Assistance of Counsel
- (b) Ineffective Assistance of Counsel
- (c) Ineffective Assistance of Counsel

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) that defense counsel failed in not obtaining an forensic expert examination of path of the bullets that could have provided the jury with evidence to support witnesses testimonies.
- (b) that defense counsel failed to renew the motion for a directed verdict after the presentation of all the evidence.
- (c) that applicant had been denied effective assistance of counsel because his defense lawyer represented conflicting interests.

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? no.
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? no.
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? no
- (d) any other petitions, motions or applications in this or any other Court? no.

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

- i. _____
- ii. _____
- iii. _____

iv. _____

(d) the date of each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. _____

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

no.

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. _____

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. _____

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) The Effective Assistance of Counsel, must be raised in PCR application.

(b) _____

(c) _____

17. Were you represented by an attorney at any time during the course of:

- (a) your arraignment and plea? yes.
- (b) your trial, if any? yes.
- (c) your sentencing? yes.
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? yes.
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? none.

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:
 - i. Christopher Lance Sheek, Esquire; Law Offices of C. Lance Sheek; 422 Montague Ave., Suite 5; Greenwood, S.C. 29649-1961.
 - ii. Robert Michael Dudek, Chief Appellate Defender; S.C. Comm. on Indigent Defense (Div. of Appellate Defense); P.O. Box 11589; Columbia, S.C. 29211-1589.
 - iii. _____
- (b) the proceedings at which each such attorney represented you:
 - i. Arraignment/Plea of Not Guilty/Trial/Sentencing.
 - ii. Direct Appeal.
 - iii. _____

19. State clearly the relief you seek in filing this application:

Vacate/Reverse and/or Remand.

20. Are you now under sentence from any other court that you have not challenged?

NO.

STATE OF SOUTH CAROLINA)

VERIFICATION

County of Greenville)Joseph Walker #285497

I, A, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Joseph C. Walker

SWORN to and subscribed before me this 2nd
day of June, 2015.

Tamara Connell (L.S.)
Notary Public

My Commission Expires

My Commission Expires: September 25, 2023

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

Joseph Walker, #285497

I, A, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Joseph L. Walker
Applicant

SWORN or affirmed to and subscribed before me this

2nd day of June, 2015.

Tamara Conwell
Notary Public

My Commission Expires: My Commission Expires
September 25, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	C.A. No. 2015-CP-23-4239
COUNTY OF GREENVILLE	)	
	)	
Joseph C. Walker,	)	
S.C.D.C. No. 285497,	)	
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	
_____	)	

In response to the post-conviction relief application filed July 1, 2015, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the December 2011 term of General Sessions for attempted murder (2011-GS-23-8458). C. Lance Sheek, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On April 2, 2013, the Honorable C. Victor Pyle, Jr. sentenced the Applicant to life imprisonment without parole.

A notice of appeal was filed at the South Carolina Court of Appeals. Robert M. Dudek, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal in the form of an Anders¹ brief. The Court of Appeals dismissed the appeal. State v. Walker, Op. No. 2015-UP-230 (S.C. Ct. App. filed May 6, 2015). The Remittitur was

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

sent on May 26, 2015.

Attached herewith and incorporated herein by reference are the records of the Greenville County Clerk of Court regarding the subject conviction, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of trial counsel:
 - a. Failed to obtain a "forensic expert examination of the path of the bullets that could have provided the jury with evidence to support witnesses testimonies."
 - b. Failed to "renew the motion for a directed verdict after the presentation of all the evidence."
 - c. Counsel "represented conflicting interests."

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance well within the standard of "reasonableness within professional norms" for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel

“rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held on the issues raised in the PCR application.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

P.O. Box 11549
Columbia, S.C. 29211

By:


Attorneys for Respondent

December 22, 2015

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

JOSEPH C. WALKER, 285497

Applicant,

vs

STATE OF SOUTH CAROLINA,

Respondent.

IN THE COURT OF COMMON PLEAS

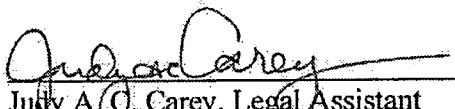
2015-CP-23-4239

AFFIDAVIT OF SERVICE BY MAIL

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Brian P. Johnson, Esquire
522 North Church Street
Greenville SC 29601

DATED this 22nd day of December, 2015.


 Judy A. Carey, Legal Assistant
 For Respondent

Joseph C. Walker, # 285497

Applicant,

vs.

State of South Carolina,

Respondent.

2015-CP-23-4239

NOTICE OF MOTION TO AMEND APPLICATION
FOR POST-CONVICTION RELIEF

The Applicant, hereby moves this Honorable Court to amend his Post-Conviction Application, pursuant to the S.C. Code of Law § 17-27-70 § (1976), and S.C.R. Civil P., Rule 15.

Grounds:

Ineffective Assistance of Counsel:

1. Trial counsel failed to properly advise applicant of the sentencing enhancements for his prior drug offenses.
2. Trial counsel had failed to inform applicant of a written plea agreement in which the State offered in exchange for applicant's plea to all of the charges.
3. Because counsel never communicated this plea to applicant, applicant claim ineffective assistance of counsel. Applicant states that he would have accepted the state's plea had he been aware of it prior to trial.

Denied the Right to Due Process, and a Fundamental Fair Trial:

1. The State introduced false or misleading testimony, in violation of the Fifth, Sixth and Fourteenth Amendment of the U.S. Constitution, and State Law.

2. Applicant charge that the state holds him in confinement without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States.

3. The grounds of his charge are, in substance, that the state basis of his conviction was perjured testimony, which was knowingly used by the prosecuting authorities in order to obtain that conviction, and also that these authorities deliberately suppressed evidence which would have impeached and refuted the testimony thus given against him.

4. The Solicitor withheld pertinent information from applicant. The non-disclosure was so serious that there is a reasonable probability that the suppressed evidence would have produce a different verdict.

The evidence at issue. (Promise and Plea agreement) would have been favorable to the applicant because it was impeach and it was suppressed by the state, either willfully or inadvertently. Applicant suffered prejudice as a result.

5. The Solicitor suborned perjury. The main piece of the solicitor's case was false evidence, perjured testimony, concealing plea agreement made with the alleged victim and further concealing exculpatory & exonerating Brady material.

A conviction known to be obtained by representatives of the Government or State through the use of perjured testimony must be set aside.

ARGUMENT

Applicant charges that the state holds him in confinement without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States. The grounds of his charge are, in substance, that the sole basis of his conviction was perjured testimony, which was knowingly used by the prosecuting authorities in order to obtain that conviction, and also that the authorities deliberately suppressed evidence which would have impeached and refuted the testimony thus given against him.

He alleges that the evidence which was subsequently developed and which proved the testimony against him to have been perjured. Petitioner urges that the knowing use by the state of perjured testimony to obtain the conviction and the deliberate suppression of evidence to impeach that testimony constituted a denial of due process of law.

Petitioner further contends that the state deprives him of his liberty without due process of law by its failure, in the circumstances set forth, to provide and corrective judicial process by which a conviction so obtained be set aside. See also S.C. Code Ann, § 16-9-30. No decision of the Supreme Court has been brought to our attention holding that the state court is without power to issue this historic remedial process when it appears that one is deprived of his liberty without due process of law in violation of the Constitution of the United States. Upon the state courts, equally with the courts of the Union, rests the obligation to guard and enforce every right secured by that Constitution. Robb v. Connolly, 111 U.S. 624, 637.

The requirement of due process, in safeguarding the liberty of the citizen against deprivation through the action of the state, embodies the fundamental conceptions of justice which lie at the base of American civil and political institutions. It is a requirement that cannot be deemed to be satisfied by mere notice and hearing if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured.

In reliance on the above statute, the applicant contends that he pled guilty to two identical drug offenses of "distribution of cocaine base within $\frac{1}{2}$ mile of a school/park/playground" (indictment No's 2007-GS-23-4285 and 2007-GS-23-4287) of the May 30, 2007 Term of General Sessions Court for Greenville County.

He further contends that since he was charged with two separate and distinct drug offenses, each involving the same elements included in each other, it was entirely proper for the court to treat both as one drug offense. See, State v. Muldrow, 192 S.E.2d 211 (1972).

The Applicant was denied the right to effective assistance of Trial Counsel by counsel's failure to object to Solicitor's testimony as a witness.

During cross examination of Tyler Mattress, the alleged victim of applicant's attempted murder charge, applicant's counsel challenged Mattress's credibility by questioning him about his appearance in Municipal Court to testify against the applicant on a related charge of "discharging a firearm in the city limits". Although Mattress had previously accused applicant of shooting at him, he told the Municipal Judge that he didn't remember what happened regarding the shooting incident. As a result, Mattress was charged with perjury. See, Tr. p. 45. L. 18-25. Tr. p. 69. L. 24-25, and Tr. p. 70. L. 1-10.

On redirect examination Mattress's perjury charge, the solicitor, in an attempt to rehabilitate Mattress's credibility, asked him if he had not met with him several times in the past months to talk about his perjury charge and his testimony about what happened to assure the jury of Mattress's credibility. Accordingly, "improper suggestions, instructions, and especially, assertions of personal knowledge (by solicitor) are apt to carry much weight against the accused when they should properly carry none". Berger v. United States, 295 U.S. 78, 88 (1935). Tr. p. 72. L. 2-21.

The applicant finally submits that the admission of the solicitor's statements deprived him of the right to confront his accuser. The right to confront one's accuser is inviolable in our criminal justice system. The right to confrontation is essential to a fair trial in that it promotes reliability

in criminal trials and ensures that convictions will not result from testimony of individuals who cannot be challenged at trial. California v. Green, 339 U.S. 149 (1970).

The applicant contends that counsel's failure to object to the solicitor's improper redirect examination was ineffective assistance of trial counsel that prejudiced his right to a fair trial. See, Edmond v. State, 534 S.E.2d 682 (S.C. 2000). Tr, p# 74, L.20. Tr, P# 75, L, 8-23.

The applicant was denied the right to effective assistance of trial counsel by counsel's failure to object to solicitor's improper closing argument that appealed to the passion and prejudice of the jury.

During closing argument, the solicitor made the following argument that improperly appealed to the passion and prejudice of the jury regarding applicant's alleged attempt to shoot the alleged victim:

Solicitor: If it was not for some good fortune, Mr. Mattress could have been killed that day. If it were not for some fortune, "a child could have been hit". There's no telling where those bullets could have gone when they were flying around in that parking lot.
Tr, p# 235. L, 2-6.

The solicitor's improper statements in closing concerning injuries to children was clearly made to arouse the passion and prejudice of the jury. An argument of this nature addressed to the jury's impartiality and encourage them to convict a defendant to insure the safety of the children in the community. See, State v. McDaniel, 462 S.E.2d 802 (S.C. App, 1995). The proper course to be pursued when counsel makes improper argument is for opposing

counsel to immediately object, have record made of statement complained of, and request for a distinct ruling thereon. State v. Black, 462 S.E.2d 311 (S.C. App, 1995).

The Applicant was denied the right to effective assistance to trial counsel by counsel's failure to object to the state's erroneous classification of his prior drug offenses as "serious offenses" to subject him to a life sentence under section 17-25-45, pursuant to 44-53-0045(b)(c).

The applicant was separately indicted for two counts of distributing a quantity of cocaine base (crack cocaine) within $\frac{1}{2}$ mile proximity of the Sullivan Center 44-53-0445(b)(2). (Indictment No's: 2007-GS-23-4287 and 2007-GS-23-4285). The state dropped the predicate distributions offenses to the alone proximity offenses in exchange for applicant's guilty pleas. See, Strickland v. Washington, 104 S.Ct. 2052 (1984).

The Applicant was denied the right to effective assistance of counsel by trial counsel's failure to raise and argue that his drug offense should have been considered as one offense, notwithstanding under the law they constitute separate and distinct offenses.

State of South Carolina
County of Greenville

Court of Common Pleas

Joseph Walker #285497
Applicant,

vs.

State of South Carolina
Respondent.

2015 - CP - 23 - 4239

Amendment to the Original
PCR Application

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL D. WICKENS/SMER
2015 NOV 29 PM 2 17

The applicant in the above entitled case respectfully request to amend his original PCR application to include the following grounds:

Applicant was denied the right to due process and a fundamentally fair trial in that the State introduced false, perjured or misleading testimony in violation of the 6th and 14th amendments of the U.S. Constitution and state law.

Alternatively, applicant was denied the right to effective assistance of counsel in violation of the 6th and 14th amendments of the U.S. Constitution and State law in that trial counsel failed to object to false, perjured or misleading testimony submitted by the state.

In Nix v. Whiteside, 475 U.S. 157, 106 S.Ct. 988. The Supreme Court amplified the dimensions of every lawyer's duty to prevent fraud upon a court. The attorney's conduct violated his sixth (6th) amendment right to effective representation of counsel.

Due Process is violated not only where the prosecution uses perjured testimony to support it's case, but also where it was evidence which it knows creates a false impression of a material fact. See Tr, page # 48. L, 11-22,. also Miller v. Pate, 386 U.S. 1, 87 S.ct. 785 (1967).

If witnesses or officers use false evidence including false testimony, to secure a conviction. The defendant's due process is violated. Napue, Supra (Noting that this principle is implicit in any concept of ordered liberty) This rational extends to impeachment evidence also.

The failure of the prosecution to correct the testimony of the witness which he knows to be false denied applicant due process of law in violation of the fourteenth Amendment.

A conviction obtained through use of false evidence known to be such by representatives of the State, fall under the fourteenth Amendment. Mooney v. Holohan, 294 U.S. 103; Pyle v. Kansas, 317 U.S. 213; Curnan v. Delaware, 259 F.2d 707, New York , ex rel. Whiteman v. Wilson, 318 U.S. 688 and White v. Roger, 324 U.S. 760. The same results obtains when the state, although not soliciting false evidence, allows it to go uncorrected when it appears. Alcorta v. Texas, 355 U.S. 88. See trans, pg # 58. L # 10-25.

A lie is a lie, no matter what it's subject, and if it is in any way relevant to the case, the solicitor has the responsibility and duty to correct what he knows to be false and elicit the truth.

The burden is on the solicitor to present material evidence which is impeaching. The failure to correct false evidence is as reprehensible as its presentation, Washington v. State, 478 S.C. 2d 833.

The Constitution requires only that a defendant receives a fair trial, not a perfect one. U.S. const. Amend VI; State v. Johnson, 512 S.C. 2d 795. Applicant's trial was rendered fundamentally unfair by prosecutorial misconduct.

The fourteenth Amendment due process clause prohibits the knowing and deliberate use of perjured testimony by prosecutors and other government officials. Miller v. Pate, 386 U.S. 1, 87 S.Ct. 785. The applicant can demonstrate that (1) prosecution's witness made false testimony (2) that the false testimony was material, and (3) that the false testimony was knowingly and intentionally employed by the government/state.

Had trial counsel objected to the false perjured or misleading testimony submitted by the state, there is a reasonable probability that the outcome would have been different.

Trial counsel violated applicant's sixth (6th) and fourteenth (14th) Amendment rights by not interviewing the state's witnesses.

Applicant's trial attorney failed to investigate and interview the state's witnesses, to include the allege victim. An attorney must engage in a reasonable amount of pretrial investigation and at a minimum Interview potential witnesses and make an independent investigation of the facts and circumstances in the case. See Bryant v. Scott, 28 F.3d 1411, Nealy, 764 F. 2d at 1177. See Kemp v. Leggett, 635 F.2d 453, 454 (granting habeas relief where counsel failed to interview single eye witness or character witness. See Strickland v. Washington, 466 U.S. 668, 104 S.ct. 2052. Applicant's trial counsel restricted his pretrial investigation to discussions with applicant and examination of prosecutor's file.

In this application, applicant asserts ineffective of counsel due to the trial attorney's failure to interview the victim, the state's chief witness, before advising him to proceed to jury trial. The victim's interview/testimony could have changed the outcome, or at least changed his decision to go to trial facing LWOP rather than to a plea proceeding. Applicant was denied a fair trial, this evidence demonstrate that counsel was ineffective for not interviewing the victim.

Against this legal framework, the applicant contends that he can meet the burden of proof in the disposition of issues.. Applicant contends that the affidavit of the victim (State witness), this act of testifying or agreement to testify on his behalf at his behest, holds special significance. It establishes that the victim decided to consider the matter in it's correct state and realize the err in this matter.

The affidavit clearly demonstrates the reluctance and the change of mind that would have been present if the trial attorney would have investigated and discovered the facts and state of mind of the allege victim and taken proper actions.

Trial counsel ineffective for giving applicant erroneous advice on which he based his decision not to testify.

Applicant maintains his decision not to testify was based on trial counsel's advice that he would be subject to cross examination on his prior criminal convictions. Applicant contend that trial counsel's advice was in error since neither conviction was admissible for the purpose of impeachment.

In order to meet the two-prong test establishing ineffective assistance of counsel, a defendant must prove (1) that counsel's representation fell below an objective standard of reasonableness; and (2) that, but for counsel's error, there is a reasonable probability that the result would have been different. Martinez v. State, 403 S.E.2d 113, Butler v. State 334 S.E.2d 813.

There is no showing in the record that counsel sought a ruling on the admissibility of his prior convictions from the trial judge. Obviously, counsel's advice in this instance was premised upon an unsubstantiated legal assumption, and he was under a duty to the court for a ruling either confirming or invalidating his assumption. Counsel's representation fell below or objective standard of reasonableness. See Horton v. State, 411 S.E.2d 223.

Trial counsel failed to request from the trial court a Colf analysis on the impeachment value of applicant's prior convictions when his credibility would have been a crucial issue in this case.

Trial counsel was ineffective for denying applicant's procedural and substantial due process rights by not requesting a 403, 404(b) and 609 determination as required for use of prior convictions.

In this case, the use of prior bad acts and prior convictions is likely to support a conviction on some improper bases, on several occasions during trial, several witnesses flagrantly violated applicant's rights under 403 and 404(b) SCRE by attacking applicant's character. The prejudicial effect of misconduct in which applicant's counsel failed to object and challenge cannot be disputed, as this case turned largely on the jury's credibility determination of several witnesses who testified.

Rule 403 and 404(b) requires (1) a proper evidentiary purpose; (2) relevance under 402; (3) a weighing of the probative value of the evidence against it's prejudicial effect under 403; and (4) a limiting instruction

concerning the purpose for which the evidence may be used. The record does not support the finding of probative value which would support effectiveness of counsel. Without an objection by counsel and a determination, it's robs the applicant of the rule protection. The rule 403 and 404(b) was never mentioned or considered by the trial court, See State v. Scrivens, 529 S.E.2d 71 and State v. Smicklevich, 234 S.E.2d 230.

In this case, the trial judge did not have the benefit of the guidance recently provided in "Colf and Scrivens", supra. The record does not reflect that the trial judge engaged in any meaningful analysis of the relevant factors or that the court balanced the probative effect of the accused.

The only function of the testimony by several witnesses was to demonstrate applicant's bad character and social irresponsibility. The prejudice to applicant as a result of the testimony concerning jumping on a girl or going to jail far outweighed it's probative value. It also served to discredit applicant's character, which does not fall within the exception of Lyle, 404(b). This testimony was unrelated to the allege crime at issue.

Trial counsel's actions and inaction of not objecting on direct examination of clearly inadmissible evidence/testimony prejudiced applicant and denied him effective assistance of counsel. Trial counsel committed a series of acts and omissions which were significantly outside the wide range of professionally competent assistance, Strickland v. Washington, 466 U.S. 668, 104 S.Ct 2052. Counsel's striking ignorance of state evidence law profoundly affected the course of applicant's trial.

The prior bad acts of allegedly jumping on a girl or going to jail only served to demonstrate that applicant acted in conforming with his propensity to commit crimes which introduction of would be in direct contradiction of Lyle.

Because he had done so in the past, he was doing so on this occasion, precisely the type of influence Lyle prohibits, unfair prejudice means an undue tending to suggest a decision on an improper basis. This testimony removed the cloak of innocence. To be admissible, other crimes that are not the subject of conviction must be proved by clear and convincing evidence, which were not the case in this jury trial.

Trial counsel failed to object to the trial court's burden-shifting instructions

The applicant contend and will show that the trial court's burden-shifting jury instruction in his trial was unconstitutional under Sanstrom v. Montana, 99 S.Ct, 2450 and Francis v. Franklin, 105 S.Ct, 1965.

The jury charge read in part: "I charge you to abide by your oath and return a verdict that "speaks the truth"."

The applicant can show as required that there is a likely hood that the jury interpreted the instruction in an unconstitutional manner and did not allow for a finding of guilt below proof beyond a reasonable doubt, as the applicant quote from State v. Alesky, 538 S.E.2d 248. Jury instruction on reasonable doubt which charge the jury to "seek or speak the truth" are disfavored because they run the risk of unconstitutionally shifting the burden of proof to a defendant as in the case at bar. State v. Mead, quoted in State v. Smith, (1994). See also, the Standard Review of an ambiguous jury instruction, as to whether there is a reasonable likely hood that the jury applied the challenged instruction in a manner or way that violated the Constitution. Estelle v. McGuire, 502 U.S. 62, Boyle v. California, 105 S.Ct, 1190.

Applicant's arguments are given bases upon the legal arguments/instructions from trial transcript disclosing the improper jury instruction on reasonable doubt and malice. See ; Trial Jury instructions page# 241. L# 20-23, and page # 236, L# 25, through page # 238, L# 18.

An instruction or charge that shifts the burden of proof of an element of the offense as in the case at bar, substantially impairs the truth finding of the jury.

The Due Process Clause of the fourteenth amendment protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged. In Re Winship, 90 S.Ct, 1068. This bedrock axiomatic and elementary [Constitutional] principle, id at 363 (90 S.Ct, at 1072), prohibits the State from using evidentiary

presumptions in a jury charge that have the effect of relieving the state of its burden of persuasion beyond a reasonable doubt of every essential element of a crime. Sanstrom, Supra at 2457 2459. Patterson v. New York, 97 S.Ct, 2319, 2329, Mullaney v. Williams, 95 S.Ct, 1881.

Sanstrom made clear that the Due Process Clause of the fourteenth amendment prohibits the state from making use of jury instructions that have the effect of relieving the state of the burden of proof, "enunciated" in Winship on the critical question of intent in a criminal prosecution, 99 S.Ct, at 2458.

Trial counsel's failure to object to the unconstitutional jury charge and failure to request a charge on intent, shifted the burden of proof to the applicant.

There is a reasonable probability that had counsel objected, there is a reasonable probability that the outcome would have been different. Applicant was denied a fair trial.

Applicant's sixth (6th) and fourteenth (14th) Amendment rights were violated by counsel's failure to cross-examine Ofc. Rackley about whether he knew the alleged victim had an extensive record for convictions of crimes, since this cross-examination was relevant to the failure of the police to investigate this case. See R 116, 1.7 - 117, 1.8 (emphasis added).

On cross-examination, Rackley acknowledged he did not show Mattress a photo array of the alleged shooters for identification. Instead he accepted his word that applicant was the shooter, R. 123, 1. 18-124, 1.23. Rackley admitted the incident report he wrote that based on Mattress statement he "reported to a local judge and warrants were issued for Mr. Walker's arrest". R. 125, 11. 13-16.

Rackley denied the police ever thought that Mattress was actually the shooter, and that he was attempting to deflect attention from himself onto applicant. Rackley said he considered the case "cut and dry from the time he talked to Mattress". R. 130, 11. 2-11.

Defense counsel then asked Rackley whether when considered the case "cut and dry" was he aware that Mattress had ten burglary convictions. Rackley said he was not aware of that fact. The solicitor then objected that the alleged victim's prior criminal record was irrelevant. The judge sustained the objection, and counsel was precluded from powerfully showing all else that Rackley was not aware of pertaining to the alleged victim's long record of convictions for crimes of dishonesty. R. 133, 11. 2-11.

The scope of cross-examination in South Carolina is broad, and legitimate cross-examination cannot be limited, State v. Brewington, 267 S.C. 97, 226 S.E.2d 249 (1976); State v. Jones, 343 S.C. 562, 541 S.E.2d 813 (2001) ; State v. Schmidt, 288 S.C. 301, 342 S.E.2d 401 (1986), State v. Alexander, 303 S.C. 377, 401 S.E.2d 146 (1991).

The legitimacy of the thoroughness of the police investigation is fertile grounds for cross-examination. See, State v. Mitchell, 378 S.C. 305, 318, 662

S.E.2d 493, 500, 501 (Ct. App, 2008). Here, the police officer said that the case was "cut and dry" based upon the word of Mattress.

Mattress was in fact a very dishonest person with a long history of criminal convictions for crimes of dishonesty. Defense counsel should have been allowed to continue with his cross-examination since it very effectively conveyed to the jury that the police had relied on the word of not just an apparently born liar, but a many times convicted one.

Moreover, the state opened the door to this line of cross-examination by conveying to the jury that Mattress was the victim when it accepted his word without investigating his assertion that applicant had attempted to murder him. When a party introduces evidence about a particular matter - such as a case being "cut and dry" - the other side is entitled to introduce evidence in explanation or rebuttal. See, State v. Jackson, 364 S.C. 329, 336, 613 S.E. 2d 374, 377 (2005); State v. Stroman, 281 S.C. 508, 513, 316 S.E.2d 395, 398 (1984).

Even if this cross-examination was not initially relevant, which it was, this impeachment of Officer Rackley would nevertheless have been permissible given the fact that the state opened the door to this evidence. The failure to investigate what a many times convicted liar alleges because the police officer thought the case is "cut and dry" was very relevant, and the judge erred by ruling otherwise. See, State v. Jones, 343 S.C. 562, 541 S.E.2d 813 (2001); State v. Schmidt, 288 S.C. 301, 342 S.E.2d 401 (1986).

This case was totally dependant upon the testimony of witness Mattress. Consequently, the error was not harmless.

Pro Bono Program 2nd of cases 2-6-2012.

C.Gorton appointed Feb 2,2012, request for prelim and Discovery filed 2-6-12

C. Gorton. Request for Insurance coverage Feb 17, 2012, reason for closure 3-25-2012. Retained private counsel. Initial trial prep completed prior to private attorney being hired.

L. Sheek, retained Feb 27, 2012. "Murder/Poss of weapon/Vop/Dist, of cocain/poss,w/intent proximity to school/bench warrant/attempted murder

E-Mail from C. Gorton to M.Moyer march 9, 2012: Allege victim Mattress being threatened by solicitor with fine and up to 5 yrs. Public defender Scott Robertson and Chris Posley also involved.

C. Gorton - Exparte Motion for Investigation (March 16, 2012., Expense Order signed on 3-16-2012.

L. Sheek's letter to solicitor's office on March 21,2012. Request for rule five (5) and Discovery.

L. Sheek's letter to assistant solicitor M.Moyer on May 30, 2012: Intimidating a witness.

C. Gorton's E-Mail to Robert Meritt on June 21, 2012: Subpoena for records victim's and co-defendant, forwarded message from Jinny Moran.

E-Mail From M.Moyer to L. Sheek. (Note: that L.Sheek will not represent Walker)

Letter July 23, 2012 from C. Gorton (Warrant # 210250) to Ass. Solicitor M.Moyer.

Letter Dec 19, 2012. From M.Moyer to C.Gorton. (M.Moyer sent Rule 5); 2012 - A
- 2330204201.

Letter from M.Moyer to C.Gorton. Notifying additional discovery; CD-(1),
Greenville Det, center.

E-Mail April 7, 2013 from M.Moyer to C. Gorton. Proposed Plea (She showed me
this, which made me plea.

E-Mail April 15, 2013 from Moyer to C.Gorton. (Confusion as to the
representation of J. Walker and pending charges. C. Gorton answer request on
4-20-2013

I/M visits 10-18-2015. Sent request to Greenville/Clerk, request was forwarded
to C.Gorton.

THIS IS TYLER MATTRESS, I WENT TO COURT ~~THE~~ AGAINST JOSEPH WALKER FOR AN ATTEMPTED MURDER. I WENT TO A CITY COURT JUDGE HAWLEY AND TRIED TO TELL THE TRUTH ABOUT THE SITUATION AND I WAS LOOKED UP & COERCED TO TELL THE OFFICER WHAT THEY SAID. I HAD TO APPEAR AGAIN IN FRONT OF GENERAL SESSIONS & WAS SCARED THAT THEY WOULD LOCK ME UP AGAIN, SO I TOLD THEM THE STORY THAT THE OFFICER MADE ME TELL IN GENERAL SESSION COURT BECAUSE I WAS SCARED TO GET LOCKED BACK UP AND CHARGED WITH CONTEMPT OF COURT & PERJURY SO I HAD TO TELL THERE STORY. TYLER MATTRESS

(804)641-9000

[Signature] 6-8-15

Sworn to me on this the 8 day
of June, 2015

[Signature]

Notary Public of South Carolina

My commission expires: 4/9/24

The State will make the following sentence recommendations/negotiation:

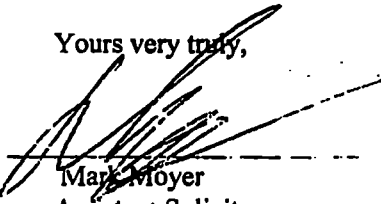
Please let me know if your client is willing to plead guilty to a reduced charge of voluntary manslaughter rather than murder and I will see if that is something I can do. If we are going to be able to work out a guilty plea for all of these charges, we need to do so by the date indicated.

Other conditions/comments:

Also, please note that the defendant is eligible for mandatory sentence of life without parole (due to his prior convictions for PWID drugs within proximity of a school) if we serve him with notice of intent to seek such sentence and if he is convicted of attempted murder, murder, or voluntary manslaughter.

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 10/30/2012 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,



Mark Moyer
Assistant Solicitor

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

6/7/2012

C. LANCE SHEEK
414 MONUMENT ST. STE B
GREENWOOD, SC 29646

RE: Plea Offer for State v. Joseph Christopher Walker

Dear C. lance Sheek :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

<i>Warrant Number:</i>	<i>Charge:</i>
M802025	Attempted Murder
M802027	Pointing and presenting firearms at a person
M803113	Manufacture, distribution, etc. of cocaine base, 3rd
M803114	Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school
M803115	Manufacture, distribution, etc. of cocaine base, 3rd
M803116	Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school
M803213	Murder
M803214	Poss. weapon during violent crime
M803548	Manufacture, distribution, etc. of cocaine base, 3rd
M803549	Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school
N210250	Intimidation of court officials, jurors, or witnesses

RECEIVED
BY Mail 6/13



Joe Walker

Cassandra Gorton <cassgorton@yahoo.com>

Wed, Jul 18, 2012 at 2:18 PM

Reply-To: Cassandra Gorton <cassgorton@yahoo.com>

To: Lance Sheek <sheeklaw@yahoo.com>, Robert Merritt Attorney at Law <merrittlaw@nctv.com>

Dear Bob and Lance:

Before filing the additional ppwk required to get a bond hearing, I called Probation to verify Joe's belief that his probation officer Michelle Buncomb was "cool" and probably willing to postpone the VOP til the dispo of his cases. What I learned is that his files had been transferred to Agent Amanda King (not my favorite). King called me back, leaving a voice mail, and stated that she was trying to schedule the VOPs for hearing sooner vs later, and further stated that the new charges were the basis for the VOP, and that she was seeking full revocation at his full exposure, which is 9 years.

I then left a message for her, asking her to please hold off til the dispo of the cases, but I probably need to hand this over to you (she has not responded to my pleas), as the VOPs are yours.

Bottom line, which I've already explained to Joe, is

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that this lady is not the most agreeable person, and that the ONLY chance (and a slim chance) that you have in getting her to wait until the new cases are resolved is if you agree to leave him in jail until then, foregoing the bond reduction motion (that is not likely to be an amount he can pay anyway) BUT that's better than getting 9 years now. ...

He understand and agrees, but would like to discuss the VOPs further with you when you get a chance.

BTW- if I'm stepping on toes, please say so.

Cass

201-1604

Confidentiality Notice - This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you

GEOLY, SHEEK & MERRITT, LLC

1225 South Main Street
Greenwood, SC 29646
Attorneys at Law

Stephen D. Geoly
C. Lance Sheek
Robert E. "Bob" Merritt

864-223-3352
864-223-3400 fax


June 15, 2012

Mark Moyer
Assistant Solicitor
13th Judicial Circuit
305 East North St Suite 325
Greenville, SC 29601-29185

Re: Plea Offer for State v. Joseph Christopher Walker

Dear Mr. Moyer:

Thank you for plea offer dated June 7, 2012 regarding the above referenced Defendant. Please note that this offer was sent to an old address and I did not receive the same until June 13, 2012. Please note my current address at the top of this letterhead and forward all future correspondences to me at this location.

I have reviewed the discovery responses provided to Mr. Walker's previous attorney and have met with Mr. Walker on numerous occasions. At this time, all along with Bob Merritt, my law partner, have serious questions and concerns regarding the investigation and these discovery responses. I would like to schedule a time to meet with you to review the materials provided with us compare it with your file to ensure that we have full and complete response to our discovery request. I will have my secretary call your office to schedule this meeting.

In regards to your offer, once we have had a chance to review the full discovery we will provide you with a response on or before the date indicated in your letter. At this time, I do not anticipate Mr. Walker tendering guilty plea as the evidence provided to me appears, in my opinion, to be insufficient to convict him on the crime of which he is charged.

I look forward to hearing from you soon.

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. WALTER WILKINS

June 28, 2012

C. Lance Sheek, Esquire
1225 South Main Street
Greenwood, South Carolina 29646

RE: State v. Joseph Christopher Walker

Dear Mr. Sheek:

I am in receipt of your letter dated June 25, 2012, in which you ask to meet with me to discuss the discovery response and plea offer for your above-referenced client. I am happy to do so. Please feel free to contact me either by telephone or email (mmoyer@greenvillecounty.org) to schedule an appointment.

I also want to ask you about your client's charge of intimidation of a witness (warrant number N210250). I sent you an email about this earlier today so you may have already addressed this issue. You sent us a letter dated May 30, 2012, notifying us that you represent the defendant on this charge. However, you subsequently told me during a telephone conversation that you will not be representing him. I would ask that you kindly send me a letter clarifying whether you represent him or not on this charge.

Thank you for your attention in these matters. With kind regards, I am

Truly Yours,

A handwritten signature in black ink, appearing to read "L. Mark Moyer".

L. Mark Moyer
Assistant Solicitor

PJV004R

Greenville County Detention Center

10/18/2015 2:16:22PM
Job Number 1266077

Inmate Visits

Page 1 of 3 283
JMORAN

Inmate 0420 WALKER, JOSEPH CHRISTOPHER Sex M Race B DOB Booked 12/01/2011 Cell ID Pack# 0185898

From Date	Time	To Date	Time	Type	Visitor	Status
03/31/2013	19:45	03/31/2013	20:20	Professional	SHEEK, LANCE CHRISTOPHER	Visited
03/27/2013	12:27	03/27/2013	13:26	Professional	SHEEK, LANCE CHRISTOPHER	Visited
03/27/2013	12:27	03/27/2013	13:26	Professional	DAVIS, KATRINA	Visited
03/21/2013	09:37	03/31/2013	11:31	Professional	GORTON, CASS	Visited
03/10/2013	08:58	03/10/2013	11:30	Professional	GORTON, CASSANDRA	Visited
03/01/2013	15:19	03/01/2013	16:27	Professional	GORTON, CASS	Visited
02/17/2013	09:51	02/17/2013	10:47	Professional	GORTON, CASSANDRA	Visited
02/07/2013	13:08	02/07/2013	15:00	Professional	SHEEK, LANCE	Visited
02/03/2013	10:10	02/03/2013	10:58	Professional	GORTON, CASS	Visited
01/31/2013	13:00	01/31/2013	14:30	Professional	SHEEK, LANCE	Cancelled App (Phone
01/26/2013	13:15	01/26/2013	14:52	Professional	GORTON, CASS	Visited
01/19/2013	09:41	01/19/2013	10:16	Professional	GORTON, CASS	Visited
01/06/2013	09:58	01/06/2013	11:22	Professional	GORTON, CASS	Visited
12/24/2012	09:37	12/24/2012	10:57	Professional	GORTON, CASS	Visited
12/24/2012	08:37	12/24/2012	09:35	Professional	GORTON, CASS	Visited
12/07/2012	13:41	12/07/2012	14:41	Professional	GORTON, CASS	Visited
11/29/2012	10:45	11/29/2012	11:08	Professional	GORTON, CASS	Visited
11/19/2012	12:42	11/19/2012	13:15	Professional	GORTON, CASS	Visited
11/02/2012	14:20	11/02/2012	15:20	Professional	SHEEK, CHRISTOPHER	Visited
10/27/2012	08:30	10/27/2012	09:44	Professional	GORTON, CASS	Visited
10/13/2012	09:30	10/13/2012	11:19	Professional	GORTON, CASS	Visited
10/05/2012	13:39	10/05/2012	14:32	Professional	GORTON, CASS	Visited
09/22/2012	08:50	09/22/2012	09:50	Professional	GORTON, CASS	Visited
09/18/2012	13:25	09/18/2012	13:27	Professional	LYNCH, MARTHA	Visited
09/16/2012	09:53	09/16/2012	10:58	Professional	GORTON, CASS	No Show
09/09/2012	09:40	09/09/2012	10:22	Professional	GORTON, CASS	Visited
09/06/2012	14:17	09/06/2012	15:08	Professional	SHEEK, LANCE CHRIS	Visited
08/26/2012	09:10	08/26/2012	09:35	Professional	GORTON, CASS	Visited
08/04/2012	12:19	08/04/2012	12:41	Professional	GORTON, CASS	Visited
07/27/2012	10:15	07/27/2012	11:12	Professional	GORTON, CASS	Visited

284
PJV004R10/18/2015 2:16:22PM
Job Number 1266077

Greenville County Detention Center

Inmate Visits

Page 2 of 3
JMORAN

Inmate 0420	WALKER, JOSEPH CHRISTOPHER	Sex M	Race B	DOB	Booked 12/01/2011	Cell	ID Pack# 0185898
From Date	Time	To Date	Time	Type	Visitor	Status	
07/15/2012	08:30	07/15/2012	09:57	Professional	GORTON, CASS	No Show	
07/05/2012	12:35	07/05/2012	14:00	Professional	GORDON, CASS	Visited	
06/24/2012	09:24	06/24/2012	09:46	Professional	GORTON, CASS	Visited	
06/17/2012	09:09	06/17/2012	10:00	Professional	GORTON, CASS	Visited	
06/13/2012	13:00	06/13/2012	14:30	Professional	MERRITT, ROBERT	No Show	
06/13/2012	10:10	06/13/2012	10:27	Professional	MERRITT, ROBERT	Visited	
06/10/2012	13:07	06/10/2012	13:11	Professional	GORTON, CASS	Visited	
05/27/2012	08:52	05/27/2012	09:31	Professional	GORTON, CASS	Visited	
05/11/2012	09:13	05/11/2012	10:07	Professional	MERRITT, BOB	Visited	
04/18/2012	12:49	04/18/2012	13:29	Professional	SHEEK, CHRISTOPHER	Visited	
04/06/2012	14:00	04/06/2012	14:30	Professional	CHEEK, CHRISTOPHER	No Show	
03/23/2012	18:45	03/23/2012	19:01	Professional	GORTON, CASS	Visited	
03/22/2012	08:54	03/22/2012	09:56	Professional	GORTON, CASS	Visited	
03/20/2012	14:30	03/20/2012	15:30	Professional	WALKER, JOSEPH	No Show	
03/09/2012	17:45	03/09/2012	18:26	Professional	GORTON, CASS	Visited	
03/02/2012	10:34	03/02/2012	11:25	Professional	GORDON, CASS	Visited	
02/27/2012	18:00	02/27/2012	18:15	Professional	SHEER, CHRISTOPHER	Visited	
02/23/2012	19:00	02/23/2012	19:43	Professional	SHEEK, LANCE	Visited	
02/17/2012	14:30	02/17/2012	16:10	Professional	GORDON, CASS	Visited	
02/10/2012	08:25	02/10/2012	08:49	Professional	ROBINSON, SCOTT	Visited	
02/06/2012	13:40	02/06/2012	14:00	Professional	ROBINSON, SCOTT	Visited	
02/03/2012	12:35	02/03/2012	13:14	Professional	GORDON, CASS	Visited	
01/17/2012	12:42	01/17/2012	13:10	Professional	MUSSETTO, JOHN	Visited	
01/15/2012	09:00	01/15/2012	09:55	Professional	CONNLEY, LEE	Visited	
01/10/2012	14:35	01/10/2012	14:44	Professional	SMITH, TOM	Visited	
01/05/2012	18:50	01/05/2012	19:18	Professional	ROBINSON, SCOTT	Visited	
12/30/2011	12:46	12/30/2011	13:11	Professional	POSEY, CHRIS	Visited	
12/23/2011	10:11	12/23/2011	10:28	Professional	ROBINSON, SCOTT	Visited	
12/22/2011	13:40	12/22/2011	14:39	Professional	ROBINSON, SCOTT	Visited	
12/22/2011	09:00	12/22/2011	09:30	Professional	CONNOLLY, LEE	Cancelled App (Phone	

PJV004R

10/18/2015 2:16:22PM
Job Number 1266077

Greenville County Detention Center

Inmate Visits

Page 3 of 3
JMORAN 285

Inmate 0420 WALKER, JOSEPH CHRISTOPHER Sex M Race B DOB Booked 12/01/2011 Cell ID Pack# 0185898

From Date	Time	To Date	Time	Type	Visitor	Status
12/21/2011	12:23	12/21/2011	12:35	Professional	POSEY, CHRIS	Visited
12/21/2011	08:42	12/21/2011	09:36	Professional	POSEY, CHRIS	Visited
12/20/2011	17:57	12/20/2011	19:15	Professional	ROBINSON, SCOTT	Visited
12/20/2011	12:31	12/20/2011	13:07	Professional	POSEY, CHRIS	Visited
12/20/2011	09:01	12/20/2011	10:00	Professional	ROBINSON, SCOTT	Visited
12/14/2011	12:22	12/14/2011	13:15	Professional	POSEY, CHRIS	Visited
12/12/2011	12:20	12/12/2011	12:40	Professional	BEASLEY, RYAN	Visited
12/12/2011	12:18	12/12/2011	12:35	Professional	POSEY, CHRIS	Visited
12/08/2011	12:33	12/08/2011	13:18	Professional	POSEY, CHRIS	Visited
12/07/2011	09:38	12/07/2011	09:58	Professional	ROSS, SUSANNAH	Visited
12/06/2011	13:30	12/06/2011	13:34	Professional	POSEY, CHRIS	Visited
12/04/2011	14:00	12/04/2011	14:30	Professional	POSEY, CHRISTOPHER	Visited
12/02/2011	13:29	12/02/2011	13:42	Video - Professional	AUSTIN, ROBIN	Visited

*****End of Report*****

Search Mail

Search Web

Hi, Cass:

SENT

CONTACTS

CALENDAR

Fastcase Document -...

Joseph Walker

Compose

Delete

Move

Actions

Inbox (131)

Joseph Walker from Cassandra Gorton to 1 recipient

2:00 PM

Conversations

Drafts (165)

Lance:

Sent

Spam (401)

Trash

FOLDERS

Notes

Synced Messages (18)

MESSENGER

APPLICATIONS



I saw Joe today, and he asked me to contact you on his behalf.

He is very anxious to review any audio and video on the alleged drug transactions.

He is aware that those drug charges may render the rest of the cases meaningless, and understands that the video/ audio tapes may determine the tone for the defense.

I am not sure if you are familiar with the local rules and quirks,

so I will tell you that you will need to get pre-approval to bring in your laptop and share those with him.

Your first step is to call Sgt. Dana Lewis, at 467- 2416

Once you have her approval, you will need to contact Colleen, at professional visitation, explain that although Walker is at the old jail you need to arrange a visit in Pro-V at the new jail, in order to use your laptop to review audio/ video material.

Colleen's number is 467 - 2370, or you can fax her a request re the same at (864) 467-2472

Be aware that certain times will be off limits due to meals, count, etc

Some of those "off limits" times include 10:30-12:30, 2:30 - 5:00 etc

I hope this helps. Good luck!

Cass

**Re: Joseph Walker - update****Cassandra Gorton** <cassgorton@yahoo.com>

Thu, Jun 21, 2012 at 1:11 PM

Reply-To: Cassandra Gorton <cassgorton@yahoo.com>

To: "Robert E. Merritt, Attorney at Law" <merrittlaw@nctv.com>

Dear Bob and Lance:

As expected, the Solicitor reacted strongly to both OUR Motion for Bond and my subpoena to the jail.

He contacted the Office of Indigent defense and complained that I was asserting myself into a case for which YOU represent a client, and asked them to close the indigency case AND instruct me to do the same. The head guy, Zach Klebe, is on vacation, so his assistant Betty did as instructed.

I faxed back a note to Betty and followed up with your contact info to verify that you do NOT represent Walker on this new charge, as it would be a separate trial, you were not paid to include it, etc etc. I also explained the situation with the solicitor trying to get me off, and that I was determined to protect the client from this type of over reaching. As Betty was gone for the day, I explained all this to Porter, who is second in command at our local SCCID office. Porter is going to send me a follow up to disregard the previous correspondence, but may be calling to verify the status of things w/ your office first.

In the meantime, the Public Records custodian is refusing to honor my subpoena unless/ until the solicitor approves. I

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Will send you that correspondence separately. Next stop:
Ex parte Motion/Order for issuance/compliance of said
subpoena

Don't you just love our work?

Cass

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From: "Robert E. Merritt, Attorney at Law" <merittlaw@nctv.com>

To: Cassandra Gorton <cassgorton@yahoo.com>

Cc: sheeklaw@yahoo.com

Sent: Monday, June 18, 2012 9:54 AM

Subject: Re: Joseph Walker - Motion to Set Bond

Thanks. I believe you are right on point reference the bond hearing. Lance and I will get together and see when we can all meet to go over this one. Keep us informed and we will do the same. Bob

On Sun, Jun 17, 2012 at 9:28 PM, Cassandra Gorton <cassgorton@yahoo.com> wrote:

Bob:

I got the Motion, and will be filing it in the morning. I've already warned Joe it probably won't be heard this Friday,



Joseph Walker - Motion to Set Bond

Robert E. Merritt, Attorney at Law <merrittlaw@nctv.com>
To: cassgorton@yahoo.com
Cc: sheeklaw@yahoo.com

Sun, Jun 17, 2012 at 5:49 PM

Cass, let me know if you got the motion to set bond and if you get a chance to drop it by the Court House. Let us know what else we need to do to clarify that we are in tandem on this one and you are lead on the intimidating a witness, charge. Look forward to working with you. Please do hesitate to let us know what we can do on this end. Bob PS, I hit some key and a bunch of emoticons popped up. If any show up on this e mail, it was not my intent. Don't know how to shut them off.

—
Robert E. "Bob" Merritt, Attorney at Law
Geoly, Sheek, and Merritt, LLC
1225 South Main Street
Greenwood, SC 29646

864-223-3352 (O)
864-377-4326 (Cell)

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Cassandra Gorton <cassgorton@yahoo.com>
Reply-To: Cassandra Gorton <cassgorton@yahoo.com>
To: "Robert E. Merritt, Attorney at Law" <merrittlaw@nctv.com>

Sun, Jun 17, 2012 at 9:28 PM

Bob:

I got the Motion, and will be filing it in the morning. I've already warned Joe it probably won't be heard this Friday, as the prosecutor is likely to react and keep it from being on this week's docket... we are probably looking at 3 weeks out. AND that my recommendation is to cancel and

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postpone even beyond that if it's a Judge Hill week (vs Miller or Verdin) which he agrees, and I hope you do too. Joe asked for my estimate and I said no way less than 100K, and I am expecting it to be in the 200K-500K range. This because his last bond on the drug case was 70K, and in the solicitors opinion, he posted bond, hunted down his alleged snitch and killed him within hours of posting. Joe gets it. He's hoping for the best but prepared for the worst.

I see my case as merely a piggy back to yours, so for all practical purposes, I am following your lead.

Let me know what you need, even if it's just meeting w. Joe and passing info. I am at the jail every week, and all my clients are on a two week rotation, unless more frequent contact is needed. I'd be seeing Joe whether you asked me to do so or not, so it's really not a problem to be your messenger.

My plan is to subpoena a load of documents from the Greenville Count Detention Center, which is NOT part of the sheriff's office (just another example of how Greenville is different). As soon as I get the subpoena drafted, I will send you a copy.

Maybe we should plan to get together in a few weeks to discuss an overall strategy?

Cass
864-201-1604

From: "Robert E. Merritt, Attorney at Law" <merrittlaw@nctv.com>
To: cassgorton@yahoo.com
Cc: sheeklaw@yahoo.com

Subject: Joseph Walker
From: Cassandra Gorton (cassgorton@yahoo.com)
To: MMoyer@greenvillecounty.org;
Bcc: Itcinvestigations@juno.com;
Date: Wednesday, March 21, 2012 6:52 PM

Mr. Moyer:

I have had an opportunity to review the discovery in the first three cases and have discovered some missing items. I am requesting that they be provided pursuant to Brady v. Maryland, as they are likely to contain impeaching and/or exculpatory information.

Attempted Murder 7/20/11

- Information pertaining to Tyler Mattress perjury charge, including the detailed nature of the statements which constituted perjury
Warrant # 802735

- Any statement (or lack thereof) taken from Sharanda Ray
- Any statement (or lack thereof) taken from Miranda Ray
- The prior convictions of Tyler Mattress, Bobby Golden, and Amanda Ray

Drug Sale September 29, 2011

- A copy of the audio/video of the sale

Drug Sales in November ,2011

- A copy of the audio/ video recording the November 11 sale
- A copy of the audio/ video recording of the November 15 sale

With Best Regards,

Cass Gorton

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Walker



Search Web

Hi,
Cassandra

INBOX CONTACTS CALENDAR SEARCH: Walker RE: Joseph walker FW: Walker's pendin...

Compose

Delete

Move

Spam

Actions

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Notes

Synced Messages (10)

MESSENGER

APPLICATIONS

F Walker's pending charges

Sun, Apr 7, 2013 at 7:16 PM

From Moyer, Mark

To Cass Gorton

The last sentence refers to the fact he told me he is (or may, I'm not positive) be going back to work for the Greenwood Solicitor's Office. If that happens, I wonder if you will be getting his cases?

L. Mark Moyer, Assistant Solicitor
 Greenville County Courthouse
 305 East North Street, Ste. 305
 Greenville, South Carolina 29601
 Phone: 864-467-8638
 Facsimile: 864-467-8610

From: Moyer, Mark
Sent: Thursday, April 04, 2013 10:04 AM
To: 'Lance Sheek'
Subject: Walker's pending charges

Lance,

After talking this over with Betty Strom, I have a proposal as to Walker's remaining pending charges. If he will plead guilty, we will recommend 30 years for voluntary manslaughter (reduced from murder) and 10 years concurrent on the 3 charges of distribution of crack cocaine within proximity of a school. The remaining charges will be dismissed.

Walker gets a benefit from this because should he win his appeal, we won't be able to go after him for LWOP on any charge other than the attempted murder. If he turns down the plea and wins the appeal, I will be back in the position of having 5 opportunities to get him for LWOP.

Is this worth pursuing? If so, we can have him transported from SCDC in May and give it a try. I guess factoring into the equation is when you will be going back to the solicitor's office.

Thanks,

L. Mark Moyer, Assistant Solicitor
 Greenville County Courthouse
 305 East North Street, Ste. 305
 Greenville, South Carolina 29601
 Phone: 864-467-8638
 Facsimile: 864-467-8610

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moyer



Search Web

Hi,
Cassandra

INBOX CONTACTS CALENDAR RE: Joseph walker RE: Joseph walker RE: Joseph walker RE: Joseph walker SEARCH: moyer

Compose

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Actions

Inbox (171)

RE: Joseph walker from Moyer, Mark to you

Mon, 8:38 PM

Conversations

Drafts (187)

Sent

Spam (514)

Trash (4)

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Notes

Synced Messages (10)

MESSENGER

APPLICATIONS

OK, I emailed the sentencing sheets. Thank you for taking care of this. I have no idea what Lance Sheek's position is regarding his representation of Walker. He will not return emails or calls.

As for [REDACTED], he was convicted of grand larceny in 2002 and shoplifting in 2003.

Also, [REDACTED] was transferred to Kimberly Howard to prosecute. She has one of the co-defendants.

If you would, please respond so I will know you got this email and the sentencing sheets. I got a "would not deliver" message the last time I tried to email you, late last week

L. Mark Moyer, Assistant Solicitor
Greenville County Courthouse
305 East North Street, Ste. 305
Greenville, South Carolina 29601
Phone: 864-487-8838
Facsimile: 864-487-8810

—Original Message—

From: Cass Gorton (mailto:cassgorton@yahoo.com)
Sent: Saturday, April 20, 2013 7:16 AM
To: Moyer, Mark
Subject: Joseph walker

I am going to see Joe this Thursday the 25th
I will discuss your plea offer w him, including Lance's remaining cases, which presumably will be mine- eventually.
Would you please send me sentencing sheets per the plea offer?
Thank You,
Cass

Sent from my iPad

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CASSANDRA GORTON, Esq.

Criminal Trials and Appeals since 1993
Licensed in South Carolina and Florida

April 11, 2013

Mr. Joseph Walker # 00285497
c/o Kirkland Correction Institution
Reception and Evaluation Center
4344 Broad River Road
Columbia SC 29210

Dear Mr. Walker:

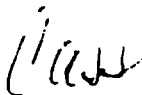
I first want to express my sincere condolences to you and your family. I am sure that last week's trial and outcome were a shock to you. For what it is worth, I heard that Lance Sheek did a great job, but that the jury was very stern.

I have also heard that you are filing an appeal. I asked the prosecutor about your remaining cases, including those currently assigned to me. He responded by sending an email he had sent to Lance, which I have enclosed.

If Lance does go to the solicitor's office, I fully expect that I would get all of your cases back. I frankly do not remember the details, so what I say here is not based on the facts of your case. It is based on the ever present risk that no matter how favorable the facts, there is always the unknown of a jury verdict.

Please consider the offer being made by the State very seriously.

Sincerely,



Cassandra Gorton
Attorney at Law

Phone (864) 201-1604

Mailing Address: 1754 Woodruff Rd. #144 Greenville, SC 29607

CASSANDRA GORTON, Esq.

Criminal Trials and Appeals since 1993
Licensed in South Carolina and Florida

April 29, 2013

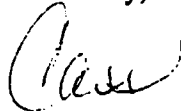
Mr. Joseph Walker # 00285497
c/o Kirkland Correction Institution
Reception and Evaluation Center
4344 Broad River Road
Columbia SC 29210

Dear Mr. Walker:

I have had a chance to convey your counter offer of 25 years to Mr. Moyer, which he immediately rejected. I attempted to engage in a discussion, but he firmly and sincerely indicated he was unwilling to negotiate any further. He stated that you will be transported on May 9, at which time you may either accept his offer or reject it on the record. The offer will not be available after May 9, and thereafter he will proceed to prepare for trial.

Please consider the offer being made by the State very seriously.

Sincerely,



Cassandra Gorton
Attorney at Law

Phone (864) 201-1604

Mailing Address: 1754 Woodruff Rd. #144 Greenville, SC 29607

State of South Carolina
County of Greenville

In The Court Of Common Pleas

Case No: 2015-CP-23-4239

Joseph Walker, # 285497

Applicant,

Vs.

State of South Carolina

Respondent.

CERTIFICATE OF SERVICE

FILED-C. WALKER OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2016 NOV 29 PM 2 17

I: Joseph C. Walker # 285497 certify and verify that I served the Respondent with a copy of my PCR Amendments by placing a copy of the same in the Perry Correctional Institution mailroom personnel hands for mailing, postage prepaid, and addressed as follows:

Karen C. Ratigan
Asst. Att. General
P.O. Box 11549
Columbia, S.C. 29211

Paul Wickensimer
Clerk of Court
305 E. North Street
Greenville, S.C. 29601

I: Joseph C. Walker, #285497 certify under the penalty of perjury that the foregoing is true and correct,. 28 U.S.C.A. §1746.

RECEIVED

NOV 03 2016

P.C.I. MAILROOM

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

JOSEPH C. WALKER,)
)
 APPLICANT,)
)
 -VS-)
)
 STATE OF SOUTH CAROLINA,)
)
 RESPONDENT.)
 _____)

2015-CP-23-04239

TRANSCRIPT OF RECORD

DECEMBER 9, 2016
GREENVILLE, SOUTH CAROLINA

B E F O R E:

THE HONORABLE JOHN C. HAYES, III

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

ATTORNEY FOR APPLICANT:

R. MILLS ARIAIL, JR., ESQ.

ATTORNEY FOR RESPONDENT:

PATRICK SCHMECKPEPER
ASSISTANT ATTORNEY GENERAL

SUSAN W. HUDGINS
CIRCUIT COURT REPORTER

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EXHIBITS

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1 **MR. SCHMECKPEPER:** May it please the Court, Your Honor?

2 **THE COURT:** Yes, sir.

3 **MR. SCHMECKPEPER:** The next case is Joseph Walker
4 versus the State of South Carolina, 2015-CP-23-4239. The
5 Applicant was indicted in December of 2011 for attempted
6 murder. He was represented by Lance Sheek.

7 The Applicant proceeded to trial and was found guilty
8 on April 2nd, 2013. He was sentenced by Judge Pyle to life
9 imprisonment without the possibility of parole.

10 A timely notice of appeal pursuant to Anders was filed.
11 The Court of Appeals dismissed the appeal on May 6th, 2015.
12 The remittitur was issued on May 26th, 2015.

13 Your Honor, I believe at this time the Applicant had a
14 motion he'd like to make.

15 **THE COURT:** All right.

16 **MR. ARIAIL:** Yes, Your Honor. I represent Mr. Walker
17 in this matter. This case was before you previously and it
18 was continued. He has raised some issues to me, one of
19 which I have tried to find a alibi or not an alibi witness,
20 but a -- the victim, who has apparently changed his
21 testimony. I tried to contact him, locate him, have done
22 all I can in regards to doing that, and I have been
23 unsuccessful in regards to that.

24 He believes we need more time to be able to have him
25 here and wants me to request a continuance based on that.

1 And he also wants me to request a continuance because he has
2 a current PCR that is pending that was filed before this.
3 He wants that case heard before this based upon it being
4 filed before this one was filed. So ---

5 **THE COURT:** Was that in another county?

6 **MR. ARIAIL:** No, it's here, Your Honor.

7 **THE COURT:** On the same case?

8 **MR. ARIAIL:** Well, he's got different cases. Brian
9 Johnson represents him in regards to it.

10 **THE COURT:** All right. Well, if he's ...

11 **MR. ARIAIL:** She's pointing to me like I do.

12 **MR. SCHMECKPEPER:** And just for clarification, Your
13 Honor, Brian Johnson previously represented the Applicant on
14 both cases here before Judge McMahon, I think, back in June.
15 Afterwards Judge McMahon signed an order relieving Brian
16 Johnson from this case.

17 My understanding is that Mr. Johnson is still
18 technically representing the Applicant on that case. So we
19 were trying to sort that out before trying that case. But
20 this case, Mr. Ariail's been appointed. And there's no
21 issue with counsel. And we just put this on the roster.

22 **THE COURT:** All right. What's the State's position?

23 **MR. SCHMECKPEPER:** Your Honor, the State objects to a
24 continuance. I think last time before this Court the
25 Applicant requested a continuance because he didn't feel

1 ready to proceed. He's since amended his application. He's
2 been able to meet with counsel from my understanding.

3 It's unfortunate that he's unable to find his witness.
4 It sounds like counsel has tried, has put forth efforts to
5 try to find him. So we'd request that this case go ahead
6 and proceed. We have a witness here from Greenwood who's
7 appearing to come here. So we'd ask to proceed.

8 **THE COURT:** All right. Well, I'll deny the motion to
9 continue. A witness changing their testimony, a witness or
10 a victim, is not grounds for ineffective assistance of
11 counsel and is not a ground in my opinion for Post
12 Conviction Relief.

13 While Mr. Walker may have other remedies, and I'm not
14 suggesting he does, but I'm not suggesting he does not,
15 based on what may be -- fall in the category of after-
16 discovered evidence or evidence changed, it happens quite
17 frequently, but that's no reason to hold up this case, nor
18 is the fact that he has another post conviction relief
19 application.

20 He could appear for that one and ask that it be
21 continued for this one, and we could go around, and around
22 and around, but we're not going to do that. We're going to
23 hear this case today.

24 **MR. ARIAIL:** Thank you, Your Honor. I call Mr. Walker
25 to the stand.

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

7

1 **MADAME CLERK:** Mr. Walker, please place your left hand
2 on the Bible and raise your right hand.

3 **Joseph Walker,** being duly
4 sworn testified as follows;

5 **MADAME CLERK:** Thank you. You may be seated. Please
6 state your full name for the record.

7 **MR. WALKER:** My name is Joseph Christopher Walker.

8 **Direct Examination by Mr. Ariail:**

9 Q. Mr. Walker, how you doing today?

10 A. I'm okay.

11 Q. Let's go through a little bit in regards to your case.
12 You were represented by Mr. Sheek at a trial on this matter,
13 is that correct?

14 A. That's correct.

15 Q. Attempted murder?

16 A. Yes, sir, I was.

17 Q. Okay. I want to go back first of all about this
18 charge. When -- after this happened you were arrested,
19 correct?

20 A. Sometime -- sometime after I was arrested, yes, sir.

21 Q. Okay. Sometime after you were arrested. But you were
22 arrested at some point in time for attempted murder,
23 correct?

24 A. That's correct.

25 Q. I didn't state that correctly. Sorry. Who -- in the

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

8

1 initial part who represented you on the case?

2 A. Cassandra Gorton represented me before Mr. Sheek was
3 paid to represent me on the case, sir.

4 Q. So you were appointed counsel at some point in time,
5 correct?

6 A. That's correct.

7 Q. And that would be Cass Gorton?

8 A. That's correct.

9 Q. Okay. How long did she represent you on this case?

10 A. From the early part of 2012 to mid 2012.

11 Q. Okay.

12 A. Somewhere around in there, give or take a few months.

13 Q. And then you obtained the service of Mr. Sheek, is that
14 right?

15 A. That's correct.

16 Q. Okay. Now, I'm going to go through -- I want to talk
17 about Mr. Sheek and then we can get back into some issues
18 that I think you had between communications with Ms. Gorton.
19 But the issue -- when Mr. Sheek was retained did y'all go
20 over discovery in this case?

21 A. I did. I talked to Mr. Sheek maybe once or twice, but
22 he was having issues because he was so far away in
23 Greenwood, South Carolina. And Ms. Gorton was, I guess,
24 being used as a messenger, so to speak. And she was coming
25 -- she was coming up to Greenville County to come to see me

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

9

1 every week to come and see me. And that's -- I have
2 something I would like to put in and use as an exhibit of
3 how many times she came to see me.

4 Q. Have we already submitted that as part of your
5 application?

6 A. Okay.

7 Q. The document you provided me, it was an amended PCR
8 application, was made a part of the record on November 29th.
9 And it was filed with the court and made a part of the court
10 file. I think it was attached. It shows, if I'm not
11 mistaken, is that document right there? Is that ---

12 A. That's correct.

13 Q. Okay. So it's attached to this and referenced in your
14 document showing how many times she came to see you, is that
15 correct?

16 A. That's correct, sir.

17 Q. Okay. Now, I want to understand a little bit. So Mr.
18 Sheek represented you, he's on it, but you're saying -- and
19 he's representing you on the attempted murder charge or did
20 he have other charges too?

21 A. He's representing me on every charge that I was charged
22 with besides intimidation of a witness concerning the same
23 charge, which was a related charge of murder.

24 Q. Okay. So hold on. Let me make sure I understand this.
25 Cass Gorton has you and was representing you on intimidation

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

10

1 of a witness charge, correct?

2 A. That's correct.

3 Q. And Mr. Sheek was representing you on attempted murder
4 plus some other charges. And I'm going to make sure -- you
5 have a litany of charges. There it was right there. It
6 ranged from pointing and presenting a firearm, there's some
7 cocaine charges and then let's see what else. You got a
8 murder charge there too. There were some additional things,
9 correct, he represented you on?

10 A. That's correct.

11 Q. Okay. So as part of that representation you're saying
12 that Cassandra Gorton -- he represented you on all those and
13 she represented you on intimidation of a court official, is
14 that right? Or not ---

15 A. That's correct.

16 Q. --- a court ---

17 A. Intimidation of a witness, correct.

18 Q. Okay. And I just want to understand. When she's
19 coming to talk to you, I mean, how are you claiming he is
20 ineffective in regards to communications that you had with
21 Ms. Gorton?

22 A. Because I feel as if once I told him I didn't feel
23 comfortable talking with her every week in/week out about my
24 cases, he should have brought it to the court's attention
25 just like I told her I didn't feel comfortable talking with

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

11

1 her. He -- he allowed me to confront her downstairs in a
2 holding cell down here about Ms. Gorton, which she -- she
3 just, you know, listened while I talked, but I was just -- I
4 feel like the whole impropriety of the situation was wrong.
5 It should have been brought to the court's attention,
6 period.

7 Q. Okay. So you -- and I'm trying to understand. What
8 did ...

9 A. He failed to bring it to the court's attention that I
10 had another counselor acting as my counselor once I paid him
11 to represent me on the said charges.

12 Q. But how did that affect you in regards to his
13 representation of you and your conviction for the attempted
14 murder charge?

15 A. You said how did it affect me?

16 Q. Yeah.

17 A. Because it denied me a fair trial when I got one
18 counselor giving me advice to say and do something -- do
19 something else as in regards to going to trial. Then I got
20 another counselor coming to see me every week and telling me
21 a different thing. So ---

22 Q. Okay. So who ---

23 A. --- I was -- I was confused.

24 Q. So Mr. Sheek is saying go to trial, she's saying plead
25 guilty?

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

12

1 A. Actually she was saying more than just plead guilty,
2 sir. She was telling me about ---

3 MR. SCHMECKPEPER: Your Honor, at this point I just
4 object to hearsay.

5 THE COURT: I sustain -- I sustain the objection.

6 MR. SCHMECKPEPER: Okay.

7 Q. Okay. You can't testify in regards to what Ms. Gorton
8 said, but we can say that there was two different -- you
9 were getting two different points of view from each
10 attorney, is that correct?

11 A. That's correct.

12 Q. And how -- and you went to trial with Mr. Sheek,
13 correct?

14 A. That's correct.

15 Q. Okay. But before that had y'all tried to work any, I
16 mean, it looked like you got a plea offer at some point in
17 time.

18 A. Well, I was never given a plea. I got it in the public
19 records that the State offered me a plea, which I would have
20 taken. Had I known about the plea prior to trial, I would
21 have taken that plea. And I'm pretty sure whatever the plea
22 was it would have been way less time than the time that I
23 was given after being found guilty during trial, sir.

24 Q. Okay. So, I mean, you got life without parole,
25 correct?

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

13

1 A. That's correct.

2 Q. Okay. So tell me, what was the plea offer you saw
3 after you -- you're saying you didn't get it during the
4 representation of Mr. Sheek?

5 A. Well, I -- I don't -- I heard it was a twenty year
6 sentence.

7 Q. Twenty year sentence?

8 A. Yes, sir.

9 Q. Okay. But you don't, I mean, you never had any
10 discussion from Mr. Sheek about it?

11 A. Well, Ms. Gorton came to Kirkland to visit me and
12 brought me sentencing sheets for me to sign additional time
13 after I was sentenced. And I believe it was June 29th that
14 she came -- no, May -- I believe it was May the 29th that
15 she came to visit me at Kirkland, while I was at Kirkland.
16 And that's how I know about the twenty year plea sentence.
17 And she brought me some emails and additional paperwork
18 showing that Mr. Sheek dropped the ball before and during
19 trial, sir.

20 Q. Okay. Let's go through first of all the plea offer and
21 then you can say what you think he dropped -- what he didn't
22 do during trial. You've included and sent me a copy of a
23 plea offer that was 6/7/2012.

24 A. Okay.

25 Q. Remember that?

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

14

1 A. Yes, sir.

2 Q. You gave me the first page. It was apparently
3 addressed to Mr. Sheek. I do not have the second page.
4 Actually, hold on a second. Maybe I put it out of order.
5 Yeah, I did. It's the page before that.

6 **THE COURT:** All right. Give me one second. Is that in
7 that package?

8 **MR. ARIAIL:** Yes, Your Honor. It looks like it's --
9 let me be sure I give you the page number. It's after the
10 handwritten statement. I think the first page is -- they're
11 out of order.

12 **THE COURT:** Is this from Moyer, Mark Moyer?

13 **MR. ARIAIL:** Yes, Your Honor.

14 **THE COURT:** Okay.

15 **MR. SCHMECKPEPER:** And, Your Honor, I'd move to strike
16 these from the pleadings. They're not in evidence. And I
17 don't think they've been authenticated and they're hearsay.

18 **THE COURT:** All right. They haven't been offered into
19 evidence. They're -- simply been directed because they're
20 part of his package. But you're right, in order for them to
21 be in the record and reviewed by the Court, they would have
22 to be authenticated.

23 **MR. ARIAIL:** If I could ask him some questions ---

24 **THE COURT:** Okay.

25 **MR. ARIAIL:** --- in regards to that.

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

15

1 Q. This document that you got that's -- we're referencing
2 that you've discussed, it's dated 6/7/2012. How did you get
3 a copy of this document?

4 A. Well, the mother of my children went to
5 , which is in Greenville, South Carolina, Mr. Sheek's
6 old address, apparent address. I don't know if he still
7 have the same. But his paralegal, Katrina Davis, handed it
8 -- handed her a whole book of my, I guess, my filed
9 paperwork from after trial. And that's how I obtained these
10 records, sir.

11 Q. Okay. And they provided -- this is after your trial
12 they provided this to you. She brought it to you in prison,
13 is that correct?

14 A. Yeah, it was mailed to me.

15 Q. It was mailed to you?

16 A. Yes, sir.

17 Q. Okay.

18 **MR. ARIAIL:** Your Honor, just based upon him receiving
19 it from Mr. Sheek and being sent to him in the mail, I'd
20 just ask it to be moved into evidence.

21 **MR. SCHMECKPEPER:** I'd have the same objection, Your
22 Honor. I'd also like to point out, this isn't a complete
23 copy of whatever -- even if it is a plea offer, it's not a
24 complete offer and it doesn't have what the actual offer is.
25 It doesn't ---

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

16

1 **THE COURT:** No, it doesn't. It -- I'll allow it in
2 over objection, but it does not have -- it talks about
3 pleading to a reduced charge of voluntary instead of murder
4 and -- "and I will see if there is something I can do." If
5 we're going to be able to work out a guilty plea, let me
6 know by the date indicated. So it's not a complete ---

7 **MR. ARIAIL:** Okay.

8 **THE COURT:** --- offer. But anyway, go ahead.

9 **MR. ARIAIL:** So I can put them in, Your Honor?

10 **THE COURT:** Yes, sir.

11 **MR. ARIAIL:** Okay. I'll mark those two pages.

12 (Whereupon Plaintiff's exhibit 1 was marked and
13 admitted into evidence)

14 Q. Now, I guess, the follow-up question in regards to that
15 would be this clearly doesn't give a sentence range or
16 anything that you would be receiving. Do you remember
17 having any discussion with Mr. Sheek about, you know, if you
18 want to plead guilty, they'll try to work something out?

19 A. Well, no, sir. He -- I know Mr. Sheek, he came to see
20 me with, I believe, his son. And he informed me that
21 dealing with the State having -- the solicitor having, I
22 guess, lack of evidence, there's no ways possible that I
23 would be convicted of the attempted murder charge that I was
24 about to go to trial for that following Monday.

25 But he did say just be ready to go to the courtroom for

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

17

1 a bond reduction or a bond for the said charge. And that's
2 pretty much it as far as him talking to me about any plea,
3 sir.

4 Q. Okay. So other than that you didn't have this
5 information, you didn't have anything else saying we're
6 going to try to work something out to get you a reduced deal
7 or ---

8 A. That's correct, sir. I was never told anything about a
9 plea. Every time I called him, we called on three-way. The
10 only person we was able to get was Mr. Bob Merritt, which
11 was another partner at his law firm, and Katrina Davis,
12 which was also his paralegal. And they informed me that he
13 was on his way back to the solicitor's office in Greenwood,
14 South Carolina.

15 Q. Right.

16 A. And he's always in court. That's the -- that was the
17 reason why I was never able to get him on the phone to talk
18 to him about working out a plea deal prior to trial, sir.

19 Q. Okay. And I just want to -- was there any discussion
20 with Mr. Sheek about trying to find a way to get the life
21 without parole off the table?

22 A. No, sir. Not at all, sir.

23 Q. I mean, you were aware you were going to trial for a
24 attempted murder and if you were convicted you were getting
25 life without parole. Were you aware of that?

JOSEPH WALKER - DIRECT EXAMINATION BY MR. ARIAIL

18

1 A. I was somewhat aware of that. If you could see in the
2 transcript at the end of the trial he asked -- I had Mr.
3 Sheek to ask the judge is there any kind of way that -- that
4 I could be sentenced without having to be sentenced to life
5 without parole, sir, after being found guilty. And I -- I
6 never had a fully -- I was never -- had a full understanding
7 of what exactly I was facing because, like I say, I never
8 got a chance to sit down and discuss all these things with
9 Mr. Sheek ---

10 Q. Okay.

11 A. --- about as far as what my priors was going to be used
12 -- how my priors was being used against me in order to give
13 me life without parole. That was never fully explained to
14 me.

15 Q. But I want to make sure of this too.

16 A. Yes, sir.

17 Q. You were served with a notice of life without parole,
18 correct?

19 A. That's correct.

20 Q. Okay. So you were aware that if you were -- if you
21 were found guilty you were going to get life without parole?

22 A. No, no, no, no. I was aware that -- I got a piece of
23 paper and it said that my priors may be used against me if I
24 was convicted of any said charge, which -- which was written
25 down below. And he never fully explained this to me exactly

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1 what these -- what was being said on this piece of paper.

2 Q. Okay.

3 A. So I was still in the dark on that, sir.

4 Q. So you're saying you were not adequately informed of
5 what life without parole meant?

6 A. No. What I'm saying is -- I know what life without
7 parole meant. I'm saying that I was never fully aware of
8 what my priors -- how my priors is being used against me and
9 if I was found guilty that I was eligible for life without
10 parole. That was never fully informed to me, sir.

11 Q. Okay. Now you've said that he -- there's some
12 questions that I had in regards to whether or not he did the
13 appropriate investigation in this matter. And from what I
14 -- from the transcript, I mean, this was a allegation by an
15 individual who said apparently there was some argument over
16 a telephone with, I think, it was your ex-girlfriend and you
17 -- the allegation is you came to this apartment complex and
18 you shot at the individual that apparently came out of the
19 apartment. Is that a summary of kind of what the facts
20 were?

21 A. That sounds about correct what the allegations are, but
22 ---

23 Q. But ---

24 A. But, no, sir, that's not exactly what happened if
25 that's what you're asking me on the record. No, sir.

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1 Q. Okay.

2 **THE COURT:** I think what he's asking is that what was
3 testified to at trial?

4 Q. Right.

5 A. That's correct. That's what was testified to.

6 Q. Okay. And I know you have ---

7 A. Somewhat.

8 Q. --- a differing of opinion about the information. What
9 I'm getting into now is is there certain things you asked
10 Mr. Sheek to do to investigate or to look at the, you know,
11 those statements or, you know, facts that were there to help
12 you out?

13 A. I did. I asked Mr. Sheek over the phone to locate a
14 expert witness because it was one guy, Turonnie -- Turonnie
15 Lewis or something.

16 Q. Okay.

17 A. He had asked -- he had actually said -- testified to
18 that he found the bullet hole in his car. And a responding
19 officer, Jared Mann, I believe, he testified to he found a
20 small hole in the wheel well of a car. But it was never
21 expert testimony given saying that that's exactly where the
22 hole may have come from. And I asked Mr. Sheek to hire a
23 private investigator, expert witness to rebut the State's
24 theory.

25 Q. So what type of expert witness did you want to rebut

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1 the theory?

2 A. What type of expert witness?

3 Q. Yeah.

4 A. A expert that -- that know about gun, discharging guns,
5 expert on -- anything that got something to do with the
6 magnitude of a projectile.

7 Q. Okay. So what you were trying to find out is a
8 ballistics expert, I guess, in regards to the path of a
9 bullet and whether it matched up with what the victim was
10 saying occurred, is that ...

11 A. That's correct.

12 Q. Okay. And did you discuss that with him?

13 A. I did. Several times, sir.

14 Q. What was his response?

15 A. Well, he was -- he was more of like, Joe, we don't need
16 that. I've got this. The case -- they can't prove squat.
17 Mr. Moyer, he can't prove that you went and shot at nobody
18 or nothing like that. So that was about the nature of the
19 conversation, sir.

20 Q. Okay. Were there other things that you asked him to do
21 that, you know, you wanted done that he didn't do?

22 A. That's correct. I gave Mr. Sheek a letter from Amanda
23 Ray that she wrote me while I was being housed at the
24 Greenville County Detention Center where she said that ---

25 **MR. SCHMECKPEPER:** Objection to hearsay.

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1 A. --- Mr. Moyer ...

2 **THE COURT:** I sustain the objection. That'd be
3 hearsay.

4 Q. Hearsay in regards to that. You asked him to do
5 certain ---

6 A. Yeah. I had a letter that was given to me while I was
7 at the County. And basically the letter was saying that a
8 person that testified ---

9 **MR. SCHMECKPEPER:** Objection, Your Honor.

10 A. --- against me was being threatened.

11 **THE COURT:** Yeah, I sustain the objection.

12 Q. You can't testify to what she said. You can say you
13 received a letter from Ms. Ray, is that correct?

14 A. I received a letter from Ms. Ray. And I wanted that to
15 be placed into evidence during the course of my trial, yes,
16 sir.

17 Q. And Ms. Ray was ...

18 A. Amanda Ray.

19 Q. She was the one at the apartment that you were talking
20 -- who is she?

21 A. She's the mother of my kids.

22 Q. Okay. That's what I thought -- okay. So she was the
23 one -- was she the one you were talking to on the telephone
24 when all this started?

25 A. That's the mother of my kids. She testified during

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1 trial, yes, sir.

2 Q. Okay. What I'm saying is the way this began, from what
3 I understand, there's a telephone call over to Ms. Ray. And
4 then the victim was there ---

5 A. We talking about the same woman, yes, sir.

6 Q. Okay. That's it. Okay. But you wanted some
7 information submitted in the court or her to be present at
8 trial to be able to testify on your behalf, is that what
9 you're saying?

10 A. That's -- well, not -- not necessarily on my behalf.

11 Q. Okay.

12 A. But I just -- I needed her in court to testify. I
13 needed that letter, that piece of evidence to be placed into
14 -- in evidence at court during my trial, sir.

15 Q. Didn't she testify? And I can go back.

16 A. She did.

17 Q. Okay. But what I'm trying to find out is she sent you
18 a letter ---

19 A. Um-hum (affirmative).

20 Q. --- that you were saying was different from what she
21 testified to?

22 A. That's not what I'm saying. I'm saying that it was --
23 it was -- the letter was about Mr. Mattress, period. The
24 letter was about Mr. Mattress.

25 Q. So what I'm -- what I'm trying to get at is you asked

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1 -- you got the letter. Did you ask Mr. Sheek to do
2 something ---

3 A. Yes, sir.

4 Q. --- at trial based on, I guess, cross examining her
5 about the letter?

6 A. Correct.

7 Q. Okay. And he didn't want to do that?

8 A. Well, I gave it to him. And he told me he would. It
9 may have been Saturday or either Sunday right before the
10 trial. I can't remember the exact date. But I do know my
11 trial started on April the 1st.

12 Q. Okay.

13 A. That was the last visit. He came to see me while I was
14 at the Greenville County Detention Center, sir.

15 Q. Okay. Now, I'm going through and I'm trying to make
16 sure I've got you on your points here. Were there things
17 during the trial that you asked him to do that he did not
18 do?

19 A. That's correct. I asked -- during jury qualification I
20 asked that he ask the jurors specific questions about their
21 -- in regards to their relations to law enforcement
22 officers, do they support any law enforcement, charities, or
23 fundraiser, anything to that nature. And that was never
24 asked. He never asked about have they ever been a victim --
25 friends, family members ever been a victim of a violent

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1 crime including attempted murder. That was never asked.

2 Q. Okay.

3 A. And so I believe without him doing that, that also
4 denied me a fair trial and ineffective assistance of
5 counsel, sir.

6 Q. Okay. And you asked him too to also interview, I
7 guess, the victim in this case before trial, is that
8 correct?

9 A. Yes, sir.

10 Q. Or you say victim and chief witness. Do you mean --
11 who did you want him to interview before trial?

12 A. All -- everybody that the State put on the list to
13 testify, as far as witnesses as being out there on the scene
14 that day. That never happened. He told me that he went out
15 there and saw them, but didn't say nothing to them.

16 Q. Okay. But did he give you statements or things they
17 had made to the police? Did he show you that?

18 A. Well, I -- I did get the statements, but whenever I
19 would call home, I was hearing that Mr. Mattress had been
20 saying different things, I guess, changing his statement
21 some, sir.

22 Q. Okay.

23 A. So I wanted him to investigate just to see -- just to
24 clarify exactly what was this witness' state of mind was at,
25 sir.

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1 Q. Okay. And he -- he clearly cross examined him at
2 trial, right?

3 A. Yeah, he did. Yes, sir, he cross examined him, but to
4 a certain degree. I mean, he cross examined him, though,
5 yes, sir.

6 Q. Okay. So you think -- were there things that he should
7 have done during trial that you're saying he didn't do in
8 regard to cross examination?

9 A. Well, you kind of going down the street a little bit.
10 You just -- you just asked me did he do -- did he do
11 anything in regards to interviewing people prior to trial.
12 He failed to do that on many times, like Ms. Beverly
13 Henderson. He never interviewed any -- any of the
14 witnesses, sir.

15 Q. Okay. No interviews of witnesses. And you're saying
16 -- and I know you're saying he didn't properly investigate
17 the case, is that what you're ...

18 A. That's exactly what I'm saying, sir.

19 Q. Okay. Now, you've got all, I mean, this is part of the
20 packet of information Judge Hayes will consider in regards
21 to this. And I know we've gone through a lot. I mean, I
22 want to make sure I'm hitting all your points and making
23 sure they're part of the record. We've discussed, you know,
24 these items. Are there other things -- and I've tried to go
25 through your list of questions. Are there other things you

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1 want to present or say?

2 A. Yes. Yes, sir. Mr. Sheek failed to object to the
3 trial -- trial counsel failed to object to the solicitor's
4 testimony as a witness. See transcript page 45 through 48
5 and transcript page 69, line 24, also page 70, line 1.

6 Q. Okay.

7 A. The solicitor tried to rehabilitate Mattress'
8 credibility. And that's on page 45, line 18 through 25.

9 Q. Okay.

10 A. Prosecutor used evidence which he knew created a false
11 impression of a material fact. See transcript page 48, line
12 11 through 22.

13 Q. Okay.

14 A. And so I will -- and so I want to put this in evidence,
15 please.

16 Q. What is that?

17 (Pause)

18 Q. This is already part of the court file right here. You
19 want to put that into evidence?

20 A. Yes, sir.

21 Q. I don't think -- they're not going to allow that.
22 That's hearsay.

23 A. What's hearsay? This?

24 Q. Yeah, that Tyler Mattress statement, I can't enter that
25 into evidence. He's got to be here to testify.

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1 A. I also want to make a part of the record, sir, that I
2 asked Mr. Ariail to please locate Mr. Tyler Mattress because
3 he went to my old lawyer's office before he put in a motion
4 to be relieved as counsel and gave such statement for me to
5 testify on my behalf. So I feel like if he was willing to
6 testify on my behalf after realizing the error in this
7 matter, he needed to be here to testify to give -- to give
8 his same testimony right here today, sir.

9 Q. I can't ---

10 A. Sir?

11 Q. I'm not going put that -- that's from Mr. Mattress. I
12 can't put that in, okay?

13 A. That's from who?

14 Q. Mr. Mattress. It's from him.

15 A. You can't put it in?

16 Q. It's hearsay. You can't submit ---

17 A. This is not even hearsay. This is -- this is something
18 from the solicitor's office, sir.

19 Q. Okay. Are there other issues you want to bring up?

20 And this is -- you've submitted numerous things to the Court
21 as part of your amended PCR.

22 A. Yes, sir. Judge, just bear with me for a second ---

23 **THE COURT:** Okay, sure.

24 A. --- to be sure I ---

25 **THE COURT:** Sure.

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1 A. Yes, sir.

2 (Pause)

3 A. Okay. Trial court error by not allowing attorney
4 effectively to -- to effectively cross examine ---

5 **MR. SCHMECKPEPER:** Your Honor, I object to the
6 allegation of trial court error. This is a direct appeal.

7 **THE COURT:** I'll let him put it on the record. But
8 this is not a direct appeal.

9 A. Yes, sir. Well, my counsel erred by not objecting to
10 the trial court not allowing him to cross examining Mr. --
11 Mr. -- what is his name? Jared Mann, when he testified to
12 the bullet being -- the bullet hole in the car being caused
13 by the -- by a gun or a hole being caused by something that
14 he say I did.

15 Q. Okay. Any other issues you want to bring up?

16 A. Yes, sir. The photo array lineup, sir.

17 Q. Okay.

18 A. There was a single photo showed. And the Officer
19 Rackley said that the case was cut and dry based on the
20 words of Mattress.

21 Q. Okay.

22 A. Yes, sir.

23 Q. You got an issue with the photo lineup and the way they
24 did it.

25 A. Yes, sir.

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1 Q. Okay. He didn't cross examine or deal with that at
2 trial.

3 A. Which showed police misconduct. And also counsel
4 failed -- he dropped the ball also on this, which denied me
5 a fair trial because that should have been suppressed too,
6 sir.

7 Q. Okay. Got another item in there? And this is -- is
8 this part of your brief that we submitted?

9 A. Sir?

10 Q. Is this part of the document ---

11 A. This is all from the trial transcript, sir.

12 Q. Okay.

13 A. Page 123, lines 18 through 22.

14 **THE COURT:** And what's that about?

15 A. That's Officer -- Officer Rackley.

16 Q. Is that where he testified about the lineup?

17 A. Yes, sir.

18 Q. Okay. What other issue you have?

19 A. The solicitor passing prejudice to the jury where he
20 states that if it had not been for some unknown reason Mr.
21 Mattress would have been killed that day and this would have
22 been a murder trial.

23 Q. Okay.

24 A. See transcript, page 58, line 10 through 25.

25 Q. Okay. All right.

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1 A. Mr. Mattress -- in one statement Mr. Mattress said he
2 seen me point a gun at him, line 10 through 12. Then if you
3 will see line 12 through 14 he said he didn't know if I
4 pointed a gun at him.

5 **THE COURT:** What page is that?

6 A. That is page 58, sir.

7 Q. Okay. So he -- did -- was anybody -- did Mr. Sheek
8 cross examine him on that? You're saying he was ineffective
9 ---

10 A. Yeah. Yes, he cross examined him.

11 Q. Well, how are you saying he's ineffective in that?

12 A. Because he sat here and contradicted his own statement
13 right here when he made the statement, sir, line ---

14 Q. What I'm saying ---

15 A. --- 10 through 12 ---

16 Q. What I'm asking is what did Mr. Sheek do wrong? I
17 mean, I know you're saying he contradicted himself, Mr.
18 Mattress did, but what did Mr. Sheek do that was wrong or
19 ineffective in that, I mean, he's not the one testifying.
20 What did he do that was wrong in regards to that testimony?

21 A. For one, sir, he -- he was supposed to object to the
22 misleading a person's testimony, period, because he was
23 aware that this individual was locked up for perjury on a
24 related charge of discharging a firearm. And the person --
25 the individual, Mr. Mattress, told a judge that he didn't

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1 remember what happened in regards to the shooting incident.

2 Q. Okay.

3 A. And he allowed the testimony to come in to court later
4 on at the attempted murder trial where this individual
5 completely changed his whole story up, sir. So he -- he was
6 ineffective for not objecting to that.

7 Q. Okay.

8 A. Which denied me a fair trial, sir.

9 Q. All right. You got any other issues?

10 A. Yes, sir. All right. Trial counsel -- please go to
11 page 194, sir.

12 Q. Okay.

13 A. And lines 1 through 24. Trial counsel failed to
14 request from the trial court a cost analysis on impeachment
15 value of my prior convictions when my credibility would have
16 been a crucial issue in this case. Rule 403 and 404(b) was
17 never mentioned or considered by the trial court.

18 Q. All right.

19 **THE COURT:** What lines?

20 A. What lines?

21 **MR. ARIAIL:** 1 through 24.

22 A. Line 1 through 24, sir.

23 **THE COURT:** Okay.

24 Q. Okay. So we have that. You have another one?

25 A. Yes, sir. Several witnesses testified only to

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1 demonstrate my bad character and social irresponsibility.

2 Their testimony far outweighed its probative value. It also
3 served to discredit my character, which does not fall within
4 the exception allowed, 404(b).

5 Q. So you have a 403 objection, is that what you're
6 saying?

7 A. All right. Now, if you would, go to page 215 in the
8 trial transcript, please. All right. Trial counsel vouched
9 for the credibility of Mr. Mattress. And that's lines 18
10 through 20. Trial counsel said, you know, I submit to you,
11 yeah, there was a problem between Mattress and Walker. I
12 think there -- I think Tyler's telling you the truth there.

13 Q. Okay.

14 A. All right. During closing -- during closing statements
15 on page 228 in the trial transcript, the judge never -- the
16 judge never charged the inference of malice from a deadly
17 weapon. Trial counsel failed to object to solicitor's
18 passing of prejudice, closing arguments, page 228, line 17
19 through 28. 17 through 18, I'm sorry. And line 17 through
20 25.

21 Also, page 230 in the trial transcript the -- my trial
22 judge, I meant, my trial lawyer failed to argue mutual
23 combat or either research the mutual combat defense when the
24 chief witness said -- he gave statements, said he walked up
25 on me with a knife. So ...

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1 Q. He got the charge -- did he get the charge of self-
2 defense?

3 A. Did he get charged with self-defense?

4 Q. Was there a charge for self-defense in this case?

5 A. No.

6 Q. Okay. Did y'all talk about that?

7 A. I just wanted to put it on the record that he dropped
8 the ball, which denied me a fair trial, sir.

9 Q. Okay.

10 A. By him not doing so.

11 Q. Okay.

12 A. He failed to object to the solicitor to getting in the
13 mind of witness in closing, line 1 through 3.

14 **THE COURT:** What page?

15 A. Page 230, sir, in the trial transcript. Solicitor, in
16 Tyler's mind they were going to fight.

17 Page 235 in the trial transcript. And this issue is
18 appealing to the jury. Counsel failed to the -- counsel
19 failed to object to the solicitor's closing appealing to the
20 jury, line 1 through 6. Solicitor, if it were -- if it were
21 not for some good fortune, Mr. Mattress could have been
22 killed that day. If it was not for some good fortune, a
23 child could have been hit. There's no telling where those
24 bullets could have gone when they were flying around in that
25 parking lot. Trial counsel should have objected, but he

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1 failed to do so, which denied me a fair trial, sir.

2 Q. Okay.

3 A. Page 236 in the trial transcript. Counsel failed to
4 object to the appealing to the -- to the jury about evidence
5 outside the record. Look at line 1 through 4. Page 238,
6 trial transcript. Counsel failed to object to the
7 unconstitutional jury charge and failure to request a charge
8 on intent. Shifted -- he shifted the burden of proof to the
9 -- to me. There was no criminal intent charge.

10 Q. Okay.

11 A. Trial transcript, page 239. Judge failed to charge
12 criminal intent, mandatory in South Carolina. See line 1
13 through 6, page 239.

14 Trial transcript, page 241. Counsel failed to object
15 to improper jury instructions on reasonable doubt and
16 malice. See page 241, line 20 through 23 and 236, line 25.
17 Also 238, line 18.

18 And last, but not least, trial counsel never asked for
19 a charge on intent, page 242, line 22.

20 Q. What -- what page was that?

21 A. 242.

22 Q. Okay. We've gone through them all.

23 A. You sure?

24 Q. Yeah. I mean, that's the ones we've discussed.

25 **MR. ARIAIL:** Based on that, Your Honor, I don't -- I

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1 don't have any further questions.

2 **THE COURT:** All right. Answer any questions the State
3 would have.

4 A. Well, I still -- I got one more issue I failed to put
5 on here, sir.

6 Q. Okay. Go ahead.

7 A. Well, the trial court erred by not allowing for trial
8 counsel to clarify for the jury about Mr. Mattress' perjury
9 charge. He wasn't charged by -- he wasn't charged by
10 Greenville County Police Department. No, he -- I'm sorry.
11 He was charged by Greenville County Police Department, sir.

12 Q. Okay.

13 A. See transcript, page 20 -- 68, line 14 through 18.

14 Q. Okay.

15 **MR. ARIAIL:** That's it, Your Honor. Thank you.

16 **THE COURT:** All right. Cross.

17 **Cross Examination by Mr. Schmeckpeper:**

18 Q. Good afternoon, Mr. Walker. Just got a couple of
19 questions for you. So I just want to rehash some of your
20 prior testimony. I know there are several specific portions
21 of the record that you say counsel failed to make certain
22 objections or failed to make certain arguments. Let's start
23 from the beginning. How many times did you say you met with
24 your attorney?

25 A. It's in the record, sir, if you ---

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- 1 Q. I'm just asking you if you remember.
- 2 A. Very few, sir.
- 3 Q. Very few?
- 4 A. Only -- only when he came to pick up payments.
- 5 Q. Between zero to five? Between five and ten?
- 6 A. Very few. Maybe -- maybe a handful of them. It was --
- 7 he only came up to see me when he wanted for me to give --
- 8 give him payment, sir.
- 9 Q. A handful is five. Is that roughly ---
- 10 A. Well, maybe less than a handful then, sir.
- 11 Q. Maybe less than five?
- 12 A. Maybe. Yes, sir.
- 13 Q. So between one and four, is that -- I'm just trying to
- 14 ---
- 15 A. Give or take, maybe.
- 16 Q. And at that time I think your testimony was he did or
- 17 did not go over the evidence against you?
- 18 A. That's correct.
- 19 Q. That's -- I asked a question. He did or did not go
- 20 over the evidence against you?
- 21 A. Well, he went over bits and pieces of it with me.
- 22 Q. But he didn't go over the full discovery with you?
- 23 A. No. That's correct. Actually, he told me there was
- 24 some missing items that he was trying to hunt down from the
- 25 solicitor's office and he'll get back with me on a later

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1 date.

2 Q. But he ---

3 A. And that later date came and it was just -- he come to
4 pick up a thousand dollars for the payment. And that was
5 pretty much it, sir.

6 Q. So he got your money, but never gave you any ...

7 A. Well, he was -- let's just say he was a good car
8 salesman if that was his profession, sir, because he -- he
9 sold me a lot of dreams as far as they don't have enough to
10 convict you on said charge; Ain't no way in you know what
11 that they'll be able to convict you on this said charge, Mr.
12 Walker; We're going to walk you over to the courthouse and
13 get you a bail, get you a bond on this charge as soon as we
14 finish. That was -- that was about the tone of our
15 conversation, sir.

16 Q. So in the three or four meetings you had leading to
17 trial -- and this is on all your charges or just this charge
18 you're talking about?

19 A. Everything, sir.

20 Q. So on -- and what were you facing? What was he
21 representing you for?

22 A. Everything besides the intimidation of a witness, sir.

23 Q. What is everything?

24 A. What is everything?

25 Q. What all were you charged with ---

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1 A. Well, you -- you have my record, sir. I was -- he just
2 said it for the record also.

3 Q. I'm asking you, though.

4 A. I understand, sir. It was attempted murder,
5 intimidation of a witness, violation of probation and
6 distribution, sir.

7 Q. And on all those charges he met with you between one
8 and four times and only talked about bits and pieces of the
9 evidence and mainly just took your money?

10 A. That's correct, sir.

11 Q. And he also, according to what you said earlier, never
12 explained to you that you were facing life without the
13 possibility of parole? You didn't -- you didn't know that?

14 A. That's correct. I -- I had some belief to -- that I
15 could face life sentence, but the way -- the way it was
16 explained to me, if I get found guilty of a murder charge,
17 then I'm -- then I'm going to get the life sentence, sir.
18 The attempted murder was never explained to me. If I get
19 found guilty of attempted murder, that I would be sent to
20 prison for the rest of my life, that was never explained to
21 me, sir.

22 Q. So let me get this straight. Did you not know or you
23 had an idea, but it didn't come from Mr. Sheek?

24 A. No, I didn't know, sir.

25 Q. You had no idea?

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1 A. No, sir.

2 Q. How long did your meetings last, though? I mean, not
3 exactly, but five minutes? An hour?

4 A. Maybe -- maybe fifteen minutes. Maybe fifteen to
5 twenty minutes or so, sir.

6 Q. So in the course of your entire visitation for all
7 these charges, you said about four meetings, fifteen to
8 twenty minutes, you only spent an hour total with your
9 attorney on all these charges?

10 A. Maybe even a little less, sir.

11 Q. Maybe even a little less?

12 A. Yes, sir.

13 Q. Where did y'all meet?

14 A. At the Greenville County Detention Center, pro-v.

15 Q. Did you ever talk to him on the phone?

16 A. I was able to reach him at the beginning.

17 Q. How ---

18 A. When I first hired him, I -- I was able to reach him.

19 Q. Well, how many phone conversations did you have?

20 A. Very few. I don't even remember. I remember talking
21 to Bob Merritt, which was somebody working in his law firm,
22 more time to him, and Ms. Katrina Davis. I guess she was
23 the secretary or paralegal for his office. She's familiar
24 with me. And Tomeka Dennis called her several times.

25 Q. I'm just trying to get -- and provide for the Court

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1 just so he'll know in making his decision. If you had to
2 guess, not if you have to guess, but could you describe for
3 the Court in very general terms the amount of time you spent
4 talking to your attorney on the phone for these charges? I
5 know you might not remember exactly, but ---

6 A. We will say maybe -- maybe forty-five minutes at the
7 whole time he was hired, sir.

8 Q. So phone plus actual meetings you spent an hour and
9 forty-five minutes on all these charges talking to your
10 attorney?

11 A. Give or take, yes, sir.

12 Q. Give or take. And at that time he also never conveyed
13 to you any plea offer or told you about any negotiations
14 with the State?

15 A. Not one time. The only thing Mr. Sheek told me during
16 those conversations that rings a bell, sir, was they don't
17 have enough evidence to convict you, sir.

18 Q. Did you ever ask him about a plea?

19 A. I did.

20 Q. What did he say?

21 A. There's no way in hell that they will consider a plea.
22 His exact words, sir.

23 Q. At all -- he said -- so he did talk to you about a
24 plea, he just said they wouldn't consider it?

25 A. He said they wouldn't -- they wouldn't entertain a

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1 plea. That's what he told me. Yes, sir.

2 Q. And, I think, you've also alleged your attorney was
3 ineffective for failing to investigate, as far as you could
4 -- as far as you could tell, he didn't really make any
5 serious investigations?

6 A. I'm sure he didn't make any investigations. I know he
7 went -- he went -- he went to the scene -- to the alleged
8 scene, crime scene. And he told me during the course of my
9 trial that he saw Mr. Mattress and Amanda Ray standing on
10 the porch, but he didn't say anything to them.

11 Q. And he told you that in one of your meetings or on the
12 phone?

13 A. That was at the beginning stage of the trial, sir.

14 Q. So you -- you were able to talk to him during the
15 trial? That's when you told him to give certain voir dire
16 instructions and he didn't?

17 A. That's correct.

18 Q. He didn't offer you any deals during trial?

19 A. No, he didn't. He -- he allowed for me to see a video
20 recording of a alleged drug transaction with the solicitor
21 or Mark Moyer. Me, him, Mark Moyer and his son watched the
22 video during -- while the jury was out. That's pretty much
23 it.

24 Q. Was that on his cell phone or ...

25 A. No. That was on the laptop standing right where you

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1 are now, sir.

2 **MR. SCHMECKPEPER:** Your Honor, I beg the Court's
3 indulgence.

4 **THE COURT:** Okay.

5 **MR. SCHMECKPEPER:** I'm trying to respond to as many of
6 these allegations as possible.

7 (Pause)

8 **MR. SCHMECKPEPER:** Your Honor, I don't have any further
9 questions.

10 **THE COURT:** Okay. Redirect.

11 **MR. ARIAIL:** No, Your Honor.

12 **THE COURT:** All right. You can step down and have a
13 seat with your attorney. Before we get in to Mr. Sheek,
14 let's just take about a five minute refresher break.

15 **MR. SCHMECKPEPER:** I understand, Judge.

16 **MR. ARIAIL:** Thank you, Judge.

17 (Whereupon court was in recess at 3:30 pm)

18 (Whereupon court reconvened at 3:39 pm)

19 **MR. ARIAIL:** Your Honor, I'm ready to proceed. If I
20 can call Mr. Sheek to the stand.

21 **THE COURT:** Okay. Come up and be sworn.

22 **MADAME CLERK:** Mr. Sheek, please place your left hand
23 on the Bible and raise your right hand.

24 **Christopher L. Sheek,**
25 being duly sworn testified as follows;

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1 **MADAME CLERK:** Thank you. You may be seated. And
2 please state your full name for the record.

3 **MR. SHEEK:** My name is Christopher Lance Sheek,
4 S-h-e-e-k.

5 **Direct Examination by Mr. Ariail:**

6 Q. Mr. Sheek, how you doing today?

7 A. I'm doing good.

8 Q. Good. Let's go through a little bit of the background.
9 You represented Mr. Walker on this attempted murder charge,
10 correct?

11 A. That's correct.

12 Q. Okay. And we've -- we've sat here and we've talked in
13 regards to how long you represented him and all that. When
14 you were retained by him did you obtain discovery in this
15 case?

16 A. I did. I obtained what Ms. Gorton had. She sent me a
17 notebook that she had put together. And in addition I
18 filed, I believe, but I know I contacted Mark Moyer at the
19 solicitor's office regarding getting information from him.

20 Q. Okay.

21 A. And he continued to send information sporadically up
22 until right before the trial.

23 Q. Okay. And that information you got in, did you have
24 the opportunity to discuss it and go over it with Mr.
25 Walker?

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1 A. I did.

2 Q. Okay. Do you know -- in this case -- and I tried to
3 summarize pretty much what it was. But it was a case of he
4 was accused of shooting at someone else after some type of
5 argument on the phone that escalated into a -- in front of
6 an apartment or into a parking lot in some nature, is that
7 correct?

8 A. That is the allegations, correct.

9 Q. Okay. And it was his -- whether or not, I mean, the
10 basis of the case was whether or not you believed Mr. Walker
11 or whether or not you believed Mr. Mattress, I guess?

12 A. Credibility certainly had a lot to do with it.

13 Q. Okay. And did you discuss with him, I guess, what they
14 had to prove and what the evidence was that could be used
15 against him?

16 A. I did.

17 Q. Okay. Now, he had some issues in regards to -- he says
18 he -- there was a plea offer that we put as part of the
19 evidence that he said he never received. Do you remember
20 discussing that with him?

21 A. There was a correspondence from Mr. Moyer that, to my
22 recollection, did not have a particular time in it.

23 Q. Okay.

24 A. Mr. Walker and I discussed possible pleas. We
25 discussed time that he was comfortable with offering as a

1 resolution.

2 Q. Okay.

3 A. I spoke with Mr. Moyer regarding that. One of the
4 problems was out of these charges that Mr. Walker had, one
5 of them was a murder.

6 Q. Okay.

7 A. That one was always off the table as far as Mr. Moyer
8 was concerned discussing a plea.

9 Q. Okay.

10 A. That was somewhat problematic for us. Obviously we
11 wanted a package deal. But in my discussions with Mr.
12 Walker, we specifically talked about the fact that I felt
13 like the murder case was defensible. It was not the
14 strongest of cases from the State's standpoint.

15 So we did discuss pleas. I discussed that with Mr.
16 Moyer. And ultimately there was an offer from Mr. Moyer
17 regarding all the charges with the exception of the murder.

18 Q. Okay. And then after that did you relay that to Mr.
19 Walker and discuss it with him?

20 A. I did. As a matter of fact, Mr. Walker and I had a
21 discussion regarding pleas prior to the service of the
22 notice of life without parole because Mr. Moyer had called
23 me ---

24 Q. Okay.

25 A. --- and said if you -- we don't resolve this by plea,

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1 then I'm going to LWOP him was his term, you know, I'm going
2 to serve him with notice of life without the possibility of
3 parole. We discussed it then. And then after that notice
4 was served, Mr. Walker called my office. And I came back
5 and we discussed after the service of the notice.

6 Q. Okay. So he was aware that he was serving him with
7 notice of life without parole?

8 A. Oh, yes.

9 Q. Okay. So he was aware that if he gets convicted of the
10 attempted murder that he could be serving the rest of his
11 life in jail?

12 A. He was. As a matter of fact, we discussed the fact
13 that because of the nature of the pending charges, they had
14 several shots at the LWOP. But, yet, to answer your
15 question, we did discuss that if he was convicted on this
16 charge, it was life.

17 And I remember the terminology I used to Mr. Walker was
18 based on what the State has served you with, if we lose the
19 trial, it doesn't matter if the trial judge loves you and
20 thinks you're the greatest guy in the world, he's got to
21 give you life.

22 Q. Okay. Now, regarding investigation -- and I'm trying
23 to understand exactly, you know, kind of what went on behind
24 us. What investigations did he ask you to do or what --
25 were there other witnesses he wanted you to talk to?

1 A. He did. He suggested that I talk to Ms. Ray, who was
2 the mother of his children, the woman in the apartment the
3 day this happened.

4 Q. Uh-huh (affirmative).

5 A. He suggested that we try to talk to Mr. Mattress, who
6 was the alleged victim of the shooting. We did talk to Mr.
7 -- Ms. Ray. We attempted contact with Mr. Mattress, but
8 prior to him actually coming into court and testifying, I
9 did not speak with him.

10 Q. Okay. And going in, I mean, did you have -- were there
11 -- were there witnesses that you felt you needed to talk to
12 that you hadn't been able to, I guess, going into trial?

13 A. I would have loved to have talked to Mr. Mattress, but
14 I -- I couldn't compel him to talk to me. I mean, we could
15 try to reach him. We could ask people we got to call, you
16 know, have him call us, but ---

17 Q. Right.

18 A. I would have liked to have talked to him, just didn't
19 -- didn't have the opportunity.

20 Q. Okay. But you had a statement from him as to what he
21 was going to say or what he said to the police, I guess?

22 A. Correct. We had an idea of what his testimony was
23 going to be.

24 Q. Okay. So -- and he was aware of what that testimony
25 would be, correct?

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1 A. Yes.

2 Q. Mr. -- Mr. Walker was aware?

3 A. Correct. And we discussed his perjury charges and how
4 to use that to discredit him.

5 Q. Correct. And he had a previous criminal history too,
6 didn't he?

7 A. Yes.

8 Q. Okay. So there were some things you could, I guess,
9 impeached his credibility on that you were going -- that you
10 did at trial?

11 A. That's correct. Yes.

12 Q. Okay. There was a issue in regards to obtaining an
13 expert witness. Do you remember discussing with him about a
14 ballistics expert or somebody to testify about the
15 trajectory of these bullets?

16 A. I do not recall discussing an expert with Mr. Walker.
17 I know he testified that he brought that up to me. I don't
18 recall that conversation. So I have no recollection of
19 that.

20 Q. Okay. Do you think an expert witness would have helped
21 in this case in regards to the trajectory of the bullets?

22 A. I think an expert witness possibly could have helped,
23 but Mr. Walker financially wasn't in the position to hire an
24 expert. But bottom line with Mr. Walker's position that I
25 didn't shoot at anybody, the trajectory wasn't as big a deal

1 to me ---

2 Q. Okay.

3 A. --- as perhaps Mr. Walker thinks it is.

4 Q. Okay. Now there was an issue in regards to whether or
5 not Ms. Ray was cross examined in regards to a letter that
6 she had sent to Mr. Walker.

7 A. Correct.

8 Q. Do you remember any kind of discussions in regards to
9 that with Mr. Walker about the letter?

10 A. I remember Mr. Walker asking about the letter after the
11 trial when he wanted copies of his file. I don't
12 specifically remember us discussing the letter prior to
13 that.

14 Q. Did he ask you, hey, I need you to cross examine her on
15 x, y and z because she said this in her letter to me?

16 A. No. No. In trial, before letting somebody off the
17 stand, I would -- I would ask Mr. Walker if there's anything
18 else that he thought I should ask and know.

19 Q. Okay. Now, he's alleged that the solicitor has made
20 some improper statements during closing arguments that
21 prejudiced him. Do you remember those or have you been able
22 to look at the transcript to see?

23 A. When I looked back at the transcript I have seen some
24 that, I'm sorry, that he is referring to, yes.

25 Q. Okay. Did you -- at some point in time, I mean, were,

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1 I mean, I've noticed -- I don't think there were any
2 objection to those during ---

3 A. No.

4 Q. And is there a reason for that why you didn't?

5 A. It's strategic on my part that in a closing argument if
6 the solicitor hasn't gone completely off the range or is
7 saying something that truly, I think, is prejudicing my
8 client, I wouldn't object. I think it highlights the issue
9 for the jury.

10 Q. Okay.

11 A. You know, when he made the statement, for instance, the
12 solicitor said, you know, those bullets could have killed a
13 child or something like that, I think technically you could
14 certainly argue that that ---

15 Q. Yeah.

16 A. --- appeals to the prejudice and the passions of the
17 jury, ---

18 Q. Okay.

19 A. --- but it wasn't so far afield that I felt like an
20 objection was warranted at that point.

21 Q. Okay.

22 A. Our defense was we weren't shooting.

23 Q. You weren't shooting, okay.

24 A. Right.

25 Q. Now the photo lineup, he's raised an issue in regards

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1 to this because there was one picture shown ---

2 A. Yes.

3 Q. --- about -- to Mr. Mattress. Did you see any issues
4 that you could raise in regards to that?

5 A. Well, I didn't see that as a photo lineup. It was more
6 or less they pulled it up on DMV is my understanding. You
7 know, Mr. Mattress already knew Mr. Walker, and, of course,
8 Ms. Ray obviously did. And it's my understanding that he
9 looked at the picture and said, yeah, that's -- that's the
10 man. So ---

11 Q. Okay.

12 A. --- at that point we did not make an issue over that.

13 Q. Okay. There was a question about mutual combat in
14 this. And did you see or attempt to get any type of charge
15 on mutual combat, self-defense, any of those type items?

16 A. I did not. I was not suggesting to the jury that we
17 were engaged in mutual combat. Again, our defense was ---

18 Q. Okay.

19 A. --- he didn't do it.

20 Q. He didn't do it. Okay. So you were sticking with
21 that?

22 A. Basically. I'll be honest with you, basically we were
23 obviously reaching for reasonable doubt. Not having put Mr.
24 Walker on the stand and him not testifying, it was going to
25 be hard to convince a jury that something didn't happen. We

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1 wanted to show that the State's witnesses lacked sufficient
2 credibility to warrant a conviction.

3 Q. Okay. Did you see any issues in regards to the judge's
4 charge in criminal intent or any improper jury instructions?

5 A. I did not raise any issues regarding that, no.

6 Q. Okay. If I could look at my notes.

7 (Pause)

8 **MR. ARIAIL:** I think that's all the questions I have,
9 Your Honor.

10 **THE COURT:** Okay.

11 **Cross Examination by Mr. Schmeckpeper:**

12 Q. Good afternoon, Mr. Sheek.

13 A. Good afternoon.

14 Q. I apologize if I -- I apologize if I rehash anything
15 Mr. Ariail talked about, but I'm just going to kind of fill
16 in some gaps. If you could, for the record, go over your
17 criminal -- your experience in criminal law for the Court.

18 A. Yes, sir. I graduated law school in 1992, passed the
19 bar, sworn in late in '92. Went to work for the Eighth
20 Circuit Solicitor's Office in December of that year.

21 Since that time I have served as an assistant
22 solicitor, city prosecutor, municipal judge. I have focused
23 my practice primarily in criminal work for twenty-five
24 years.

25 Q. How long were you on this case?

1 A. If I remember ---

2 Q. Or I guess these cases?

3 A. If I remember correctly, we were retained in 2011. So
4 it was over a year before trial.

5 Q. And this trial proceeded on April 1st, 2013, correct?

6 A. Correct.

7 Q. Do you remember how many times you met with the
8 Applicant?

9 **THE COURT:** We can't -- the court reporter -- Mr.
10 Walker, the court reporter can't take down what's being said
11 here if y'all are talking.

12 **MR. WALKER:** I'm sorry. I'm sorry about that, Your
13 Honor.

14 **THE COURT:** Okay.

15 **MR. WALKER:** I apologize to the Court.

16 **THE COURT:** That's okay. All right. Go ahead.

17 A. I couldn't give you an exact number. It would have
18 been more than five times. And then there were times other
19 than that I came up here and either the detention center
20 would say they were doing a count. One time they said there
21 was a lock-down for some issue. There were several trips
22 where I didn't get to see Mr. Walker.

23 I remember I saw him several times prior to them
24 telling me which case they were going to try first. And he
25 called and asked for -- for meetings. And I came up, and I

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1 told him one of the problems right now is we're not sure
2 which to prepare first out of six cases. Then once I
3 received notice I came up and met with him several times
4 after that.

5 Q. And I know we've talked a little bit about -- a good
6 deal about the number of charges you were representing him
7 on. So what -- and if we go to that, what was the posture
8 of this case in terms of what he was facing on each count,
9 on each charge?

10 A. Well, he was facing a couple of distribution charges,
11 cocaine. He had the, of course, the attempted murder,
12 murder charge. If I'm not mistaken, the State had five
13 different charges that was eligible for LWOP.

14 And so, of course, one of my concerns was, obviously,
15 life without parole. I mean, that was something that --
16 that we wanted to avoid, the possibility of putting
17 ourselves in that position.

18 So when this case got called, I did not think it was
19 the State's strongest case, and I told Mr. Walker that.
20 He's correct when I told him I thought he had a good case.
21 Never would say to any client there's no way you can be
22 convicted. But I did tell him this was not their best case.
23 My concerns were the distribution cases that had video.

24 So when this case got called, there had been an offer.
25 I conveyed that to Mr. Walker. Then during the trial Mr.

1 Moyer reopened an offer, which is something that he had said
2 he wouldn't do once a jury was picked. And we had several
3 fairly lengthy discussions about those plea offers prior to
4 the case ever going to the jury.

5 Q. Did you encourage him one way or the other to take
6 this?

7 A. I encouraged him very strongly to take the plea. To
8 the point that I even said to him at one point I feel like
9 I'm -- I'm really badgering you and twisting your arm.

10 Q. Now, what -- what did you generally talk about when you
11 met with him? I know you don't remember the exact number of
12 meetings, but what did you guys usually talk about?

13 A. Well, I mean, we talked about several of the charges
14 ---

15 Q. Let's just focus in specifically on this charge. So I
16 think you testified you went over the discovery with him, is
17 that correct?

18 A. Yes. Yeah, we went over the discovery with him. Of
19 course, he discussed with me the nature of the relationship
20 he had with Ms. Ray, Mr. Mattress' issues with him because
21 Ms. Ray being the common denominator there. I've got in the
22 notes here where he told me he was going to take his son to
23 basketball that day.

24 Q. So he understood the strengths and the weaknesses of
25 the State's case?

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1 A. Oh, yeah. Oh, yeah.

2 Q. So you said that he played an active role in building
3 up his defense, is that correct?

4 A. Oh, yes. Yeah. I met with him and discussed with him
5 things that he had to tell me prior to me ever going out to
6 the scene. I went to the location on two separate
7 incidences. I talked with him about what I had seen at the
8 scene and things of those natures. So, yes, we talked about
9 those things.

10 Q. And you testified that you -- you talked to some
11 witnesses, but you didn't get a chance to talk to the
12 victim.

13 A. I do not recall ever talking to Mr. Mattress prior to
14 the trial.

15 Q. And I think the Applicant testified something about his
16 right to testify. Did the judge explain to the Applicant
17 his right to testify?

18 A. I -- yes. And I requested the judge do. And I think
19 Judge Pyle normally does anyway. In this particular case
20 Mr. Mattress was charged -- Mr. Mattress -- Mr. Walker was
21 charged with attempted murder.

22 One of his prior convictions was the old assault and
23 battery with intent to kill, which was now our attempted
24 murder. And, obviously, that was a big concern. If I
25 opened the door for that coming in -- it was within the

1 time-frame for impeachment.

2 And even if we could have argued under 403 to not get
3 it in and Mr. Walker testifies, the door can be opened that
4 way. We talked about those issues.

5 And the fact that I -- I advised Mr. Walker that I felt
6 like if that assault and battery with intent to kill
7 conviction went to the jury, that although the judge would
8 inform them they weren't to consider that for the purposes
9 of guilt in this case, that in my opinion the jury would
10 consider it.

11 Q. And just -- and I'm going to come back to that in one
12 second. Were there any other reasons you felt the Applicant
13 might not have been a strong candidate for testifying in his
14 own defense?

15 A. I was concerned about Mr. Walker testifying. Mr.
16 Walker is a smart man. He's an intelligent young man.
17 Sometimes, though, I think in his desire to explain things
18 and his desire to mold his testimony, that maybe he's not
19 thinking as far ahead as he should. I think an effective
20 lawyer like Mr. Moyer could very possibly have caused Mr.
21 Walker trouble. Mr. Walker could have caused himself
22 trouble.

23 Q. Just let me -- let me try and clarify that and clarify
24 it for me. When you say that Mr. Walker tried to mold his
25 testimony, ---

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1 A. Yes.

2 Q. --- are you saying you had concerns about whether or
3 not he'd be believable?

4 A. I had concerns about whether or not he'd be believable,
5 but my biggest concern was the amount of animosity that he
6 felt towards Tyler Mattress. And I understood that. But if
7 he got on the stand and came across as aggressive and really
8 brimming over with animosity towards this man, I felt like
9 it was going to reenforce to the jury that perhaps he got
10 angry and fired the gun.

11 Q. And he and Tyler Mattress, Tyler Mattress is the
12 victim, they had a prior relationship that wasn't positive?

13 A. Correct.

14 Q. And that was a strong part of your defense, wasn't it?

15 A. That -- oh, yes. Yes. We were trying to show that
16 Tyler Mattress would have a reason to try to paint Joe
17 Walker as attacking him when he didn't for the purpose of
18 putting Joe in prison.

19 Q. And you, you know, I think it would be fair to say,
20 vigorously cross examined Mr. Mattress on a number of
21 different issues including his perjury charge?

22 A. I did. I mean, regardless of which time Mr. Mattress
23 was telling the truth, at least one time Mr. Mattress was
24 lying. And I really wanted to underline that for the jury
25 that to convict this man, you've got to accept the testimony

1 of this guy that just, in my opinion, didn't have great
2 credibility. But, unfortunately, they did accept that.

3 Q. And I think he touched on the closing argument or
4 closing argument -- and one of the allegations, I think,
5 specifically dealt with your closing argument. I think the
6 Applicant alleged that you bolstered the victim's testimony.
7 And I can find that for you real quick.

8 A. Correct. By saying that I believed there was a prior
9 -- bad feelings between him and Mr. Mattress? I did say
10 that.

11 Q. And what was your rationale behind going into that?
12 Was that consistent ---

13 A. Mr. Mattress is lying. If he's coming to the courtroom
14 and lying to put that man in jail, there's got to be a
15 reason. And I wanted the jury to understand I believe
16 there's a reason. I believe he didn't like Joe and that's
17 the reason he would lie. That's -- that's where I was going
18 with that.

19 Q. And while we're on the topic of closing arguments, you
20 mentioned kind of your general practice and objecting to
21 solicitors' closing arguments.

22 A. Yeah.

23 Q. Or as a defense attorney what your -- what your general
24 practice would be. Let me ask you this, what are the
25 possible outcomes in terms of what the judge is going to do

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1 when you object during a solicitor's closing argument?

2 A. Well, for instance, that one, he's appealing to the
3 passions of the jury. I felt like at the very most he would
4 tell the jury to disregard that statement for that purpose.
5 He would tell Mr. Moyer not to appeal to the prejudices or
6 passions of the jury. And closing argument probably would
7 have just continued at that point.

8 Q. And hypothetically let's say a much -- a much more
9 egregious example of the solicitor appealing to the passions
10 and prejudices of the jury, what is the most a circuit judge
11 can do to address that?

12 A. Oh, he could do -- he could have granted a mistrial.

13 Q. Did you think that anything said during the closing
14 argument was likely to result in a mistrial?

15 A. I did not.

16 Q. Did you think the benefit of making an objection and
17 getting a curative instruction on any of these alleged
18 violations was worth the cost of interrupting the
19 solicitor's closing argument and whatever appearance that
20 might have resulted in?

21 A. I didn't. Not that I would have minded whether or not
22 the solicitor liked it if I interrupted him. My fear going
23 into this trial was always the life without parole.

24 When I got the offer from Mark that I conveyed to Joe,
25 we talked about it up there in the holding cell. And he's

1 right, my son was there at the time. You know, I told him
2 that was my fear.

3 And I understand, we were talking a thirty year offer
4 at that time, that's rough. And that's hard for a young man
5 to take. And I understand that. But I told him the option
6 is if they convict you, it's life, and if we win this trial,
7 which I felt like we had a good chance of doing, they've got
8 these distributions.

9 And that was the reason we had watched the video that
10 Mr. Walker talked about. I asked Mark if he would make that
11 video available for Joe so he could see -- Joe could see his
12 own face standing there in front of, you know, where he
13 lived on that video to make him understand the gravity of
14 what we were looking at.

15 Q. Thank you. I only have a couple of more questions.
16 And I'm just going to jump around and try to address as many
17 allegations ---

18 A. Sure.

19 Q. --- as I can. Did the Applicant ask you during voir
20 dire to ask the jurors, potential jurors, questions?

21 A. I don't recall the Applicant asking me to ask anything,
22 no.

23 Q. Now, if he'd asked you to ask specific voir dire
24 questions what would your response have been?

25 A. If it's not something that's completely ridiculous, I

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1 would have submitted it to the judge. Sometimes I've had
2 clients ask me to ask the judge ask things that are just
3 ridiculous. And I don't do that. But, Mr. Walker, I don't
4 recall asking me to ask anything ridiculous. I don't recall
5 him asking that either.

6 Q. Finally, I'm just going to go back a little bit
7 further. Some of the Applicant's testimony dealt with Cass
8 Gorton. What was the posture of the case in terms of
9 representation? I know Cass Gorton was initially retained
10 or initially appointed and then continued to represent him
11 on one specific charge.

12 A. Correct. Joe had an issue with Ms. Gorton because
13 there was an allegation, as he felt, Cass' husband played on
14 some type of hockey league, some type of amateur hockey
15 league here in town that Mr. Moyer is in. And he felt like
16 maybe they had a relationship and somehow that would
17 influence Ms. Gorton.

18 I talked to Cass about it. Cass was aware of that.
19 Mr. Walker had raised that with her. I talked to Mr. Moyer
20 about it.

21 Q. Did you talk to the Applicant about it?

22 A. I did. I did talk to the Applicant about it. But
23 because of that, you know, he had hired me. She represented
24 him on the intimidation of a witness that arose while he was
25 in jail. And I represented him on the remaining charges.

1 Q. Was there any -- and I think when he's -- what I find
2 he was complaining of was that he was paying for one lawyer
3 and kind of getting two. Was there any real overlap, and if
4 so, did that cause any problems?

5 A. It didn't cause any problems for me. If anything, Ms.
6 Gorton from time to time would call me if she had met or
7 talked to Joe because she would go to the jail more
8 frequently because she had a lot of people over there. And
9 if he was asking me to call or come see him or something
10 like that, she would call and say that.

11 I don't recall her ever telling me that they had
12 discussed specifics about whether he should or should not
13 plea. She had told me, and I believed her, that she was not
14 advising him on these particular charges. But she would
15 relay messages if he asked her to.

16 Q. So there were no issues, I mean, your -- your toes
17 weren't stepped on and her toes weren't stepped on?

18 A. I don't believe she stepped on my toes. And at the
19 time Joe did not tell me, hey, she's advising me differently
20 from what she's advising you. If he had of told me that, we
21 would have definitely raised that with Ms. Gorton because
22 that's something that you just don't do. And I've not heard
23 that she was doing that before today.

24 **MR. SCHMECKPEPER:** I beg the Court's indulgence.

25 (Pause)

CHRISTOPHER L. SHEEK - REDIRECT EXAMINATION BY MR. ARIAIL

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1 A. I remember we did all meet together so that there would
2 be no he told me this, he told you that. We -- we all met
3 together at one time as he said. That issue wasn't raised
4 then either.

5 **MR. SCHMECKPEPER:** Your Honor, I have no further
6 questions. In light of some of the allegations that were
7 made, and again, to the extent it would be helpful, I'd be
8 happy to brief anything you'd like me to. I'll leave that
9 entirely to your discretion.

10 **MR. ARIAIL:** Your Honor, I just have a quick redirect.

11 **THE COURT:** Yes, sir.

12 **Redirect Examination by Mr. Ariail:**

13 Q. Mr. Sheek, I mean, he's told me that Ms. Gorton was
14 coming down and talking to him and discussing your case with
15 him.

16 A. Okay.

17 Q. Were you aware of that ---

18 A. No.

19 Q. --- during the -- okay. He never raised that issue to
20 you or said anything about that to you?

21 A. He told me he had talked with Ms. Gorton and that, of
22 course, she was representing him on another charge. He told
23 me that he did -- because of the relationship with her
24 husband and the hockey league that he -- he didn't trust
25 her. He relayed that to me. But, Mr. Ariail, I don't

1 recall him telling me she's advising me or discussing with
2 me these charges.

3 Q. Okay. Was there any time that you, I mean, did he ever
4 relay to you she's telling me one thing, you're telling
5 another, I'm confused or don't know what to do here?

6 A. No, sir. If he'd raised that issue, me and Ms. Gorton
7 would have immediately had a conversation about that because
8 that would have been improper.

9 Q. Okay. Were you aware that she had contacted, I guess,
10 Indigent Defense and there was a complaint against her for
11 asserting herself into the case when she didn't represent
12 individual -- when she didn't represent him?

13 A. No, sir. I wasn't aware of that.

14 Q. Okay.

15 A. That would definitely concern me if that was occurring.

16 Q. Okay. So you were unaware -- you weren't -- you didn't
17 have any discussions with her and weren't privy to any email
18 correspondence about that?

19 A. I wouldn't say that, Mr. Ariail. I'm sorry, this has
20 been four years since his trial.

21 Q. Okay.

22 A. Perhaps something was said in that time and I just
23 don't recall it.

24 Q. But, I mean, this -- see if you remember this email,
25 receiving that from her.

CHRISTOPHER L. SHEEK - REDIRECT EXAMINATION BY MR. ARIAIL

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1 (Pause)

2 A. Okay. I do believe that this is a copy of an email we
3 received.

4 Q. Okay. It's addressed to you and, it looks like, Robert
5 Merritt. Is he in your office?

6 A. It was addressed to Robert Merritt, but Bob was in my
7 office at that time. So if it came to him, it would have
8 come to both of us. We would have both had it.

9 Q. Okay. And this -- can you go back and explain what's
10 going on here and what you remember about this situation?

11 **MR. SCHMECKPEPER:** And I haven't seen this yet.

12 **MR. ARIAIL:** I'm sorry. And, I mean, I can show him a
13 copy.

14 (Pause)

15 **MR. ARIAIL:** Your Honor, I would move this into
16 evidence as Applicant's 2.

17 **MR. SCHMECKPEPER:** And, Your Honor, I think I have to
18 object to hearsay just to ---

19 **THE COURT:** All right. Well, I'll allow it in over
20 objection for whatever value it may have.

21 **MR. ARIAIL:** Your Honor, I think it was a part of the
22 file that I had sent as an email. And it looks like it was
23 dated on June 21st.

24 (Whereupon Plaintiff's exhibit 2 was marked and
25 admitted into evidence)

1 A. Your question was to kind of summarize what was going
2 on at this time?

3 Q. Well, I'm just trying to figure out what is going on
4 with this time in regards to Cass Gorton and issues. It
5 appears she's interjecting into a case that's not hers. And
6 there's some -- do you recall that?

7 A. . Okay. Yeah. If I'm not mistaken, Mark had complained
8 to the -- Mark Moyer, the assistant solicitor, had felt like
9 Cass was inserting herself into the cases that I represented
10 Mr. Walker on and she did not represent him. She is, if I
11 read this correctly, this was an email to Bob where she
12 explained that she represented Joe on the new charge ---

13 Q. Uh-huh (affirmative).

14 A. --- and not on these charges.

15 Q. Okay.

16 A. So I think Mark's heartburn at that time is he thought
17 we had been retained on everything and he didn't understand
18 why she was trying to get any information.

19 Q. Okay. So is there any indication after having -- did
20 you have a discussion with her about this email after
21 receiving it?

22 A. I had several discussions with Ms. Gorton after that.
23 She reiterated, of course, what she was doing on the case,
24 and that being the intimidation of a witness case. I don't
25 recall raising the issue with her that she was doing

CHRISTOPHER L. SHEEK - REDIRECT EXAMINATION BY MR. ARIAIL

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1 anything improperly because I think, again, that was Mark
2 calling Indigent Defense about her subpoenaing some records.

3 And she had filed a motion for bond. And Mark wanted
4 to know who was handling that, if I'm not mistaken. So I
5 believe to answer your question, Mr. Ariail, I don't recall
6 having a specific discussion with Ms. Gorton to the effect
7 that I felt she was interfering.

8 Q. It was indicated that there was a discussion with him
9 about LWOP. And did you make a comment to him that you were
10 about to return back to the solicitor's office or something
11 along those lines?

12 A. I recall having a discussion with him and telling him
13 that I was going to go by and talk with Mr. Moyer. I don't
14 recall if I said I was going to go after our meeting. I
15 very well may have.

16 Q. I guess what he's saying is you were going back into
17 the solicitor's office, I mean, I guess to practice ---

18 A. Oh, for me to work?

19 Q. Yes.

20 A. Yeah, we discussed the fact that I was going -- I was
21 not working there at the time of the trial, but ---

22 Q. Correct.

23 A. --- that I would be, yes.

24 Q. Okay. Was there any issue in regards to your loyalties
25 being divided between -- with the solicitor's office versus

CHRISTOPHER L. SHEEK - REDIRECT EXAMINATION BY MR. ARIAIL

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1 now being, I mean, representing him on a criminal defense
2 case?

3 A. I don't recall him raising that issue.

4 **MR. SCHMECKPEPER:** Your Honor, I apologize. I would
5 object. This is pretty much a brand new issue that's never
6 been pled, furthermore, and we're on redirect or recross.

7 **THE COURT:** Well, this is Mr. Walker's only event in
8 the procedural matters in post conviction. So I'll let him
9 go into what he wants to.

10 Q. My question is you didn't have any issue or were there
11 any issues between you going back in the solicitor's office
12 and you representing him at this current time?

13 A. Absolutely not. I -- my goal was to secure the best
14 result I could for Mr. Walker, hence, the discussions about
15 the plea.

16 Q. Okay.

17 **MR. ARIAIL:** I have no further questions, Your Honor.

18 **THE COURT:** Okay. You can step down and be excused if
19 ---

20 **MR. SHEEK:** Thank you, Judge.

21 **THE COURT:** Are you with the solicitor's office now?

22 **MR. SHEEK:** I am. Back at the Eighth Circuit, yes,
23 sir.

24 **THE COURT:** Okay. Couldn't take Steven much longer?

25 **MR. SHEEK:** No, sir, that's correct.

CHRISTOPHER L. SHEEK - RECROSS EXAMINATION BY MR. SCHMECKPEPER

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1 **THE COURT:** Tell him I said hello if you see him.

2 **MR. SHEEK:** I certainly will.

3 **MR. SCHMECKPEPER:** And may I ask him two more
4 questions?

5 **THE COURT:** Yeah. I'm sorry.

6 **Recross Examination by Mr. Schmeckpeper:**

7 Q. I just wanted to clarify. You started working with the
8 solicitor's office after the disposition of this case?

9 A. Correct. Yeah. I started working there after this
10 trial was over.

11 Q. And did you ever have any indication or did anybody
12 ever tell you that Cass Gorton or anybody else was
13 interfering with your representation of this case?

14 A. Oh, no. No.

15 Q. Did the Applicant ever say anything?

16 A. The Applicant didn't say that she was interfering or
17 giving him contradictory advice. If that had of been
18 raised, that would have been an issue. And I've never had
19 an issue with Cass. I want to be clear about that.

20 I didn't feel like she had done anything to interfere
21 and I don't at this point. But if he had of raised it, hey,
22 you're telling me to do A and she's telling me to do B, she
23 and I would have certainly had a discussion about that.

24 **MR. SCHMECKPEPER:** I don't have any further questions.

25 **THE COURT:** All right.

1 **MR. ARIAIL:** Nothing further, Your Honor.

2 **THE COURT:** All right. You can step down and be
3 excused. We appreciate your time. Thank you. Is that it
4 for the Applicant?

5 **MR. ARIAIL:** That's it, Your Honor.

6 **THE COURT:** Anything else from the State?

7 **MR. SCHMECKPEPER:** Your Honor, in light of the
8 allegations raised by the Applicant about Ms. Gorton, I
9 think it might be prudent to get something on the record
10 from Ms. Gorton just addressing that allegation about
11 whether or not she was interfering in the representation. I
12 think my argument would be that credibility's a factor here,
13 but I would just leave that -- I would just request that we
14 leave the record open to a certain extent.

15 **THE COURT:** How do you propose to do that? Deposition?

16 **MR. SCHMECKPEPER:** Either a deposition or maybe submit
17 an affidavit as to what her involvement ---

18 **THE COURT:** Well, affidavits -- we did that in an
19 earlier one, but that just had to do with the existence of
20 something. When you're getting into this kind of thing, an
21 affidavit just I don't think -- I think Mr. Walker would be
22 entitled to cross examine anything that Ms. Gorton wants to
23 present to the Court.

24 How does that tie in, I mean, I know he's making the
25 allegation, but how does that tie into -- I'm going to ask

1 Mr. Ariail. What tie-in would there be that we need Ms.
2 Gorton to testify regarding Mr. Walker? Your client says
3 she was giving him advice and ...

4 **MR. ARIAIL:** I think he -- the argument is that he was
5 torn between what he should do and he's getting conflicting
6 advice from -- and as a result it put him in a position that
7 if Mr. Sheek had -- he's saying, I think, that, you know, if
8 this had been addressed he wouldn't have this issue. So her
9 putting or interjecting himself or herself into his case
10 created this conflict and created all this problem for him.
11 And that's where, I mean, ---

12 **THE COURT:** Where's Ms. Gorton's office?

13 **MR. SCHMECKPEPER:** I think it's here, Your Honor.

14 **MR. ARIAIL:** It's here.

15 **THE COURT:** Can you get her here in five minutes?

16 **MR. SCHMECKPEPER:** I can attempt to.

17 **THE COURT:** Or ten.

18 (Whereupon court was in recess at 4:18 pm)

19 (Whereupon court reconvened at 4:20 pm)

20 **MR. SCHMECKPEPER:** Ms. Gorton is unable to appear
21 physically in the courthouse. If the Applicant wouldn't
22 object, I can put her testimony up via telephone if the
23 Court would be okay with that.

24 **THE COURT:** I would be okay with it.

25 **MR. ARIAIL:** I'm fine. I know who she is. And it's

1 not any -- authenticating who she is. So -- and I think
2 it's for a limited issue of what she did to interject
3 herself in this case. I mean, that's what we want to find
4 out.

5 **THE COURT:** All right. Why don't y'all work out how to
6 handle it. Are you talking about right now, this minute?

7 **MR. SCHMECKPEPER:** Yes, Your Honor.

8 **THE COURT:** Oh, okay. That'd be good. I thought you
9 were talking about later. No, we can do it right now.

10 (Pause)

11 **THE COURT:** Mr. Walker. Mr. Walker.

12 **MR. WALKER:** Yes, sir. I'm sorry, I didn't hear you
13 over here.

14 **THE COURT:** No, I know. You couldn't see me. What
15 we'll do -- we won't be able to have a significant
16 conversation if you're talking to Mr. Ariail while we're on
17 the phone.

18 **MR. WALKER:** Yes, sir.

19 **THE COURT:** But before we hang up, I'll -- we'll stop
20 and let you talk with him before we hang up. So it just
21 won't work if you're trying to talk when we're talking on
22 the phone.

23 **MR. WALKER:** I understand, Your Honor.

24 **THE COURT:** I'm not being rude, it just -- it just
25 won't work.

CASSANDRA GORTON - DIRECT EXAMINATION BY MR. SCHMECKPEPER

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1 **MR. WALKER:** Yes, sir.

2 (Whereupon Cassandra Gorton was on speaker phone)

3 **MR. SCHMECKPEPER:** Cass Gorton, can you hear me?

4 **MS. GORTON:** Yes.

5 **MR. SCHMECKPEPER:** Can everybody hear Ms. Gorton?

6 **THE COURT:** I did.

7 **MR. SCHMECKPEPER:** Can you hear her?

8 **MR. ARIAIL:** Yeah.

9 **MR. SCHMECKPEPER:** All right. Ms. Gorton, I think
10 we're going to go ahead and swear you in real quick.

11 **MS. GORTON:** Okay.

12 **MR. SCHMECKPEPER:** And this is -- this is a PCR for
13 Joseph Walker.

14 **MS. GORTON:** All right.

15 **MR. SCHMECKPEPER:** And he's alleging ineffective
16 assistance of counsel against Lance Sheek. And you were
17 brought up during the course of testimony. So we're just
18 going to ask you a couple of questions to clear a couple of
19 issues up.

20 **MS. GORTON:** I'll do the best I can. I'm not even at
21 the office. I don't have the file in front of me. And it's
22 been a number of years.

23 **MR. SCHMECKPEPER:** Okay.

24 **Cassandra Gorton, being**
25 duly sworn testified as follows;

CASSANDRA GORTON - DIRECT EXAMINATION BY MR. SCHMECKPEPER

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1 **MADAME CLERK:** Please state your full name for the
2 record.

3 **MS. GORTON:** Cassandra Parks Gorton.

4 **Direct Examination by Mr. Schmeckpeper:**

5 Q. All right. Ms. Gorton, do you remember who Mr. Walker
6 is?

7 A. Yes, I do.

8 Q. And at one point it's fair to say you represented him
9 on a number of charges?

10 A. Yes. My recollection was a couple of murder charges.
11 I don't recall anything about an intimidation of a witness
12 charge unless it was related to the murder.

13 Q. Now is it -- is it fair to say that at one point Lance
14 Sheek took over as retained counsel on several of those
15 charges?

16 A. Yes. It seems like he took over the more serious
17 charges and I was left with a less serious charge. I know
18 the way it worked out, I was still representing Mr. Walker
19 on one set of charges where Mr. Sheek had him on another.

20 The reason why I remember that is because my clients,
21 I'd go to see them in the jail every two weeks. And I was
22 still seeing Mr. Walker every two weeks after Lance Sheek
23 took over one set of cases. It might have even been two
24 murder cases and maybe there was a third set of cases. I
25 don't really recall. I just recall that Mr. Sheek and I

CASSANDRA GORTON - DIRECT EXAMINATION BY MR. SCHMECKPEPER

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1 were simultaneously representing him on separate charges.

2 Q. And I'm going to ask you a question. And if you don't
3 remember, that's fine.

4 A. Um-hum (affirmative).

5 Q. Did you during the course of your representation of a
6 less serious charge, while Mr. Sheek had taken over the
7 other charges, continue to advise him or advise Mr. Walker
8 on those remaining serious charges that Mr. Sheek had? And
9 I can clarify that question if you need me to.

10 A. Yeah. No, I wouldn't have done that. I do recall that
11 I tried on numerous occasions to contact Mr. Sheek and pass
12 on messages which were primarily requests from Mr. Walker to
13 speak with Mr. Sheek.

14 Q. Is it your practice to advise defendants who are being
15 represented by other attorneys?

16 A. No. And I wouldn't have given him advice after Mr.
17 Sheek took over. It's possible the advice I gave him before
18 Mr. Sheek took over conflicted with whatever Mr. Sheek would
19 say. But, again, my role as far as both cases before Mr.
20 Sheek took over was simply to pass on messages.

21 And it seems like there was another attorney involved
22 at one point too, not just Mr. Sheek. There was an older
23 gentleman, a Robert, maybe. But I was passing on those
24 messages to Mr. Sheek.

25 For example, when I spoke with his secretary and his

CASSANDRA GORTON - CROSS EXAMINATION BY MR. ARIAIL

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1 secretary might have said, well, he's in trial or whatever,
2 I would pass those messages back to Mr. Walker. But after
3 Mr. Sheek took over I did not and would not have given him
4 advice about the case.

5 Q. Thank you, Ms. Gorton. I appreciate you being willing
6 to testify by phone at 4:30. I don't have any more
7 questions. Mr. Ariail is going to ask you questions now.

8 A. Okay.

9 **Cross Examination by Mr. Ariail:**

10 Q. Hey, Ms. Gorton. This is Mills Ariail. How are you?

11 A. I'm fine. How are you doing?

12 Q. Good. Doing fine. Doing fine. I represent Mr. Walker
13 in regards to his PCR. He has presented to me the inmate
14 visit list for the Greenville County Detention Center
15 showing you were going to see him, and I guess it was after
16 Mr. Sheek had been appointed as his or retained as his
17 counsel. Do you remember going and seeing him after, I
18 guess, Mr. Sheek was retained on the other charges?

19 A. Absolutely because I still had him on charges.

20 Q. Okay. I know we've submitted an exhibit as part of the
21 record that was an email that you sent to, I think, Bob
22 Merritt and Lance ---

23 A. I did.

24 Q. What's that?

25 A. Yeah, Bob Merritt. Bob Merritt was the other attorney

CASSANDRA GORTON - CROSS EXAMINATION BY MR. ARIAIL

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1 I was trying to think of, yes.

2 Q. Right. And there's an email that's part of the record.
3 And it says -- and I'll just read you the first paragraph
4 because this is what my client wanted to hear from you in
5 regards to.

6 It says, Dear Bob and Lance; As expected, the
7 solicitor reacted strongly to both our motion for bond and
8 my subpoena to the jail. He contacted the Office of
9 Indigent Defense and complained that I was asserting myself
10 into a case for which you represent a client and asked them
11 to close the indigency case and instruct me to do the same.
12 The head guy, Zack Klebe, is on vacation. So his assistant,
13 Betty, did as instructed. Do you remember, you know, ---

14 A. Yes.

15 Q. --- that email ---

16 A. Yes. I believe that was a joint motion for something.
17 And Bob Merritt and I discussed it. And the reason why it
18 was a joint motion -- and there was a place on there for
19 them as well as me. And I believe they filed something
20 saying they were joining in the motion. It was a bit
21 awkward, but it was a motion, I believe, pertaining to bond,
22 I'm not positive, but it applied to all cases.

23 And so I still had Mr. Walker on some of those listed
24 cases whereas Bob and Lance -- I don't know that Bob was
25 officially a part of the case, but Lance had the other

CASSANDRA GORTON - CROSS EXAMINATION BY MR. ARIAIL

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1 cases. Again, I'm thinking it may have been bond, it may
2 have been some sort of motion to compel, but I remember that
3 the three of us discussed it. There was no conflict. And
4 it affected -- it affected all of our cases. But I was
5 still representing Mr. Walker on a case on that.

6 Q. Okay. Do you remember any conversation with Mr. Walker
7 or Mr. Sheek where y'all, you know, discussed, I guess, any
8 kind of communication you had had with him about charges
9 that Mr. Sheek was handling for him?

10 A. Can you repeat that question?

11 Q. Yeah. I guess what I'm trying to ask is was there ever
12 a conversation that you and Mr. Sheek had with Mr. Walker
13 here at the courthouse or anywhere discussing how you had, I
14 guess, talked with Mr. Walker about the charges that Mr.
15 Sheek was handling? If that makes sense.

16 A. I don't recall anything like that. I think the only
17 time I spoke -- and I don't remember for sure, but I think
18 the only time I spoke with Lance was when we were supposed
19 to have a hearing. And I don't know whether we actually did
20 have a hearing.

21 It seems like Lance drove all the way up from
22 Greenville [sic] to have a hearing on that joint motion that
23 we're talking about and then it didn't get heard or
24 something. I know Lance drove all the way for nothing. And
25 I remember talking to Lance at that time.

CASSANDRA GORTON - CROSS EXAMINATION BY MR. ARIAIL

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1 And it seems to me logically we would have gone
2 downstairs where they hold the inmates and talked to Mr.
3 Walker together, but I don't recall any details of that.
4 And I -- again, there certainly never was any conversation
5 where Lance and I were disagreeing over anything. I mean,
6 clearly, even the email requests, we're all working
7 together. I think I basically agreed to be on that motion,
8 but it was all of us. And we discussed it together.

9 And there was -- there was either a signature provision
10 for Lance and/or Bob where they filed the document joining
11 in that motion, but it was something we all discussed
12 together. There was never any adversity or anything like
13 that. The only thing that came close to that was me
14 nagging, basically nagging Lance, letting him know that Mr.
15 Walker wanted to speak with him.

16 Q. Okay. I'm just trying ---

17 A. But also understand, I was local. And my policy is I
18 see people every two weeks. So I was there doing jail
19 visits anyway. And I still represented Mr. Walker. So I
20 talked to him every two weeks. Lance was in Greenwood.
21 That wasn't practical for him to be there every two weeks.

22 Q. Okay. And I got an email -- my client has just
23 provided me an email, I think, you sent -- Cass Gorton sent
24 to Mark Moyer on April 20 of 2013 at 7:16 in the morning.
25 I'm going to see Joe this Thursday the 25th. I will discuss

CASSANDRA GORTON - CROSS EXAMINATION BY MR. ARIAIL

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1 your plea offer with him including Lance's remaining cases
2 which will presumably be mine eventually. Would you please
3 send me the sentencing sheets per the plea offer. And
4 that's ---

5 A. Um-hum (affirmative).

6 Q. --- in April of 2013 when you're asking about including
7 Lance's remaining cases which will ---

8 A. Right.

9 Q. --- presumably be mine. What does that mean?

10 A. At that point Lance had been hired as a solicitor or
11 went back as a solicitor and was closing out his practice.

12 Q. Okay.

13 A. And he had mentioned something to Moyer about -- I
14 don't know what their conversation was, but my impression
15 was that once he was hired as a solicitor there was a
16 possibility he wasn't going to finish those cases.

17 And at that point Mr. Walker didn't have any money to
18 hire another attorney. So it was assumed that if Lance was
19 given a order to withdraw that those would come back to me.

20 Q. Okay. If you'll bear with me one second.

21 A. Uh-huh (affirmative).

22 (Pause)

23 **MR. ARIAIL:** That's all the questions I have.

24 **THE COURT:** Any redirect?

25 **MR. SCHMECKPEPER:** Just one.

CASSANDRA GORTON - REDIRECT EXAMINATION BY MR. SCHMECKPEPER

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1 Redirect Examination by Mr. Schmeckpeper:

2 Q. That email was sent -- do you remember what date Mr.
3 Ariail said that email was sent?

4 A. I'm sorry. First of all, which email are you talking
5 about?

6 Q. The email where you sent -- the email you sent to the
7 solicitor saying that you were going to take over --
8 presumably take over the rest of Mr. Sheek's cases for Mr.
9 Walker.

10 A. Okay.

11 Q. That was sent on April 20th, correct?

12 A. I would have no way of knowing that. I'm relying
13 entirely on what y'all are saying as far as the date.

14 Q. And the -- the record would reflect whether or not that
15 was after the trial for attempted murder, right? Which was
16 on April 1st.

17 A. What trial for attempted murder?

18 Q. And we're here on the trial for attempted murder which
19 happened on April 1st. So I was just asking whether you
20 were aware that the email you sent to the solicitor's office
21 that Mr. Ariail just talked to you about was sent after the
22 trial we're talking about?

23 A. I'm sorry, but I -- I'm relying on your dates. The
24 only thing I can remember are the events. I don't know
25 anything about dates.

13 (End of Requested Transcript of Record)

Certificate of Reporter

I, the undersigned, Susan W. Hudgins, Official Court Reporter for the Thirteenth 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/hearing of the captioned case, relative to appeal, in the Circuit Court for Greenville County, South Carolina, on the 9th day of December 2016.

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

February 23, 2017

S/Susan W. Hudgins

Circuit Court Reporter

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

6/7/2012

C. LANCE SHEEK
414 MONUMENT ST. STE B
GREENWOOD, SC 29646

RE: Plea Offer for State v. Joseph Christopher Walker

Dear C. lance Sheek :

I am willing to make the following proposal to your above-referenced client in order to dispose of these charges by way of a guilty plea:

The Defendant will plead guilty to the following:

<i>Warrant Number:</i>	<i>Charge:</i>
M802025	Attempted Murder
M802027	Pointing and presenting firearms at a person
M803113	Manufacture, distribution, etc. of cocaine base, 3rd
M803114	Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school
M803115	Manufacture, distribution, etc. of cocaine base, 3rd
M803116	Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school
M803213	Murder
M803214	Poss. weapon during violent crime
M803548	Manufacture, distribution, etc. of cocaine base, 3rd
M803549	Distribute, sell, purchase, manuf. crack cocaine, or pwid, near school
N210250	Intimidation of court officials, jurors, or witnesses



RECEIVED
BY MAIL DATE 6/13

The State will make the following sentence recommendations/negotiation:

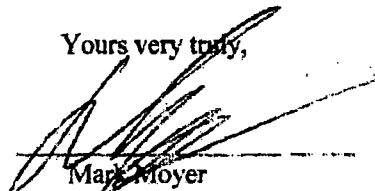
Please let me know if your client is willing to plead guilty to a reduced charge of voluntary manslaughter rather than murder and I will see if that is something I can do. If we are going to be able to work out a guilty plea for all of these charges, we need to do so by the date indicated.

Other conditions/comments:

Also, please note that the defendant is eligible for mandatory sentence of life without parole (due to his prior convictions for PWID drugs within proximity of a school) if we serve him with notice of intent to seek such sentence and if he is convicted of attempted murder, murder, or voluntary manslaughter.

Please contact me as soon as possible with your client's response as plea negotiations must be concluded and the guilty plea entered before 10/30/2012 or this and any other offers are automatically withdrawn. If your client does not plead guilty by this date, the case(s) will be placed on the trial calendar for disposition without further negotiation.

Yours very truly,



Mark Moyer
Assistant Solicitor



Re: Joseph Walker - update

Cassandra Gorton <cassgorton@yahoo.com>

Thu, Jun 21, 2012 at 1:11 PM

Reply-To: Cassandra Gorton <cassgorton@yahoo.com>

To: "Robert E. Merritt, Attorney at Law" <merrittlaw@nctv.com>

Dear Bob and Lance:

As expected, the Solicitor reacted strongly to both OUR Motion for Bond and my subpoena to the jail.

He contacted the Office of Indigent defense and complained that I was asserting myself into a case for which YOU represent a client, and asked them to close the indigency case AND instruct me to do the same. The head guy, Zach Klebe, is on vacation, so his assistant Betty did as instructed.

I faxed back a note to Betty and followed up with your contact info to verify that you do NOT represent Walker on this new charge, as it would be a separate trial, you were not paid to include it, etc etc. I also explained the situation with the solicitor trying to get me off, and that I was determined to protect the client from this type of over reaching. As Betty was gone for the day, I explained all this to Porter, who is second in command at our local SCCID office. Porter is going to send me a follow up to disregard the previous correspondence, but may be calling to verify the status of things w/ your office first.

In the meantime, the Public Records custodian is refusing to honor my subpoena unless/ until the solicitor approves. I

will send you that correspondence separately. Next stop: 385
Ex parte Motion/Order for issuance/compliance of said
subpoena

Don't you just love our work?

Cass

Confidentiality Notice - This message is being sent by or on behalf of an attorney. It is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged or confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender at cassgorton@yahoo.com.

From: "Robert E. Merritt, Attorney at Law" <merrittlaw@nctv.com>

To: Cassandra Gorton <cassgorton@yahoo.com>

Cc: sheeklaw@yahoo.com

Sent: Monday, June 18, 2012 9:54 AM

Subject: Re: Joseph Walker - Motion to Set Bond

Thanks. I believe you are right on point reference the bond hearing. Lance and I will get together and see when we can all meet to go over this one. Keep us informed and we will do the same. Bob

On Sun, Jun 17, 2012 at 9:28 PM, Cassandra Gorton <cassgorton@yahoo.com> wrote:

Bob:

I got the Motion, and will be filing it in the morning. I've already warned Joe it probably won't be heard this Friday,

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as the prosecutor is likely to react and keep it from being on this week's docket... we are probably looking at 3 weeks out. AND that my recommendation is to cancel and postpone even beyond that if it's a Judge Hill week (vs Miller or Verdin) which he agrees, and I hope you do too. Joe asked for my estimate and I said no way less than 100K, and I am expecting it to be in the 200K-500K range. This because his last bond on the drug case was 70K, and in the solicitors opinion, he posted bond, hunted down his alleged snitch and killed him within hours of posting. Joe gets it. He's hoping for the best but prepared for the worst.

I see my case as merely a piggy back to yours, so for all practical purposes, I am following your lead.

Let me know what you need, even if it's just meeting w. Joe and passing info. I am at the jail every week, and all my clients are on a two week rotation, unless more frequent contact is needed. I'd be seeing Joe whether you asked me to do so or not, so it's really not a problem to be your messenger.

My plan is to subpoena a load of documents from the Greenville Count Detention Center, which is NOT part of the sheriff's office (just another example of how Greenville is different). As soon as I get the subpoena drafted, I will send you a copy.

Maybe we should plan to get together in a few weeks to discuss an overall strategy?

Cass
864-201-1604

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
Joseph C. Walker,)
S.C.D.C. No. 285497,)
Applicant,)
v.)
State of South Carolina,)
Respondent.)

IN THE COURT OF COMMON PLEAS
C.A. No. 2015-CP-23-4239

FILED-CLERK OF COURT
GREENVILLE CO., S.C.
PAUL B. JOCKELMEYER
2017 JAN 5 PM 1 22

ORDER

ENTERED COMPUTER

Applicant filed this Post-Conviction Relief Application on July 1, 2015.¹ The matter was heard December 9, 2016. Applicant was represented by R. Mills Ariail, Jr., Esq. The State was represented by Patrick Schmeckpeper, Esq.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Greenville County Clerk of Court's orders of commitment. The Greenville County Grand Jury indicted the Applicant at the December 2011 term of General Sessions for attempted murder (2011-GS-23-8458). C. Lance Sheek, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty. On April 2, 2013, the Honorable C. Victor Pyle, Jr., sentenced the Applicant to life imprisonment without parole.

A Notice of Appeal was filed at the South Carolina Court of Appeals. Robert M. Dudek, Esquire of the South Carolina Commission on Indigent Defense, Division of Appellate Defense perfected the appeal in the form of an Anders² brief. The Court of Appeals dismissed the

¹ Applicant filed a Motion to Amend the Application and an "Amendment to the Original PCR Application." The amendment was more of a brief than an application. This Order addresses all issues raised by either the Application filed July 1, 2015, and the amendment.

² Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

John H.

appeal. State v. Walker, Op. No. 2015-UP-230 (S.C. Ct. App. Filed May 6, 2015). The Remittitur was sent on May 26, 2015.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of trial counsel:
 - a. Failed to obtain a “forensic expert examination of the path of the bullets that could have provided the jury with evidence to support witnesses testimonies.”
 - b. Failed to “renew the motion for a directed verdict after the presentation of all the evidence.”
 - c. Counsel “represented conflicting interests.”

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984)).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing norms.” Cherry v. State, 300

S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E. 2d at 625. "A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial." Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

This case has a somewhat interesting twist as during the time Mr. Sheek represented Applicant, he was also being represented on another charge (intimidation of a witness) by Cassandra Gorton.³ The claim here is that Cassandra Gorton was advising him as to the charges on which he was represented by Mr. Sheek. Both Mr. Sheek and Ms. Gorton testified that this was not correct. Ms. Gorton, who testified by phone, stated she did act as a relay for transmission of requests by Applicant to Mr. Sheek. Ms. Gorton emphatically stated, and I find such to be credible, that she never discussed the charges being handled by Mr. Sheek with Applicant. An e-mail was placed in evidence dated after Applicant's conviction which in no way supports his claim. However the latter claim may be couched, it is without merit.

Applicant testified he did not feel comfortable talking with Ms. Gorton and was confused. The confusion, Applicant claims, was based on conflicting advice being received from Ms. Gorton and Mr. Sheek. As set forth above, I find the two attorneys were not giving him conflicting advice. In fact, I find Ms. Gorton was not giving Applicant any advice as to the instant charges.

³ Ms. Gorton had represented Applicant on all of these charges, but Mr. Sheek was substituted as counsel based on Applicant's concern as to Ms. Gorton's husband playing in a hockey league with the solicitor.

Applicant testified that he would have taken a twenty year plea offer from the State. This offer was apparently made on June 7, 2012. Applicant testified he was never told about this plea offer. Applicant also testified he was never told he was facing life without parole (LWOP).

Applicant testified very inconsistently on this issue. While he maintained he was not served with Notice of LWOP, he testified the Notice (he did not receive) said he "may" be sentenced to life without parole. He also testified that he asked trial counsel at sentencing to argue for a sentence less than life without parole. Trial counsel told the trial judge that Applicant asked him to present mitigation evidence and acknowledged the sentence was not discretionary (See TR, p. 246, L9 through p. 247, L1).⁴

Applicant's trial counsel testified he did discuss the State's plea offer both before and after Applicant was noticed as to his facing LWOP. Trial counsel testified that the offer excluded any offer as to a murder charge pending against Applicant while the instant charges were pending. Additionally, trial counsel testified he advised Applicant that if he was convicted, the judge would have to sentence him to life without parole.

I find that trial counsel was not ineffective in his transmitting and discussing with Applicant the sentences he was facing and the State's trial offers.

Applicant claims trial counsel was ineffective in his investigation of the State's case against Applicant. This relates to a bullet hole in an automobile wheel well. Applicant called no witnesses on this issue and therefore he has failed to carry his burden of proof.

Trial counsel testified he got the State's discovery and Ms. Gorton's notes taken while she represented Applicant. Trial counsel testified he went over the discovery with Applicant prior to trial.

⁴ The copy of the Transcript in the Court's packet is missing pages 244 and 245, which would contain the reading of the jury verdicts and, apparently, discussion of the LWOP Notice. (See TR p. 246, LL 2-22 and Exhibit; TR p. 4).

jc 4/4/4

It appears from the testimony that a Ms. Amanda Ray may have been the catalyst for the incident for which Applicant was tried and convicted. Ms. Ray testified for the State at trial. Applicant testified he had a letter from Ms. Ray concerning the victim (Tyler Mattress) and that Applicant wanted trial counsel to use the letter to impeach Ms. Ray at trial. Mr. Sheek testified that he had, at Applicant's request, talked with Ms. Ray prior to trial. This letter was not introduced into evidence at Applicant's hearing so the Court cannot assess what, if any, value it would have had as to Ms. Ray's testimony.⁵ Trial Counsel testified that Applicant wanted him to talk with the victim, Tyler Mattress. Trial counsel testified Mr. Mattress would not talk with him and he had no way to compel Mr. Mattress to talk with him. Mr. Mattress did not testify at Applicant's hearing.

Applicant testified to numerous instances of ineffective counsel, which the Court finds do not rise to the level of ineffectiveness nor do these instances indicate counsel's alleged failure created prejudice to the Applicant. These concerns are, issues regarding voir dire questions, obtaining witness statement (none produced at the hearing), failure to interview Beverly Henderson (did not testify at hearing); failure to object to Solicitor's testimony (TR pages 45-48, 69 and 70); failure to object to single photo line-up (victim knew Applicant (TR p. 33, L 19 through p. 34, L 22); failure to object to Solicitor's appeal to the jury's passion and prejudice (TR p. 58); failure to contradict Mr. Mattress' testimony about the gun (TR p. 58); failure to object to character witnesses; vouching for victim (TR p. 215, LL 18-20); failure to object to Solicitor's reference to murder (TR p. 228, LL 17-25); failure to argue mutual combat (TR p. 230); failure to argue self-defense; allowing Solicitor to get into the jurors' minds (TR p. 230, LL 1-3); allowing Solicitor to appeal to the jury (TR p. 235, LL 1-6); failure to object to evidence

⁵ Trial counsel did use a statement of Ms. Ray's at trial to impeach her testimony (TR p. 101, L 17 through p. 102, L 1).

outside the record (TR p. 236, LL 1-4); allowing the judge in his charge to shift the burden to Applicant as to criminal intent (TR p. 238, L 3 through p. 239, L 6); and failure to request a jury charge on intent.

Trial counsel testified he did not object to some possibly objectionable portion of the Solicitor's closing argument based on trial strategy as he did not think any of the Solicitor's arguments rose to leave of being objectionable. (See Stokes, Whitehead, and Ingles, infra).

As to mutual combat,⁶ trial counsel testified that as Applicant's theory was that he did not "do it." A mutual combat instruction would have been inconsistent with Applicant's position.

Applicant offered some testimony which the Court takes as a claim of ineffective assistance of counsel relating to Applicant's decision to remain silent and not testify. This issue is disposed of adverse to Applicant based on the Transcript of his trial. At trial, Applicant acknowledges he had a right to testify after a full colloquy regarding this right between Applicant and the trial judge (See TR p. 192, L 6 through p. 194, L 14).

Trial counsel testified that his strategy at trial was to attack the credibility of the victim.⁷ Trial counsel brought out on cross-examination the fact that Mr. Mattress was still, even on the night before trial, continuing a relationship with Ms. Ray, the catalyst for the event at issue. Trial counsel brought out the fact that Mr. Mattress had an ongoing confrontational relationship with Applicant. Trial counsel brought out the fact that at the time the charged event occurred, Mr. Mattress was armed and looking to fight Applicant; and trial counsel questioned the victim as to his prior record and a pending perjury charge.

⁶ Applicant also mentioned self-defense. The theory as to mutual combat applies equally to self-defense.

⁷ Specific Transcript page and lines are not included. Trial counsel's cross-examination is in the Transcript at pages 49-71 and 76-80.

JK AHG

In addition to the cross-examination of Mr. Mattress, counsel attacked Mr. Mattress's credibility in his closing argument (TR pp. 197-221).

Trial counsel's strategy for presenting an arguable defense for Applicant by way of impeachment was an appropriate trial strategy. Where counsel articulates valid reasons for employing a certain strategy, such conduct will not be deemed ineffective assistance of counsel. Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992); Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). Where counsel articulates a strategy, it is measured under an objective standard of reasonableness. Ingle v. State, 348 S.C. 467, 506 S.E.2d 401 (2002).

As set forth earlier, the Court need not address all of the Applicant's litany of complaints categorized above. However, the Court notes that trial counsel testified Applicant did not ask trial counsel to ask the trial judge to ask any questions at voir dire; that he was concerned that Applicant would not be a good witness, as earlier addressed, due to the hostility between Applicant and victim; that nothing in the trial warranted a mistrial; that Applicant never brought up any issue regarding a ballistics expert and since Applicant claimed he did not shoot at anyone, it would have not have helped to call a ballistics expert; and, that in addition to attacking Mr. Mattress' credibility, he attacked the credibility of the State's witnesses.

Applying the Strickland and Cherry test, the Court finds Applicant has not carried his burden of proof and has not proven trial counsel was ineffective in any regard. Trial counsel's representation of Applicant was well within the range of competency required in criminal cases and was reasonable under prevailing professional norms.

Wherefore, Applicant's Application for Post-Conviction Relief is denied and dismissed with prejudice.

jc H#7

This Court hereby advises Applicant that he must file and serve a Petition for Writ of Certiorari within thirty (30) days of the service of this Order to secure appellate review. See Rules 203 and 243, South Carolina Appellate Court Rules (SCACR). The Applicant's attention is directed to Rule 243, SCACR, for the procedures following the filing and service of the Petition.

IT IS SO ORDERED.


John C. Hayes, III
Presiding Judge

December 20th, 2016
York, South Carolina

HS

WITNESSES

J H Rackley

(GSW)

Greenville Police Department

9/3/2011

ARREST WARRANT NUMBER
M802025

ACTION OF GRAND JURY

TRUE BILL

Bobby L. Damm

Foreperson of Grand Jury

VERDICT

Guilty

Nelanda Williams

Foreperson of Petit Jury

Date: April 2, 2013

DOCKET NO. 2011-GS-23-
LMM

008459

The State of South Carolina

County of Greenville

COURT OF GENERAL SESSIONS

December TERM 2011

THE STATE

VS.

JOSEPH CHRISTOPHER WALKER

Indictment for

3410

ATTEMPTED MURDER

VIOLATION § 16-03-0029

RECEIVED

NOV 02 2011

Clerk of Court
Greenville County

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

INDICTMENT FOR
ATTEMPTED MURDER

At a Court of General Sessions, convened on
County present upon their oath:

DEC 20 2011

the Grand Jurors of Greenville

That JOSEPH CHRISTOPHER WALKER did in Greenville County, on or about the 20th day of July 2011, unlawfully, with malice aforethought, and with the intent to kill, attempt to kill Tyler Mattress by means of pointing a gun and firing at the victim. This is in violation of § 16-03-0029 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR