

22769

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

VOLUME I OF II

Appeal from Charleston County

Roger M. Young, Circuit Court Judge

ORIGINAL

THE STATE,

v.

DENZEL MARQUISE HEYWARD

RESPONDENT, SEP 29 2016

SC Court of Appeals

APPELLANT

APPELLATE CASE NO. 2015-000709

RECORD ON APPEAL

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Columbia, SC 29205

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent
Defense

Division of Appellate Defense
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ATTORNEYS FOR RESPONDENT

INDEX

<u>Index</u>	2
 <u>Orders:</u>	
Order of the Honorable Roger M. Young, Sr., dated March 17, 2015.	5
 <u>Indictments:</u>	
2014-GS-10-00763	9
2014-GS-10-00765	11
2014-GS-10-00767	13
 <u>Sentencing Sheets:</u>	15
 <u>Transcript of Record of Proceedings (Vol. 1, November 10, 2012 (Tr. Vol. 1))</u> ...	
Appellant's Motion to Suppress -- <u>Neil v. Biggers</u> Hearing	17
 Julius Dewayne Alexander	
Direct by Ms. Shealy	36
Cross by Mr. Apostolou	47
Redirect by Ms. Shealy	58
Recross by Mr. Apostolou	60
 Charles Lawrence	
Direct by Ms. Shealy	61
Cross by Mr. Apostolou	67
Redirect by Ms. Shealy	78
Recross by Mr. Apostolou	80
 Jujuain Hemingway	
Direct by Ms. Shealy	85
Cross by Mr. Apostolou	100
Redirect by Ms. Shealy	122
Recross by Mr. Apostolou	124
 Kareem Hemingway	
Direct by Ms. Shealy	125
Argument – Motion to Suppress Identification Evidence	129
Argument – Motion to Suppress Character Evidence	137

Transcript of Record of Proceedings (Vol. 2, November 12, 2012 (Tr. Vol. 2):

Opening Statement by Ms. Shealy (The State)	152
Opening Statement by Mr. Apostolou (Heyward)	158
Opening Statement by Ms. Turner (Simmons)	167

Matthew Colburn

Direct by Ms. Shealy	172
Cross by Mr. McCoy	183
Cross by Mr. Apostolou	187
Redirect by Ms. Shealy	189

Verna Lockhart-Carter

Direct by Ms. Savas	191
Proffer by Ms. Savas	198
Direct by Ms. Savas	211
Cross by Ms. Apostolou	224

Sidearis Singleton

Direct by Ms. Shealy	227
Cross by Mr. Apostolou	238
Cross by Mr. McCoy	242
Redirect by Ms. Shealy	247

Quasantrina Rivers

Direct by Ms. Shealy	254
Cross by Mr. McCoy	313
Cross by Mr. Apostolou	330
Redirect by Ms. Shealy	366
Recross by Mr. McCoy	377
Recross by Mr. Apostolou	389

Transcript of Record of Proceedings, Vol. 3, November 13-15, 2012 (Tr. Vol. 3):

Erin Myer

Direct by Ms. Shealy	391

Jujuan Hemingway

Direct by Ms. Shealy	392
Cross by Mr. Apostolou	445
Cross by Mr. McCoy	508
Redirect by Ms. Shealy	518
Recross by Mr. Apostolou	529

Willis Walker

Direct by Ms. Shealy	532
Cross by Mr. McCoy	545
Cross by Mr. Apostolou	549

Kevin Sherbine

Direct by Ms. Shealy	553

Closing Arguments

By Mr. McCoy (Simmons)	555
By Mr. Apostolou (Heyward)	580
By Ms. Shealy (State)	605

Motions:

Motion for New Trial Due to Impermissible <u>Bruton</u> Testimony, dated November 21, 2014.	649
Motion to Reconsider Sentence Imposed, dated November 21, 2014.	653

Court's Exhibits from Proceedings on November 10, 2014.

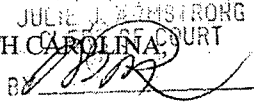
Exhibit 1 – Statement of Jujuain Hemingway, May 17, 2012	656
Exhibit 2 – Statement of Jujuain Hemingway, May 17, 2012	659

Exhibits from Trial:

State's Exhibit 164 (Court's Exhibit 4, Proceedings of Nov. 10, 2014)	667
State's Exhibit 165 (Court's Exhibit 3, Proceedings of Nov. 10, 2014)	669
State's Exhibit 166 (Court's Exhibit 5, Proceedings of Nov. 10, 2014)	671
State's Exhibit 167 (Court's Exhibit 6, Proceedings of Nov. 10, 2014)	678
State's Exhibit 168 (Court's Exhibit 7, Proceedings of Nov. 10, 2014)	684
State's Exhibit 171 – Telephone calls of Deshaun Simmons (December 30, 2012, at 13:37) – Retained by Charleston County Clerk of Court Pursuant to Rule 210(f), SCACR.	688
Court's Exhibits 1 – 7 Notes from Jury	689

<u>Certificate of Counsel</u>	696

FILED

STATE OF SOUTH CAROLINA) IN GENERAL SESSIONS COURT
 2015 MAR 23 AM 10: 22) FOR THE NINTH JUDICIAL CIRCUIT
 COUNTY OF CHARLESTON)
 JULIE L. WILSON) Warrant No.: M998134, M998135,
 STATE OF SOUTH CAROLINA) M998136, M998149
 BY )
 v.) ORDER DENYING DEFENDANTS'
) MOTION FOR NEW TRIAL DUE
) TO IMPERMISSABLE BRUTON
) TESTIMONY; MOTION FOR NEW
 DENZEL HEYWARD,) TRIAL BASED ON AFTER
) DISCOVERED EVIDENCE and
 Defendant,) MOTION TO RECONSIDER
) SENTENCE.

This matter came before this Court on Defendant Denzel Heywards' Motion for New Trial Due to Impermissible Bruton Testimony; Motion for New Trial Based On After Discovered Evidence; and Motion to Reconsider Sentence Imposed.

STATEMENT OF THE FACTS

Defendant Denzel Heyward ("Heyward") and Defendant Deshawn Simmons ("Simmons") were tried as co-defendants during the week of November 10, 2014, for Murder, Attempted Murder, Armed Robbery, and Possession of a Firearm During a Crime of Violence. Both Defendants were found guilty of Attempted Murder, Armed Robbery, and Possession of a Firearm During a Crime of Violence and sentenced to 65 years of incarceration.

During the joint trial, the State introduced recorded jail tapes of Simmons where he is heard talking to a third-party while referring to a person by the nickname "Fat" and often using the word "snitch" or the act of "snitching." Without objection, the jail tapes were admitted into evidence and referenced in the State's closing argument.



DISCUSSION

1. Heyward moves for new trial based on impermissible Bruton testimony. "The granting or refusal of a motion for a new trial is within the discretion of the trial judge and will not be disturbed absent a clear abuse of discretion." State v. Simmons, 279 S.C. 165, 166, 303 S.E.2d 857, 858 (1983) (citation omitted).

Here, Heyward did not object to the introduction of recorded jail tapes, nor the State's closing argument where the word "snitch[ing]" was referenced. Had Heyward objected to such testimony, this Court would have entertained the idea of redacting certain statements from the recording and possibly provided a limited jury instruction. However, without objection those issues were not preserved for post-trial review. Therefore, the motion for new trial due to impermissible Bruton testimony is denied.

2. Heyward moves for new trial based on after-discovered evidence. Motions for a new trial based on after-discovered evidence are addressed to the sound discretion of the trial judge. State v. Clamp, 225 S.C. 89, 80 S.E.2d 918 (1954); State v. Wells, et al., 249 S.C. 249, 153 S.E.2d 904 (1967). "The credibility of newly-discovered evidence offered in support of a motion for a new trial is a matter for determination by the circuit judge to whom it is offered; and his judgment will not be disturbed except for error of law or abuse of discretion." State v. Corn, 224 S.C. 74, 77 S.E.2d 354 (1953).

A motion for a new trial based on after-discovered evidence may be granted if the evidence: (1) would probably change the result if a new trial was had; (2) has been discovered since the trial; (3) could not by the exercise of due diligence have been discovered before the trial; (4) is material to the issue of guilt or innocence; and, (5) is not

merely cumulative or impeaching." State v. Caskey, 273 S.C. 325, 256 S.E.2d 737 (1979).

Here, sufficient evidence was presented at trial such that a showing of Heyward and Hemingway's relationship prior to the incident date would not have changed the result. The presence of such evidence at trial would have merely gone to the possible impeachment of Hemingway. See Anderson v. Leeke, 271 S.C. 435, 248 S.E.2d 120 (1978) (holding that the exclusion of testimony that would be merely cumulative or impeaching does not constitute error). Furthermore, through due diligence and the cooperation of Heyward, such evidence would have been attainable prior to trial. See Id. Therefore, since the after-discovered evidence merely references possible impeachment issues and was discoverable before trial, this Court finds such evidence insufficient to require granting of such relief. State v. Mayfield, 235 S.C. 11, 109 S.E.2d 716 (1959).

I have reviewed the evidence presented at trial and the arguments raised by Heyward in his motion and supporting memoranda, and deny the motion for new trial based on after-discovered evidence.

3. Heyward moves for reconsideration of the sentence imposed. The authority to change a sentence rests exclusively with the sentencing judge and is within his or her discretion. State v. Smith, 276 S.C. 494, 498, 280 S.E.2d 200, 202 (1981). A judge or other sentencing authority is to be accorded very wide discretion in determining an appropriate sentence, and must be permitted to consider any and all information that reasonably might bear on the proper sentence for the particular defendant, given the crime committed. Wasman v. United States, 468 U.S. 559, 563, 104 S.Ct. 3217, 82 L.Ed.2d 424 (1984).

I have reviewed the evidence presented at trial and the arguments raised by Heyward in his motion and supporting memoranda, and deny the motion to reconsider sentence imposed.

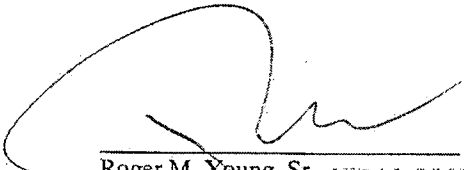
CONCLUSION

IT IS THEREFORE ORDERED:

1. That Defendant's Motion for New Trial Due to Impermissible Bruton Evidence is **DENIED**, and
2. The Defendant's Motion for New Trial Based on After Discovered Evidence is **DENIED**, and
3. The Defendant's Motion to Reconsider Sentence Imposed is **DENIED**.

AND IT IS SO ORDERED.

March 17, 2015
Charleston, South Carolina



Roger M. Young, Sr. JUDGE ROGER YOUNG
Circuit Court Judge CIRCUIT COURT
OF SC #2134

FILED

2015 MAR 23 AM 10:22

JULIE G. ARISTARONG
CLERK OF COURT

BY _____

04/27/2015 15:42

(FAX)

P.009/033

JKS20120504083

DOCKET NO: 2014GS1000763

WITNESSES

Charleston County Sheriff

The State of South Carolina

County of Charleston

AGENCY CASE NUMBER

2012007855B

COURT OF GENERAL SESSIONS

January Term 2014

ARREST WARRANT NUMBER

M998135

DATE OF ARREST

May 30, 2012

ACTION OF GRAND JURY

THE STATE

vs.

DENZEL MAROUISE HEYWARD

DOB:

B/M

TRUE BILL

For person of good and true
Date: *[Signature]*

JAN 14 2014

VERDICT

*Guilty*Indictment for
Attempted Murder*Martina Romero 11/15/14*

Foreperson of Petit Jury

Date:

INDICT

04/27/2015 15:42

(FAX)

P.010/033

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

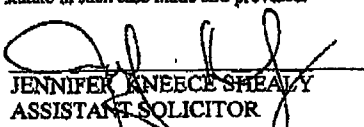
INDICTMENT

At a Court of General Sessions, convened on January 13, 2014 the Grand Jurors of Charleston County
present upon their oath:

Attempted Murder

That in Charleston County, South Carolina, on or about May 16, 2012, the Defendant, DENZEL MARQUISE
HEYWARD, did, with intent to kill and malice aforethought, attempt to kill Jujuan L. Hemingway. This is in
violation of Section 16-3-29 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.


JENNIFER KNEESE SHEALY
ASSISTANT SOLICITOR

04/27/2015 15:42

(FAX)

P.012/033

JKS20120504085

DOCKET NO. 2014GS1000765

WITNESSES

The State of South Carolina

Charleston County Sheriff

County of Charleston

AGENCY CASE NUMBER

COURT OF GENERAL SESSIONS

2012007855B

January Term 2014

ARREST WARRANT NUMBER

M998136

DATE OF ARREST

May 30, 2012

ACTION OF GRAND JURY

THE STATE

vs.

DENZEL MAROUISE KEYWARD

DOB:

B/M

TRUE BILLForeperson of Grand Jury
Date: 1/14/2014

VERDICT

Guilty

Indictment for

Armed Robbery

Martha Romero 11/15/14

Foreperson of Petit Jury

Date:

INDICT

04/27/2015 15:42

(FAX)

P.013/033

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

INDICTMENT

At a Court of General Sessions, convened on January 13, 2014 the Grand Jurors of Charleston County
present upon their oath:

Armed Robbery

That on or about May 16, 2012, in Charleston County, South Carolina, the Defendant, Denzel Marquise Heyward, by use of force, threats or intimidation and while armed with a deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, did take and carry away goods and/or monies from the person or immediate presence of Kadeem Ali Chambers and Fujiain L. Hemingway with the intent to permanently deprive the victims of possession thereon, in violation of §16-11-330(A) 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.

JENNIFER KNEECH SHEALY
ASSISTANT SOLICITOR

04/27/2015 15:43

(FAX)

P.015/033

JKS20120504083

WITNESSES

Charleston County Sheriff

AGENCY CASE NUMBER
2012007855B

DOCKET NO. 2014GS1000767

The State of South Carolina
County of Charleston

COURT OF GENERAL SESSIONS

January Term 2014

ARREST WARRANT NUMBER

M998149

DATE OF ARREST

May 30, 2012

ACTION OF GRAND JURY

TRUE BILLForeperson of Grand Jury
Date: JAN 14 2014

VERDICT

Guilty

Martha Romero 11/13/14

Foreperson of Petit Jury

Date:

INDICT

THE STATE

vs.

DENZEL MARQUISE HEYWARD
DOB:
B/M

Indictment for

Possession Of A Firearm During The
Commission Of A Violent Crime

04/27/2015 15:43

(FAX)

P.016/033

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

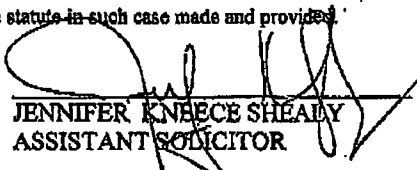
INDICTMENT

At a Court of General Sessions, convened on January 13, 2014 the Grand Jurors of Charleston County
present upon their oath:

Possession Of A Firearm During The Commission Of A Violent Crime

That in Charleston County, South Carolina, on or about May 16, 2012, the Defendant, DENZEL MARQUISE
HEYWARD, did possess a rifle during the commission, or attempted commission, of Murder, a violent crime. This
is in violation of 16-23-490 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.


JENNIFER KNEECE SHEALY
ASSISTANT SOLICITOR

04/27/2015 15:41

(FAX)

P.008/033

STATE OF SOUTH CAROLINA

COUNTY OF Charleston
STATE VS.

Denzel Marquise Heyward

AKA:

Race: BLACK Sex: M Age: 22

DOB: SS#:

Address:

City, State, Zip: North Charleston, SC 29405

DL#: SID#: SC02046407

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Murder/ Attempted Murder

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS1000763

A/W#: M998135

Date of Offense: 5/16/2012

S.C. Code §: 16-03-0029

CDR Code #: 3410

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

In violation of § 16-03-0029 of the S.C. Code of Laws, bearing CDR Code # 3410

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ § 17-25-45 w/minor 1st or Lewd ActThe charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kneece Shealy, Clerk

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment

of \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

PTUP

Total \$ plus 20% fee: \$

Payment Terms:

☒ Set by SCDPPPS

Recipient:

*Fees:

§ 14-1-206 (Assessments 107.5 %)	\$	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 103.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Pending)	\$25	\$ 25.00
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(f) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. ☐

May serve W/B beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fines may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA 217 (03/2011)

Presiding Judge

Judge Code: 2134

Sentence Date: 11/16/14

ATTEST: A TRUE COPY
JULIE L ARMSTRONG (SEAL)
CLERK OF COURT

04/27/2015 15:42

(FAX)

P.011/033

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.AKA: Denzel Marquise HeywardRace: BLACK Sex: M Age: 22DOB: SS#:

Address:

City, State, Zip: North Charleston, SC 29405DL#: SID#: SC02046407*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Armed RobberyINDICTMENT/CASE#: 2014GS1000765A/W#: M998136Date of Offense: 5/16/2012S.C. Code §: 16-11-0330(A)CDR Code #: 0139

SENTENCE SHEET

In violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC) ☐ §17-25-45
w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Kneese Shealy, Plaintiff

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentence on. 2014 GS 10763☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☒ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms:

☒ Set by SCDPPPS

Recipient:

Fines:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge)

§ 14-1-211(A)(2) (DUI Surcharge)

§ 36-5-2995 (DUI Assessment)

§ 56-1-286 (DUI Breath Test)

Proviso 47.5 (Public Def/Prob)

§ 14-1-212 (Law Enforce. Funding)

§ 14-1-213 (Drug Court Surcharge)

§ 56-21-114 (DUI Breath Test Fee)

§ 56-5-2942(I) (Vehicle Assessment)

Proviso 90.5 (SCCA Surcharge)

3% to County (if paid in installments)

TOTAL

\$	
\$	
\$100	\$ 100.00
\$100	\$
\$12	\$
\$25	\$
\$500	\$
\$25	\$ 25.00
\$150	\$
\$50	\$
\$40/ea	\$
\$5	\$ 5.00
\$	\$ 3.10
\$	\$ 132.10

PTUP

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/B beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47-12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Amanda Ruffin

SCCA 217 (03/2011)

ATTEST: A TRUE COPY

JULIE J. ARMSTRONG (SEAL)

Clerk of Court

By Amanda Ruffin

DEPUTY CLERK

Presiding Judge

Judge Code: 213Date: 4/16/14

Clerk of Court

04/27/2015 15:42

(FAX)

P.014/033

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Charleston
STATE VS.

Denzel Marquise Heyward

AKA:

Race: BLACK Sex: M Age: 22

DOB: SS#:

Address:

City, State, Zip: North Charleston, SC 29405

DL#: SID#: SC02046407

INDICTMENT/CASE#: 2014GS1000767

A/W#: M998149

Date of Offense: 3/16/2012

S.C. Code §: 16-23-0490

CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐In disposition of the said indictment comes now the Defendant who was
TO: Possession of a Firearm or Knife During Commission of a Violent Crime☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549

☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ § 17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Prosecution to Grand Jury, (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Katrice Shealy, Jennifer

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*, the balance is suspended with probation formonths/years and subject to South Carolina Department of Probation, Parole and Pardon Services' standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☒ CONSECUTIVE to sentences on: 2014 GS 10 765☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Order of PTUP

Total: \$ plus 20% fee: \$

Payment Terms:

☒ Set by SCDPPPS

Recipient:

*Fine:

§ 14-1-206 (Assessments 107.5 %)

§ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00

§ 14-1-211(A)(2) (DUI Surcharge) \$100 \$

§ 56-5-2925 (DUI Assessment) \$12 \$

§ 56-1-286 (DUI Breath Test) \$25 \$

Proviso 47.9 (Public Def/Prob) \$500 \$

§ 14-1-212 (Law Enforcement Funding) \$25 \$ 25.00

§ 14-1-213 (Drug Court Surcharge) \$150 \$

§ 50-21-114 (BUI Breath Test Fee) \$50 \$

§ 56-5-2942(f) (Vehicle Assessment) \$40/ea \$

Proviso 30.5 (SCCJA Surcharge) \$5 \$ 5.00

3% to County: (if paid in installments) \$ 3.40

TOTAL \$ 133.40

days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/B beginning

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Amanda Haggard

SCCA/217 (03/2011)

ATTEST: A. Armstrong

JULIE A. ARMSTRONG (SEAL)

By: [Signature] Date: 11/18/14

DEPUTY CLERK

1 (Jury panel out, 2:00 p.m.)

2 THE COURT: How about if we meet back
3 in about 45 minutes, and we'll start the motions
4 that we need to do? Does that work? Quarter to
5 three or --

6 MR. APOSTOLOU: Works for me.

7 THE COURT: Is that enough time? Do
8 you think it will take longer than that? I told
9 them to be back at 3:30.

10 MS. SHEALY: There will be three or
11 four people testifying.

12 THE COURT: Well, let's aim for 2:45,
13 and we'll get started and go until we're done and
14 then we'll start the trial. Okay?

15 MS. SHEALY: Okay.

16 (A luncheon recess transpired.)

17 THE COURT: All right.

18 MR. APOSTOLOU: Judge, can we take up a
19 procedural matter first?

20 THE COURT: What's that?

21 MR. APOSTOLOU: Can we wait on my
22 client, Judge?

23 THE COURT: Yes.

24 Ready?

25 MR. APOSTOLOU: Judge, this incident

1 occurred on May 16, 2012. On May 17th, officers
2 from the Charleston County Sheriff's Department
3 traveled up to Cross, South Carolina, which is in
4 the Myrtle Beach area where the Defendants -- or
5 the victims live in that area. They went up and
6 they interviewed the Defendant, Jujuaian Hemingway
7 -- the surviving victim I should say. They went up
8 and interviewed him for a three-hour interview. He
9 gave two statements in that interview.

10 The next day they went up on the 17th,
11 May 17th; they took a photo lineup; they showed it
12 to Mr. Hemingway. Mr. Hemingway was unable to
13 identify my client, Mr. Heyward, in that lineup.
14 They went back the next day on May 19th and they
15 took a different picture, a different photo lineup
16 with them of Mr. Heyward. They showed it to Mr.
17 Hemingway, and at that point he identifies
18 Mr. Heyward as the person that was out there
19 roadside on the night of May 16th.

20 My understanding -- this case has been
21 on the trial docket once before, Judge, in February
22 of 2014. The working understanding that I had up
23 until Friday of this week was that the pictures
24 were different. He couldn't identify him on the
25 17th in that photo lineup. It was a different

1 picture on the -- the 18th was the first lineup.
2 The 19th was the second. The understanding I had
3 was he couldn't identify them because the pictures
4 were different.

5 In the May 19th picture, his jaws were
6 bigger and he looked different, and that's the
7 working understanding I had up until Friday
8 afternoon at 5:30 when we got the State's
9 prosecutorial brief and found out in a footnote
10 that he could have identified him on the May 17th
11 photo lineup, but chose not to.

12 That is new information that I have
13 never heard before in the case. It's new
14 information Mr. McCoy had never heard in the case.
15 I want to know where that information comes from.
16 I have subsequently spoken to Ms. Shealy about it
17 and my understanding is that that's always been the
18 case, in the case.

19 THE COURT: Who told you different?

20 MR. APOSTOLOU: What's that?

21 THE COURT: Who told you different?

22 MR. APOSTOLOU: Well, no one. We had a
23 pretrial conference right before the February 2012
24 -- or 2014 trial date. At that time we asked about
25 the discrepancy, and the State told us that it was

1 because of the different pictures. No one ever
2 told me anything different up until the
3 prosecutorial brief.

4 I think this is a -- this is a material
5 identification in this case which -- by the
6 surviving brother that puts -- if he is now not
7 telling the truth, this is information I would like
8 to know and I want to know when they got it, when
9 in the process, where this information came from,
10 and how they became aware of it, when they became
11 aware of it.

12 Officer Lawrence is the independent
13 examiner for the May 19th independent lineup. He
14 wrote a police report that day about the
15 identification. No mention whatsoever of any sort
16 of material misstatement by the victim. If the
17 identifying victim is not telling the truth and it
18 is not anywhere in the 1,000 pages of discovery
19 that we have in this case, we're entitled, in my
20 opinion, to find out where this information came
21 from. When did he make this statement? To whom
22 did he make it? Who knew about it? And when and
23 how was it -- how were we brought up to speed on
24 it?

25 We were told at the pretrial conference

1 -- now, Mr. McCoy was not the attorney of record at
2 that time, but he's been the attorney of record
3 since that time, and he wasn't aware of any of this
4 as well. I think this is a huge deal and a very
5 important part of -- the identification in this
6 case is a huge issue and a misstatement by him
7 where he knew but chose not to, I think that's a
8 huge fact change and I think we're entitled to find
9 out information about it.

10 THE COURT: Ms. Shealy, would you like
11 to address that?

12 MS. SHEALY: Just to make sure that the
13 record is clear, the defense counsel has had copies
14 of the two lineups that were shown to Jujuain
15 Hemingway, one in which he does not make an
16 identification, that was the 18th, one in which he
17 does which is one day later, the 19th. From the
18 very beginning when I spoke to Jujuain, he always
19 told me he could have identified him that first
20 time, but he chose not to.

21 He'll be here for the defense counsel
22 to ask, why did you not tell us that first day --
23 why didn't you tell the officers the second day why
24 you hadn't identified him the first day and why
25 didn't you tell the officers the first day that you

1 could identify him? So the defense certainly
2 hasn't been prejudiced by anything. They can
3 inquire all they want regarding that through
4 cross-examination. From the very first time I met
5 with Jujuain, that's what he has maintained.

6 Now, I was never questioned by defense
7 counsel about the circumstances. I understand
8 Mr. Apostolou is indicating that previously --

9 THE COURT: I'm getting the impression
10 that he's suggesting that someone, whether it's you
11 or another Solicitor, misrepresented that to him.
12 Well, he didn't ask and I didn't say, but if
13 somebody misrepresented something to him, that's
14 another matter I suppose.

15 MS. SHEALY: Certainly, Your Honor.
16 The best way I can answer that is, number one to
17 say, that I don't even remember that part of that
18 conversation, but I certainly would not have
19 misrepresented it. It doesn't better my situation
20 very much for him to have been able to identify him
21 the first day and not to do so, go back in the
22 second day, identify him, but not tell the officers
23 that he could have the first day before.

24 I haven't tried to manufacture
25 something that makes this seamless and

1 understandable. I have given him the facts that
2 Jujuain Hemingway gave me. He is correct, Jujuain
3 Hemingway did not tell the first officer, I can ID
4 him, but I am not going to. Jujuain didn't tell
5 the officer that. The next day --

6 THE COURT: Who did he tell that to?

7 MS. SHEALY: He only told it -- he told
8 it to us first.

9 THE COURT: Us being?

10 MS. SHEALY: The State, at our office.
11 At our office. The second day when Charles
12 Lawrence showed him a lineup and he does identify
13 him, he doesn't tell Charles Lawrence I could have
14 identified him the day before. So, I mean, he's
15 got great fodder for cross-examination. I didn't
16 manufacture this. Now, I understand that he -- and
17 I do believe he genuinely believes that that status
18 conference that we had with Martha Kent when she
19 was representing him, that there was mention made
20 of the second lineup does show Denzel Hayward in a
21 different depiction, because one's a DMV and one is
22 a mugshot; however, I don't remember any discussion
23 concerning the circumstances of the first ID being
24 discussed.

25 Frankly, it is what it is. It's not a

1 great situation for the State. I mean, I certainly
2 think it's allowable, but he's going to have a
3 great time on cross-examination about him with
4 Jujuain Hemingway.

5 THE COURT: So it's your position that
6 you didn't misrepresent anything to him and if he
7 was acting under a misunderstanding that was of his
8 making?

9 MS. SHEALY: Well, I hate to assign it
10 of his making. I mean, I don't think that he -- I
11 think that he --

12 THE COURT: He understands what he
13 understands for a reason.

14 MS. SHEALY: Right.

15 THE COURT: And I guess he's saying
16 somebody on the State's side gave him either false
17 information or nudged him in the direction so that
18 he would believe something other than what, in
19 fact, happened.

20 MS. SHEALY: Well, let me address that
21 first. I would unequivocally say I neither gave
22 him false information nor tried to nudge him in the
23 wrong direction. He has been very diligent in this
24 case, so I don't want to assign to him that it's
25 his fault that he misunderstood. Do you understand

1 what I'm saying? But, on the other hand, in no way
2 would I misrepresent that to a defense attorney.

3 THE COURT: Well, I understand that
4 neither of you are -- want to accuse each other of
5 either making a false statement or a
6 misrepresentation, and at the same time you don't
7 want to say, well, I'm sorry if you were operating
8 under a misunderstanding, that's your problem not
9 mine. But he got it from somewhere.

10 It may be that he just -- you know,
11 that's his problem and he misread something, but it
12 can't be -- it's hard to imagine how it can be
13 both, that -- I mean, I'm trying to figure out how
14 he was -- how he got under this misunderstanding,
15 and it wasn't somebody from the State that either
16 told him wrong information that has changed, or
17 nudged him and -- well, you believe what you
18 believe and if you happen to believe something --

19 MS. SHEALY: Except I don't operate
20 that way.

21 THE COURT: Well, I am not accusing you
22 of it --

23 MS. SHEALY: This is what --

24 THE COURT: -- trying to reconcile the
25 two things.

1 MS. SHEALY: Right. This is what I
2 would say happened, but, of course, I don't have
3 a -- you know, a transcript to go back over it. I
4 think when there was discussion when we were
5 meeting -- and there is a difference between the
6 picture of Denzel in the first lineup and in the
7 second, there was some discussion about that.

8 I can certainly see how he may have
9 taken it to mean, oh, that must be why he didn't ID
10 him the first time. I'm just saying I did not
11 articulate that, because that was not what I
12 understood.

13 THE COURT: If I understand your
14 position that he leaped to the wrong conclusion,
15 rightly or wrongly, it's his -- his
16 misunderstanding of his own making is nothing that
17 the State affirmatively misrepresented or led him
18 to believe.

19 MS. SHEALY: I would definitely say the
20 State did not affirmatively misrepresent anything
21 or nudge him or encourage him to believe something
22 different than I knew.

23 THE COURT: Okay. Well, I don't know
24 what to say other than -- unless you have some
25 evidence of an intentional misrepresentation of

1 something to the State, then I would say, well, you
2 just have to cross-examine the witness over why
3 didn't he tell these people that.

4 But Ms. Shealy says she didn't tell you
5 anything different and it kind of sounds like, you
6 know, you believe what you believe, but you
7 believed it wrongly.

8 MR. APOSTOLOU: Okay. Well, I would
9 say other counsel in this case believed it wrongly
10 also, but --

11 THE COURT: Well, unless you want to
12 say, well, we had a hearing and she told me
13 something different, what am I supposed to do
14 exactly?

15 MR. APOSTOLOU: I think there's
16 information about this -- I would like to know from
17 Ms. Shealy, or from the State more accurately,
18 things that perhaps Mr. Hemingway doesn't know. I
19 mean, there's a thousand pages of discovery and
20 there's no mention of it anywhere in the entire
21 case.

22 THE COURT: It sounds like the kind of
23 thing that might be a work product note where they
24 go, well, you know, this is what my belief is the
25 witness said, or this is what my understanding is

1 of what the witness said. They're not required to
2 send that to you.

3 You've got the statements. You believe
4 what -- you made the conclusions and operated under
5 the assumptions under which you got from reading
6 those statements. If it happens to turn out to be
7 incorrect, that's one thing. If it's something
8 changed and they just dropped it on you at the last
9 moment, well, that's a whole other thing. But it's
10 entirely another thing to say, well, somebody
11 misrepresented something to me, and I've been
12 operating under a misunderstanding for this period
13 of time, and that's because they told me something
14 different than what they're telling me now.

15 So I'm just trying to get to what it is
16 that you're exactly saying is the problem here.

17 MR. APOSTOLOU: This is a -- this is a
18 lie, basically. If he's shown it by the accusing
19 witness in this case, this is a material
20 misrepresentation. I think that it is --

21 THE COURT: Who are you saying made the
22 material misrepresentation? Since you put it out,
23 that's what -- if you want to say it, you have to
24 tell me who made it.

25 MR. APOSTOLOU: Well, what I would like

1 to know is exactly when this information was
2 brought to the State's attention and to whom it was
3 made to.

4 THE COURT: Well, when did you have
5 your meeting with the witness and he told you for
6 the first time that he could have identified the
7 person the day before, but he chose not to?

8 MS. SHEALY: I will be able to tell you
9 by -- hopefully, by my notes from the first time I
10 talked to him. There may be notes on my computer
11 system that may not be in this file. I may have to
12 send somebody back to the office to look through
13 our notes from when we spoke to him because
14 sometimes I enter it on my computer. I have notes
15 here, lengthy notes, but they're not dated.

16 I met with his entire family that day,
17 so that would have been one of the earliest ones
18 when I got the entire family in. And then I
19 remember meeting individually with Jujuain on that
20 day.

21 MR. APOSTOLOU: May I inquire of what
22 date that is?

23 MS. SHEALY: I don't have a date on
24 this. I think our PC notes would reflect whether
25 the whole family came. Probably the witness

1 advocate would indicate that date. If you want me
2 to have somebody to go back over there -- Then I
3 have another set of notes reflects a conversation
4 about his brother saying -- what happens is, when
5 Julius Alexander goes over there on the 17th, you
6 can hear in the background of the recording -- his
7 brother is there, his mother is there. They were
8 trying to encourage him to be cooperative with the
9 police.

10 And his brother uses the name, Fat.
11 His brother injects that name, Fat. Okay. And
12 those notes are also -- those entries are also in
13 my notes.

14 THE COURT: This presumably took place
15 after the identification and photo lineup?

16 MS. SHEALY: What did, I'm sorry?

17 THE COURT: These statements that
18 you're saying right now took place after the photo
19 lineup was made?

20 MS. SHEALY: The one I was just
21 mentioning, about Fat?

22 THE COURT: No -- the meeting. The
23 meeting, yes.

24 MS. SHEALY: Oh, yes, the meeting with
25 us --

1 THE COURT: Would have been after
2 5/19/12.

3 MS. SHEALY: Yes. What I was
4 indicating is in my preliminary notes we were
5 discussing how his brother, during the interview of
6 Jujuain, is the one who mentions the name Fat.

7 THE COURT: Okay. I guess I'm asking
8 you, Mr. Apostolou, what are you asking me to do?

9 MR. APOSTOLOU: Well, Judge, I think
10 it's improper to focus on material representation
11 more so as a duty to disclose. When a person lies
12 about an identification that they could have made,
13 but chose not to, I mean, that's a material item
14 that needs to be sent to the defense attorney and
15 sent to the defense. I mean, I think that it's not
16 a matter of material misrepresentation. This is
17 information that we need to know about and the
18 State is in possession of it. It's not a matter
19 of, did we discover it? It's a matter that the
20 State needs to tell us about it.

21 THE COURT: I repeat my question, what
22 are you asking me to do?

23 MR. APOSTOLOU: Is there any other
24 material information in this case that we are not
25 aware of?

1 THE COURT: Are you asking me or her?

2 MR. APOSTOLOU: I'm asking -- I'm
3 informing you --

4 THE COURT: I have no information --

5 MR. APOSTOLOU: I'm informing you that
6 these are the concerns that I have in a man that's
7 on charge for murder here.

8 THE COURT: I will use the example that
9 both Mr. McCoy and Mr. Davis both brought to the
10 Court's attention during the jury selection, that
11 they recognized somebody but didn't know where
12 from. That's wonderful information to have, and my
13 question to both of them, what do you want me to
14 do? And I'm asking you, what are you asking me to
15 do?

16 MR. APOSTOLOU: Well, I guess the
17 answer to that, Judge, is get to the bottom of it.

18 THE COURT: Is what?

19 MR. APOSTOLOU: Help us get to the
20 bottom of where this information came from, when it
21 came to their attention --

22 THE COURT: She's saying it took place
23 sometime after May 19th of 2012, and a date yet to
24 be determined.

25 MS. SHEALY: That's correct, when his

1 whole family came up. His whole family came up for
2 their initial meeting and I met with Jujuaain
3 separately from them, but also together with him.
4 But I took him separately.

5 Judge, just for the record, what you
6 know because you've had other trials with me, Mr.
7 Apostolou and I have never had a trial together,
8 but I think I go beyond what most people do in
9 giving information. I share the photographs, I
10 give them the thumbnail drive, I answer any
11 questions that they have, I tell them the witness
12 order, things that other people play games with.

13 I do not play games. I can see,
14 however, how it would be frustrating to Mr.
15 Apostolou if he was operating under one thought
16 process to learn that it's something different, but
17 I think the big question is, first of all, did I do
18 it intentionally and did I do anything? Or -- and,
19 additionally, how has this prejudiced him? He's
20 got all kinds of stuff to ask Jujuaain Hemingway
21 about on cross.

22 I've been concerned about various
23 issues regarding the lineup process, not that I
24 think they were incorrect, but thinking about what
25 they are going to do. It's not as if his learning

1 with clarity what happened on Friday in any way is
2 a disturbance to his preparation for the trial.
3 He's just going to have to ask different questions
4 than he had anticipated in Mr. Hemingway's cross.

5 THE COURT: Again, if there something
6 that you want me to rule on, I will rule;
7 otherwise, call the first witness. You haven't
8 asked me anything to do yet. You brought this to
9 my attention, asked her questions, she's answered
10 them, presumably she can get somebody to look up
11 the exact date maybe that information took place,
12 but at this point you haven't asked me to do
13 anything so let's call the first witness.

14 MS. SHEALY: Julius Alexander.

15 Your Honor, Jujuain Hemingway is one of
16 our victims in the case. Obviously, this process
17 is going to be discussed.

18 THE COURT: He'll need to --

19 MS. SHEALY: Stay outside.

20 THE COURT: What is this witness's
21 name?

22 MS. SHEALY: Julius Alexander.

23 JULIUS ALEXANDER,
24 being first duly sworn, testified as follows:

25 THE CLERK: You may be seated. Sir,

Julius Dewayne Alexander -Direct
Examination by Ms. Shealy

98

1 once seated, if you could, please state your first
2 and last name loudly and clearly into the
3 microphone and spell your last name.

4 THE WITNESS: Julius Dewayne Alexander,
5 A-L-E-X-A-N-D-E-R.

6 DIRECT EXAMINATION

7 BY MS. SHEALY:

8 Q. Detective Alexander, were you working
9 for the Charleston County Sheriff's Office on
10 May 17th of 2012?

11 A. Yes, ma'am, I was.

12 Q. And were you tasked with travelling to
13 Longs, South Carolina?

14 A. Yes, ma'am.

15 Q. What was the purpose of travelling
16 there?

17 A. To go and locate Jujuaain Hemingway to
18 do an interview, try to gain information about the
19 situation that occurred.

20 Q. Okay. And in doing so, did you, in
21 fact, record his statement process?

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

23 Q. Was Detective Khan also with you?

24 A. Yes, ma'am.

25 Q. So you would have arrived there the

1 same day that Jujuaain would gave gotten out of the
2 hospital; is that correct?

3 A. Yes.

4 Q. Could you describe to the Judge briefly
5 what the house was like when you got there?

6 A. There was a lot of family members
7 there, I assumed that they were mourning the loss
8 of their family member. You know, just pretty much
9 family there.

10 Q. Okay. When you and Detective Khan got
11 there, did they ask some of the people to leave the
12 home?

13 A. I believe when we got there, some
14 people had left from inside of the house to the
15 outside of the residence.

16 Q. During that process of talking to
17 Jujuaain Hemingway, describe to the Court was he
18 very forthcoming or was it more like pulling teeth?

19 A. It was kind of like pulling teeth. I
20 believe he was somewhat scared, you know. He was
21 just kind of -- he talked very low so it was kind
22 of hard to understand him.

23 Q. When you say that he talked low, had
24 there actually been an injury to his mouth?

25 A. Yes, ma'am, there was.

1 Q. And he received medical care because of
2 that?

3 A. Yes, ma'am.

4 Q. And that occurred during the incident
5 in question?

6 A. Yes, ma'am.

7 Q. Did he begin writing a statement when
8 you and Detective Khan were interviewing him that
9 he did not finish?

10 A. First we talked and then he wrote the
11 initial statement, and we believed that -- you
12 know, we was unsure if he was giving us the total
13 truth with the little information that we had at
14 the time.

15 Q. Okay. Let me show you -- let me show
16 you a three-page statement that is unsigned by the
17 author of it. Is that the first statement that he
18 began writing out?

19 A. Yes, it is.

20 MS. SHEALY: Your Honor, can I have
21 this marked as a Court's Exhibit?

22 THE COURT: Yes, ma'am.

23 (COURT'S EXH. 1, Copy of statement, was
24 marked for identification.)

25 BY MS. SHEALY:

1 Q. Did you all have kind of a
2 come-to-Jesus talk with him about telling what
3 happened?

4 A. Yes, ma'am; when we thought that he
5 wasn't telling the truth.

6 Q. And when you say, not telling the
7 truth, can you elaborate on that? Did you think he
8 was telling you a lie or wasn't telling you what he
9 knew?

10 A. I just didn't think that he was telling
11 us everything that he knew.

12 Q. Okay. Present with him were his mother
13 and his brother, Kareem? His brother, Kareem, was
14 in there too?

15 A. Yes, ma'am.

16 Q. Could you tell the Judge whether or not
17 they were encouraging him to cooperate?

18 A. Before we did the second statement,
19 they were encouraging him to be 100 percent honest
20 with us.

21 Q. Okay. After that, did you gain a
22 six-page statement from Jujuain Hemingway?

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

24 Q. And I'll show you this, and just ask
25 you if that's a copy of that statement.

1 A. Yes, ma'am.

2 Q. Do you have a copy with you as well?

3 A. Yes, ma'am.

4 MS. SHEALY: Your Honor, could I have
5 this marked as a Court's Exhibit?

6 (COURT'S EXH. 2, Copy of six-page
7 statement, was marked for identification.)

8 BY MS. SHEALY:

9 Q. Could you tell the Court please -- and
10 then drawing your attention to page 2 of the
11 six-page statement, did Jujuaín Hemingway give you
12 descriptions of the people who came in and
13 assaulted and ultimately killed his brother?

14 A. Yes, ma'am.

15 Q. And could you tell the Court what those
16 descriptions were? You can begin at the top of the
17 page.

18 A. Okay. He stated and I quote, this dude
19 in a red shirt with a low haircut with a beard,
20 about, I believe, 6, 1, opened my brother's door
21 and punched him in the face. Another dude in a
22 white shirt about five foot or so came running up
23 to my brother's side of the car and told him to
24 move and told me to move or he will kill us.

25 Q. Okay. And then regarding a female that

1 was also present at the scene, do you recall his
2 giving you a description of the female, looking at
3 page 4 of that statement? Under 5?

4 A. He described her as a black female
5 about 150 pounds, ponytail hairstyle, and she had
6 jeans and a gray shirt.

7 Q. And then at entry 4 on that same page,
8 did he give you greater detail about the person who
9 had kicked him?

10 A. Yes. Stated that the person was 6, 1,
11 about 200 pounds, had on a red shirt and some face
12 hair, black male.

13 Q. Okay. And then in section 2 of that
14 page, did he describe the weapon that was used and
15 the other male that was present?

16 A. He stated that the weapon was a black
17 Rohm with a banana clip. He said the guy was
18 skinny and brown, 5, 10, wearing a white shirt with
19 shorts and he had a Geechie accent.

20 Q. So you had gained all of that
21 information on the 17th; is that correct?

22 A. Yes, ma'am.

23 Q. And that was actually -- the incident
24 occurred at 11:30 p.m. on the 16th, spilled over
25 into the 17th, and you were talking to him that

1 same day?

2 A. Yes, ma'am.

3 Q. Do you remember how old he was at the
4 time?

5 A. I think about 17 maybe.

6 Q. Okay. Now, do you recall Kareem
7 Hemingway indicating that he was hearing it was
8 someone named Fat who had done that?

9 A. I think he might have made that
10 statement when I was there.

11 Q. When you were talking to Jujua in
12 Hemingway on the 17th, did you have any names for
13 any suspects?

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

15 Q. Okay. So you then traveled back to
16 Longs the next day, the 18th?

17 A. Yes, ma'am.

18 Q. When you went on the 18th, did you go
19 with two lineups?

20 A. Yes, ma'am, two photo lineups.

21 Q. Okay.

22 MS. SHEALY: Beg the Court's indulgence
23 just one second.

24 BY MS. SHEALY:

25 Q. Okay. So you went back on the 18th.

1 You took two lineups with you?

2 A. Yes.

3 Q. Had you prepared the lineups?

4 A. No.

5 Q. Who had actually gotten it together for
6 you?

7 A. I believe it was one of the other
8 detectives, I'm not sure.

9 Q. Okay. And I'm showing you the lineup
10 that you showed Jujuain at 3:20. Can you take a
11 look at that and tell me whether that's the lineup
12 that you showed him?

13 A. Yes, ma'am. This is one of them,
14 anyway.

15 Q. And then at 4:35, you showed him a
16 second lineup?

17 A. Yes, ma'am.

18 Q. And is that the second lineup?

19 A. Yes, ma'am.

20 THE COURT: Your Honor, I would like to
21 have these marked as Court's exhibits.

22 THE COURT: All right.

23 (COURT'S EXH. 3, Copy of lineup, was
24 marked for identification.)

25 (COURT'S EXH. 4, Copy of lineup, was

1 marked for identification.)

2 BY MS. SHEALY:

3 Q. Now, had you been advised as to whose
4 photographs were in the lineup before you took
5 them?

6 A. No, ma'am.

7 Q. If you could, go through the process
8 you took Mr. Hemingway through in presenting him
9 with these two lineups, this one being the first
10 one. Tell us how that procedure worked.

11 A. Usually what I do is I fill out the
12 initial information at the top as showed, and then
13 I would go through the course of reading him the
14 information, allowing him to initial by each one of
15 them, and also filling his name out at the bottom
16 and signing it as him being the witness. And
17 then -- go ahead.

18 Q. I'm sorry, go ahead.

19 A. Then I would -- once he's done with
20 that, you know, and I ask him if he completely
21 understands. Once he said that, I showed him the
22 photo lineup and allow him to take as much time as
23 he needs to look at the photo.

24 Q. And after doing so, could you describe
25 for the Court whether or not Mr. Hemingway

1 indicated he knew anyone or could recognize anyone
2 in the lineup?

3 A. From what I recall, he did not know
4 anyone in the photos.

5 Q. What did you ask him when you showed
6 him the lineup? What was he advised to look at?

7 A. Initially, we usually ask them if they
8 know anyone in the photo lineup or if this is one
9 of the suspects possibly involved in the incident
10 where his brother was killed in that incident.

11 Q. And Mr. Hemingway indicated that he did
12 not recognize anyone?

13 A. He said he did not recognize anyone.

14 Q. And then also with Court's Exhibit 4,
15 did the same process take place?

16 A. Yes, ma'am.

17 Q. And when he was shown those
18 photographs, did he identify anyone?

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

20 Q. Do you know now who is in each of these
21 lineups or not?

22 A. Not necessarily.

23 Q. Detective Owen would know?

24 A. Yes.

25 Q. Okay. Was there any other effort on

1 the 18th when you went there to encourage him to
2 tell you what he knew, or did you feel like he had
3 done that in the statement the night before?

4 A. No, not the night before, but that day
5 I felt he did give a better statement, a better
6 detailed statement.

7 Q. On the 17th?

8 A. Yes.

9 MS. SHEALY: Okay. I have no further
10 questions. Judge, I was going to allow you to look
11 at the different items that he read out to Mr.
12 Hemingway that he initialed. He's indicated that
13 he did that. I don't think I need to go over each
14 of them in your presence.

15 THE COURT: Okay.

16 MS. SHEALY: Answer any questions the
17 defense may have.

18 THE WITNESS: Okay.

19 BY MS. SHEALY:

20 Q. One other question. Did Jujuain
21 Hemingway ever tell you that he wasn't truthful
22 when you showed him the lineup?

23 A. No.

24 Q. He never told you that?

25 A. He never told me that.

Julius Dewayne Alexander - Cross
Examination by Mr. Apostolou

1 MS. SHEALY: Okay. Thank you.

2 CROSS-EXAMINATION

3 BY MR. APOSTOLOU:

4 Q. Detective Alexander? Officer
5 Alexander?

6 A. Detective, yes.

7 Q. So the incident is on May 16th; is that
8 correct?

9 A. Yes.

10 Q. And on May 17th -- it's May 16th at
11 about 11:30 p.m., right?

12 A. You're saying when the incident
13 occurred?

14 Q. It was late at night on the 16th, the
15 incident occurred, right?

16 A. I believe so, yes.

17 Q. Okay. And Mr. Hemingway got out of the
18 hospital at MUSC around noon on the 17th?

19 A. I believe so.

20 Q. And you went up on the 17th and
21 interviewed him?

22 A. Yes.

23 Q. And I think you described it as kind of
24 like pulling teeth?

25 A. Yes.

1 Q. He wasn't being terribly cooperative
2 with you?

3 A. Well, I mean, I kind of believe that,
4 but, you know, at the time he -- his mouth was
5 hurt. He was still mourning over the loss of his
6 brother and, you know, we just thought that he was
7 telling us some information, but he wasn't giving
8 us every little detail that we needed.

9 Q. In the course of this three-hour
10 interview, he writes two different statements?

11 A. That's on the --

12 Q. 17?

13 A. Yes.

14 Q. So in the course of this one interview,
15 he writes two different statements?

16 A. Yes, I believe so. Yes.

17 Q. Okay. Is it because -- did you ask him
18 to write a second statement because you didn't
19 believe the first statement?

20 A. Well, I just -- I asked him to give us
21 some more detailed statement.

22 Q. Okay. Did you tell him that you
23 thought he was lying?

24 A. I might have told him that I didn't
25 think he was being 100 percent truthful with us.

1 Q. Okay. But you interview him on the
2 17th and you go back on the 18th?

3 A. Yes.

4 Q. Why did you go back on the 18th?

5 A. To show him the photo lineup.

6 Q. Okay. On the 17th when you interviewed
7 him -- I mean, there's evidence early on in this
8 investigation that the State has identified
9 somebody by the name of Fat as possible involvement
10 in this case; is that fair?

11 A. Are you saying prior to me going to
12 speak to him?

13 Q. I'm saying very early in this
14 investigation, the State has identified somebody by
15 the name of Fat as possibly being involved?

16 A. As far as I knew, we -- I didn't have
17 any information that the sheriff's office
18 established the name Fat. I heard it from his
19 brother when I was there --

20 Q. Okay.

21 A. -- at his residence.

22 Q. Had you ever met Mr. Hemingway before
23 you went up there?

24 A. No, sir.

25 Q. You didn't go to the hospital and

1 interview him at all?

2 A. No, sir.

3 Q. What agency do you work for?

4 A. Charleston County Sheriff's Office.

5 Q. All right. And you went with Detective
6 Khan as well?

7 A. Yes, sir.

8 Q. Had he ever met him before?

9 A. I am not sure.

10 Q. You rode up together?

11 A. Yes.

12 Q. You didn't say, hey, I interviewed this
13 guy yesterday?

14 A. No.

15 Q. Did you know that a person by the name
16 of Fat had been linked to this case at all?

17 A. Prior to me talking to him, no, sir.

18 Q. Okay. All right. So his brother
19 actually says Fat?

20 A. I believe he said Fat, the nickname
21 Fat.

22 Q. And that's the first time you became
23 aware of it?

24 A. Yes, that's the first time.

25 Q. Did anybody tell you the name of Denzel

1 Heyward's real name in that interview?

2 A. No.

3 Q. How did you develop Denzel Heyward as a
4 suspect for the lineup?

5 A. Sir, I'm not sure. I was only tasked
6 to go and do the interview and show him the photo
7 lineup.

8 Q. During the interview, did you ever ask
9 him about knowing anybody by the name of Fat?

10 A. I don't believe I did, sir.

11 Q. Did you ever ask him about ever coming
12 to Charleston before being down in this way?

13 A. I believe I did ask him that.

14 Q. And he said he had never been to
15 Charleston, this was the first time he had ever
16 come down here?

17 A. Yes, from what he told me.

18 Q. Okay. And you don't know who put
19 together the lineup?

20 A. No, sir. I'm not 100 percent on that.

21 Q. Okay. And you don't know how -- I
22 mean, one day after the incident they're putting
23 Denzel Hayward's photo before the victim; is that
24 correct?

25 A. Can you please --

1 Q. Sure. Basically, the day after the
2 incident date, we're going to basically roll into
3 the 17th, that's when he gets out?

4 A. Okay.

5 Q. You go up and interview him for that
6 first day. And the next day you have a photo
7 lineup with Lorenzo Mehciz and Denzel Heyward. Do
8 you have any idea why those people were included in
9 the lineup?

10 A. No, sir.

11 Q. Can you tell me who asked you to go up
12 there and present it to him?

13 A. My supervisor from the detective's
14 office.

15 Q. And who would that be?

16 A. At that time it was -- my lieutenant
17 was Lieutenant Roger Antonio.

18 Q. Okay. So did you know -- were you an
19 independent examiner on this interview? Did you
20 know who the sheriff's department suspected may
21 have been --

22 A. No, sir, I did not.

23 Q. You had no idea?

24 A. No, sir.

25 Q. So you just went up there, read him the

1 Advisement of Rights and he stated he understood?

2 A. Yes, sir.

3 Q. Did you tell him he had to be truthful?

4 A. I read him everything that's stated on
5 the form.

6 Q. Does it tell him on the form he has to
7 be truthful?

8 A. I believe it does.

9 Q. And so he looked at it. Did you
10 interview him at all on the -- the 18th now we're
11 talking about?

12 A. Probably had a little bit of talk back
13 and forth, but we just -- our main reason why we
14 were there was to show the photo lineups.

15 Q. Did you ask him if anything was
16 different or anything had changed on behalf of his
17 statement?

18 A. That might have came across.

19 Q. As a result of your interview with him,
20 you never wrote another police report or made any
21 addendum to any statement; is that correct?

22 A. Well, my supplemental police report was
23 completed after that date, including the first date
24 and the second date I was up there.

25 Q. So you wrote the police report after

1 both days going up there?

2 A. Yes.

3 Q. Is it possible that you included
4 information from the 17th into the 16th? Or into
5 the 18th from the 17th or --

6 A. This is how we did it. Okay? We note
7 our computer system with all the information that
8 we gather on that day, and it is noted inside our
9 computer system. When we go and do something else,
10 we come back and we note it. Okay.

11 When I'm done with my investigation,
12 with my part of it, I go ahead and I make sure
13 everything is on track and I, you know, print out
14 my police report and have it signed by my
15 supervisor at that point. Okay?

16 Q. Okay. And Detective Kahn went with you
17 again on the 18th?

18 A. Yes.

19 Q. So both of you-all went on the 17th and
20 the 18th?

21 A. Yes.

22 Q. Okay. And on the 17th, you never got
23 the name of Denzel Heyward from anybody?

24 A. No.

25 Q. So you wouldn't have passed that

1 information to Detective Owen or anybody else?

2 A. No, sir.

3 Q. Okay. And do you know whether Khan
4 ever heard it?

5 A. I can't speak for Khan.

6 Q. But he never heard it in your presence
7 or you would have known?

8 A. As far as I know. I don't know if he
9 heard it.

10 Q. So when you actually showed Hemingway
11 the lineup, does he take his time?

12 A. I believe he did. He looked at it.

13 Q. He looked at them thoroughly?

14 A. I believe so.

15 Q. The first lineup is a six-pack; is that
16 correct?

17 A. Both lineups are six-packs.

18 Q. Both lineups on the first day are
19 six-packs; is that correct?

20 A. Are you referring to the first day I
21 went or the second day?

22 Q. You didn't show him any lineups on the
23 17th, did you?

24 A. No.

25 Q. You didn't have any suspects developed

1 at that time?

2 A. No.

3 Q. So you went back on the 18th and showed
4 him a six-pack lineup for Denzel Heyward and
5 Lorenzo Mehciz?

6 A. Yes, two six-packs.

7 Q. Did you have anything to do with going
8 back on the 19th?

9 A. No.

10 Q. Do you know why they went back on the
11 19th?

12 A. No, sir.

13 Q. Do you know who went back on the 19th?

14 A. No, sir. I'm not 100 percent on it?

15 Q. Okay. Did you ask him in the interview
16 if he knew Fat? I think I asked you that, but I'm
17 not sure.

18 A. All I heard was his brother mentioning
19 the name Fat. I don't believe that I asked him
20 anything about Fat.

21 Q. He did say he had never been down here
22 before or have any interaction --

23 A. Yes, sir.

24 MR. APOSTOLOU: Court's indulgence.

25 BY MR. APOSTOLOU:

1 Q. Of the people in the room, do you know
2 which brother of Mr. Hemingway it was? I think you
3 said Kadeem in your earlier testimony.

4 A. Kadeem was the victim.

5 Q. I'm sorry. I'm sorry. Which of the
6 brothers told you Fat was the victim?

7 A. I believe it was Kareem.

8 Q. Kareem, I'm sorry. Did you ask Kareem
9 how he would know that information?

10 A. He just mentioned it and then, you
11 know, we kind of talked back to Jujuaain after that.

12 Q. Okay. So Kareem said, I think Fat did
13 it, or Fat did it?

14 A. I guess he believed that Fat was
15 involved.

16 Q. Did that -- did you pass that
17 information on to anybody?

18 A. No, sir.

19 Q. Okay. So the brother of the
20 identifying person told you that Fat was the person
21 that did it?

22 A. He didn't tell me. He just blurted it
23 out.

24 Q. What did he blurt out?

25 A. He believed that Fat was involved.

Julius Dewayne Alexander - Redirect
Examination by Ms. Shealy

1 Q. Okay.

2 A. And he really wasn't saying it to me.
3 You know, he was just saying it.

4 Q. Okay. And you didn't pass that
5 information to anybody?

6 A. No, sir.

7 Q. Okay. And you had nothing to do with
8 the other -- so when Hemingway looks at that
9 lineup, what does he say? After he looks at it --

10 A. He looked at it and he said he did not
11 recognize anybody on either one of the photo
12 lineups.

13 Q. Was that the end of it or did you take
14 it a step further beyond that and start asking
15 questions?

16 A. We might have talked a little bit after
17 that, but it wasn't -- you know, he pretty much
18 said he didn't have any information more than what
19 he gave us.

20 Q. Okay. And you didn't have anything to
21 do with picking the photo itself, did you?

22 A. No, sir.

23 MR. APOSTOLOU: Okay. That's all I
24 have, Judge.

25 MS. SHEALY: Just a few follow-up

1 questions.

2 THE COURT: Did you want to ask any?

3 MR. MCCOY: Judge, I don't have any
4 questions for this hearing.

5 REDIRECT EXAMINATION

6 BY MS. SHEALY:

7 Q. You were asked whether you were an
8 independent person to show the lineup. Could you
9 describe for the Court why that's necessary?

10 A. Just so that if I'm the same person
11 that showed the photo -- you know, picked the photo
12 lineup, I won't kind of pass on information to --
13 or be the same person that showed the photo lineup,
14 which is I think a conflict of interest.

15 Q. Okay. And the whole recording of the
16 interview on the 17th was recorded; is that
17 correct? That whole process?

18 A. Yes.

19 Q. You were asked whether or not -- at the
20 time that you showed the lineup to Jujua in on the
21 18th, whether you knew there was someone named --
22 I'm sorry. You did not know anyone named Fat until
23 you went on the 17th to Longs, is that right? And
24 you heard the brother mention it?

25 A. Yes.

Julius Dewayne Alexander - Recross
Examination by Mr. Apostolou

122

1 Q. You're not aware of what type of dying
2 declaration there may be in this case; is that
3 correct?

4 A. No, ma'am.

5 MS. SHEALY: Thank you. I have nothing
6 further?

7 MR. APOSTOLOU: Can I ask one question?

8 THE COURT: Sure.

9 RECROSS-EXAMINATION

10 BY MR. APOSTOLOU:

11 Q. You recorded him on the 17th in that
12 three-hour interview which I've heard, right?

13 A. Uh-huh.

14 Q. Did you record the interview on the
15 18th?

16 A. I don't believe so.

17 Q. Okay. Is there a reason why you
18 wouldn't have done that?

19 A. It was just showing him the photo
20 lineup.

21 Q. How long do you think you were in
22 Longs --

23 A. I can't give you a correct time, sir.

24 Q. Just in the household there between --
25 ballpark?

Charles Lawrence - Direct Examination
by Ms. Shealy

123

1 A. I don't remember.

2 Q. Half day, 20 minutes?

3 A. It could be maybe 20 minutes or more.

4 MR. APOSTOLOU: Okay. Thank you.

5 Nothing further.

6 MS. SHEALY: Nothing further from him
7 at this time.

8 THE COURT: You may step down.

9 MS. SHEALY: Charles Lawrence.

10 CHARLES LAWRENCE,

11 being first duly sworn, testified as follows:

12 THE CLERK: You may be stated. Sir,
13 once seated, please state your first and last name
14 and spell your last loud and clearly into the mike.

15 THE WITNESS: Charles Lawrence,
16 L-A-W-R-E-N-C-E.

17 DIRECT EXAMINATION

18 BY MS. SHEALY:

19 Q. Mr. Lawrence, were you formerly
20 employed by the Charleston County Sheriff's
21 Department?

22 A. Yes.

23 Q. And in May of 2012, May 19th to be
24 specific, were you asked to take some lineups to
25 Longs, South Carolina?

1 A. Yes, ma'am.

2 Q. Do you remember who it was that you met
3 with when you got to Longs?

4 A. Yes, ma'am; Jujuain Heyward.

5 Q. Jujuain Heyward or Jujuain Hemingway?

6 A. Hemingway. Hemingway. Jujuain
7 Hemingway, yes.

8 Q. Prior to you going there, did you have
9 information about the case?

10 A. No, ma'am.

11 Q. Had you worked the scene the two nights
12 before?

13 A. I had not, no.

14 Q. And you took actually three lineups to
15 Mr. Hemingway that day; is that correct?

16 A. That's correct.

17 Q. Okay. Do you remember where at his
18 house you met with him?

19 A. Initially, in the living room -- living
20 room, kitchen area, and then we transported him to
21 the precinct.

22 Q. Okay. I'm showing you a lineup that's
23 dated 5/19 at 19:45. Could you tell the Court
24 whether you recognize that?

25 A. Yes, I do.

1 Q. And is that one of the lineups that you
2 showed Jujuaain Hemingway?

3 A. That's correct. It's my handwriting.

4 Q. Okay. And, then, showing you a lineup
5 dated 5/19 at 19:58. Could you tell the Court
6 whether or not that's a lineup that you showed Mr.
7 Hemingway?

8 A. Yes, it is.

9 Q. Okay. And showing you what's dated
10 5/19/12, 2006 -- I'm sorry, 20:06 time, 5/19/2012.
11 Is that the third lineup that you showed him?

12 A. That's correct.

13 MS. SHEALY: Your Honor, at this time I
14 would like to have these marked for Court's
15 Exhibits.

16 (COURT'S EXH. 5, Copy of lineup, was
17 marked for identification.)

18 (COURT'S EXH. 6, Copy of lineup, was
19 marked for identification.)

20 (COURT'S EXH. 7, Copy of lineup, was
21 marked for identification.)

22 BY MS. SHEALY:

23 Q. So showing you what's been marked as
24 Court's Exhibit 5. Could you tell the Judge and
25 tell the Court how you ended up showing that to

1 Jujuaain Hemingway?

2 A. Yes, ma'am. What I do is I read each
3 line advising them what we're going to do, and once
4 we're finished, ask them if they understand what
5 we're saying, and they verbally say yes or no. And
6 then we go to the next line. And once we're
7 finished, we provide them a copy of the single
8 photo, whether it's a rake or a single -- excuse
9 me. We show them pictures individually or in an
10 array of six, and they make a determination whether
11 it's a person of discussion.

12 Q. And when you showed Jujuaain Court's
13 Exhibit Number 5, could you indicate to the Court
14 whether he, in fact, identified someone?

15 A. Yes, ma'am, he did.

16 Q. And how did he go about identifying
17 them? How did -- did he describe that to you or
18 did he circle anything?

19 A. Yes, he did. What we normally do is
20 have them circle a full circle around the person,
21 and we normally date, time, and their initials
22 saying they were the person who actually recognized
23 the person in the lineup.

24 Q. Okay. And so as to Court's Exhibit 5,
25 he did in fact circle Denzel Heyward's photograph?

1 A. Yes, ma'am.

2 Q. You know that to be Denzel Heyward's
3 photograph now?

4 A. I do now, yes, ma'am.

5 Q. Is there a line on there for him to
6 describe his identification?

7 A. Yes, there is.

8 Q. Would you tell the Court please what he
9 identified?

10 A. Okay. His face -- his face got fat
11 jaws and a goatee. I know him as Fat. That was
12 the guy standing at the driveway waiting for us.

13 Q. Okay. Now, when he gave you that
14 information, did you ask him any background
15 information? Did you know that a lineup had been
16 shown to him the night before?

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

18 Q. Did he give you any information about a
19 lineup being shown to him the night before?

20 A. No, ma'am.

21 Q. Did you engage in any further
22 conversation with him about that lineup?

23 A. No, ma'am. I just had him initial and
24 go through the process, sign where he went through.

25 Q. Okay. And then Court's Exhibit 6, did

1 you go through a similar process with Court's
2 Exhibit 6?

3 A. Yes, ma'am.

4 Q. And would you advise the Court please
5 whether or not he identified anybody in that
6 lineup?

7 A. The second lineup he did not. He said
8 none of the guys looked familiar.

9 Q. And have you since learned that Dashaun
10 Simmons' photograph was in that lineup?

11 A. Yes, ma'am.

12 Q. And then showing you Court's Exhibit 7,
13 did you go through a similar process with that
14 lineup?

15 A. I did, yes.

16 Q. And did Mr. Hemingway identify anyone
17 in that lineup?

18 A. No, ma'am, not in this one as well.

19 Q. Okay. And did you later learn that
20 Quasantrina Rivers was in this lineup?

21 A. Yes, ma'am, that's correct.

22 Q. Okay. And at the time you were there,
23 you did not know which photo was Mr. Simmons, which
24 was Mr. Heyward or Ms. Rivers; is that correct?

25 A. That's correct, yes, ma'am.

Charles Lawrence - Cross Examination
by Mr. Apostolou

129

1 MS. SHEALY: Okay. I have no further
2 questions. Answer any that the defense may have.

3 CROSS-EXAMINATION

4 BY MR. APOSTOLOU:

5 Q. Mr. Lawrence?

6 A. Yes, sir.

7 Q. Not Officer Lawrence?

8 A. Not anymore.

9 Q. Okay. How did you happen to come to be
10 the independent examiner?

11 A. Yes, sir. Actually, I was employed by
12 the Charleston County Sheriff's Office at the time
13 and I was a violent crimes persons detective and I
14 was a case agent; however, Detective Owen asked me
15 to ride with him to Longs, South Carolina to show
16 some photo lineups.

17 Q. So you and Detective Owen rode there
18 together?

19 A. Yes.

20 Q. And you worked on a lot of cases
21 together?

22 A. Yes, sir.

23 Q. Did you discuss the case at all on the
24 drive up there?

25 A. No, sir.

1 Q. Okay.

2 A. No, sir.

3 Q. Ms. Shealy asked you about the lineup
4 that you showed. Did you have any idea who the
5 alleged person, suspect, was amongst those
6 pictures?

7 A. No, sir, no idea at all.

8 Q. The lineup on the 17th -- the lineup on
9 the 18th was a six-pack. You took a sequential
10 lineup; is that correct?

11 A. Yes, sir.

12 Q. Why did you use a different --

13 A. I was only responsible for the one I
14 did. I had no idea that he was shown any previous
15 prior to mine.

16 Q. So you didn't know that they had a
17 lineup the day before?

18 A. No, sir, I did not.

19 Q. Who asked you to go up there?

20 A. Detective Owen.

21 Q. Detective Owen?

22 A. Yes, sir.

23 Q. On the drive back, did Detective Owens
24 explain to you that he had just looked at a lineup
25 the day before?

1 A. No, sir. Actually, it was after hours
2 and we were just trying to make it back to
3 Charleston.

4 Q. So you-all didn't discuss it any
5 further?

6 A. No, sir. I didn't know who the person
7 of interest was at that time, I did not.

8 Q. Okay. Did you interview Mr. Hemingway
9 at all?

10 A. No, sir, not so much as an interview.
11 We went to the office, and everything there was --
12 it should have been -- it was in an office and it
13 should have been recorded, audio/video.

14 Q. Okay. Do you know if it was, in fact,
15 audio/video recorded?

16 A. I can't recall that. I just showed him
17 the -- I showed him the steps to the --

18 Q. Your impression was that it was audio
19 and video?

20 A. Yes, sir. Normally, it is.

21 Q. Okay. Did you ask him about Fat? Did
22 the name Fat come up in the conversation at all?

23 A. Only from him saying that Fat -- they
24 called him Fat and somebody's jaws.

25 Q. When he wrote that on the paper, did

1 you ask him any questions about it any further?

2 A. No, sir.

3 Q. Is there any reason why you didn't
4 question him any further?

5 A. The reason why I would not question him
6 is because, again, prior to me showing him the
7 photo lineup, I didn't know who Fat was and I
8 didn't know who the real name was. I was only
9 asked to show him the independent witness to the
10 photo lineup.

11 Q. Once they do make an identification, do
12 you follow it up and say -- I mean, he wrote on
13 there about the jaws being full?

14 A. Correct.

15 Q. Is that in response to your
16 questioning?

17 A. No, sir. Never -- I never knew an
18 alias or a real name.

19 Q. Right, and I understand that, but I'm
20 asking you, after he identified -- he circled the
21 guy?

22 A. Correct.

23 Q. And then he writes something on there.
24 And I'm asking you between when he circles it on
25 there, do you start going, okay, tell me how you

1 know him, tell me a little bit about him?

2 A. Okay. Not per se that. What happens,
3 once they identify them, they say, okay, it's this
4 person here. That's when I have them to -- that's
5 the person you believe, you circle it, put today's
6 date, your name and the time, and you write in your
7 own words the first thing that came to mind once
8 you saw that picture. Nothing further.

9 Q. So the answer is, no, you didn't ask
10 him any other questions?

11 A. No, sir.

12 Q. He just circled it and wrote that
13 himself?

14 A. Yes.

15 Q. The interview took place at Horry
16 County?

17 A. Yes, sir. One of the -- I think it's
18 the north precinct. It's in Longs, South Carolina.

19 Q. Why did you remove him from his home to
20 take him to the police station?

21 A. Better cooperation and better
22 environment.

23 Q. Better cooperation from whom?

24 A. From him.

25 Q. Why would removing him from his home

1 and putting him in a police department --

2 A. There was quite a few people at the
3 house and you can get -- there's a distraction when
4 you're at the house. So we moved him from there,
5 take him to a place where it's quiet, he and I
6 one-on-one.

7 Q. Did you ask him if he wanted to go or
8 did you say, we're going down there?

9 A. I think we asked. I'm pretty sure we
10 asked. We didn't just snatch him up.

11 Q. Did Detective Owens interview him
12 before you administered the lineup?

13 A. I'm not sure if he did or didn't.

14 Q. Do you remember not being in the room
15 when Detective Owens was in the room with him?

16 A. I understand what you're asking me;
17 however, this is a couple of years ago and I have
18 dealt with many cases since then. Everything that
19 I did, I wrote down in my statement. If it's not
20 in my statement, then I don't know.

21 Q. Your statement doesn't say anything
22 about any kind of interview.

23 A. Okay.

24 Q. All right. Give me an estimate of the
25 time frame. You go to Longs. How long before you

1 leave to go to the sheriff's department? How long
2 are you at the sheriff's department and what time
3 are you there total?

4 A. Probably less than 20 minutes at his
5 house, at which point in time we called over to
6 Horry County and had them arrange for us to meet
7 with them, a place for us to conduct an interview
8 and after that. So maybe an hour at the most round
9 trip.

10 Q. From getting to Longs to dropping him
11 back off?

12 A. Yes, sir. Just guesstimating, yes,
13 sir, maybe an hour or so.

14 Q. So that would be basically 40 minutes
15 at the police station and, basically, just dropped
16 him off when you got to Longs?

17 A. Upon completion, we took him back to
18 his mother's house.

19 Q. Did Mr. Hemingway ask, why are you here
20 again? You were just here yesterday. Why are you
21 here today?

22 A. I'm not sure of that.

23 Q. No information about that?

24 A. I'm not sure of that.

25 Q. Okay. And you don't know why you used

1 a different picture?

2 A. Yeah. Again, I wasn't aware of that.
3 I was only acting as an independent.

4 Q. All right. And nobody told you why
5 they wanted you to back on the day --

6 A. He was the case agent. You know, I'm
7 sure he talked to my supervisor and said, me and
8 Lawrence are going down to Longs.

9 Q. I'm sorry, I didn't understand that.

10 A. He's the case agent. Before we left to
11 go there, it was ran through our supervisor and
12 they confirmed that you and Lawrence go down to
13 Longs and I'll show the photo lineup. Simple as
14 that. You don't really ask questions, you know.

15 This particular one, I wasn't the case
16 agent and I had my other cases that I had to worry
17 about. And you get into all that discussion, then
18 that's when you have a problem.

19 Q. Okay. All right. So you didn't have
20 anything to do with -- they just said, go there and
21 do it, and you just walked in and showed him the
22 lineup?

23 A. Yes, sir. If I was the case agent, I
24 would just grab somebody that's not doing anything
25 and say, let's go.

1 Q. And Hemingway didn't make any
2 statements to you other than what he wrote on
3 there?

4 A. To my knowledge, no, sir.

5 Q. And if there was something important in
6 the case, that's the type of thing that would have
7 ended up in your police report?

8 A. Yes.

9 Q. And you and Detective Owen didn't talk
10 about the case at all on the two-hour drive up
11 there?

12 A. No, sir.

13 Q. And you didn't interview him about what
14 he wrote on there about the jaws or knowing him as
15 Fat or anything?

16 A. No, sir. If he said it, I had him
17 write it down. Again, I said, what I need you to
18 do is write down the first thing that came to mind
19 when you saw that picture.

20 Q. And he wrote that, you didn't write it?

21 A. Yes, sir, he wrote it.

22 MR. APOSTOLOU: Court's indulgence.

23 BY MR. APOSTOLOU:

24 Q. Mr. Lawrence, did you handcuff him at
25 any point in time?

1 A. Not that I know of. I'm not -- no,
2 sir, not to my knowledge. No, sir.

3 Q. Did you read him his Miranda Rights?

4 A. Not to show a photo lineup, no.

5 Q. So you didn't handcuff him or Mirandize
6 him?

7 A. Not to my knowledge, no.

8 Q. How did he get transported to the
9 police department?

10 A. He rode in the front seat with
11 Detective Owens and I rode in the back, or vice
12 versa.

13 Q. And is this a police cruiser or is it
14 --

15 A. Yes, sir. It should have been a Crown
16 Vic. It was a couple of years ago.

17 Q. With the lights and the whole nine
18 yards?

19 A. No lights on the top, but interior
20 lights and in the grill.

21 Q. So he rides over in the police cruiser.
22 Once he gets into the police department, you take
23 him into a room by yourself or --

24 A. We went to an interview room. It's a
25 room that we met with some of their deputies over

1 there, at which point in time they showed us --
2 took us to the interview room, put him in there.
3 And we finally got the necessary paperwork together.
4 and went in and conducted the photo lineup.

5 Q. Did they say, all right, tell us when
6 you're ready to start and we'll start the audio and
7 video recording?

8 A. I'm not sure. Maybe Detective Owens
9 went through all that with them.

10 Am I talking loud enough for you.

11 Q. Well, the mike is a little low.

12 A. Yes, sir. To answer your question, I'm
13 not sure about that. Once we went there, I think
14 Detective Owens made contact with them, he arranged
15 for all of that to happen.

16 Q. Were there any other police in the room
17 when he did that lineup, or was it just you and
18 him?

19 A. Should have been just me and -- he and
20 I.

21 Q. Should have been?

22 A. Right. Should have been he and I.

23 Q. Do you specifically remember that or
24 are you just saying that --

25 A. If somebody else was in there with me,

Charles Lawrence - Redirect Examination
by Ms. Shealy

140

1 which I don't recall, they didn't have anything to
2 do with the photo lineup that I was showing him. I
3 did that exclusively.

4 Q. I'm asking you if you remember there
5 was another officer in there?

6 A. I do not.

7 Q. Were you wearing a uniform?

8 A. Shirt and tie.

9 Q. But not a badge and hat and night
10 stick?

11 A. Yeah. We have all that. Again, this
12 was a workday; so Monday through Friday, shirt and
13 tie, yes. And I did have a badge and a gun and
14 handcuffs.

15 MR. APOSTOLOU: Okay. That's all,
16 Judge.

17 MS. SHEALY: Just a few brief follow-up
18 questions.

19 REDIRECT EXAMINATION

20 BY MS. SHEALY:

21 Q. You indicated that on the way there you
22 rode with Detective Owens, but you did not talk
23 about the case?

24 A. Yes.

25 Q. Is there a reason that you-all don't

1 talk about the case before a lineup?

2 A. Yeah. Whenever you get into that --
3 you would like to know about the case, but we don't
4 specifically talk about that, no, ma'am. The only
5 thing I was tasked to do was go show a photo
6 lineup. If I'm showing it independently myself, I
7 don't want to know who the suspect is because it
8 only -- it comes back to the -- like the types of
9 this right here.

10 Q. So you want to make sure that's
11 pristine?

12 A. Yes, ma'am, definitely.

13 Q. And you had mentioned that when you're
14 a case agent, you'll grab somebody who hasn't
15 worked the scene and wasn't working the case to go
16 show lineups?

17 A. Yes, ma'am.

18 Q. So when you were provided with a
19 lineup, you did not know who Denzel Heyward was in
20 his, and who Quasantrina was in hers, and who
21 Dashaun was in the other?

22 A. Yes, ma'am.

23 Q. But you would assume, would you not,
24 that Detective Owen must have had some information
25 to be able to compile the lineups?

Charles Lawrence - Recross Examination
by Mr. Apostolou

142

1 A. Yes, ma'am.

2 MS. SHEALY: I have no further
3 questions.

4 RECROSS-EXAMINATION

5 BY MR. APOSTOLOU:

6 Q. Did Detective Owen compile the lineups?

7 A. That's correct, he did.

8 Q. And he compiled the lineups and gave
9 them to you?

10 A. Yes, sir.

11 Q. And he did that in Charleston or once
12 you got up there?

13 A. Should have been prepared before we
14 left.

15 Q. What's that?

16 A. Prepared prior to us leaving.

17 Q. Yeah, obviously it was prepared prior
18 to you leaving. Did you become in possession of it
19 in Longs or in Charleston?

20 A. I'm uncertain of that.

21 Q. Okay. And your testimony is that none
22 of the police department talked with Hemingway
23 prior to showing him that lineup?

24 A. Not to my knowledge, sir.

25 Q. Okay. And, to your knowledge, was Mr.

1 Hemingway out of your presence talking to anybody?
2 Were you with him the whole time since you were the
3 independent examiner?

4 A. I'm not sure, sir. I mean, what you're
5 asking me, I can't -- I can't answer it. I wasn't
6 sure. I'm not sure if he was -- was there or not.
7 I know he was escorted into the room, and maybe at
8 that point in time I went and got the paperwork
9 from Detective Owens.

10 Q. This is a Biggers hearing about a
11 lineup.

12 A. I understand.

13 Q. Was Mr. Hemingway scared? Was he
14 terrified? Was he under pressure? I mean, if
15 you-all picked him up and take him into a police
16 station, how was his reaction to that?

17 A. He didn't appear to be reluctant.

18 Q. Okay. Did he appear scared?

19 A. Well, that's a place out of the norm
20 for him, so I'm sure he may have been.

21 Q. You didn't read him his rights or
22 anything like that?

23 A. There wasn't a need to, no, sir.

24 Q. And you never handcuffed him or
25 anything?

1 A. Not to my knowledge.

2 Q. And after he identified him in the
3 lineup, Detective Owen didn't go talk to him at all
4 about the identification?

5 A. I gave Detective Owen the paperwork,
6 and I believe we got him ready to go back, drop him
7 back off to the house.

8 Q. Okay. Did anybody tell him that he had
9 identified the right person?

10 A. No, sir.

11 Q. You don't do that?

12 A. We don't do that.

13 Q. Because you don't know?

14 A. I do not know.

15 Q. When did Detective Owen find out who he
16 identified?

17 A. He drew the warrants, so he would have
18 to answer that, sir.

19 Q. Right. Does he look at it while you're
20 still at the police station or does he find out
21 when he gets back to Charleston, or at least when
22 you get outside the presence of Mr. Hemingway?

23 A. Protocol is we don't inform them of
24 that. We tell them -- we don't say whether they
25 make a correct identification, but we will let them

1 know that we'll get back with them once an arrest
2 is made.

3 Q. That's what you tell the person who
4 makes the identification?

5 A. Yes.

6 Q. How about what you told Detective Owen?
7 Did you tell Detective Owen that he identified
8 somebody at that point or do you wait until after
9 Hemingway is outside of your presence?

10 A. After Hemingway is outside of our
11 presence, we let him know that he identified number
12 -- I don't know, whatever number it was. And who
13 it is, I don't know.

14 Q. But you don't tell him that until after
15 you-all dropped Hemingway off at his home in Longs
16 and starting the two-hour drive back to Charleston?

17 A. Maybe then, yeah, but it wouldn't be in
18 front of him, that's correct. It's never done in
19 front of the person that's doing the lineup.

20 Q. And because of that, then Owen wouldn't
21 have interviewed him at all about the
22 identification?

23 A. Correct.

24 Q. Did you have any other involvement in
25 this case, Officer Lawrence?

1 A. That's all I have. I didn't respond to
2 the initial scene, I just came out with Detective
3 Owens to go to Longs.

4 Q. After you got back, did you have any
5 further involvement in the case?

6 A. Just the statement that I wrote.

7 Q. And you wrote that within the next
8 couple of days after that?

9 A. Yes, sir, that's correct.

10 Q. Okay. Everything you said is true
11 today, Mr. Lawrence?

12 A. Yes, sir.

13 MR. APOSTOLOU: Okay. That's all.

14 THE COURT: You can step down.

15 MS. SHEALY: Jujuaain Hemingway.

16 JUJUAIN HEMINGWAY,

17 being first duly sworn, testified as follows:

18 THE CLERK: You may be seated. Once
19 seated, if you could please state your first and
20 last name and spell your last loudly and clearly
21 into the microphone please.

22 THE WITNESS: First and last name?

23 THE CLERK: Yes, sir.

24 THE WITNESS: Jujuaain Hemingway.

25 THE COURT REPORTER: Spell the name

Jujuain Hemingway - Direct Examination
by Ms. Shealy

147

1 please.

2 THE WITNESS: J-U-J-U-A-I-N, Hemingway,
3 H-E-M-I-N-G-W-A-Y.

4 DIRECT EXAMINATION

5 BY MS. SHEALY:

6 Q. Okay. Jujuain, we're not going over
7 all your testimony this afternoon. We're talking
8 about the lineups. Would you tell the Court -- we
9 need to address one thing briefly. On the night
10 that your brother was killed and that you were shot
11 at and that you had your head stomped, did you --
12 how many guys did you see out there that were
13 involved?

14 A. Two.

15 Q. And do you remember what color shirts
16 each had on?

17 A. White and red.

18 Q. And could you describe for the Court --
19 how good of a look did you get at them during this
20 process?

21 A. Good look. They was right in my face.

22 Q. And was one of them more in your face
23 than the other?

24 A. No.

25 Q. Okay. Can you tell the Court whether

1 or not one of them went back with you to the
2 vehicle after they had put you on the asphalt?

3 A. Say that again.

4 Q. Did one of the two guys -- let's just
5 go over this briefly. You and your brother arrived
6 in a vehicle on Cynthia Drive?

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. And what happened after you parked?

11 A. Guns got drawn on us and we got put out
12 of the car.

13 Q. Say that a little bit louder.

14 A. Guns got drawn on us and we got pulled
15 out of the car.

16 Q. And when you say guns, was there one or
17 two?

18 A. One.

19 Q. And when you got out of the car, where
20 were you forced to go?

21 A. To the back of the car, laid on the
22 ground.

23 Q. Laid on the ground?

24 A. Yeah.

25 Q. And at some point did you get up from

1 the ground?

2 A. Yeah, to open the trunk.

3 Q. And who asked you to open the trunk,
4 red shirt or white shirt?

5 A. Red shirt.

6 Q. And was he standing with you when you
7 opened the trunk?

8 A. Yes.

9 Q. And is he the person with the gun or
10 the one that stomped your head?

11 A. He stomped my head.

12 Q. Okay. So you-all were together at the
13 car, and then you saw him when they were putting
14 you on the asphalt --

15 A. Yeah.

16 Q. -- on the pavement? And you saw him
17 during the time period that you-all were out there
18 and the gun was on you; is that correct?

19 A. Yes.

20 Q. Now, what was injured on you?

21 A. My mouth, my teeth was pushed back.

22 Q. When you say pushed back, they went
23 back into your mouth?

24 A. Yes.

25 Q. Did you lose a tooth on the scene as

1 well?

2 A. Yes.

3 Q. And how many shots do you remember
4 hearing that day?

5 A. About four, I guess.

6 Q. And what type of weapon, if any, was
7 used?

8 A. Assault rifle.

9 Q. Assault rifle?

10 A. Yeah.

11 Q. Did one of the shots come near you?

12 A. Yes.

13 Q. And who got shot with the other shots
14 that you heard?

15 A. My brother.

16 Q. And after your brother got shot, what
17 did you do?

18 A. Got up and ran.

19 Q. Okay. Did the police ultimately find
20 you in a Porta-Potty that evening?

21 A. Yes, sir.

22 Q. And from there, tell the Court where
23 you were taken.

24 A. Taken to the -- ambulance had took me
25 to the hospital.

1 Q. And did you receive medical care when
2 you were at the hospital?

3 A. Yes.

4 Q. Did you learn at some point in those
5 early morning hours that your brother had died?

6 A. Yes.

7 Q. And where did you go from the hospital
8 -- that's May 17th. Okay. Where did you go from
9 the hospital that next morning or next day?

10 A. I went home.

11 Q. And when you got home, describe to the
12 Court what your house was like.

13 A. Crowded. It was crowded with a whole
14 lot of people.

15 Q. How did you react to coming home to a
16 house full of people?

17 A. Frustrated.

18 Q. At some point on the 17th, were you
19 visited by two detectives from Charleston County?

20 A. Yes.

21 Q. Could you tell the Court whether or not
22 they began asking you a bunch of questions?

23 A. Yeah.

24 Q. Did you feel like talking to them at
25 that point?

1 A. No; I didn't want to be bothered at the
2 time.

3 Q. Why did you not want to be bothered?

4 A. Because I -- I hadn't accepted the fact
5 that my brother was gone.

6 Q. Could you describe kind of what your
7 mood was like?

8 A. Angry, mad, all types of emotions.

9 Q. Okay. But did you on that day give a
10 statement to those detectives, the six-page
11 statement?

12 A. Yes.

13 Q. And I'm showing you State's Exhibit
14 Number 2. Is that your statement?

15 A. Yes.

16 Q. Court's Exhibit Number 2?

17 A. Yes.

18 Q. Prior to that, you began writing a
19 statement; is that correct?

20 A. Yes.

21 Q. I'm showing you Court's Exhibit 1.
22 That's a two-page statement; is that correct? It
23 might be three, hold on. Three-page statement; is
24 that correct?

25 A. Yes.

1 Q. So in that mood that you were in after
2 writing a three-page statement, did the officers
3 tell you you have to start all over and start
4 writing it again?

5 A. Yes.

6 Q. And did they finally leave that
7 evening?

8 A. Yeah, they finally left.

9 Q. And do you remember hearing the name,
10 Fat, that evening?

11 A. Yes.

12 Q. And who did you hear that name from?

13 A. From my brother, Kareem.

14 Q. What do you remember him telling you
15 about the name Fat?

16 A. He heard that Fat had something to do
17 with it.

18 Q. That he heard that somebody named Fat
19 had something to do with it?

20 A. Yes.

21 Q. The next day do you remember Julius
22 Alexander coming back to your house and showing you
23 two lineups?

24 A. Yes.

25 Q. And showing you what has been

1 previously marked as State's Exhibit 3. Do you
2 remember seeing that lineup?

3 A. Yes.

4 Q. Did you recognize anybody in that
5 lineup?

6 A. No, ma'am.

7 Q. Do you today recognize anybody in that
8 lineup?

9 A. No.

10 Q. Showing you States Exhibit 4. Do you
11 recall being shown this lineup?

12 A. Yes.

13 Q. That night did you recognize somebody
14 in the lineup?

15 A. Yes.

16 Q. Who did you recognize?

17 A. (Indicating)

18 Q. What number is that?

19 A. Number 3.

20 Q. Did you tell the officers that you
21 recognized him?

22 A. No.

23 Q. Why?

24 A. Because I was angry at the time,
25 frustrated.

1 Q. Why -- being angry and frustrated, why
2 did that make you not tell them about it?

3 A. Because I just lost my brother. I
4 needed time to myself.

5 Q. Did you, in fact, get some time to
6 yourself?

7 A. Yes, after all that. After they came
8 and showed me pictures and all that, I got time to
9 myself and really sat down and thought about it.

10 Q. And when you thought about it, what
11 were you trying to figure out?

12 A. Think about why my brother got taken
13 (sic) from this earth.

14 Q. Okay. Did you get visited by another
15 detective along with Detective Owens the next day?

16 A. Yes.

17 Q. What was your house like when they came
18 over that day?

19 A. Crowded.

20 Q. Did they take you somewhere else?

21 A. Yeah; took me to a precinct.

22 Q. To where?

23 A. To a precinct.

24 Q. To the police station --

25 A. Yeah.

1 Q. -- is that what you said? Did you
2 feel like you were in trouble?

3 A. Yeah, at the time.

4 Q. Why?

5 A. Because I knew I -- I pointed out -- I
6 didn't point out the identification, so I thought
7 they was coming to lock me up.

8 Q. You thought they were coming to lock
9 you up because you wouldn't identify him?

10 A. Yeah.

11 Q. Now, they didn't threaten you, did
12 they?

13 A. No.

14 Q. That's just how you felt; is that what
15 you're saying?

16 A. Yes.

17 Q. And when you got to the police station,
18 did they show you three lineups?

19 A. Three lineups?

20 Q. Let's do them one by one. Showing you
21 Court's Exhibit 5, the one shown at 19:45. Could
22 you look through this and tell us whether or not
23 they showed you this lineup?

24 A. Yes.

25 Q. Okay. And how did you indicate that

1 someone looked familiar to you?

2 A. Beard.

3 Q. Did you draw on the picture at all?

4 A. Yes.

5 Q. What did you draw?

6 A. A circle.

7 Q. And that date and that time and those
8 initials, those are your initials?

9 A. Yes.

10 Q. And who was the person that you
11 identified in that lineup? Who was he the night in
12 question?

13 A. Fat.

14 Q. But what did he do to you the night in
15 question?

16 A. That's who stomped me on the ground.

17 Q. Stomped you on the ground?

18 A. (Nodding)

19 Q. What color shirt did he have on?

20 A. Red.

21 Q. Did you indicate on the front form some
22 language indicating who he was?

23 A. Yes.

24 Q. And can you describe for us what you
25 meant by that?

1 A. Goatee, and that's it.

2 Q. He has a goatee. What about the other
3 language in that sentence? Is this your
4 handwriting?

5 A. Yes, it's my handwriting.

6 Q. Will you just read that out to the
7 Judge?

8 A. Face, fat jaws, goatee, known as Fat.
9 It was the guy in the driveway waiting for us.

10 Q. In the driveway waiting for you?

11 A. Yeah.

12 Q. Okay. Now, your brother had mentioned
13 hearing that Fat was involved. Is that what you
14 told us?

15 A. Yes.

16 Q. Did you know who Fat was? I mean, did
17 you know him before any of this?

18 A. No.

19 Q. Did anybody show you, between the 18th
20 with the first one and the 19th, a photo of that?

21 A. No.

22 Q. Did you go on Facebook or anything
23 looking for who Fat was?

24 A. No, ma'am.

25 Q. When you circled that photograph and

1 initialed it, was it based on what you had seen at
2 the scene itself?

3 A. Yes.

4 Q. So can you tell us again then why that
5 first time you didn't go ahead and tell the police
6 that?

7 A. Because I was angry at the time. I was
8 young and I was scared.

9 Q. When you made this identification, did
10 you tell Detective Lawrence or Detective Owens that
11 you really saw him in the other lineup?

12 A. Say that again.

13 Q. When you ID'd him the second time --

14 A. Uh-huh.

15 Q. -- did you tell either Detective
16 Lawrence or Detective Owens, I really knew him last
17 night but I just didn't tell you? Did you tell
18 them that?

19 A. I can't remember.

20 Q. Okay. So you don't remember having
21 that kind of conversation with them?

22 A. (Shaking head)

23 Q. Do you remember coming to talk to me in
24 our office several times?

25 A. Yes.

1 Q. And do you recall whether or not you
2 told me that?

3 A. Yes.

4 Q. Okay. Now showing you State's Exhibits
5 6 and 7. Are those the other two lineups that
6 Detective Lawrence showed you that night?

7 A. Yes.

8 Q. And you can look through those, but
9 could you identify either of those two people?

10 A. Yes.

11 Q. Could you identify them the day they
12 showed you the lineup? Did you identify anybody
13 when Detective Lawrence showed it to you?

14 A. Which date?

15 Q. This is on the 19th when Detective
16 Lawrence came and showed you two other ones. Your
17 form indicates that there was no identification
18 made. Could you identify either of those people?
19 Do you want to look through them? You have to look
20 through all the pictures. I'm not asking you if
21 you can do it now. I'm asking you, did you do it
22 then?

23 A. Did I look through all the pictures?

24 Q. Uh-huh.

25 A. No, ma'am.

1 Q. You didn't look through them?

2 A. I didn't look through all of them.

3 Q. Well, did you tell Detective Lawrence
4 that you could not identify anybody in either of
5 these?

6 A. On the 19th?

7 Q. On the 19th.

8 A. No.

9 Q. I'm not sure which way you're
10 answering. In other words, when he showed you
11 these two lineups, what do you indicate on Court's
12 Exhibit 6?

13 A. None of them look familiar.

14 Q. So did you look at all the photographs
15 when he showed them to you on the 19th?

16 A. Yes.

17 Q. And did anyone look familiar?

18 A. No.

19 Q. And then regarding State's Exhibit 7,
20 did anyone look familiar?

21 A. No.

22 Q. Okay. Now, since then, you have seen
23 the other Defendants in bond hearings and all; is
24 that correct?

25 A. Yes.

Jujuain Hemingway - Cross Examination
by Mr. Apostolou

162

1 Q. But on the 19th, when you were asked to
2 look at the other IDs, you couldn't make an ID?

3 A. No, ma'am.

4 MS. SHEALY: I have no further
5 questions. Answer any that the defense may have.

6 CROSS-EXAMINATION

7 BY MR. APOSTOLOU:

8 Q. When is the first time you see these
9 individuals?

10 A. The night this occurred.

11 Q. Right. Right, I understand that. But
12 once you're on the roadside, where on the roadside
13 is the first time that you seen them? You and your
14 brother pull up at this location, Cynthia Avenue?

15 A. Yes.

16 Q. You don't know why you're going there,
17 right? I need you to answer.

18 A. Yes, sir.

19 Q. Okay. But you're driving, right?

20 A. Yes.

21 Q. You pull up. And when do you first see
22 the Defendants in this case?

23 A. When I was pulling up, somebody was in
24 the driveway, red shirt was in the driveway.

25 Q. Was in the driveway?

1 A. Yes.

2 Q. And the person with the red shirt was
3 in the driveway?

4 A. Yes.

5 Q. And you stopped the car?

6 A. Yes.

7 Q. Did you see him -- I'm just trying to
8 find out when you first saw him. Did you see him
9 before you stopped the car or after your stopped
10 the car?

11 A. Before.

12 Q. So before you stopped the car. And
13 then you stopped the car, right?

14 A. Yes.

15 Q. Okay. And then how soon does it turn
16 into -- we'll call it a crime scene for lack of a
17 better term?

18 A. When did it turn into a crime scene?

19 Q. Yes.

20 A. When my brother got shot. That's when
21 it turned into a crime scene.

22 Q. Okay. Okay. All right. Let's talk
23 about your mental state. Did you have any drugs or
24 alcohol that night that would have impaired -- did
25 you have any drugs or alcohol?

1 A. Smoked some weed.

2 Q. Smoked some weed?

3 A. Uh-huh.

4 Q. When did you smoke weed?

5 A. On the way out there.

6 Q. On the drive down from Longs?

7 A. Uh-huh.

8 Q. Okay. And that's about two hours?

9 A. Yeah.

10 Q. Okay. Any alcohol?

11 A. No.

12 Q. Okay. So you had smoked some marijuana
13 that night?

14 A. Yes.

15 Q. Okay. And that was prior to viewing
16 the Defendants, correct?

17 A. Yeah.

18 Q. Okay. So as I understood your
19 testimony, and obviously this is about the lineup,
20 but I have seen your testimony, they pull you out
21 of the car at some point, right?

22 A. Yeah.

23 Q. Okay. How long before -- when they
24 pull you out of the car until the shots are fired?

25 A. About five, ten minutes.

1 Q. Five or ten minutes?

2 A. Yes.

3 Q. And my client, Mr. Heyward, he didn't
4 have a gun in his hand at that time; is that
5 correct?

6 A. No.

7 Q. Okay. And so five or ten minutes
8 between when they pull you out of the car until the
9 shots are fired?

10 A. Yeah.

11 Q. And during this time period, you're
12 observing my client; is that correct?

13 A. Yeah.

14 Q. Okay. All right. You said that you
15 got up and went to the trunk area?

16 A. Yeah.

17 Q. And one of the Defendants went with
18 you?

19 A. Yeah.

20 Q. And which Defendant was that?

21 A. Person in the red.

22 Q. The person in the red?

23 A. Yes, sir.

24 Q. Okay. Okay. You had never been down
25 to Charleston before?

1 A. No.

2 Q. And you came with your brother that
3 night?

4 A. Uh-huh.

5 Q. So you had never seen Denzel Heyward
6 before?

7 A. No.

8 Q. And the name Fat -- you testified when
9 Ms. Shealy was asking you questions that you heard
10 it from, I believe, your brother, Kareem?

11 A. Yeah.

12 Q. That's the first person that told it to
13 you?

14 A. Yes.

15 Q. That was after this whole incident and
16 actually the next day when you were in Longs; is
17 that correct?

18 A. Yeah.

19 Q. Okay. But that day out on the
20 roadside, you never heard the name, Fat?

21 A. No.

22 Q. Okay. And you didn't know his real
23 name?

24 A. No.

25 Q. Okay. Let's talk about the lineup a

1 little bit. So you get released from the hospital.
2 here in Charleston?

3 A. Yes.

4 Q. And then you go back up to Longs; is
5 that correct?

6 A. Yes.

7 Q. And then they come up and interview
8 you?

9 A. Uh-huh.

10 Q. Right?

11 A. Yes.

12 Q. And you do the two statements Ms.
13 Shealy asked you about?

14 A. Yes.

15 Q. And during the interview the officers
16 asked you if you knew Fat, or Fats, I believe it
17 was; is that correct?

18 A. Yes.

19 Q. And you said you didn't know him?

20 A. Uh-huh.

21 Q. Is that correct?

22 A. Yeah, that's correct.

23 Q. Okay. And then they take the two
24 statements from you. After you write the first one
25 they basically say, I don't believe you, and they

1 had you write a second one; is that correct?

2 A. Yeah.

3 Q. And then you wrote that second
4 statement. So everything in the second statement,
5 is that correct? That's the true version of it?

6 A. Yeah.

7 Q. Okay. And then the next day they come
8 back and give you a lineup. Do you have any idea
9 how they got -- they developed Denzel Heyward -- do
10 you know if he was in that lineup the next day, May
11 18th?

12 A. Yeah, I know he was in the lineup.

13 Q. I'm sorry, do you know how he came to
14 be in the lineup?

15 A. No.

16 Q. They just pulled you aside and said,
17 hey, we want to show you a lineup?

18 A. Yeah.

19 Q. And as I understood Ms. Shealy's
20 testimony -- your testimony to Ms. Shealy was that
21 you did recognize him in that lineup?

22 A. Yeah.

23 Q. What did you recognize him from?

24 A. Right in my face, the beard.

25 Q. You recognized him from the roadway?

1 A. Yes.

2 Q. Not from somewhere else?

3 A. No.

4 Q. That's where you recognized him from,
5 that roadway?

6 A. Yeah.

7 Q. How sure are you of that
8 identification?

9 A. He was right in my face.

10 Q. Okay. How much time were you in his
11 presence?

12 A. Five or ten minutes.

13 Q. Five or ten minutes?

14 A. Yeah.

15 Q. And so they show you the lineup. Do
16 you recognize it instantly?

17 A. Took me a minute to identify him.

18 Q. It took you a minute?

19 A. Yes.

20 Q. Okay. But at some point in that lineup
21 you recognized him?

22 A. Yeah.

23 Q. They showed you two other lineups -- or
24 they showed you one other lineup, I'm sorry, on the
25 18th. Did you recognize that person?

1 A. Yeah.

2 Q. Did you recognize the person in the
3 other lineup as well?

4 A. Yeah.

5 Q. Who was that person?

6 A. Say that again. I'm confused.

7 Q. They showed you two lineups on the
8 18th. One involved Mr. Heyward, my client.

9 A. Yeah.

10 Q. And there was another person involved.
11 They showed you another lineup.

12 A. Yeah.

13 Q. You said you didn't recognize either
14 one of them?

15 A. Uh-huh.

16 Q. Now, as I understand your testimony,
17 you did recognize Mr. Heyward on the 18th?

18 A. Yeah.

19 Q. But you chose not to identify him to
20 the police?

21 A. Yeah.

22 Q. But you did not recognize the other
23 person at all?

24 A. No.

25 Q. And you still don't recognize him, or

1 you do know who he was?

2 A. Yeah, I know him.

3 Q. You know him now?

4 A. Yeah.

5 Q. Who is it?

6 A. The other person you got.

7 Q. The other person locked up?

8 MS. SHEALY: Your Honor, I apologize
9 for objecting, but could I ask that he be shown the
10 lineup just so he knows which one he's talking
11 about?

12 THE WITNESS: You're confusing me.

13 BY MR. APOSTOLOU:

14 Q. This is the first one and this is the
15 second one. As I understand your testimony, Mr.
16 Hemingway, you saw Mr. Heyward?

17 A. Yes.

18 Q. You recognized him and didn't say
19 anything?

20 A. Yeah.

21 Q. You ultimately said you didn't
22 recognize either one of them. Now we know that you
23 recognized Mr. Heyward. Did you recognize the
24 other person in that photo lineup?

25 A. No.

1 Q. Do you recognize him now?

2 A. No.

3 Q. So that one was truthful, but
4 Mr. Heyward was not truthful?

5 A. Yeah. Mr. Heyward was truthful, this
6 one right here is not truthful.

7 Q. Okay.

8 A. You're trying to confuse me.

9 Q. All right. Can you tell me why you
10 didn't tell the officers that you did recognize
11 him?

12 A. Say that again.

13 Q. Why did you tell them on the 18th that
14 you didn't recognize him?

15 A. I just told you that.

16 Q. Well, can you tell me again?

17 A. Because I was angry at the time.

18 Q. Okay. And why would being angry at the
19 time have anything to do with --

20 A. Because I just lost my brother. I was
21 young.

22 Q. All right. Okay. And then on the
23 19th, they come back to see you with another
24 lineup?

25 MR. APOSTOLOU: Your Honor, may I

1 approach and just take the exhibits that I showed
2 him?

3 BY MR. APOSTOLOU:

4 Q. When did you become aware of Denzel
5 Heyward's real name?

6 A. When identified -- when the detectives
7 came and questioned me.

8 Q. When the detectives came and questioned
9 you on what day?

10 A. The last day they came and questioned
11 me.

12 Q. What's that?

13 A. The last day they came and questioned
14 me.

15 Q. Okay. Are you talking about the 18th,
16 the day you got out of the hospital?

17 A. Yeah. No, the -- the last day they
18 questioned me.

19 Q. When was that?

20 A. You got it on the paperwork.

21 Q. Okay. Perhaps you could just answer
22 the question.

23 A. May 19th, I'm supposing, or May 29th,
24 something like that.

25 Q. So the third day when you took the

1 lineup --

2 A. Yeah.

3 Q. -- they told you Denzel Heyward's real
4 name?

5 A. No, I don't think they told me his
6 name.

7 Q. Okay. When did you learn his real
8 name?

9 A. When they start going to the -- when he
10 got locked up.

11 Q. After he had been arrested?

12 A. Yeah.

13 Q. Let's talk about the 19th lineup. They
14 come to see you the day after they were there, the
15 18th?

16 A. Yes.

17 Q. Did anyone explain to you why?

18 A. Why they came to see me May 18th?

19 Q. No. Why they came back on the 19th,
20 the day after --

21 A. Nobody didn't explain why.

22 Q. Nobody explained why?

23 A. No.

24 Q. Did you ask why?

25 A. No.

1 Q. Did you say, hey, I just looked at
2 these lineups and the answer is, no, I didn't
3 recognize him?

4 A. No.

5 Q. Okay. So when they came to you, they
6 ended up -- it was Detective Owens and Detective
7 Lawrence; is that correct?

8 A. Yes.

9 Q. Okay. And they ended up taking you to
10 the police department?

11 A. Yes.

12 Q. Okay. Did they handcuff you?

13 A. No.

14 Q. Did they read you your rights?

15 A. No.

16 Q. They just took you there?

17 A. Yes.

18 Q. You went to the police department?

19 A. Uh-huh.

20 Q. And you did the lineup?

21 A. Yeah.

22 Q. And you were able to identify
23 Mr. Heyward?

24 A. Yes.

25 Q. And, again, that's -- you're

1 recognizing him from the events that happened on
2 the roadway only; is that correct?

3 A. Say that again.

4 Q. When you positively identified him,
5 just -- you recognized him from the events that
6 happened on the roadway?

7 A. Yes.

8 Q. Nobody had told you at that point --
9 your brother had told you Fat was involved?

10 A. Yeah.

11 Q. But you didn't know who that was?

12 A. Right.

13 Q. And you didn't find out his real name
14 until after he got arrested, right?

15 A. Yeah.

16 Q. So did you -- in that time period
17 between the 18th and the 19th, did you see anything
18 or learn anything that helped you identify --

19 A. No.

20 Q. Let me -- what was your answer?

21 A. No.

22 Q. So you learned nothing in between
23 there?

24 A. No.

25 Q. Okay. Did Officer Owens talk to you at

1 all before the lineup on the 19th?

2 A. No.

3 Q. So they came in, they said, hey, we
4 want to take you and have you look at another
5 lineup?

6 A. Yes.

7 Q. Did you find it odd that they would
8 have the same person in the lineup that you
9 recognized from the 18th and now he's in the lineup
10 on the 19th?

11 A. Yeah.

12 Q. You did find that odd?

13 A. They had to know something that I
14 didn't know. They had to know something that I
15 didn't. They keep showing me the same picture.

16 Q. I'm sorry, could you say that again?

17 A. They had to know something that I
18 didn't know. They kept showing me the same
19 picture.

20 Q. They had to know something you didn't
21 know if they were showing you the same picture?

22 A. Yes.

23 Q. Did the fact that his picture was in
24 the lineup on the 18th impact your decision to
25 identify him on the 19th?

1 A. Say that again.

2 Q. The fact that he was -- his picture was
3 in the pictures on the 18th, and then they showed
4 you another lineup on the 19th with the same guy in
5 it, did that have any impact on your
6 identification?

7 A. No.

8 Q. It didn't have any impact?

9 A. No.

10 Q. Did you think it was odd that he'd be
11 in the same picture -- the same lineup twice?

12 A. I thought it would be something to it,
13 but I didn't think it was a problem.

14 Q. You think there had to be something to
15 it. Okay. All right. You said they must have
16 known something; is that what you said?

17 A. Yeah.

18 Q. Okay. All right. Had you had any
19 drugs or alcohol on the 19th when you went to the
20 police station?

21 A. No.

22 Q. Okay. No marijuana at that time?

23 A. No.

24 Q. All right. Okay. Were you
25 intimidated, scared?

1 A. Yeah.

2 Q. When they took you to the police
3 station?

4 A. Uh-huh.

5 Q. It's an uncomfortable spot, isn't it?

6 A. Yeah.

7 Q. Who was in the room when you identified
8 them?

9 A. Two detectives.

10 Q. Two detectives. Who were they?

11 A. I don't know.

12 Q. One of them was Officer Lawrence, I'll
13 help you out. Was the other one, Officer Owens
14 that's present in the courtroom today?

15 A. Yes.

16 Q. So those two were in the room when you
17 did the lineup?

18 A. Yes.

19 Q. Did they interview you at all or did
20 they just show you the lineup?

21 A. They interviewed.

22 Q. They interviewed you? They asked you
23 questions?

24 A. Yes.

25 Q. Okay. What type -- how long did they

1 interview you for?

2 A. About 30 or 45 minutes.

3 Q. 30 or 45 minutes in the police
4 department?

5 A. Yeah.

6 Q. Okay. What type stuff did they tell
7 you in the interview? What did they tell you?

8 A. They didn't tell me nothing. They just
9 asked me questions.

10 Q. They just went over the stuff that
11 happened -- that the same officers had asked you on
12 the 17th?

13 A. Yeah, basically.

14 Q. Okay. Did they tell you any new
15 information that you didn't know?

16 A. No, not that I can remember.

17 Q. So they went over the testimony again?

18 A. Yeah.

19 Q. Okay. After you identified Denzel in
20 that second lineup on the 19th, did anyone tell you
21 you had picked the right person or anything like
22 that?

23 A. No.

24 Q. Nobody said that to you?

25 A. Huh-uh.

1 Q. After you identified him, did anybody
2 interview you or tell you anything after that?

3 A. Huh-uh.

4 Q. So you pretty much identified him and
5 went home?

6 A. Yeah.

7 MR. APOSTOLOU: Can I approach the
8 witness, Judge?

9 THE COURT: Yes.

10 BY MR. APOSTOLOU:

11 Q. Mr. Hemingway, I'm showing you what has
12 been marked as State's Exhibit Number 5. That's
13 correct. And this is the one where you identified
14 Mr. Heyward; is that correct?

15 A. Uh-huh.

16 Q. Can you read what that says there?
17 Just what you wrote on there.

18 A. This face --

19 Q. If you can read it aloud please.

20 A. He got fat jaws, a goatee, know him as
21 Fat. That was the guy standing in the driveway
22 waiting for us.

23 Q. Okay. Do you know whether your
24 brother, Kadeem, I'm sorry, knew Fat or not?

25 A. No.

1 Q. Do you know or did he not know him?

2 A. You said did I know that he knew him?

3 Q. Do you know whether Kadeem knew Denzel
4 Heyward or not?

5 A. No.

6 Q. You don't know or he did not know him?

7 A. Say that again.

8 Q. Do you know whether your brother,
9 Kadeem, knew Denzel Hayward?

10 A. No.

11 Q. Okay. Now, I'm asking you -- your
12 answer is no to my question, right?

13 A. Uh-huh.

14 Q. Now I'm asking you, it's -- you don't
15 know or Kareem didn't know him -- Kadeem did not
16 know him?

17 A. Which one you're talking about, Kadeem
18 or Kareem?

19 Q. I'm sorry?

20 THE COURT: Why don't you ask him if he
21 knows whether his brother knew him?

22 BY MR. APOSTOLOU:

23 Q. Do you know whether your brother knew
24 him?

25 A. No.

1 Q. So you don't know or your brother
2 didn't know him?

3 MS. SHEALY: Objection. Your Honor, we
4 may need to clarify which brother.

5 MR. APOSTOLOU: I'll move on.

6 BY MR. APOSTOLOU:

7 Q. Did Kadeem know him?

8 A. You're asking me did Kadeem know him?

9 Q. Yes.

10 A. I don't know if he knew him or not.

11 Q. Did Kareem know him?

12 A. No.

13 Q. Okay. But you didn't know him?

14 A. No.

15 Q. When you identified him on the 19th,
16 were you scared, intimidated, or did you know him
17 -- did you just identify him from being on the
18 roadside?

19 A. I just identified him from being on the
20 roadside.

21 MR. APOSTOLOU: Beg the Court's
22 indulgence.

23 BY MR. APOSTOLOU:

24 Q. After you identified him, they dropped
25 you back off at your house?

Jujuain Hemingway - Redirect Examination
by Ms. Shealy

184

1 A. Yes.

2 Q. And at some point you met with Ms.
3 Shealy over here from the State, and you told them
4 that you had recognized him but you chose not to
5 tell them; is that what my understanding is?

6 A. Yes.

7 Q. Why did you come forward with Ms.
8 Shealy at that point?

9 A. Because that's the question and answer.

10 Q. Some of the items were stolen out of
11 the back of your car. Was my client the individual
12 that carried those items away from your car?

13 A. Yes.

14 Q. He was.

15 MR. APOSTOLOU: Okay. I have nothing
16 else.

17 THE COURT: Do you need any redirect?

18 MS. SHEALY: Yes.

19 REDIRECT EXAMINATION

20 BY MS. SHEALY:

21 Q. Mr. Apostolou was asking you about
22 meeting with me. Can you tell the Court who has
23 met with you for a longer period of time, our
24 office or the police?

25 A. You.

1 Q. Okay. And so you indicated that when
2 they took you to the police station, that after you
3 did the lineup, Detective Owens did ask you some
4 more questions; is that right?

5 A. After he did the lineup?

6 Q. After you did the lineup.

7 A. No.

8 Q. That he talked to you some more?

9 A. Yes, a little bit more.

10 Q. Let me clarify about your two brothers.
11 Do you know whether Kadeem knew Fat?

12 A. Did I know he knew him?

13 Q. Yes. Did you know whether he knew Fat?

14 A. No.

15 Q. And did you know whether your brother,
16 Kareem, knew Fat?

17 A. No.

18 Q. Could you tell the Court, on your trip
19 from Longs to Johns Island, was your brother on the
20 phone?

21 A. Yes, he was on the phone.

22 Q. And was he talking on the phone and
23 texting on the phone?

24 A. Yes.

25 Q. When you arrived at the scene, the guy

Jujuain Hemingway - Recross Examination
by Mr. Apostolou

1 in the red shirt, who you've indicated is Denzel
2 Heyward, did he approach the car and appear to know
3 your brother?

4 A. Yes.

5 MS. SHEALY: I have nothing further.

6 RECROSS-EXAMINATION

7 BY MR. APOSTOLOU:

8 Q. Jujuain, I asked you this, but I don't
9 know if I paid attention to your answer, I
10 apologize for that. Why did you tell Ms. Shealy at
11 the first meeting that you had not been truthful
12 with the officers about the lineup on the 17th?

13 A. Because I said I was angry at the time.

14 Q. I understand, but she wouldn't have
15 known the difference. You brought that to her --
16 did somebody ask you why did you not -- why
17 couldn't you identify him on the 18th and why could
18 you on the 19th?

19 A. She asked me why I didn't. And I told
20 her.

21 Q. When you wrote on there you said, I
22 know him as Fat. Did you mean you recognized him
23 as the person that law enforcement has referred to
24 as Fat?

25 A. Yes.

Kareem Hemingway - Direct Examination
by Ms. Shealy

1 MR. APOSTOLOU: Okay. All right.

2 That's all I have, Judge.

3 THE COURT: You can step down.

4 MS. SHEALY: You can step down,
5 Mr. Hemingway.

6 Kareem Hemingway.

7 KAREEM HEMINGWAY,

8 being first duly sworn, testified as follows:

9 THE CLERK: You may be seated. Sir,
10 once seated, if you could please, state your first
11 and last name and spell your last loudly and
12 clearly into the microphone.

13 THE WITNESS: Kareem Hemingway,
14 K-A-R-E-E-M, H-E-M-I-N-G-W-A-Y.

15 DIRECT EXAMINATION

16 BY MS. SHEALY:

17 Q. Kareem, I just have a couple of
18 questions for you. Advise the Court please how you
19 are related to Jujuain Hemingway.

20 A. That's my brother, my youngest brother.

21 Q. And Kadeem Chambers was who to you?

22 A. My brother also.

23 Q. You have different mothers, you and
24 Kadeem?

25 A. Right.

1 Q. Have different mothers? And Jujuaain
2 and Kadeem have different mothers; is that correct?

3 A. Right.

4 Q. Now, on May 17th, did you get a phone
5 call from your mother?

6 A. Yes.

7 Q. And what were you asked to do?

8 A. I got a call saying that my brother was
9 -- he had passed away, and I went to -- to my mom's
10 house.

11 Q. What was the reason for you to go to
12 your mother's house?

13 A. Make sure that everything was secure.
14 You know, make everything was in place.

15 Q. And when you got to your mother's
16 house, did people begin coming over there?

17 A. Correct.

18 Q. Could you describe to the Court, were
19 there a number of people that came or just a few?

20 A. Probably 15 to 20.

21 Q. While you were there with the people
22 that were coming by the house, could you advise the
23 Court whether or not you heard a nickname who was
24 involved in this incident?

25 A. Yeah. I was listening to some people

1 talking and they said Fats, the nickname.

2 Q. Fats?

3 A. Yeah.

4 Q. Okay. Did that name mean anything to
5 you? Did you know anyone named Fats?

6 A. Not at that time.

7 Q. Now, your brother, Kadeem, did he go to
8 South Carolina State?

9 A. Yeah, I think he did.

10 Q. And were there friends of your brother,
11 Kadeem's, that were over at your mother's house
12 that day?

13 A. Yeah, mostly everybody was family and
14 friends that was there.

15 Q. Family and friends?

16 A. Yeah.

17 Q. But that would include friends of
18 Kadeem?

19 A. Correct.

20 Q. And when you say people were spreading
21 the word, Fats was involved, were those the friends
22 of Kadeem?

23 A. I mean, I never seen them around. It
24 was people that -- friends of his, you know.

25 Q. You don't know who they were?

1 A. Huh-uh.

2 Q. But they were at your mother's house?

3 A. People that were talking, I don't know
4 who they were. I was listening to them talk. It's
5 how I got that.

6 Q. How you got that nickname?

7 A. Yeah.

8 Q. Now, that evening, the evening of the
9 17th, were you at home when Detective Khan and
10 Detective Alexander came over to your mother's
11 house?

12 A. Correct.

13 Q. And were you in and out of the room
14 when they were questioning Jujuain?

15 A. Correct.

16 Q. Do you remember sharing that
17 information, the name Fats?

18 A. Correct.

19 Q. Now, between the dates of the 17th of
20 May, to the 18th of May, to the 19th of May, did
21 you ever go try to figure out who Fats was?

22 A. No.

23 Q. Did you share with Jujuain who you
24 thought Fats was?

25 A. Huh-uh.

Argument - Motion to Suppress
Identification Evidence

191

1 Q. Did you make any attempt to find a
2 photograph of Fats?

3 A. No.

4 Q. Did you have a first name or a last
5 name?

6 A. No.

7 MS. SHEALY: I have no further
8 questions. Answer any that the defense may have.

9 THE WITNESS: All right.

10 MR. APOSTOLOU: We have no questions,
11 Judge.

12 THE COURT: You can step down.

13 Any other witnesses?

14 MS. SHEALY: No. All right. Richard,
15 you're going to have to wait outside. I'm going to
16 ask Jujuaian also to step outside, Hemingway.

17 Okay.

18 THE COURT: All right.

19 MS. SHEALY: So, Judge, while this is
20 an unusual lineup process, it is certainly not a
21 suggestive lineup process. It is one that the
22 defense attorneys can meticulously cross-examine.
23 Mr. Hemingway has testified that he neither told
24 the first officer or the second officer, nor any
25 officer, that he could identify Mr. Hemingway when

1 he was shown the first lineup in question. I don't
2 see anything violative of the law in being able to
3 go into this in front of the jury.

4 THE COURT: You don't consider it a
5 problem that they showed up with two different
6 lineups with one only person the same in both of
7 them.

8 MS. SHEALY: I would consider it a
9 problem if he did not say he saw him the first
10 time, he knew it when he saw it the first time.
11 That would be a different situation.

12 THE COURT: That would be a different
13 prong. The first prong on Biggers is unduly
14 suggestive, and I think we need to focus in on this
15 -- on the first prong. Are you conceding that
16 showing up with a prong or with a -- one person
17 that's -- only one person in the same two is unduly
18 suggestive.

19 MS. SHEALY: I think that would be a
20 problem.

21 THE COURT: That's exactly what
22 happened here.

23 MS. SHEALY: I do, but --

24 THE COURT: Even though the process
25 might have been unduly suggestive, it is

1 nevertheless a reliable identification.

2 MS. SHEALY: Yes, Your Honor.

3 THE COURT: And that is because --

4 MS. SHEALY: Because he has testified
5 that at the time that he saw the first lineup, he
6 knew who it was that he recognized. It was the guy
7 in the red shirt. He was 17 years old, he had just
8 been, you know, in this horrendous event, and was
9 unwilling to tell the police that that night.

10 He has testified that he was scared and
11 thought he better come clean when he went to the
12 police station on the 19th to be shown the second
13 lineup. But he has indicated that he recognized
14 him in the first lineup as he recognized him in the
15 second lineup.

16 THE COURT: Okay. Mr. Apostolou?

17 MR. APOSTOLOU: Judge, we would move to
18 suppress the lineup. I think his testimony was
19 that they must have known something because he was
20 in the lineup twice, and I think you heard the
21 evidence and I think the lineup was suggestive.

22 THE COURT: Well, I find that the
23 lineup was unduly suggestive because they showed up
24 with a lineup with the Defendant in it, and then
25 24 hours later showed up with a different lineup,

1 but there was one picture that was the same and
2 that was the Defendant. And as the one witness
3 said, well, that suggested to me they knew
4 something. And then I think it taints that lineup
5 and makes it unduly suggestive; however, that's
6 just the first prong of the analysis.

7 The second prong is, even though it was
8 unduly suggestive, it was nevertheless reliable.
9 And considering Mr. Jujuaín Hemingway's testimony
10 that he, in fact, was able to identify Mr. Heyward
11 on the first day, but just chose to just not
12 verbalize that because he was angry suggests to me
13 that he was not, in fact, influenced by the second
14 lineup. He stated, yeah, that suggested to me that
15 they knew something that I didn't know, but at the
16 same time he states that he had already made the
17 identification. So the second one didn't influence
18 his first -- it couldn't have influenced his first
19 lineup, so -- or his first identification.

20 So even though the lineup procedure
21 combined -- combining the two was unduly
22 suggestive, I don't think it was unreliable because
23 of the unique -- very unique circumstances of Mr.
24 Hemingway stating that he had, in fact, already
25 identified it, but because of his anger and his

1 youth had decided not to share that identification
2 with police.

3 All right. So your motion to suppress
4 that will be denied.

5 All right. Well, we have gotten off to
6 a really slow start. I suggest we get a bright and
7 early start on Wednesday morning, say 9:00, and be
8 read to roll for opening arguments.

9 MR. MCCOY: Judge, no way to do
10 openings today?

11 THE COURT: Well, we can. Is that a
12 problem with anybody.

13 MR. APOSTOLOU: Judge, if we're going
14 to do one opening, we need to do all three
15 openings.

16 MR. MCCOY: I'm not saying do one, I'm
17 saying do all of them.

18 MR. APOSTOLOU: I think --

19 THE COURT: We're talking about ten
20 minutes maybe, each. You're not trying the case.

21 MR. APOSTOLOU: I understand. I
22 understand.

23 THE COURT: I don't usually let people
24 get way into the weeds on opening statements;
25 otherwise, that makes it sound like you're

1 testifying. Do you have a ten-minute opening that
2 you can do? That gives us something we can give to
3 the jury for all the time they've been sitting
4 there.

5 MR. APOSTOLOU: My experience as a
6 defense attorney has been that --

7 THE COURT: Well, I'll give you ten
8 minutes to monitor yourself, and after ten minutes
9 I'll start making loud noises. How about that.

10 MS. SHEALY: Can we take a really quick
11 rest room break?

12 THE COURT: All right.

13 (A recess transpired.)

14 (Jury in, 5:04 p.m.)

15 THE BAILIFF: All jurors present, Your
16 Honor.

17 THE COURT: All right. Sorry for the
18 delay, folks, but we've had some pretrial matters
19 that we needed to deal with and we still have a few
20 more to deal with. So rather than start with
21 opening statements this afternoon, I'm going to go
22 ahead and send you home and we'll continue to work
23 here for a little bit. We'll get started Wednesday
24 morning. Tomorrow is a State holiday and the
25 courthouse is closed, so we will crank up Wednesday

1 morning.

2 If you would, be back in the jury room
3 there a little bit before 9:00. We don't usually
4 start until 9:30, but we're going to try to get
5 going a little bit earlier, and we might work a
6 little bit later than the normal 5:00 so that we
7 can try to get this wrapped up by Friday afternoon
8 for you.

9 Now, when you go home, obviously, the
10 first thing somebody says is, did you get picked on
11 a jury? And you can say, yeah, I did, but I can't
12 talk to you about it because the Judge told me I
13 couldn't. And for starters, you don't know
14 anything about it at this point, but this is the
15 standard sort of charge that I give you whenever we
16 break. But the fundamental reason why we don't
17 have you discuss the case with anybody is because
18 it's not fair to anybody.

19 You're promising --- and you'll take an
20 oath Wednesday morning when we start to make your
21 decision based on what you hear in this courtroom
22 as evidence and that alone. And it's not fair to
23 anybody, the State or the Defendants, to have other
24 people influencing your decision-making. They
25 weren't here. They didn't -- they'll only be

1 giving you their uneducated opinion, and that would
2 be an improper influence for you.

3 Really, stop and think about if you
4 were involved in a case like this. You sure
5 wouldn't want to have one of your jurors' husband,
6 wife, girlfriend, boyfriend, next-door neighbor,
7 bartender, talking away about a case they don't
8 know anything about. So for that reason alone,
9 don't do it, but it really is improper for you to
10 do that. And so please refrain from discussing the
11 case with anyone else, including other members of
12 the jury.

13 You know, one of the things that we'll
14 discuss on Wednesday is, you have to keep an open
15 mind until you've heard all the evidence. And, you
16 know, people change their mind about things as they
17 hear different things, even from the time the first
18 question's asked of the witness until the last
19 question is asked of a witness. So until you hear
20 all of the evidence, it's not proper for you to
21 make up your mind as well.

22 Those same instructions I gave you when
23 we broke for lunch about not putting anything up on
24 the internet, you know, and posting things on
25 Facebook or Twitter or any social media is

Argument - Motion to Suppress
Character Evidence

199

1 improper. Please don't do that. Please don't go
2 on the internet and try to find out the case. I
3 don't know if there were any newspaper articles
4 written about the case ever, but we do have some
5 court records online now. Again, it's not proper
6 for you to go and start doing your own
7 investigation. You know, it sounds a little bit
8 goofy to warn you about that, but people get
9 invested once they get on a jury. They don't
10 necessarily want to be here, but once they get on
11 it they really get into it.

12 So, please remember, everything that
13 you need to make a decision on this case we will
14 present to you in this courtroom. All right. So
15 go home, enjoy your evening, and please be in the
16 jury room about 8:50 if you could so that we can
17 get started right at 9:00 on Wednesday morning.
18 Please enjoy your holiday tomorrow and thank you
19 for your patience today.

20 (Jury out, 6:09 p.m.)

21 THE COURT: All right. I know we
22 talked about some of your motions. I thought we
23 had agreed that most of them would be handled as
24 they came up just before trial, but what else do
25 you need to be heard today.

1 MR. APOSTOLOU: Well, Judge, one of the
2 witnesses that is actually a co-Defendant is
3 Mr. Heyward's -- the mother of his child. It
4 appears that she is going to be testifying for the
5 State. There have been allegations by her in her
6 statement about physical abuse from Mr. Heyward.
7 He was at one time charged with a criminal domestic
8 violence charge with her as a victim; that case was
9 dismissed. He's never been convicted of any type
10 of domestic violence type of situation. In fact,
11 he doesn't have a conviction on his adult record at
12 all.

13 THE COURT: This is his wife, former
14 wife, or just the mother of his children?

15 MR. APOSTOLOU: Mother of his child.

16 THE COURT: Okay.

17 MR. APOSTOLOU: And we don't want to
18 have Quasantrina get up on the stand and make these
19 unfounded allegations about physical abuse from
20 him. That paints him in an ugly light. We have a
21 large number of ladies on the jury. We don't want
22 them thinking, well, he's a bad guy regardless of
23 that, and we are hoping to exclude her testimony.
24 It's not relevant at all as to whether he committed
25 the crimes that he's accused of. It's certainly

1 not a part of any elements of the crime. She's not
2 the victim of the crime. She's just a cooperating
3 co-Defendant.

4 THE COURT: What's the State -- were
5 you planning on trying to offer any of that?

6 MS. SHEALY: I am, Your Honor. Let me
7 tell you this -- kind of the incident -- well,
8 first, let me start with this. She is the person
9 who drove them to the scene that evening. She is
10 also the person who two days later turned herself
11 in before their names had ever been mentioned,
12 turns herself in before her name or their names are
13 ever mentioned and tells the police what happened.

14 As with a lot of females in crime,
15 there's some complication to her relationship with
16 Mr. Heyward. She has continued to go see him at
17 the jail and her name appears on the visitor's logs
18 when she takes her child to go see him. She
19 exhibits behavior that I think the jury is entitled
20 to understand, that there was a physical component
21 to this that frightened her and that she very much
22 was sort of under the spell of Denzel Heyward.

23 THE COURT: A physical component to
24 this. What does that mean?

25 MS. SHEALY: To her behavior. To her

1 -- for example, continuing to go see him at the
2 jail.

3 THE COURT: What does that have to do
4 with abuse that took place before this?

5 MS. SHEALY: You can tell from his jail
6 recordings that we're going to offer as well, he is
7 a master manipulator of her. When she acts bad, he
8 acts bad physically towards her. Then he tries to
9 woo her back and her conduct then conforms. There
10 have been incidents, including the one that
11 evening, where he's smacking her and pulling her
12 hair before they go out to Cynthia Avenue.

13 I think, without describing the nature
14 of their relationship, that the jury is going to be
15 kind of in a vacuum not understanding why someone
16 who has given the information against him would
17 still feel compelled to go see him at the jail.

18 THE COURT: What is it specifically
19 that you want to introduce and under what Rule of
20 Evidence do you think you can get it in?

21 MS. SHEALY: Well, I think the question
22 would be, under what Rule would it be disallowed
23 because I think it's relevant.

24 THE COURT: For what?

25 MS. SHEALY: I'm sorry?

1 THE COURT: For what?

2 MS. SHEALY: Because, Judge, for
3 example, let's start with the most connected to the
4 crime that very evening. He holds --

5 THE COURT: Let me stop you. I would
6 -- I was assuming -- I thought Mr. Apostolou said
7 the prior arrest that got tossed out --

8 MS. SHEALY: I'm not interested in
9 going into the arrest.

10 THE COURT: Okay. You're just talking
11 about things that happened that night?

12 MS. SHEALY: Well, no, not just that
13 night.

14 THE COURT: What are we talking about
15 then? Educate me.

16 MS. SHEALY: I was getting ready to
17 list them. There is one that evening when he pulls
18 her hair and smacks her, and Dashaun Simmons is
19 present when that happens. Denzel does it towards
20 her. This is before they go to Cynthia Avenue. It
21 would certainly give reason why she would drive two
22 guys, who picked up an AK47 earlier in the day,
23 where they tell her to drive.

24 In addition to that, there was prior
25 behavior. She went -- they were down in municipal

1 court, Judge. He hits her and it's videotaped
2 while they're down at municipal court.

3 THE COURT: For what.

4 MS. SHEALY: For -- I think they were
5 getting money back on a bond. These three
6 people --

7 THE COURT: A different case.

8 MS. SHEALY: Completely different case.

9 THE COURT: And how long ago did that
10 take place?

11 MS. SHEALY: One month before this.

12 THE COURT: That's kind of a stretch.

13 MS. SHEALY: Judge, they need to
14 understand the relationship. The jury needs to
15 understand their relationship. When they were
16 arrested, Judge, on an unrelated drug charge,
17 Denzel Heyward was in the back of the car like a
18 madman screaming at her when she's telling the
19 police stuff.

20 THE COURT: Do you have that on video?

21 MS. SHEALY: Yes.

22 THE COURT: Okay. You can play that.

23 MS. SHEALY: Okay.

24 THE COURT: As far as something that
25 happened earlier in that evening, if it's your

1 theory that that's part of the corpus delicti of
2 the crime, well, then that might come in for that.

3 MS. SHEALY: Okay. Let me --

4 THE COURT: -- that happened a month or
5 so ahead of time.

6 MS. SHEALY: Okay. The one I was just
7 referencing, just to make sure you're clear, that
8 was a month before, the one that's on audio, when
9 he's yelling at her about not talking to the
10 police.

11 MR. MCCOY : That's a separate
12 incident, Judge, too; totally different incident.
13 I don't have that video.

14 MS. SHEALY: It's in discovery.

15 THE COURT: A different incident and
16 you want to have that shown for the purpose in this
17 case of --

18 MS. SHEALY: Describing their
19 relationship so the jury can understand why she
20 would drive him, knowing -- okay. Let me -- you
21 need to have a few more facts about this case.
22 Earlier in the evening -- earlier in the day in
23 question, Quasantrina drives these two guys to a
24 safe house to pick up an AK47. The jury is going
25 to wonder why in the world would she do that for

1 them.

2 Later, after he hits her and pulls her
3 ponytail, or hairpiece, or whatever, he has her
4 drive them to Cynthia Avenue to do a lick.

5 THE COURT: What does that mean?

6 MS. SHEALY: To rob someone. And the
7 jury needs to understand why she would have taken
8 them over there. It takes her two days to turn
9 herself in and go tell the police because Denzel
10 Heyward is hiding out with her. So I feel like the
11 jury needs to understand why it is that she is
12 submissive to Denzel Heyward.

13 It would be unfair to the State for
14 that not to come in because the jury may assume,
15 well, she's just as calculated as they are.

16 THE COURT: Well, I have to weigh that
17 against the -- your trying to say he's a really bad
18 guy and, therefore, he's convicted -- he should be
19 convicted of this, look at all these other things
20 that he did. And that's exactly what character
21 evidence is usually not allowed to do.

22 MS. SHEALY: I understand, but, Your
23 Honor, I don't think that saying -- this is a sad
24 statement on our society, but I don't think telling
25 this jury that he smacked her around is going to

1 make them leap to murder. I just don't believe
2 that's going to make them leap to murder.

3 THE COURT: It may or may not, but we
4 have the Rules of Evidence. And 404B says,
5 evidence of other crimes, wrongs, or acts is not
6 admissible to prove the character of a person in
7 order to show action and conformity therewith,
8 which is what you would be showing -- offering it
9 for.

10 To get around that it says, it may
11 however be admissible to show motive, identity, the
12 existence of a common scheme or plan, the absence
13 of a mistake or accident, or intent. So, in order
14 to get it in, you have to get it in under one of
15 those exceptions. It's -- I'm not sure how you get
16 it in for one of those exceptions based on why
17 you're telling me you want to offer it.

18 MS. SHEALY: I think that what I would
19 counter that with is, Judge, I'm not trying to
20 enter it to establish this man's bad character.

21 THE COURT: That's exactly what it
22 sounds like to me.

23 MS. SHEALY: No. What I'm trying to
24 offer it for is the character of their
25 relationship.

1 THE COURT: That's kind of a hair that
2 I don't know you can split.

3 MS. SHEALY: I'm sorry, what did you
4 say?

5 THE COURT: I don't know if that's a
6 hair that you can split.

7 MS. SHEALY: Well, but think of it this
8 way, Judge. Think of the difficult position the
9 State's in, in not being able to present that. It
10 would -- it would color Ms. Rivers' testimony
11 inappropriately if I could not inquire as to the
12 nature of her relationship with Denzel Heyward. If
13 they do not understand that when she does not
14 conform to what he wants, he smacks her, then
15 they're going to be -- they could be very well
16 misguided in evaluating her testimony. It is the
17 nature of their relationship that is relevant.

18 THE COURT: I'm still having difficulty
19 seeing how that gets in under a 404B exception. On
20 the other hand, just thinking out loud here, that
21 while you might not be able to get that in during
22 your direct, I suspect that that door might very
23 well be opened to put that kind of thing in after
24 cross examination, unless there's a -- you know, I
25 don't know what the defense is going to cross

1 examine her on, but, you know, if there's -- if
2 there's --

3 MS. SHEALY: May I give one other
4 example of the fact?

5 THE COURT: Okay.

6 MS. SHEALY: She's sitting in the car
7 while they were doing their deed. And they
8 summoned her to get out of the car, to pick up the
9 keys off the ground, and --

10 THE COURT: The night of the murder?

11 MS. SHEALY: The night of this murder
12 -- and try to open that trunk. That's another
13 example of --

14 THE COURT: Maybe we're not on the same
15 page. The things that happened the night of the
16 murder are different than things that happened a
17 month before. Okay.

18 MS. SHEALY: I understand.

19 THE COURT: All those things, oh, this
20 happened in municipal court and he was yelling at
21 her on video about another incident, that's --
22 that's got nothing to do with the night of the
23 case, of this incidence. So those things that you
24 just gave me an example of, if it happened that
25 night, that's a different breed of cat entirely.

1 Stuff that happened a month before is very, very
2 troublesome to me.

3 MS. SHEALY: I understand. Okay. So
4 let me tell you my dilemma. For example, if I were
5 allowed, as you have indicated, to go into the
6 hair-pulling and the slapping earlier in the
7 evening that night, it so pales in comparison to
8 the history of the relationship, because earlier in
9 the day, prior to the pulling of the hair and the
10 slapping, she had been told to go drive to the
11 house to get the AK47.

12 THE COURT: How is that not still part
13 of the corpus delicti is this crime? That's the
14 crime weapon.

15 MS. SHEALY: No. I intend to go into
16 those facts, but what I'm telling you I'm left with
17 is an emptiness as to how frequently he behaved
18 this way toward her. If I'm allowed to address the
19 physical violence that evening, this jury believes
20 just on one night he's done this and she's already
21 gone with him to get a gun and minimize that one
22 episode where --

23 THE COURT: How do you minimize that
24 somebody got -- was ordered to go get an AK47 and
25 then she's apparently going to say that she saw

1 this thing happen? How do you minimize that?

2 MS. SHEALY: That's not minimized,
3 Judge. What I'm trying to tell you is, I'm afraid
4 that if they don't understand the nature of the
5 volatile relationship between Denzel Heyward and
6 Quasantrina, that when they are asked to evaluate
7 her credibility, they will not have the opportunity
8 to understand what type of hold he had over her,
9 and how he made her do stuff, and how when she
10 misbehaved in his eyes previously, she got physical
11 violence inflicted upon her.

12 Let me offer one other thing. Judge,
13 the episode that occurred one month prior to this
14 event, the three of them were in a vehicle and it
15 was stopped for some type of traffic violation.
16 Ultimately, they find drugs in the car and a
17 weapon. One way to address that evening I had
18 thought about was not to mention the gun, not to
19 mention the drugs, but to elicit from her how he is
20 yelling at her when she starts talking to the
21 police and telling her to shut up, Quasantrina, as
22 she is trying to be cooperative to the police.

23 THE COURT: I understand that you are
24 trying to get me to change the Rule of Evidence
25 because you think it's compelling in this instance,

1 but I'm stuck with them. All right? And you're
2 stuck with them. And you want me to say -- Judge,
3 because it's really important to understand the
4 credibility of this lady, you need to understand
5 that we can just look the other way on 404B
6 evidence against him because he's a really bad guy.
7 All right. And we need the jury to know he's a
8 really bad guy, so we want to have that stuff that
9 404B normally keeps out, come in in this case.

10 That's -- the whole problem with trials
11 and then why we have a 404B, we don't normally do
12 it. So you've gotta come up with something better
13 than that.

14 MS. SHEALY: Okay.

15 THE COURT: Now, I'm telling you while
16 I am going to leave here today with a pretty good
17 idea that I'm not going to let you do it on your
18 direct examination of her, that does not mean that
19 that door won't get opened in some way to come back
20 in, because they're going to try to attack her
21 credibility and show biased, and I don't know where
22 we're going to go with that. So that door is not
23 completely shut because there are some instances in
24 which you get to rehabilitate a witness if there's
25 a suggestion that their credibility is less than

1 truthful.

2 So the door is not completely shut on
3 you, but I want you to know that on direct, at
4 least, what you're telling me about these incidents
5 that happened, anything other than the night of the
6 murder, aren't coming in, but I've got about 36
7 hours to think about it and I probably will
8 tomorrow. I'll look at the Rules and if I can come
9 up with something more or you come up with
10 something more, we'll revisit it --

11 MS. SHEALY: Yes, sir.

12 THE COURT: -- before she testifies,
13 but right now I'm kind of stuck on that -- 404B
14 says you can't do that for exactly the reason you
15 want to.

16 MS. SHEALY: Thank you, Your Honor.

17 THE COURT: All right. What else do
18 you have?

19 MR. APOSTOLOU: Well, Judge, sort of
20 tag-teaming on that Mr. Heyward has pending
21 charges.

22 THE COURT: Well, pending charges we
23 don't usually even allow to be mentioned.

24 MR. APOSTOLOU: I agree. I thought I
25 would mention it. The other issue was --

Opening Statement
By Ms. Shealy
November 12, 2014

OPENING STATEMENT

MS. SHEALY: Good morning.

On May 16th of 2012, Jujuain Hemingway was seventeen. His older brother, Kadeen Chambers -- they have the same father, not the same mother -- asked him if he would like to ride with him to Charleston. They lived in Longs, South Carolina, which is kind of near Conway, North Myrtle Beach, to the east of -- to the west of North Myrtle Beach. And Jujuain had never been to Charleston before. He was a little excited because his brother let him drive his car.

His brother indicated he had some business to do. Jujuain wasn't sure exactly what that meant but he kind of knew what it might mean. And as they were traveling, Kadeen, his brother, was texting on the phone and talking on the phone getting directions as to where to meet up.

Well, they drove into Charleston County onto Johns Island, and the addresses that they were being texted kind of kept changing and then different street names were given. Well, they pulled up on Cynthia Drive. Something didn't feel right. Denzel Heyward, who goes by the name Fat, approached the vehicle. He approached it on the side by Kadeen Chambers, not Jujuain.

Opening Statement
By Ms. Shealy
November 12, 2014

1 And at first there was some real small talk, but
2 then everything changed. Denzel, Fat, assaulted
3 Kadeen Chambers and got him out of the car. Fat had
4 on a red shirt. Then Dashaun Simmons, who was known
5 as Reef, comes up with a white tee-shirt on and what
6 looks like an AK-47. They put Kadeen Chambers and
7 Jujuaain Hemingway on the pavement. Now, this isn't an
8 area where a lot of bad stuff happens. Cynthia Drive
9 is a quiet area over on Johns Island.

10 And the assault continued. Fat stomped Jujuaain
11 Hemingway in his head. Stomped him, knocking his
12 teeth backwards in his mouth, losing a tooth. Dashaun
13 Simmons, emboldened with the AK-47, points it to both
14 brothers: give us the money, give us the money,
15 where's the money. And as they became greatly -- more
16 greatly frustrated, they took it out on the brothers
17 on the ground.

18 Then they decided, well, we need to go into the
19 trunk of the car. And seated in the vehicle that they
20 arrived in was a female, Quasantrina Rivers. Her
21 vehicle was facing in the opposite direction, but she
22 could see things in the rear-view mirror. They
23 summons her, Trina, get the keys off the ground and
24 try to get in the trunk. And she couldn't.

25 Jujuaain Hemingway, who was on the ground, was

Opening Statement
By Ms. Shealy
November 12, 2014

1 told to get up and open the trunk, and he did so. And
2 who was right beside him? Fat, not looking like he
3 looks today. They put Jujuain back on the ground
4 after they get a suitcase out of the trunk. And Reef
5 Simmons shoots at them on the ground and misses them.

6 Kadeen Chambers starts struggling for the gun,
7 hoping that neither one of them will get hurt. And
8 what does Dashaun Simmons do? Shoots him once in the
9 leg, shoots him once in the shoulder. And Kadeen
10 says, grow up, and hits. Jujuain Hemingway gets up
11 and literally runs for his life. Quasantrina, Fat,
12 Reef, they get in the car and they tear out of there,
13 almost hitting Jujuain, who was running.

14 911 blows up. Neighbors are calling. When
15 Jujuain runs through a yard hoping to get somewhere
16 safe, he crawled through a fence, he goes over a
17 ditch, and he gets on a roadway that runs behind
18 Cynthia Avenue where they're building new homes. He
19 finds a Port-A-Potty. He gets in there and he calls
20 911.

21 The officers arrive at the scene. What Jujuain
22 did not know at this time was that Kadeen Chambers, he
23 was able to get up off that pavement, bleeding, and
24 get back into his vehicle and try to drive. He didn't
25 make it far. His vehicle ran into a truck that was

Opening Statement
By Ms. Shealy
November 12, 2014

1 parked on the side of the road. When the officers
2 came, the windows were foggy, the car was running.
3 They didn't know what they were going to find in that
4 car. They pulled their gun, they approached, and they
5 saw Kadeen Chambers desperately trying to breathe.
6 They had to break a window to get in the vehicle.

7 Other officers, knowing about the 911 call, went
8 to the other street behind Cynthia Drive and
9 approached Jujuain Hemingway. He was scared to death.
10 He didn't even know where he was. He thought he was
11 in Charleston. He was in Charleston County, but he
12 thought he was in Charleston. And he told the officer
13 who approached the Port-A-Potty one guy had a red
14 shirt on, one guy had a white shirt on.

15 You will hear in this case about Jujuain being
16 interviewed later the next morning -- or the next day.
17 This happened around 11:30 on May 16th. He went to
18 the hospital, he went home to a house full of people,
19 and then he had an interview with the police officers.

20 You will hear from Quasantrina Rivers. You'll
21 hear about that, the preparation for that night.
22 You'll hear about their getting that rifle. You'll
23 hear about them hiding afterwards. The details will
24 reveal themselves to you. Those two guys armed
25 themselves that evening and killed a man and tried to

Opening Statement
By Ms. Shealy
November 12, 2014

1 kill another one, and rob.

2 Now, Judge Young has told you that at the end of
3 the case, he is going to charge you or instruct you as
4 to what the law is. There is a very important
5 principle of law in this case that applies. It is
6 called the hand of one is the hand of all. If a crime
7 is committed by two or more people who are acting
8 together in committing a crime, the act of one is the
9 act of all. A person who joins with another to
10 accomplish an illegal purpose is criminally
11 responsible for everything done by the other person
12 which occurs as a natural consequence of the acts done
13 in carrying out the common plan and purpose.

14 For example, two people can be guilty of killing
15 another person when only one of the two had the gun,
16 there was only one bullet, and only one of the two
17 fired a shot that caused the death. If two or more
18 people are together, acting together, assisting each
19 other in committing the offense, the act of one is the
20 act of all or the hand of one is the hand of all.

21 The police had a huge break in this case. As
22 Kadeen Chambers was struggling to breathe, one of the
23 officers said who did this to you, who shot you. Fat,
24 is all he could get out. No other details. No other
25 information about who else was there.

Opening Statement
By Ms. Shealy
November 12, 2014

1 But Quasantrina Rivers, after hiding out with
2 Fat and Dashaun for a couple of days, snuck off to see
3 her mother and told her mother what happened. Her
4 mother's name is Sidearis Singleton, and thank God for
5 her because she told her daughter, you're going to do
6 the right thing, you're going to turn yourself in and
7 go tell the police what happened. And she did that.
8 She gave them the name of Fat, who she has a child
9 with, of Dashaun Simmons.

10 As this case has continued with the
11 investigation and preparation for trial, she has given
12 greater and greater details about what happened. And
13 she will be here for you to evaluate. But please
14 don't lose track of the fact that she came in on her
15 own and told the police what happened.

16 Ladies and gentlemen, we want you to give Denzel
17 Heyward a fair trial and we want you to give Dashaun
18 Simmons a fair trial. And at the close of the
19 evidence, we want you to return guilty verdicts on all
20 counts. Thank you.

21 THE COURT: Mr. Apostolou?

22 - - -

23 - - -

24 - - -

25 - - -

Opening Statement
By Mr. Apostolou
November 12, 2014

OPENING STATEMENT

1
2 MR. APOSTOLOU: No. That's not what the
3 evidence is going to present to you today because
4 that's not what happened on the roadway that night.
5 You are going to see the evidence in this case and
6 you're going to make a determination about what
7 happened out there.

8 The State has set the bar pretty high. They
9 told you a lot of things. I want you to remember that
10 at the close of this trial. I want you to hold them
11 to it. I want them to present that evidence to you
12 and to convince you beyond a reasonable doubt that
13 their theory of the case is what happened out there.

14 Everything that Ms. Shealy just told you is
15 their theory of the case, the State's version of what
16 happened, what they think happened out there. It's
17 not evidence. The judge told you that. The evidence
18 is going to come from the -- but what she told you was
19 their theory, what they think happened in the case.

20 Well, we've got a different theory of the case.
21 She told you what she forecasts what the evidence is
22 going to be. Well, I've been involved in the case for
23 two and a half years and I think the evidence is going
24 to present a different story. But ultimately, the
25 decision is going to be yours and you're going to make

Opening Statement
By Mr. Apostolou
November 12, 2014

1 that decision.

2 I think what you're going to see today is that
3 the evidence is supposed to determine the
4 investigation. But, unfortunately, sometimes the
5 investigation determines the evidence. Well, what do
6 I mean by that? Evidence is like bread crumbs. We
7 know the little kids' story. We follow the bread
8 crumbs and lead -- wherever the path goes, you follow
9 it to wherever it leads to. That's the way a criminal
10 investigation is supposed to work: to follow those
11 bread crumbs to where they go.

12 Unfortunately, sometimes when you already decide
13 where you're going to go, you ignore other bread
14 crumbs that lead the other way. Should I go that way,
15 no, we're going this way, let's just go ahead and go
16 through there. That's what you're going to see today.
17 That's what you're going to see today. And that's
18 what my role is.

19 My name is Alex Apostolou. I represent Denzel
20 Heyward. I do not represent Mr. Simmons. Mr. Simmons
21 has an excellent attorney that's going to represent
22 his case. If you listen to anything that I tell you
23 this morning, it's this: two separate trials. Just
24 because they're sitting in here, just because it's
25 happening at the same time, it's two separate trials.

Opening Statement
By Mr. Apostolou
November 12, 2014

1 You can find one guilty and one innocent, you can find
2 both guilty, or you can find both innocent. But it's
3 two separate trials. Please keep that in mind and
4 judge each of them based off of what their
5 involvement.

6 The evidence is going to suggest to you that
7 Denzel Heyward is not the shooter in this case. I
8 think everybody is going to agree to that. So could
9 Denzel be guilty of murder? Well, the State talked to
10 you about a legal theory called the hand of one, the
11 hand of all. And we're going to hear a lot about it
12 at the end of the trial. But I will tell you it is a
13 powerful doctrine, but it is not an all-powerful
14 doctrine. I don't think it's as powerful as the State
15 would believe in this case.

16 There are some elements to it. And that's
17 really what criminal law is about, it's about
18 elements. And at the end of the day we're going to
19 talk about murder, we're going to talk about armed
20 robbery. And these are -- these are legal doctrines
21 and they have elements, and we're going to have to
22 check them off. And we'll talk about the exact law.
23 And, of course, anything that I tell you that
24 conflicts with what the judge tells you, go with the
25 judge on what the law is. But these are elements, and

Opening Statement
By Mr. Apostolou
November 12, 2014

1 you just check them off. And they don't get to check
2 off most of them. They have to check off every single
3 element in every single charge for you to convict them
4 of that charge. Every single one of them.

5 The hand of one, the hand of all. What do we
6 know about it? All right. They have to be in a
7 criminal conspiracy, they have to be acting in
8 concert, and there has to be a natural consequence to
9 it. All right? And that's really all I'm going to
10 say about it right now because we're going to come
11 back and we're going to talk about it a lot at the
12 end. But those are the things you need to look for.
13 Are these guys in a conspiracy, involved in it? Are
14 they in a common plan and scheme going forward? And
15 is the result the natural and logical consequence of
16 those actions? So we'll talk about that a lot more as
17 we go forward.

18 Let's talk about the State's theory of the
19 case, what Ms. Shealy told you, their version of it.
20 Ms. Shealy wasn't out there. The judge told you. The
21 lawyers weren't there. I wasn't out there. Detective
22 Owen wasn't out there, at least when this incident
23 happened. And where are they getting their version of
24 the facts from? They're getting them from Jujuain
25 Hemingway. Jujuain Hemingway is the brother that was

Opening Statement
By Mr. Apostolou
November 12, 2014

1 -- that's here. And he's going to testify today.
2 Testified in pretrial motions yesterday. That's where
3 they're getting their theory of the case.

4 Denzel Heyward, Dashaun Simmons, don't have any
5 burden before you today. They don't have to testify.
6 They don't have to do anything. The State is basing
7 their entire theory of the case on what Jujuain
8 Hemingway has to say.

9 Well, what do we know about Jujuain Hemingway's
10 actions in this case? Never been to Charleston
11 before. Didn't know where he was. When the police
12 first talked to him, he gives them a fake name and he
13 gives them a fake date of birth. This is a victim of
14 the crime. Gives them a fake name, gives them a fake
15 date of birth. Think about that for a second.

16 The police go up and they investigate him, they
17 talk to him, he tells them what happened, he writes a
18 statement. The police look at it and say, no, that's
19 not right, that's not right, you're going to have to
20 write a second statement. So what we're working for,
21 what their theory of the case is, what she told you,
22 is based off of their second story of the case. Is
23 that, in itself, a reasonable doubt in this case?
24 That's ultimately a question for y'all to talk about.

25 Now, the State also talked about Quasantrina

Opening Statement
By Mr. Apostolou
November 12, 2014

1 Rivers. You may note it's a very important detail
2 about this case. Dashaun Simmons is here. Denzel
3 Heyward is here. Quasantrina Rivers, she may be here
4 in the witness booth but she's not sitting at these
5 tables. She's not facing the crime today. She's not
6 asking you to decide whether she's guilty or innocent
7 of anything. That goes to her motivation to what she
8 talks about.

9 And I want you to consider that with all of the
10 witnesses that you see today. What's their
11 motivation? What's their bias? What's in it for
12 them? Why do they want you to believe what happened?
13 Because of the facts? because that's what happened out
14 there? or because they have some sort of bias to want
15 you to believe that?

16 A lot of the things that I'm going to talk
17 about, the judge has already talked about. This is a
18 criminal case. The burden of proof is the highest
19 that we have. It's not preponderance of the evidence.
20 It's because we're talking about liberty here, and as
21 Americans there's nothing we value more than liberty.
22 And this is the highest burden of proof, beyond a
23 reasonable doubt. It's not up to a reasonable doubt,
24 it's beyond.

25 At the end of the case we're going to come to

Opening Statement
By Mr. Apostolou
November 12, 2014

1 you and we're going to talk about the different
2 theories that are developed from the witness booth.
3 And we're going to ask you -- ultimately, we might ask
4 you to believe our case more than their case. But
5 that's not the burden of proof. At the end of the
6 day, is our case possible. And if our -- if you feel
7 like our case is possible, then I would suggest to you
8 that they haven't met their burden of beyond a
9 reasonable doubt. And that's what their burden is,
10 beyond a reasonable doubt.

11 I talked about the elements. We're going to go
12 through them all the time at the end of the case for
13 each case and you're going to have to check off each
14 one of them. Murder has got elements. These crimes
15 have elements. We're going to talk about it. Did
16 they prove this to you? Did they prove that to you?

17 Keep an open mind. The State has the burden of
18 proof. We don't have a burden. We don't have
19 anything. The State is going to be the one that
20 presents the evidence to you first. They're going to
21 put up the evidence and they're going to show it to
22 you. Just because they go first doesn't mean it's
23 more value than what we -- if we present a case. We
24 don't have to present a case but if we do -- and the
25 different theories that we're going to develop.

Opening Statement
By Mr. Apostolou
November 12, 2014

1 They have the burden of proof. They have to
2 prove to you beyond a reasonable doubt that there's --
3 at the end of the trial, you know, oh, my God, I
4 really wish we could see one more element, or I wanted
5 to hear from one more witness, or one -- what did that
6 person -- why didn't they put that person on. That's
7 on them, that's not on us. We don't have to prove
8 anything here today.

9 I look forward to presenting the case to you.
10 Ultimately, there's going to be twelve of you. I know
11 there's sixteen of you now, but ultimately there's
12 going to be twelve of you and you're going to have to
13 decide this case beyond a reasonable doubt and your
14 opinions are going to have to be unanimous -- not
15 eleven to one or ten to two -- every single one of you
16 on every single element of every single crime that
17 they ask you to bring against these guys.

18 That is not what the evidence is going to be.
19 You've heard what their theory is, and you've heard
20 what it's based off of. At the end of the day, you're
21 going to look at the credibility of those people and
22 you're going to look at what we're able to develop
23 from our cross-examination in our case and you're not
24 going to be able to bring back a guilty verdict on
25 these charges against Denzel Heyward.

Opening Statement
By Mr. Apostolou
November 12, 2014

1 My client is Denzel Heyward and at the end of
2 the day, with the evidence that we're going to
3 develop, you are not going to find him guilty and
4 you're to come back with not guilty. And that's what
5 we ask you to do. Thank you.

6 THE COURT: All right. Mr. McCoy?

7 MR. MCCOY: Thank you, Judge. Ms. Turner is
8 going to be doing the opening. Thank you, Judge.

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Opening Statement
By Ms. Turner
November 12, 2014

OPENING STATEMENT

MS. TURNER: Good morning, ladies and gentlemen. My name is Sara Turner. Together with Peter McCoy, I have the privilege of representing Dashaun Simmons today -- two times this week and we'll be able to speak to you directly about this case.

In this case, as you've already heard, we have two co-defendants and these two co-defendants are on trial together today. However, I'm only representing Dashaun Simmons, and that's mostly where my conversation is going to be.

In trials, as you've already heard, someone has to go first. In this case the solicitor is alleging my client has done something wrong, therefore, she has the burden of proving her case beyond a reasonable doubt. The State is going to put up witnesses to testify this week. We may follow up with some additional questions for their witnesses, either to flesh out an answer or to bring to light whether one of their witnesses is biased or even being untruthful.

Now, you just heard the indictments in the solicitor's opening remarks about this case. The solicitor has said nothing more to you than what she expects the evidence to prove. Her statements are not evidence.

Opening Statement
By Ms. Turner
November 12, 2014

1 While it's undisputed that Kadeen Chambers died
2 on the early morning of May 17th, 2012, you're not
3 here to confirm that today. You are here to determine
4 what happened. You've heard the solicitor allege that
5 my client, along with Denzel Heyward, who's at that
6 table over there, and Denzel Heyward's girlfriend,
7 Quasantrina Rivers, were together on the night this
8 incident occurred. You've also heard her allege that
9 he committed the acts as stated on the indictments.
10 Like I said already, these are allegations and I
11 caution you to keep an open mind and listen to all the
12 evidence in this case before you draw any conclusions.

13 It's extremely important, as a juror, to listen
14 to and test all the credibility of the witnesses this
15 week. You may wonder, how am I supposed to know who's
16 credible and what evidence is credible in a criminal
17 case you're expecting to hear this week. I can tell
18 you that you are qualified. You have the life
19 experiences. You've developed the common sense to
20 reach those conclusions.

21 I will stress to you, as our case is being
22 presented this week, that you listen to the witnesses
23 as they testify and you look at the physical evidence
24 as it's been produced. After the witnesses testify,
25 ask yourself if they were credible, ask yourself if

Opening Statement
By Ms. Turner
November 12, 2014

1 their stories ever changed during the course of this
2 case. After you look at the physical evidence in this
3 case, ask yourself whether it lines up. Ask yourself
4 whether that's credible.

5 As I've stated previously, the solicitor has the
6 burden of proof in this case. She must prove every
7 element of each crime beyond a reasonable doubt.
8 You've heard her opening statement and you've heard
9 the indictments. Remember the things that she
10 promised you and the facts that she's alleged, but
11 don't take those as the truth unless she can prove it
12 to you. Don't let her tell you what the facts of this
13 case are. Make her prove it to you beyond a
14 reasonable doubt. That is her job and that's her
15 standard.

16 At the end of this week, we'll come back before
17 you to discuss all the evidence that's presented and
18 what the evidence means. We'll break it down. We'll
19 go further into detail about everything that's come
20 before you this week. Until then, listen to the
21 witnesses and look at the evidence as it comes in
22 because at the end of this week, you will have the
23 burden of making the ultimate decision. Thank you.

24 THE COURT: Madam Solicitor, call your first
25 witness.

Opening Statement
By Ms. Turner
November 12, 2014

1 MS. SHEALY: Michael Scott Lawson.

2 Your Honor, while he's approaching the bench,
3 with no objection I'm going to introduce photographs 1
4 through 100 and 104 through 117.

5 THE COURT: Okay.

6 MS. SHEALY: And in addition to that, we have a
7 911 recording that is Exhibit Number 121 that will be
8 introduced.

9 THE COURT: All right. Thank you.

10 MS. SHEALY: No objection from us, Judge.

11 MR. APOSTOLOU: Without objection.

12 [Whereupon, State's Exhibit Numbers 1 through
13 100 are admitted into evidence by the Court]

14 [Whereupon, State's Exhibit Number 104 through
15 117 are admitted into evidence by the Court]

16 [Whereupon, State's Exhibit Number 121 is
17 admitted into evidence by the Court]

18 [Whereupon, Mr. Lawson comes forward]

19 THE CLERK OF COURT: Sir, what you're going to
20 do is place your left hand here.

21 MR. LAWSON: I don't swear --

22 THE CLERK OF COURT: Okay. Then all you have to
23 do is attest.

24 MR. LAWSON: -- the testimony will be true.

25 [Whereupon, Mr. Lawson is duly sworn by the

Opening Statement
By Ms. Turner
November 12, 2014

1 clerk of court as follows: sir, do you swear or
2 affirm that the testimony you give the Court and the
3 jury in the trial of this case will be the truth, the
4 whole truth, and nothing but the truth, so help you
5 God]

6 THE WITNESS: Yes, sir.

7 THE CLERK OF COURT: Thank you, sir. You may be
8 seated.

9 [Whereupon, Mr. Lawson takes the witness stand]

10 THE CLERK OF COURT: Sir, if you would please
11 first state your first and last name. Spell your last
12 loudly, clearly, and into the microphone.

13 THE WITNESS: Michael Lawson. L-A-W-S-O-N.
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Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

MATT COLBURN,

Having Been First Duly Sworn,
was Examined and Testified as Follows:

DIRECT EXAMINATION

BY MS. SHEALY:

Q. Deputy Colburn, how long have you worked for the
Charleston County Sheriff's Office?

A. I've been with the sheriff's office
approximately nine years, going on seven years with the
law side.

Q. With the what?

A. The law side.

Q. The law side?

A. Yes, ma'am.

Q. And are you currently a deputy for the sheriff's
office?

A. Yes, ma'am.

Q. And back in May of 2012, were you a deputy with
the sheriff's office?

A. Yes, ma'am.

Q. Focusing your attention, then, on the late-night
hours of May 16th, 2012, could you tell the jury whether
or not you got a call to report to Cynthia Drive?

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

Q. And what were you advised before you headed over

MIA PERRON, CVR-CM-M

-95-

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 there?

2 A. The only information that we were provided was
3 that it was a shots-fired call.

4 Q. Is that area of Johns Island an area that you
5 were patrolling frequently?

6 A. Not frequently.

7 I mean, we go through, check the neighborhoods
8 out. It wasn't a high-crime area, no, ma'am.

9 Q. But what I meant was is that kind of an area
10 that you were patrolling? That jurisdiction?

11 A. Yes, ma'am. Johns Island.

12 Q. And when you were saying that was not a high-
13 crime area, had you had to go to Cynthia Drive very often
14 at all?

15 A. No, ma'am.

16 Q. Do you remember where you were coming from when
17 you headed there?

18 A. The corner of Maybank and Main at the old Piggly
19 Wiggly shopping center.

20 Q. And when you got there, did you travel with
21 someone else, or did another deputy arrive at the same
22 time that you did?

23 A. Yes, ma'am. Deputy Muirhead arrived with me.

24 Q. Tell us, if you would, first, how did the scene
25 appear? What were your first observations?

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 A. We first turned onto Cynthia Avenue, we observed
2 a dark-in-color sedan had collided with a white pickup
3 truck at the corner of Cynthia and Staffwood but still on
4 Cynthia. Got out of the vehicle, because we weren't sure
5 what was going on. Wasn't sure if it was the collision
6 that people heard or that --

7 Q. Let me interrupt you just for a second. Showing
8 you State's Exhibit 24 --

9 MS. SHEALY: I was going to show it behind you.
10 Just a second.

11 Q. [Ms. Shealy] Does that photograph accurately
12 depict the position of those vehicles when you arrived?

13 A. Yes, ma'am.

14 Q. And then showing you State's Exhibit 25. Could
15 you describe for the jury, if you would -- it's kind of
16 hard to tell from that photo -- is there an impact between
17 the two vehicles?

18 A. There is. Yes, ma'am.

19 Q. Showing you State's Exhibit 28. Does that show
20 you the impact?

21 A. Yes, ma'am.

22 Q. When you and Deputy Muirhead got out of your
23 vehicle, what did y'all do?

24 A. We approached the vehicle in a tactical manner.
25 We had our weapons drawn because we weren't sure what was

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 going on responding to a shots-fired call. Approached the
2 vehicle. We couldn't see inside the car, but we could
3 tell that the vehicle was running. At points, the gas
4 would rev up, the engine would rev, the tires would spin.

5 A closer look inside the vehicle, we observed an
6 unidentified black male was in the driver's seat. At that
7 point, Deputy Muirhead broke out the rear passenger window
8 so we could gain a better vantage point to see what was
9 going on inside the vehicle.

10 Q. Let me slow you down just a little bit.

11 When you approached the vehicle, you said that
12 y'all had your guns drawn?

13 A. Correct.

14 Q. And was there anything about the condition of
15 the windows that made it difficult to look inside the
16 vehicle?

17 A. Yes, ma'am.

18 All the windows on the vehicle were fogged over
19 to make it to where you couldn't see inside the vehicle.

20 Q. And do you recall whether or not the back of the
21 vehicle, the trunk, was open or closed?

22 A. The trunk was open when we arrived on scene.
23 Yes, ma'am.

24 Q. And when you indicated that you could hear the
25 car running, what were you saying about the gas?

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 A. You could hear the engine rev. At points, the
2 tires would spin, creating a squealing noise and a little
3 bit of smoke.

4 Q. And at that point you indicated that Deputy
5 Muirhead had made the decision to break the back window?

6 A. Correct.

7 Q. And what was the reason again that he thought he
8 needed to do that?

9 A. So we could gain a better vantage point inside
10 the vehicle and see what was going on inside.

11 Q. At that point did y'all have some level of
12 comfort that you would not be assaulted if you broke the
13 window?

14 A. No, ma'am.

15 Q. So showing you State's Exhibit 27. Is that a
16 photograph depicting the window having been broken?

17 A. Yes, ma'am.

18 Q. And in that photograph, do you see the window
19 parts, the glass, broken out?

20 A. Right by the rear tire.

21 Q. Now, prior to doing that, had y'all tried the
22 handles to get in the vehicle?

23 A. Yes, ma'am.

24 Both the passenger-side doors were locked. We
25 didn't go around to the driver's side.

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And when you -- when the window got broken, the
2 image of the gentleman in the driver's seat, what did his
3 behavior look like?

4 A. He was leaning back and forth in his vehicle.
5 Once the window was busted out, you could -- there was
6 blood throughout the vehicle. You could see that he was
7 bleeding profusely from himself. He had on a white tee-
8 shirt that was covered, stained, red with blood. So we
9 knew he was in need of help.

10 Q. Okay. Showing you State's Exhibit 29. Is that
11 the blood that you're talking about?

12 A. Yes, ma'am.

13 Q. And 30 and 31 and 32.

14 A. [No response]

15 Q. And the shirt that you indicated that he had
16 on -- showing you State's Exhibit 87. Was that the
17 tee-shirt he had on?

18 A. It looks to be correct, yes, ma'am.

19 Q. Once you gained entry, what did you and Deputy
20 Muirhead do?

21 A. Once we broke out the window and we observed
22 that there was a victim inside the vehicle, Deputy
23 Muirhead reached around, he unlocked the passenger-side
24 door -- because it was still locked -- to get inside the
25 vehicle so we could at least turn the car off so he wasn't

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 hitting the gas anymore. So he reached in, turned the car
2 off. We called for medical assistance to get there and
3 provide medical treatment for the victim.

4 Q. Let me ask you a couple of questions before
5 then. Had either you or Deputy Muirhead asked the
6 gentleman to put the vehicle in park?

7 A. I do not recall about that, ma'am.

8 Q. And could you describe what the posture of the
9 man in the driver's seat was like?

10 A. Yes, ma'am.

11 He was leaning back and forth gasping for air.
12 He was actually asking for oxygen; you know, for myself or
13 Deputy Muirhead to provide him with oxygen.

14 Q. Did you have any conversation with him at that
15 point or ask him any questions?

16 A. I asked him -- you know, trying to keep him to
17 stay with us. You know, stay with us, we've got EMS
18 coming for you. I asked him what his name was. He
19 responded Kadeen. And that was pretty much the questions,
20 just telling him to stay with us, we've got help coming,
21 buddy.

22 Q. Okay. Did EMS, in fact, arrive?

23 A. Yes, ma'am.

24 Q. And do you recall how he was taken out of the
25 vehicle?

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Actually, fire arrived on scene first. They
2 started working on getting him outside of the vehicle.
3 They took him from the driver's side through the
4 passenger's side, strapped him to a backboard, bringing
5 him out headfirst.

6 Q. So showing you State's Exhibit 29 again. The
7 blood that's on the passenger seat, is that the direction
8 in which the fire department took him out of the vehicle
9 from --

10 A. Yes, ma'am. From the driver's --

11 Q. -- from the driver's seat over that --

12 A. Yes, ma'am.

13 Q. -- passenger seat?

14 Once fire department and EMS got there, did you
15 ask Kadeen anything?

16 A. When they were bringing him out, I asked him one
17 last question before he was loaded up. And I just asked
18 him, hey, buddy, who shot you.

19 Q. And what did he indicate?

20 A. It was hard to understand him, but from what I
21 got was either Fat or Fet, just the way that he was
22 breathing. The way that he pronounced it, it was hard to
23 understand. But it was clearly either Fat or Fet.

24 Q. And was he able to give you any other details?

25 A. No, ma'am.

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. What did you do with the information that you
2 had gotten regarding his saying Fat or Fet?

3 A. I relayed all the information to our supervisor,
4 Senior Sargent Brian Williams, who responded to the scene
5 as well, and he in turn relayed that to our detectives.

6 Q. And what is the purpose of that relaying of
7 information?

8 A. This way it gives our detectives a starting
9 point so they can go back and see if there's anybody with
10 the nickname or moniker Fat or Fet that might be in our
11 database or the other database.

12 Q. You're familiar with a CAD report?

13 A. Yes, ma'am.

14 Q. What does a CAD report reflect?

15 A. It's a computerated [phonetic] dispatch.

16 Everything that our dispatch center does, it
17 gets logged on to this report.

18 Q. When you say your dispatch center, you mean the
19 people who are answering 911 calls?

20 A. Yes, ma'am. Answering and dispatching calls.

21 Q. Are you familiar with the CAD report in this
22 case?

23 A. Yes, ma'am.

24 Q. Could you tell us what time the first phone call
25 came in?

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 A. The first reported phone call that we have was
2 at 2335 hours.

3 Q. And had there been some transferring from one
4 dispatch location to another that you were familiar with?

5 A. From what I seen, at 2340 the City of Charleston
6 dispatch transferred a call over to the Charleston County
7 Sheriff's Office dispatch.

8 Q. So that would take some time between that
9 transferring?

10 A. I couldn't tell you how long.

11 Q. I mean, they do it pretty quickly but --

12 A. Yes, ma'am.

13 Q. And so you indicated that the first 911 call,
14 then, came in at what time again?

15 A. 2335. 11:35 p.m.

16 MS. SHEALY: Beg the Court's indulgence just a
17 moment.

18 [Whereupon, Ms. Shealy and Ms. Turner confer]

19 Q. [Ms. Shealy] Do you have the CAD report with
20 you?

21 A. I do not, ma'am.

22 Q. I'm going to hand you the CAD report. I'm going
23 to show you a copy of the CAD report, just to make sure I
24 understand.

25 A. Yes, ma'am.

Matthew Colburn
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. If you will look at the first couple of entries
2 from that evening and if you can, can you explain to us
3 what those are?

4 A. Which entries are you looking for, ma'am?

5 Q. The first two that are listed with times
6 reflected by them.

7 [Whereupon, the witness reviews documents]

8 Q. [Ms. Shealy] And if you don't know, that's
9 fine.

10 A. The first entry is when the first call came in
11 at 2334 hours --

12 Q. And what time --

13 A. -- and seventeen seconds.

14 Q. -- again was that?

15 A. 2334.

16 Q. So the first 911 call came in at that time?

17 A. It appears so, yes, ma'am.

18 MS. SHEALY: Please answer any questions that
19 the defense may have. Thank you.

20 MR. MCCOY: Deputy Colburn, how are you doing
21 today?

22 THE WITNESS: Good, sir. Yourself?

23 MR. MCCOY: I appreciate you being here and I
24 appreciate you taking the opportunity to answer a
25 couple of questions that I have for you.

Matthew Colburn
Cross-Examination by Mr. McCoy
November 12, 2014

CROSS-EXAMINATION

BY MR. MCCOY:

Q. First of all, as standard practice for any officer who's arriving on the scene, you complete and do an actual police report?

A. In this case I did a police supplement -- incident supplement report.

Q. Do you remember when you did that?

A. Shortly after I cleared the scene.

Q. Would you have done it that night, then?

A. Yes, sir. Absolutely.

Q. Okay. Did you testify earlier that it was you and Muirhead who arrived together?

A. Correct.

Q. At that time when you've got a couple of officers that are on the scene, do y'all go ahead and start to establish what's called a crime scene?

A. At that point, no, sir.

Q. Is there ever a point in time where you register yourself as part of a crime log or a crime-scene log?

A. Yes, sir.

Q. And you're listed as the first officer who arrived?

A. Either myself or Deputy Muirhead would be first.

Q. And, obviously, you arrived on scene. And it

Matthew Colburn
Cross-Examination by Mr. McCoy
November 12, 2014

1 looks like there's a little bit of weather outside, as
2 well?

3 A. Correct.

4 Q. When you first got there, was it starting to
5 rain?

6 A. No, sir, it had not started to rain yet.

7 Q. And then while you're observing the car, I guess
8 it started to rain?

9 A. Shortly after everything. I'm probably
10 guesstimating two hours into the scene.

11 Q. And once you see this car, can you tell the jury
12 what type of car it is?

13 A. From my recollection, it was a dark-in-color
14 Mercedes.

15 Q. Do you remember what year that was?

16 A. 2003.

17 Q. And is it also true you did an accident report
18 for this, as well?

19 A. Correct.

20 Q. Another question that I have for you in terms of
21 being familiar with the CAD on this particular case --
22 you've already explained to the jury what a CAD is and
23 what a CAD does and how you read it and understand it.
24 Can you look at a CAD and tell actually how many 911 calls
25 did come through on this case?

Matthew Colburn
Cross-Examination by Mr. McCoy
November 12, 2014

1 A. Me, personally, I cannot.

2 Q. And if I were to show the CAD to you, would you
3 be able to tell?

4 A. Potentially.

5 Q. Potentially?

6 All right. I may do that. Do you still have it
7 up there with you?

8 A. Yes, sir.

9 MR. MCCOY: May I approach the witness, Judge?

10 THE COURT: Yes.

11 MR. MCCOY: Thank you.

12 Q. [Mr. McCoy] And I know this one is probably a
13 little bit more lengthy, I guess, than some of the others.
14 I mean, is there a way for you to look at this and go
15 through this and tell actually how many 911 calls came
16 through?

17 A. I possibly could.

18 Q. Could you take a look at that and do that for
19 me?

20 [Whereupon, the witness reviews documents]

21 A. From what I can gather, it looks to be at least
22 three phone calls.

23 Q. [Mr. McCoy] Looking at three --

24 A. Yes, sir.

25 Q. -- from your understanding of the case?

Matthew Colburn
Cross-Examination by Mr. McCoy
November 12, 2014

1 A. Yes, sir.

2 Q. Thank you for that.

3 And, also, in the first line of questioning that
4 I kind of gave you, you indicated that you did a police
5 report and you finished that after you basically left the
6 scene. Do you remember in your police report where you
7 labeled or said or remember that the trunk of the car was
8 open?

9 A. No, sir. There's not in my incident supplement.

10 MR. MCCOY: I don't have any other questions,
11 Judge. Thank you.

12 THE COURT: Mr. Apostolou?

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Matthew Colburn
Cross-Examination by Mr. Apostolou
November 12, 2014

CROSS-EXAMINATION

BY MR. APOSTOLOU:

Q. Officer Colburn, when you came across the Mercedes, you guys were already responding to shots fired?

A. Correct.

Q. Did you know that the Mercedes was involved in that incident or --

A. Not at all.

Q. At that time you certainly didn't?

A. No, sir.

Q. All right. And you had an opportunity to speak briefly with Mr. Chambers?

A. Correct.

Q. And I believe your testimony was in response to your query as to who shot him, he said Fat or Fet?

A. Correct.

Q. Never said anything about an armed robbery or anything like that?

A. No, sir.

Q. And once they tell you this, I mean, that's kind of important information; right?

A. Yes, sir.

Q. And so you put that up to -- in the chain, I believe you testified with Ms. Shealy?

A. Correct.

Matthew Colburn
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. And so that information is disseminated to all
2 the other officers out there?

3 A. I couldn't tell you who all gets it.

4 Like I said, I advised my supervisor who would,
5 in turn, provide it with our detectives.

6 Q. But he's going to provide it to most of the
7 officers involved in the case?

8 A. I could not say who all he would provide it to.

9 Q. Fair deal. Fair deal.

10 But it's safe to say that Fat or Fet was a
11 suspect in this case from the earliest moments of the
12 case?

13 A. From what I ask who shot him, yes, sir.

14 MR. APOSTOLOU: That's all I've got.

15 THE COURT: Redirect?

16 MS. SHEALY: Briefly, Your Honor.

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Matthew Colburn
Redirect Examination by Ms. Shealy
November 12, 2014

REDIRECT EXAMINATION

BY MS. SHEALY:

Q. Looking at -- you have the CAD report still with you?

A. Yes, ma'am.

Q. Looking at the first couple of 911 calls, could you take a look at the description given and tell the jury at what time the victim/suspect called in?

A. It was a transfer from the City of Charleston Police Department at 2340.

Q. Look back at 2335:02.

A. Yes, ma'am.

Q. And does it describe the caller being on the scene and is the victim or the suspect? The first party?

[Whereupon, the witness reviews documents]

A. That caller says it was a first party and he hears gunshots.

Q. [Ms. Shealy] Okay. And so just to summarize what you're indicating, the first 911 call came in at 2334:17?

A. Correct.

Q. And some of those phone calls were being dispatched to another dispatch location and then transferred; is that correct?

A. There was a call that went into the City of

MIA PERRON, CVR-CM-M

-112-

Matthew Colburn
Redirect Examination by Ms. Shealy
November 12, 2014

1 Charleston, yes, ma'am. That was transferred over.

2 Q. And from your reading of the CAD report on that
3 first page, you see at least three identified 911 calls?

4 A. Two on the first page.

5 Q. Look at 2335:39. Does it indicate the caller's
6 name?

7 A. Goodall [phonetic]

8 Q. And that is a separate entry than the two that
9 we just discussed?

10 A. Yes, ma'am.

11 Q. So that would actually be three?

12 A. Yes, ma'am.

13 Q. And that would have begun, then, at 2334 and the
14 Goodall one at 3335 -- I'm sorry -- 2335. All within a
15 minute?

16 A. Yes, ma'am.

17 MS. SHEALY: Okay. Thank you very much.

18 THE COURT: Recross?

19 MR. MCCOY: No, sir.

20 MR. APOSTOLOU: No, Your Honor.

21 THE COURT: You may step down.

22 [Whereupon, Mr. Colburn is excused and exits the
23 witness stand]

24 THE COURT: Folks, I need to send you back out
25 for just about five minutes while we take up a legal

Verna Lockhart-Carter Direct Examination by Ms. Savas

Thomas Buckhannon
Redirect Examination by Ms. Shealy
November 12, 2014

1 THE COURT: You may step down.

2 MS. SHEALY: And may he be excused, Judge?

3 THE COURT: You are free to go. Thank you.

4 [Whereupon, Mr. Buckhannon exits the witness
5 stand]

6 MS. SHEALY: The State calls Ms. Verna Lockhart-
7 Carter.

8 [Whereupon, Ms. Lockhart-Carter comes forward]

9 THE CLERK OF COURT: Ma'am, if you would please
10 place your left hand here. Raise your right.

11 [Whereupon, Ms. Lockhart-Carter is duly sworn by
12 the clerk of court as follows: do you swear or affirm
13 the testimony you will give the Court and the jury in
14 the trial of this case will be the truth, the whole
15 truth, and nothing but the truth, so help you God]

16 THE WITNESS: Yes.

17 THE CLERK OF COURT: You may be seated. Ma'am,
18 once seated, if you could please state your first and
19 last name and then spell your last loudly and clearly
20 into the microphone, please.

21 [Whereupon, Ms. Lockhart-Carter takes the
22 witness stand]

23 THE WITNESS: Verna Carter. C-A-R-T-E-R.

24 MS. SAVAS: Hi.

25 THE WITNESS: Hi.

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 VERNA LOCKHART-CARTER,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MS. SAVAS:

6 Q. Do you also go by Ms. Verna Lockhart-Carter, as
7 well?

8 A. Yes.

9 Q. Okay. And can you please tell us where you
10 live?

11 A. 3475 Cynthia Drive.

12 Q. And what do you do for a living?

13 A. I'm a bus driver.

14 Q. And back in May, 2012, where were you living?

15 A. 3475 Cynthia Drive.

16 Q. So the same address?

17 A. Correct.

18 Q. And do you have children?

19 A. Yes.

20 Q. How many children do you have?

21 A. Four.

22 Q. And can you please name your children for us?

23 A. Vernel Lockhart, Verna Lockhart, Christopher
24 Harris, and Lorenzo Mehciz.

25 Q. And how old is Lorenzo?

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Twenty-one.

2 Q. And how old was he then back in 2012? Does that
3 make him --

4 A. 2012? Nineteen.

5 Q. Nineteen? Okay.

6 And I'm going to show you something. If you'll
7 let me know if you identify that person.

8 A. Yes.

9 Q. You do? Okay.

10 MS. SAVAS: Your Honor, the State would like to
11 introduce a photo, State's Exhibit Number 123.

12 MR. MCCOY: Judge, may I approach momentarily?

13 [Whereupon, an off-the-record bench conference
14 is held]

15 Q. [Ms. Savas] Ms. Lockhart, can you please tell
16 us who this photo is of?

17 A. My son, Lorenzo Mehciz.

18 Q. Thank you.

19 MS. SAVAS: The State would like to admit this
20 into evidence as State's Exhibit Number 123.

21 THE COURT: Over defense's objection, it's
22 admitted.

23 MS. SAVAS: Thank you, Your Honor.

24 [Whereupon, State's Exhibit Number 123 is
25 admitted into evidence by the Court]

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. [Ms. Savas] And Ms. Mehciz [phonetic], if I
2 show you what's marked as State's Exhibit Number 1, can
3 you please tell us what this is a photo of?

4 A. My house.

5 Q. That's your house?

6 A. Correct.

7 Q. And what was that address again?

8 A. 3475 Cynthia Drive.

9 Q. Thank you.

10 And do you know the cell-phone number of your
11 son Lorenzo?

12 A. Yes, I do.

13 Q. What is that phone number?

14 A. 843-297-0606.

15 Q. And is that the same phone number he had back in
16 May, 2012?

17 A. Yes.

18 Q. And let's go back to that incident. Back on May
19 16th, 2012, do you recall what you were doing that day
20 later into the evening?

21 A. Working.

22 Q. Working.

23 And about what time did you come home that
24 evening?

25 A. I know it was already dark but I can't give a

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 specific time.' It was after 6:00, I know that.

2 Q. After six o'clock? What time do you usually get
3 off work?

4 A. At 6:00.

5 Q. At 6:00?

6 A. Correct.

7 Q. How long does it usually take you to get home?

8 A. About thirty minutes.

9 Q. Okay. About thirty minutes. So it was after
10 6:00.

11 And when you came home that evening, was anyone
12 else at your home?

13 A. The first time, no.

14 Q. Did you leave and come back?

15 A. Yes. I work two jobs, so yes.

16 Q. And when you came back the second time, was
17 anyone at your home?

18 A. Yes. My son was outside.

19 Q. Your son --

20 A. Yeah.

21 Q. -- Lorenzo?

22 A. Correct.

23 Q. And what was he doing outside?

24 A. He was talking to somebody outside.

25 Q. Do you know who that person was?

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 A. When I pulled up in the yard and I got out of
2 the car and I said, hey, Lorenzo, and he said, hey, mom,
3 and I say, who that is you're talking to and he said, Fat.
4 And so --

5 MR. APOSTOLOU: Your Honor, I'm going to object
6 to anything that Lorenzo -- I mean, that her son tells
7 her. That's hearsay.

8 THE COURT: You can't state what somebody else
9 told you.

10 MS. SAVAS: Your Honor, the State would state
11 that it's under 803(1) [phonetic]. It's an exception
12 for present sense impression.

13 This is actually at the time of the incident
14 occurring. He is describing to her the details at
15 that time during the incident. As a present sense
16 impression, it's an exception to hearsay.

17 [Whereupon, a bench conference is held as
18 follows]

19 THE COURT: What is it that you want to ask her?

20 MS. SAVAS: Just if she can identify who that
21 was -- who he was speaking to.

22 MR. APOSTOLOU: She didn't see the person.

23 MS. SAVAS: He tells her -- she did see the
24 person. She said that she had saw them when they came
25 up -- when she came into the driveway and asked to

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 identify them. And she just stated that she
2 [phonetic] said that, oh, this is Fat, and she begins
3 talking about her conversation that she had with Fat.
4 And Lorenzo had told her, also, who was in the car
5 with him. We were going to get into that in a minute.

6 But we believe it also falls under a present
7 sense impression. It's actually as events are
8 occurring. He's talking to her during the incident,
9 which is an exception.

10 THE COURT: Present sense impression is just him
11 telling her --

12 MS. SAVAS: Her --

13 THE COURT: -- something?

14 MS. SAVAS: -- who the people are as this is
15 going on. Because this actually occurs right when
16 Lorenzo and Denzel Heyward were having the
17 conversation about hitting a lick, so this is actually
18 at the immediate time that the incident begins.

19 THE COURT: I'm going to have to send the jury
20 out to hear what you're saying.

21 MS. SAVAS: Yes, Your Honor.

22 [Whereupon, bench conference concludes]

23 THE COURT: I need to send y'all out for a few
24 minutes while we take up a matter of law.

25 [Whereupon, the jury exits the courtroom at

Verna Lockhart-Carter - Proffer - Direct by Ms. Savas

Verna Lockhart-Carter
Direct Examination by Ms. Shealy
November 12, 2014

1 11:53]

2 THE COURT: Set the background for what it is
3 you want to ask her, now.

4 MS. SAVAS: Yes, Your Honor.

5 What we're going to ask her is some basic
6 questions when she came into the house, who was there
7 at the time. Her son was there. Who he was speaking
8 with, exactly. Her son tells her that it's Fat. As
9 well as was there anyone else present at their house
10 at the time. Her son Lorenzo tells her the names of
11 Reef and Trina. And we wanted to get that information
12 out of her placing him at the scene. This is the
13 exact moment in time when Lorenzo and Denzel begin to
14 talk and he informs him of hitting a lick and puts
15 them at the scene. And right after this is when she
16 begins to hear the gunshots occur.

17 This is all very simultaneous. When she arrives
18 home, it's later in that evening when the events start
19 to unfold. So we believe that it is an exception to
20 hearsay under the present sense impression, Your
21 Honor, because he is explaining and describing the
22 events as they are actually unfolding, to her,
23 describing who was there.

24 THE COURT: Let me hear what she's got to say.
25 Go ahead. Ask her.

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

PROFFERED TESTIMONY

BY MS. SAVAS:

Q. And did Lorenzo tell you who was there --

THE COURT: Wait a minute. Stop. Go back.

MS. SAVAS: Yes.

THE COURT: When did this conversation take place?

Q. [Ms. Savas] Ms. Lockhart --

A. Yes?

Q. -- when you spoke with your son, when did this conversation take place?

A. When I pulled up and I got out of the car.

Q. And were there other people present at that time?

A. It was just him and another guy at the time.

Q. And this is when you came home from work that evening?

A. Yes.

Q. And you said that you had been there at six o'clock; correct?

A. Yes.

Q. You left and then you came back?

A. Correct.

Q. How long were you gone for?

A. Three hours.

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 Q. About three hours --

2 A. Correct.

3 Q. -- so it's about nine o'clock?

4 A. Correct.

5 THE COURT: So this took place how long after
6 this incident took place? This shooting.

7 MR. APOSTOLOU: It took place before, Judge.

8 MR. MCCOY: Before, Judge.

9 MR. APOSTOLOU: Two and a half hours.

10 MS. SAVAS: It took place before, Your Honor.

11 And if I may?

12 Q. [Ms. Savas] Ms. Lockhart-Carter, were they
13 still at your house? After you spoke with your son in the
14 driveway, were you still at the house?

15 A. Yes.

16 Q. Were they still at the house at that time?

17 A. Correct.

18 Q. And later on, you -- did you hear any other
19 noises outside?

20 A. No.

21 I went in the house. Later on, Lorenzo -- about
22 five or ten minutes, Lorenzo came in behind me.

23 Q. And do you know exactly which time you came home
24 that evening the second time? Are you sure that it was
25 around 8:00, nine o'clock? Do you think that maybe it

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 could have been later?

2 A. No. It couldn't have been later.

3 Q. And when Lorenzo came back inside, what happened
4 after that?

5 A. He came inside and I heard the shower run. He
6 was getting ready to go in the shower.

7 Q. And what happened next?

8 A. And I went in my bed -- I went in my room and I
9 got in my bed.

10 Q. And did you hear anything outside later?

11 A. Later on I heard a boom. And the first thing
12 came to my mind, I was like -- the transformers go out in
13 our neighborhood. I said, oh, a transformer getting ready
14 to blow. Because it was a rainy night.

15 So I laid back down in the bed. Then I heard
16 boom, boom. And I went outside again and I was like,
17 okay, we're getting ready to lose power. And when I went
18 outside, it was no lights -- you know, there were lights
19 going outside. Everybody house had they porch lights on.

20 So I looked to my left of my house and there was
21 a car down the street and I said, oh, somebody giving a
22 jump. And I came back in my house and closed my door,
23 went back in my bed.

24 Q. And about how long from when you arrived home
25 the second time in the driveway, and had the conversation

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 with Lorenzo, until that time from the shots? How much
2 time do you think had passed?

3 A. Can't exactly -- maybe -- I can't recall
4 exactly.

5 Q. A few hours, do you think? Or maybe was it
6 thirty minutes, ten minutes?

7 A. It was longer than thirty minutes. Like I can
8 tell it could have been thirty -- more than thirty
9 minutes, because I already had laid down.

10 Q. Okay.

11 A. Yes.

12 Q. But it was still that same night?

13 A. Same night.

14 Q. And you hadn't left or Lorenzo hadn't left the
15 house, that you're aware of, between that time?

16 A. No.

17 THE COURT: So he hadn't left the house. What
18 is it that you want her -- what are you trying to
19 elicit from her?

20 MS. SAVAS: I'm just trying to show that this
21 all happened within the same sequence of events, Your
22 Honor, from the time she came home. They were still
23 at the house at the time. They had --

24 THE COURT: They being who?

25 MS. SAVAS: I'm sorry. The defendants, Your

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 Honor. Denzel Heyward and the other male that she had
2 seen out there with him.

3 THE COURT: Well, she can say who was at her
4 house.

5 MS. SAVAS: Right.

6 And what I have not asked her, Your Honor --
7 you're correct -- is I was going to ask her at the
8 time in the driveway speaking with Lorenzo, did he
9 tell you who else was there.

10 MR. APOSTOLOU: Exactly. She didn't see who was
11 at the house. She doesn't know. She got it from
12 Lorenzo. So if Lorenzo wants to testify about it --
13 I'm sorry.

14 THE COURT: There are two separate conversations
15 you're trying to get in here, or just one? I'm a
16 little bit --

17 MS. SAVAS: I'm sorry, Your Honor. Just one
18 conversation.

19 THE COURT: And this is after the shooting took
20 place?

21 MS. SAVAS: This is prior to the shooting.

22 She came home and found Lorenzo in the driveway
23 and he was with Fat, the defendant, and another male
24 who was the other codefendant here, Mr. Dashaun --

25 THE COURT: Well, she can say that --

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 MS. SAVAS: -- and Quasantrina was there.

2 THE COURT: -- who she saw.

3 MS. SAVAS: She only used the names, Your Honor,
4 of the two -- of the other codefendant and the female,
5 from Lorenzo telling her that.

6 THE COURT: Okay.

7 MS. SAVAS: So I was wanting to ask her that.
8 But I did not ask her that just yet because I thought
9 that you wanted to check the timing on everything.

10 THE COURT: So she -- you want her to say she
11 saw her son and a couple other guys but she didn't
12 recognize them?

13 MS. SAVAS: She only -- when she spoke with us,
14 she had said that she recognized Fat, because he told
15 her it was Fat, but she also recognized him because
16 they were friends. And then she, you know, said who
17 else was in the car and he comes out and says Reef and
18 Quasantrina, which places the codefendant -- Dashaun,
19 and Quasantrina are with him at the scene at that
20 time.

21 Those are the only two statements that I wanted
22 to pull out of her of what Lorenzo had told her.

23 THE COURT: And this was all prior to the --

24 MS. SAVAS: This was just before the incident,
25 when they had come to his house.

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 THE COURT: You say just before.

2 MR. APOSTOLOU: Two hours.

3 MR. MCCOY: Two hours, two and a half hours,
4 before.

5 THE COURT: Well, it's --

6 MS. SAVAS: And the comment isn't quite -- I
7 understand the confusion. The time isn't quite lined
8 up perfectly. She said that she came home at 8:00 and
9 then about thirty minutes later she heard a gunshot
10 but we've heard through the CAD report that the
11 gunshots were around 11:30, a different time. I
12 understand their concern with the timing.

13 However, they were still within the same event,
14 as far as them all being there that night when they
15 came home. It was just a sequence of events, Your
16 Honor. They had met with him and told him what was
17 going on immediately in the driveway, which I was not
18 going to elicit from her what they told her.

19 THE COURT: Do you want to be heard, either of
20 you?

21 MR. APOSTOLOU: I would like to be heard, Judge.

22 MR. MCCOY: I'll let Alex go first.

23 MR. APOSTOLOU: Ms. Lockhart-Carter's testimony
24 is that of a neighbor like we have heard before: I
25 was at my home, I heard shots. I don't have any

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 problem with that.

2 But she -- the only way she found out anything
3 about who was out there was Lorenzo told her. If she
4 could testify to what she saw and she says, I saw Fat,
5 I don't have a problem with that. But that's not what
6 her testimony is. Her testimony has been that she
7 talked to her son Lorenzo and Lorenzo said -- Lorenzo
8 is the person that we've already addressed. And if he
9 wants to get on the stand and then tell what he saw.
10 But to try to backdoor what he saw through this and
11 through a present sense impression, incorrect, Your
12 Honor.

13 THE COURT: Do you want to say --

14 MR. MCCOY: That's the --

15 THE COURT: Do you want to add anything?

16 MR. MCCOY: That's the problem with having two
17 lawyers arguing the same point. I don't want to be
18 redundant and say what Mr. Apostolou has already said.

19 THE COURT: But just for the purposes of the
20 record --

21 MR. MCCOY: I do object.

22 THE COURT: -- in case there's --

23 MR. MCCOY: Well, I --

24 THE COURT: -- inconsistent verdicts, you want
25 to be on the record and I'm giving you the

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 opportunity.

2 MR. MCCOY: Well, I appreciate it, Judge, and
3 again, I --

4 THE COURT: You can just say --

5 MR. MCCOY: -- do object --

6 THE COURT: -- I join in his argument, if you
7 want.

8 MR. MCCOY: Well, I appreciate that.

9 But I think it's classic hearsay, Judge. I
10 mean, you can't have somebody come in here and testify
11 as to what somebody else told them based on the fact
12 that there's a -- to me, there's a perceived issue
13 with their other witnesses they're trying to get this
14 information through. I think it's a backdoor way to
15 get the information in, Judge, and I would object.

16 MR. APOSTOLOU: And a presence sense impression,
17 Judge, is how do you perceive something immediately in
18 that time period? She's still testifying to what
19 Lorenzo told her.

20 THE COURT: Well, it sounds to me like she could
21 -- if she can -- what I'm hearing you say she's going
22 to say is, I looked out and I saw my son and he was
23 with a couple of people. And if he recognized -- if
24 she recognized one of them, she can identify them. If
25 she can't, she just -- they're unidentified. But then

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 for him to later on come back in the house and she
2 say, who was that out there with you, that's hearsay
3 and I don't believe it falls under the present sense
4 of impression exception of him describing an event.

5 You're asking that -- for an identification to
6 take place, is the purpose, and not an actual
7 description of somebody who was there and observing
8 what was going on with a spontaneous statement, in
9 essence.

10 I won't allow her to say what Lorenzo said was
11 out there with her. But to the extent that she can
12 say there were people out there, whether or not she
13 can identify them on her own, is another matter. If
14 she can -- she can testify her son was out there and
15 that she saw people in the car with them and if she
16 can identify one of them, or more than one of them,
17 she can identify them. But she can't -- I won't allow
18 you to -- her then testify that later on Lorenzo came
19 in and she asked, who was in the car with you.

20 MS. SAVAS: Yes, Your Honor. I understand that.
21 And I apologize for the confusion. And this is my
22 fault.

23 But while she was still outside with Lorenzo,
24 she asked who else was there and that is when he said
25 Reef and Trina. It was not after he came back inside.

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 It was while she was still outside talking with
2 Lorenzo and, in fact, was out there. Just to clarify.

3 So it wasn't after. He didn't come back in the
4 house afterwards, so it was while they were outside
5 and she pulled in the driveway she asked those
6 questions.

7 THE COURT: All right. Well, again, I don't
8 think that is what the purpose of the --

9 MS. SAVAS: Yes, Your Honor..

10 THE COURT: -- of the present sense impression
11 rule covers.

12 MS. SAVAS: Yes, Your Honor. Thank you.

13 THE COURT: All right.

14 MR. MCCOY: And, Judge, briefly, as a
15 precaution, too, I would also ask that we -- there be
16 an objection or a standing objection to any other
17 statements that Lorenzo would have made to her based
18 on what Lorenzo had perceived was going on out there
19 in that driveway. Or any other statements, for that
20 matter.

21 I just -- there's been some question that
22 there's going to be some testimony about there was
23 somebody out there to hit a lick and that is coming
24 from Lorenzo, and I don't want that to come in through
25 hearsay, as well.

Verna Lockhart-Carter
Proffered Testimony by Ms. Savas
November 12, 2014

1 THE COURT: Were you going to try to get
2 anything else in through her about Lorenzo?
3 MS. SAVAS: No, Your Honor.
4 THE COURT: All right. Do you still need to put
5 her on the stand, then?
6 MS. SAVAS: Yes, Your Honor.
7 THE COURT: Okay. Is there anything else?
8 MR. MCCOY: No, sir.
9 MS. SAVAS: Not from the State.
10 THE COURT: Let's bring the jury back in, then.
11 [Whereupon, the jury enters the courtroom at
12 12:06 p.m.]
13 THE BAILIFF: All jurors are seated, Your Honor.
14 THE COURT: All right. You may resume.
15 MS. SAVAS: All right, Ms. Carter. Let's start
16 back where we left off at.
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24 - - -
25 - - -

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

CONTINUED DIRECT EXAMINATION

BY MS. SAVAS:

Q. When you came home the second time that evening, was anyone else home?

A. Yes.

Q. And who was there?

A. Lorenzo was outside.

Q. Lorenzo was outside. Was he alone?

A. No.

Q. And when you came into the driveway, were you able to see who he was with?

A. I asked Lorenzo who that was.

Q. Okay. And how many people were there with him at that time?

A. It was only him and another guy standing outside.

Q. Did you see anyone else around?

A. No.

Q. Do you remember the last time that we spoke to you? We came to your house.

A. Yes.

Q. Do you remember indicating that you -- when you came home, you were able to see who that person was and you identified him?

A. To identify him?

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 Q. The man that Lorenzo was speaking to.

2 A. No. I asked Lorenzo who that was over there
3 with him.

4 Q. Do you remember telling us that you went over
5 there and said --

6 MR. MCCOY: Objection to leading, Your Honor.

7 THE COURT: Sustained.

8 Q. [Ms. Savas] Did you ever say anything to anyone
9 that was outside --

10 A. Hi.

11 Q. -- in the driveway? Hi? Was that the only
12 thing you said?

13 A. That's it.

14 Q. Did you call him by any names?

15 A. Lorenzo told me that that was Fat --

16 MR. MCCOY: Objection, Your Honor.

17 Q. [Ms. Savas] Without --

18 THE COURT: Wait a minute.

19 Ma'am, you can only tell us -- if you could
20 identify somebody on your own that you had seen
21 before, you can identify them. But you cannot tell us
22 what somebody else told you who it was.

23 And I would have the jury disregard her last
24 statement about Lorenzo telling her who anybody else
25 was.

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 If you knew somebody ahead of time, and you knew
2 who they were, you can say that. But you can't tell
3 us who Lorenzo said they were.

4 THE WITNESS: Yes, sir.

5 THE COURT: Okay?

6 THE WITNESS: Okay. Can I say something?

7 A. That's the only thing I can tell you --

8 THE COURT: Okay. Well, then, that's all you
9 can --

10 Q. [Ms. Savas] That's fine.

11 A. -- because that's the only way I can identify.

12 THE COURT: That's all you can say, then.

13 MS. SAVAS: That's fine. You're doing fine.

14 Q. [Ms. Savas] And did it appear that they knew
15 each other, your son and this other man, then?

16 A. Yes.

17 Q. And you had no other conversation with anyone
18 outside of that --

19 MR. MCCOY: Objection to leading again, Your
20 Honor.

21 THE COURT: Well, it's not suggesting an answer
22 at this point.

23 Go ahead.

24 Q. [Ms. Savas] Did you have any other remarks
25 besides saying only hi to anyone there at that time?

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 A. That's it.

2 Q. So after you spoke, you said hello or you said
3 hi, what did you do next?

4 A. Went in my house.

5 Q. And what do you do when you go inside?

6 A. Went in my room.

7 Q. And then?

8 A. Got ready for bed.

9 Q. You got ready for bed.

10 Okay. And where is your bedroom at in your
11 house?

12 A. Down the hall to the left, second door on the
13 left.

14 Q. And is that towards the front or the rear-end of
15 the house?

16 A. That's the front of the -- the front of that
17 house.

18 Q. The front of the house.

19 Okay. And did you just go right to sleep when
20 you --

21 A. No.

22 I can't go right to sleep. I just went in, in
23 the bedroom, got comfortable.

24 Q. You got comfortable?

25 A. Correct.

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 Q. And how long was it until you fell asleep?

2 A. I actually didn't get a chance to really fall
3 asleep.

4 Q. Why is that?

5 A. Because I heard a boom and I was like, okay, the
6 transformer was blowing.

7 Q. And why did you think the transformer blew?

8 A. Because in the neighborhood, when it's rainy
9 out, our transformers blow around there.

10 Q. Right. And was it raining at that day?

11 A. It was a rainy day, yes.

12 Q. It was a rainy day.

13 Okay. And what did you do when you heard that
14 noise?

15 A. Well, I sat up and that's when I said, oh, the
16 transformer's getting ready to blow. And then a few
17 minutes after that, I heard boom, boom. I got out of my
18 bed, went to the door.

19 Q. And did you look out the door?

20 A. Yes, I looked out the door and I looked to the
21 left of my house to look at everybody house, because
22 everybody has they porch light on in the neighborhood.
23 And I said, well must not have been a transformer. And I
24 saw a car down the street with the tail lights on and I
25 said, oh, they giving a jump down there. And I went back

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 in my house.

2 Q. And was that pretty far out or was it really
3 close to your house?

4 A. A door -- a house down.

5 Q. And but it was -- could you see clearly what was
6 going on down there, or you just assumed?

7 A. I just saw the taillights and the headlights
8 facing -- the two cars facing one another.

9 Q. And then came back inside?

10 A. Came back inside.

11 Q. And where was Lorenzo at this point?

12 A. Sitting in the living room.

13 Q. And when you heard the first boom, what was your
14 reaction? Did you --

15 A. I just said, oh, a transformer must be getting
16 -- a transformer must have blown.

17 Q. Did you ask Lorenzo anything about that?

18 A. No, because I was in my room at that time when
19 the transformer -- when I thought that it was a
20 transformer.

21 Q. And when you heard the first boom, what was
22 Lorenzo doing?

23 A. He was in the living room.

24 Q. Back when we met last, do you remember saying
25 something about him coming inside and going in the shower?

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 A. Yes.

2 He came in right after I came in from work.

3 When I came inside the door, he came in behind me and he
4 went in the shower.

5 Q. And was he in the shower when you heard the
6 boom? The first boom.

7 A. The first boom.

8 Q. And so he wasn't in the living room yet at that
9 point? He was in the shower?

10 A. Correct.

11 Q. And so in your statement when you spoke to us,
12 you had said that he was in the shower when you heard the
13 first boom. And did you ask him what happened --

14 MR. MCCOY: Objection to testifying, Your Honor.

15 THE COURT: Please rephrase your question.

16 MS. SAVAS: Beg the Court's indulgence, Your
17 Honor.

18 [Whereupon, Ms. Savas and Ms. Shealy confer]

19 MS. SAVAS: Your Honor, may I approach?

20 THE COURT: Yes.

21 [Whereupon, an off-the-record bench conference
22 is held]

23 MR. APOSTOLOU: Judge, I would object.

24 THE COURT: I understand. Noted for the record.

25 MR. MCCOY: Noted on Simmons, as well, Judge.

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 THE COURT: All right. The witness has been
2 declared a hostile witness. The State will be allowed
3 to ask leading questions.

4 Q. [Ms. Savas] Ms. Carter, when we met at your
5 house, do you remember telling us that you could identify
6 that Fat was in your driveway when you pulled in that
7 night?

8 A. Only by what was told to me.

9 Q. Do you remember telling us that you actually had
10 a conversation with Fat and he said, hey, mom, what's up
11 and you said, hey, Fat?

12 A. Yes.

13 Q. So you did have a conversation with Fat where
14 you said, hi, Fat, while he was in your driveway that
15 night?

16 A. That's it: hi.

17 Q. But you did call him Fat?

18 A. Yes.

19 Q. And you've known Fat for quite a while; correct?

20 A. By him and my son being friends, yes.

21 Q. How long were they friends for?

22 A. Since school.

23 Q. Since high school?

24 A. [No response]

25 Q. And do you -- do you remember when you spoke

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 with us and you said when you heard the first boom Lorenzo
2 was in the shower and you walked in the shower and said,
3 hey, did you hear that?

4 A. I asked Lorenzo did he hear that, correct.

5 Q. While he was in the shower --

6 A. While he was in the shower.

7 Q. -- and you heard the first boom?

8 Okay. And do you remember saying that after the
9 other two loud booms and you went outside to check and see
10 what was going on, officers later came to your house;
11 correct?

12 A. Correct.

13 Q. And when those officers came to your house, they
14 had asked what you knew, correct, about what was going on?
15 Did they tell you that -- they told you that there was a
16 shooting?

17 A. Correct.

18 Q. And did you -- do you remember telling us that
19 you said to Lorenzo, give me your phone, I want to call
20 Fat?

21 A. Correct.

22 Q. And you told us that you called him immediately
23 because he was there just prior to that incident --

24 A. Correct.

25 Q. -- and you believed that he had something to do

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 with it? He was involved in some fashion?

2 MR. MCCOY: Objection, Your Honor. She's not
3 even asking a question.

4 THE COURT: Let her answer the question before
5 you break off to another one.

6 A. Ma'am?

7 THE COURT: Go ahead and repeat your first
8 question.

9 Q. [Ms. Savas] Do you recall that you asked to
10 call -- you asked Lorenzo to call Fat because you thought
11 that he was involved?

12 A. Correct.

13 Q. And how long did Lorenzo and Fat know each
14 other?

15 A. Since school.

16 Q. Since when? I'm sorry.

17 A. School.

18 Q. Since school? How many years do you think,
19 about? A few years? A long while? They were close
20 friends?

21 A. [Indicates affirmatively]

22 Q. And do you remember telling us that Fat had
23 actually given Lorenzo some food and money while they were
24 at school together? They went to college together; right?

25 A. That's from what he told me.

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 Q. Right.

2 And Lorenzo and Fat had played on the same
3 basketball team growing up?

4 A. They played ball together.

5 Q. They played ball?

6 A. But I don't know if they been on --

7 Q. Okay.

8 A. Okay.

9 Q. Uh-huh. And --

10 MS. SAVAS: One moment, please.

11 [Whereupon, Ms. Savas and Ms. Shealy confer]

12 Q. [Ms. Savas] Do you remember us speaking with
13 you about meeting your son Lorenzo? Correct?

14 A. Correct.

15 Q. And we told you that Lorenzo had failed to show
16 up for one of our meetings with him; correct?

17 A. Correct.

18 Q. And you told us that Lorenzo and Fat went to
19 S.C. State together; correct?

20 A. If he went to -- I don't know what school Fat
21 went to. I know Lorenzo went to State.

22 Q. And you remember telling us, though, that they
23 went to school together --

24 A. Yes. High school.

25 Q. -- to college?

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 A. High school.

2 Q. And do you remember getting a phone call from
3 our office that we were at Denmark Tech, where your son
4 attended, and he failed to meet us and you called him to
5 tell him -- to see where he was to show up; correct?

6 A. Correct.

7 MR. APOSTOLOU: Judge, I'm going to object.
8 She's telling her what we told you. Even under the
9 circumstances here, that's inappropriate.

10 THE COURT: You can lead. If you have prior
11 inconsistent statements, there's a way of impeaching
12 but don't just impeach her before you ask her the
13 question. Ask her a question. If she gives you an
14 answer that she gave some other time, then you can
15 impeach her. But --

16 MS. SAVAS: Okay, Your Honor.

17 THE COURT: All right?

18 MS. SAVAS: Thank you.

19 Q. [Ms. Savas] And, Ms. Carter, you did -- just to
20 clarify: you did tell us that you did see Fat in the
21 driveway that night; correct?

22 A. From what I was told, yes.

23 Q. You did tell us that you had a conversation with
24 him; correct?

25 A. Saying hi.

Verna Lockhart-Carter
Continued Direct Examination by Ms. Savas
November 12, 2014

1 Q. And you called him by his name, Fat; correct?

2 A. Hi, Fat --

3 Q. Okay. And you --

4 A. -- and went in the house.

5 Q. Thank you.

6 And you did call -- you did call him immediately
7 after you heard that there was a shooting; correct?

8 A. Correct.

9 MS. SAVAS: Thank you. I don't have any further
10 questions. If you would answer the questions from the
11 defense attorneys.

12 THE WITNESS: Okay.

13 MS. SAVAS: Thank you.

14 THE COURT: Mr. Apostolou?

15 MR. APOSTOLOU: Thank you, Your Honor.

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Verna Lockhart-Carter
Cross-Examination by Mr. Apostolou
November 12, 2014

CROSS-EXAMINATION

BY MR. APOSTOLOU:

Q. Ms. Carter --

A. Yes, sir.

Q. -- this case is about the incidents that
happened on the street.

A. Correct.

Q. You don't have any insights into what happened
on that street, do you?

A. No, sir.

Q. Not at all?

A. No, sir.

Q. Okay. You know Fat; right?

A. Correct.

Q. Fat lived right around the corner from this
house, didn't he?

A. Yes.

Q. I mean, he lived on Hobson Avenue, which is
right around the corner?

A. Correct.

MR. APOSTOLOU: Okay. Nothing further.

THE COURT: Mr. McCoy?

MR. MCCOY: We don't have anything, Judge.

Thank you.

THE COURT: Redirect based on Mr. Apostolou?

Verna Lockhart-Carter
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Any questions? Any redirect?

2 MS. SAVAS: No, Your Honor.

3 THE COURT: Okay. You can step down.

4 MS. SHEALY: Your Honor, we would ask that she
5 remain under subpoena.

6 THE COURT: Ma'am, you need to go back out and
7 you're not free to leave just yet.

8 THE WITNESS: Yes, sir.

9 [Whereupon, the ms. Lockhart-Carter exits the
10 witness stand]

11 THE COURT: Now, folks, they indicate to me that
12 your lunch is here so I'm going to go ahead and send
13 you back to the jury room so you can enjoy your lunch
14 and stretch your legs, that sort of thing, if you need
15 to. You can eat your lunch there or you can take it
16 outside. It's still a nice day. However you want to
17 do that.

18 You can eat with each other, you can eat alone
19 but if you do eat with any member of the jury panel,
20 please don't discuss the case. Don't talk about
21 witness demeanor, or anything at all about the case.
22 You can talk about whatever else you want to.

23 If anybody does approach you to talk to you
24 about the case, please report that back to me.

25 If you would be back in the jury room at 1:15

Verna Lockhart-Carter
Cross-Examination by Mr. Apostolou
November 12, 2014

1 and we will -- I hope you enjoy your lunch that we got
2 you. All right? See you shortly.

3 [Whereupon, the jury exits the courtroom at
4 12:27 p.m.]

5 MS. SHEALY: Your Honor, may we approach for a
6 moment?

7 THE COURT: Sure.

8 MR. APOSTOLOU: Before we do, Judge, could I
9 just go on the record as to us objecting to the State
10 being able to lead that witness? I did it in an
11 in-camera situation. I just wanted to make sure the
12 court reporter got it.

13 THE COURT: Just make sure for the record that
14 Mr. Apostolou and Mr. McCoy both objected to me
15 declaring the witness hostile and allowing leading
16 questions.

17 MR. APOSTOLOU: Thank you.

18 THE COURT: All right.

19 [Whereupon, an off-the-record bench conference
20 is held in reference to scheduling]

21 THE COURT: Let's meet back here at 1:15. And
22 if you can find out from Lori --

23 MS. SHEALY: Okay.

24 THE COURT: -- ask her to be here at 1:15, if
25 you see her, and we'll figure out where we're going

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 SIDEARIS SINGLETON,
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MS. SHEALY:

6 Q. Ms. Singleton, would you please tell the jury
7 where you're from?

8 A. Charleston, South Carolina.

9 Q. And where did you go to high school?

10 A. North Charleston High School.

11 Q. And how many children do you have?

12 A. I have two children.

13 Q. What are your children's names?

14 A. My daughter name is Quasantrina, and I have a
15 son named Phillip Singleton.

16 Q. Phillip Singleton?

17 A. Yes.

18 Q. Quasantrina's last name is Rivers?

19 A. Yes, ma'am.

20 Q. And does she go by a nickname sometimes?

21 A. Trina.

22 Q. Trina? Who is her father?

23 A. Her father is Lloyd Rivers.

24 Q. Okay. And who is your sister?

25 A. My sister is Laketria [phonetic] Jackson.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And who is Syrinia Singleton?

2 A. Lloyd River's sister.

3 Q. Lloyd River's sister?

4 A. Yes, ma'am.

5 Q. Now, have you ever had to testify in court
6 before?

7 A. No, ma'am.

8 Q. Have you ever been in any kind of criminal
9 trouble?

10 A. No, ma'am.

11 Q. Where do you work?

12 A. I work for Charleston County School District.

13 Q. And how long have you worked for them?

14 A. I just been working thirty days for them.

15 Q. And had you worked in the area of children's
16 education prior to this job?

17 A. Yes, ma'am.

18 Q. Where did you work then?

19 A. I worked with Charleston County DSS in the legal
20 department. And before that, I worked for Charleston
21 County School District for twelve years.

22 Q. Do you have a sister that back in 2012 was
23 overseas?

24 A. Yes, ma'am.

25 Q. And what is that sister's name?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 A. Laketria Jackson.
- 2 Q. Are you here today because we subpoenaed you?
- 3 A. Yes, ma'am.
- 4 Q. And does Quasantrina have a child?
- 5 A. Yes, ma'am.
- 6 Q. And what is her child's name?
- 7 A. Trinity Heyward.
- 8 Q. And who is the father of that child?
- 9 A. Denzel Heyward.
- 10 Q. Now, do you know any of Denzel's friends?
- 11 A. No, ma'am, I don't know any of his friends.
- 12 Q. Do you know what his mother's first name is?
- 13 A. I know his mother's first name.
- 14 Q. Which is what?
- 15 A. Dana.
- 16 Q. I would like for you to focus your attention
- 17 back to May 18th of 2012. Okay? Do you remember having a
- 18 conversation with Quasantrina?
- 19 A. A text message was sent between Quasantrina
- 20 and I.
- 21 Q. Did that result in y'all having a conversation
- 22 one-on-one?
- 23 A. Yes, ma'am.
- 24 Q. And could you tell the jury, please, where it
- 25 was that y'all had that conversation?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. We had a conversation at my mother's house in
2 her front yard.

3 Q. And where does your mother live?

4 A. 2747 West Surrey.

5 Q. And who got over to your mother's house first,
6 you or Quasantrina?

7 A. I believe Quasantrina did, but I'm not sure.

8 Q. What type of car did Quasantrina drive?

9 A. A black Plymouth Seabreeze.

10 Q. And when you and Quasantrina spoke, could you
11 describe to the jury what her demeanor was? How did she
12 appear?

13 A. She appeared to be nervous and kind of like
14 paranoid like somebody was watching her or following her.

15 Q. In what way? What made you feel that way? What
16 was she doing?

17 A. Because she kept looking around and watching
18 people, and just lifting her head up and down, and just
19 seemed nervous.

20 Q. And did she have a conversation with you -- and
21 don't tell me what she said, but did she have a
22 conversation with you about something that had happened a
23 couple of nights before?

24 A. Yes, ma'am.

25 Q. And can you tell the jury how you reacted to

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 what Quasantrina told you?

2 A. When she told me what she told me, I was like,
3 oh, no; you have to go and turn yourself in; somebody
4 child life was lost and somebody child was beaten, so you
5 need to go turn yourself in.

6 Q. And when you took -- when you told Quasantrina
7 that, did you later talk to some of your own family
8 members?

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

10 Q. And how many family members did you speak with?

11 A. I spoke with my sister that was in Germany at
12 the time.

13 Q. And why did you decide to talk to her?

14 A. Because she knows legal aspects of things, so I
15 thought it would be important to speak with her about the
16 situation to get guidance where to go.

17 Q. And after talking to your sister, did you share
18 with Trina what your sister had also recommended?

19 A. Yes, ma'am.

20 Q. And do you do anything with Trinity at that
21 point?

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

23 Q. Tell the jury -- and that would have been your
24 granddaughter?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. What did you do with Trinity?

2 A. I took Trinity out of state.

3 Q. And did you leave her with a friend or a family
4 member?

5 A. A family member.

6 Q. Did you also share the information with Trina's
7 father?

8 A. Yes, ma'am.

9 Q. And did you have any contact with law
10 enforcement?

11 A. Yes, ma'am.

12 Q. Would you tell us the circumstances of that?

13 A. Law enforcement called me one Saturday morning
14 asking me about did I know anything concerning the case
15 with the two young men's on Johns Island.

16 Q. Now, prior to that conversation with law
17 enforcement, had your husband's sister initiated something
18 with law enforcement?

19 A. Not my husband's sister. It was Quasantrina's
20 father's sister --

21 Q. I'm sorry.

22 A. -- had a conversation.

23 Q. I'm sorry. Yes. It was Quasantrina's father's
24 sister?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And was she aware of what Quasantrina had told
2 you?

3 A. Yes, ma'am.

4 Q. And so she made the first contact with law
5 enforcement?

6 A. Yes, ma'am.

7 Q. And then law enforcement called you?

8 A. Yes, ma'am.

9 Q. And when law enforcement called you, what did
10 you do?

11 A. I went to the sheriff's department to make a
12 statement.

13 Q. And, in fact, did you make a statement that day?

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

15 Q. At that point, had Trina turned herself in?

16 A. No, ma'am, she hadn't.

17 Q. And could you tell us whether or not Trina
18 ultimately did turn herself in?

19 A. Yes, ma'am, she did.

20 Q. And what were the circumstances for that? Did
21 y'all, as a family, arrange that?

22 A. As a family, we spoke and we arranged for her to
23 go and turn herself in.

24 Q. And who did she ride to the police station with,
25 if you know?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. She rode with me and my husband.

2 Q. And were there other family members at the
3 police station with Quasantrina when she turned herself
4 in?

5 A. Yes.

6 Her father and his fiancé, and also her Aunt
7 Syrinia that called law enforcement.

8 Q. And on that occasion, did Quasantrina come home
9 that night?

10 A. No, ma'am, she did not.

11 Q. Where did she spend the night?

12 A. Charleston County Detention Center.

13 Q. Did the officers call you back and tell you that
14 she had been charged?

15 A. Yes, ma'am.

16 Q. Do you remember specifically what she was
17 charged with?

18 A. The officers charged her with accessory to
19 murder, accessory to attempted murder, accessory to
20 robbery. I believe those were the three terms.

21 MR. APOSTOLOU: Judge, could we clarify that
22 that's accessory after the fact on those charges?

23 MS. SHEALY: I think she can only answer what
24 she knows.

25 Q. [Ms. Shealy] Do you remember them saying it was

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 accessory after the fact to those three crimes?

2 A. I believe it was, but I'm not sure what the
3 legal terms.

4 Q. And so Quasantrina went to jail?

5 A. Yes, ma'am.

6 Q. And did you go to visit her while she was in
7 jail?

8 A. Yes, ma'am.

9 Q. When you were at the jail, did you ever run into
10 any family member of --

11 Did you call him Denzel or Fat?

12 A. I called him Denzel.

13 Q. Did you ever run into any family member of
14 Denzel's while you were at the jail?

15 MR. APOSTOLOU: Objection. Relevance, Judge.

16 It doesn't make any difference to whether he --
17 the facts at issue doesn't make any difference who she
18 ran into at the jail.

19 MS. SHEALY: It's the first question of several
20 questions that will indicate the relevance.

21 THE COURT: Go ahead.

22 Q. [Ms. Shealy] Did you run into anyone related to
23 Denzel when you were visiting Quasantrina one time?

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

25 Q. And who was it that you saw?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. His mother, Dana.

2 Q. And not telling us exactly what she said, but
3 what were you encouraged to do?

4 A. To go over to the booth where she was visiting
5 Denzel.

6 Q. And when you did so, did you talk to Denzel?

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

8 Q. And what did he tell you?

9 A. He said he wanted to apologize about the
10 situation, getting my daughter in the situation, and he
11 was going to make things right, that she gets out of this
12 situation. And he also wanted to ask me for forgiveness.

13 Q. Now, did you have any further contact with
14 Denzel?

15 A. No, ma'am. Not that I'm aware of.

16 Q. When you spoke with him that day, did he tell
17 you he did not do this?

18 A. No, ma'am.

19 Q. Did he tell you that Quasantrina was lying about
20 what happened?

21 A. No, ma'am.

22 Q. Later, did you bring one of Quasantrina's phones
23 up to the solicitor's office?

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

25 MS. SHEALY: I beg the Court's indulgence just

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 one moment.

2 Q. [Ms. Shealy] Let me show you State's Exhibit
3 91. It's going to show up there in just a second.

4 So showing you 91 and State's Exhibit 92. Is
5 that Trina's car?

6 A. Yes, ma'am.

7 Q. And when you indicated that you gave a statement
8 in the case, do you recall the date that you gave the
9 statement? I'll show you a copy of your statement.

10 A. May the 19th, 2012.

11 Q. And how many pages is that statement?

12 A. Three pages.

13 Q. And, again, why was it important to you that
14 Quasantrina turn herself in?

15 A. Because someone's son died that day, and
16 someone's son also was beaten, and I believe in doing the
17 right thing. Because if my child was on the side of the
18 road, I would like for someone to call law enforcement or
19 give me some information, also.

20 MS. SHEALY: Thank you, Ms. Singleton. Please
21 answer any questions that the defense may have.

22 MR. APOSTOLOU: Thank you, Ms. Singleton.

23 - - -

24 - - -

25 - - -

Sidearis Singleton
Cross-Examination by Mr. Apostolou
November 12, 2014

CROSS-EXAMINATION

BY MR. APOSTOLOU:

Q. Quasantrina told you, y'all contacted the police, then the police started calling Quasantrina; is that correct?

A. Please repeat that.

Q. I'm sorry.

Quasantrina told you something, and you communicated directly to the police, then the police started calling Quasantrina directly; is that correct?

A. Please ask one question at a time, let me answer each one each time.

Q. Okay. Quasantrina told you something?

A. Yes, sir.

Q. As a result of that, you contacted police?

A. No, sir.

Q. Somebody in your family contacted police?

A. Yes, sir.

Q. And then the police started to call Quasantrina directly, communicate directly with Quasantrina; is that correct?

A. I'm not sure about that.

Q. Okay. Fair deal.

Quasantrina has had some difficulties in life, hasn't she, Ms. Singleton?

Sidearis Singleton
Cross-Examination by Mr. Apostolou
November 12, 2014

- 1 A. We all have.
- 2 Q. We have.
- 3 Quasantrina has attempted suicide before, has
- 4 she not?
- 5 A. I'm not sure about that.
- 6 Q. You're unsure whether your daughter tried to
- 7 kill herself?
- 8 A. Yes, sir, I'm unsure about that.
- 9 Q. Do you know if she's had some mental health
- 10 issues?
- 11 A. I'm not sure about that, sir.
- 12 Q. Do you know whether she's accused anyone in your
- 13 family of sexually assaulting her?
- 14 A. I'm not sure about that, sir.
- 15 Q. Okay. Do you know anybody named Phil?
- 16 A. Yes, sir.
- 17 Q. Who is Phil?
- 18 A. Phil is a son that I have.
- 19 Q. Phil is your son?
- 20 A. Yes, sir.
- 21 Q. Do you have a husband at the present time?
- 22 A. Yes, sir.
- 23 Q. And what is his name?
- 24 A. His name is Phillip.
- 25 Q. Phillip. Okay. My apologies.

Sidearis Singleton
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Do you know whether Quasantrina has ever accused
2 Phillip of sexually assaulting her?

3 A. No, sir.

4 Q. You do not know whether that's true or not?

5 A. No, sir.

6 Q. You're still presently married to Phillip?

7 A. Yes, sir.

8 Q. All right. And if Quasantrina had accused him
9 of sexually molesting her, then you would not be married
10 to him if you believed those were correct; is that true?

11 A. Correct.

12 Q. You're uncertain whether Quasantrina has ever
13 accused Phil, Phillip, of sexually assaulting her?

14 A. Yes, I'm unsure.

15 Q. Are you aware that Quasantrina has worked as a
16 stripper in a strip club?

17 A. I'm aware --

18 MS. SHEALY: Your Honor, objection to the
19 relevancy.

20 THE COURT: What's --

21 MR. APOSTOLOU: The relevance, Judge, is the
22 mental state of her daughter and --

23 THE COURT: Well, working in a strip club, I
24 don't know what that's got to do with mental health.

25 MS. SHEALY: I just want to make sure I

Sidearis Singleton
Cross-Examination by Mr. Apostolou
November 12, 2014

1 understood that. He's saying it goes to her mental
2 state?

3 MR. APOSTOLOU: I'm saying if -- I'm saying it
4 relies to the state of her mental situation.

5 THE COURT: Well, I don't see how that relates
6 to it, so I will sustain the objection.

7 MR. APOSTOLOU: Okay.

8 Q. [Mr. Apostolou] Have you ever heard of Club
9 Crucial [phonetic] before?

10 A. I heard of it.

11 Q. Is all the answers that you gave today a hundred
12 percent the truth?

13 A. That I'm aware of, sir.

14 Q. That you're aware of?

15 A. Yes, sir.

16 Q. You're not aware whether your daughter attempted
17 suicide previously?

18 A. I just answered that question. The answer is
19 still the same.

20 MR. APOSTOLOU: The Court's indulgence.

21 No questions, Judge.

22 MR. MCCOY: Briefly, Judge. Thank you.

23 Good afternoon, Ms. Singleton.

24 THE WITNESS: Good afternoon.

25

- - -

Sidearis Singleton
Cross-Examination by Mr. McCoy
November 12, 2014

CROSS-EXAMINATION

BY MR. MCCOY:

Q. I just have a couple of questions, based on the statement that you gave when you spoke to the police. Okay?

A. Yes, sir.

Q. In your statement -- and you can't say what somebody else told you, but you can say what you learned. Okay? And one of the questions that's on here, it says did Trina say she saw anybody get shot, if so, who.

Do you remember how you answered that?

A. I'm not sure. You have the papers in front of you, sir, so I'm not sure.

Q. Would it refresh your recollection if I show them to you?

A. Yes, sir. I would appreciate that.

Q. Okay.

[Whereupon, the witness reviews documents]

Q. [Mr. McCoy] Let me know. Take a look at that and if you have any questions, let me know.

A. Uh-huh.

[Whereupon, the witness reviews documents]

A. Ask your question again, sir.

Q. [Mr. McCoy] Yes, ma'am.

This goes back to the question-and-answer

Sidearis Singleton
Cross-Examination by Mr. McCoy
November 12, 2014

1 portion of your statement where it says did Trina indicate
2 to you whether she saw anybody get shot. And do you
3 remember how you answered?

4 MS. SHEALY: Your Honor, I do think that calls
5 for hearsay.

6 THE COURT: Well, you're asking her to refresh
7 her recollection?

8 MR. MCCOY: I am asking her to reflect --
9 refresh her recollection, based off her statement that
10 she gave to the police.

11 MS. SHEALY: Could we approach, Your Honor?

12 THE COURT: Yes.

13 [Whereupon, an off-the-record bench conference
14 is held]

15 Q. [Mr. McCoy] Have you had an opportunity to take
16 a look at that?

17 A. I glanced over it.

18 MR. MCCOY: I'm going to take it back from you,
19 okay?

20 Q. [Mr. McCoy] And, again, you're not allowed to
21 say what somebody else told you. But you did answer the
22 questions in the statement; is that correct?

23 A. Yes, sir.

24 Q. And did Trina tell you or indicate to you that
25 she saw anybody get shot that night?

Sidearis Singleton
Cross-Examination by Mr. McCoy
November 12, 2014

1 MS. SHEALY: I would renew my objection.

2 THE COURT: How about did she ever tell anybody
3 that Trina said that.

4 MR. MCCOY: Did she ever tell anybody.

5 Q. [Mr. McCoy] Did you ever tell anybody that
6 Trina said she saw anybody get shot or not get shot on the
7 scene that night?

8 A. Break that down again.

9 Q. I'm going to break it down one more time. I'm
10 sorry. Okay?

11 Again, we've got to watch what we say hearsay-
12 wise in the courtroom. You can't say what somebody else
13 told you. Okay? You can only say how you answered these.

14 Did you indicate to the police that anybody --
15 that you learned that anybody got shot that night or did
16 Trina see anybody get shot that night?

17 A. To me, that would still be hearsay.

18 Q. Can you answer my question for me?

19 A. That's what -- I'm answering your question.

20 THE COURT: I've ruled on whether or not it's
21 hearsay.

22 He's asking you did you tell anybody that. Not
23 whether anybody told you that, but did you tell
24 anybody that.

25 A. Did I tell anyone what?

Sidearis Singleton
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. [Mr. McCoy] Did she say -- I'm going to read
2 the question that was --

3 A. Okay.

4 Q. I'll give it to you again. Okay?

5 A. Yes, sir.

6 Q. Did Trina say she saw anybody get shot? If so,
7 who?

8 A. I need to see the paper.

9 Q. Okay. I'll show it to you one more time.

10 MR. MCCOY: Judge, may I approach the witness?

11 THE COURT: Yeah. But I know this is kind of
12 splitting hairs, but for her just to say what Trina
13 said would be hearsay, sure. A proper question is
14 did she tell anybody, though, because that's what
15 you're trying to refresh her recollection on.

16 Q. [Mr. McCoy] Do you want me to break it down for
17 you one more time?

18 A. Yes, sir.

19 Q. All right. We'll do it one more time.

20 Did you tell anybody that Trina told you that
21 somebody was shot on the scene?

22 A. Can I see?

23 Q. Sure. Yes, ma'am.

24 [Whereupon, the witness reviews documents]

25 A. My response would be, no, she didn't mention

Sidearis Singleton
Cross-Examination by Mr. McCoy
November 12, 2014

1 any -- no, that's not the right question.

2 Q. [Mr. McCoy] The one above.

3 A. She didn't see anybody get shot. She was in her
4 car.

5 Q. Okay. Did you tell the police that there was
6 any mention of weapons or seeing weapons on the scene?

7 A. No. She didn't mention any weapons.

8 MR. MCCOY: Thank you, Ms. Singleton. I
9 appreciate it. I'm sorry it took a little while, but
10 I appreciate your time.

11 Thank you, Judge.

12 THE COURT: Redirect?

13 MS. SHEALY: Yes, Your Honor.

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Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

REDIRECT EXAMINATION

BY MS. SHEALY:

Q. Ms. Singleton, you told us that you knew someone had died -- after your conversation with Trina -- is that correct?

A. Yes, ma'am.

Q. Do you think Quasantrina gave you every detail of what happened that night when y'all talked that afternoon?

A. No, ma'am.

Q. And --

MR. MCCOY: Objection to speculation, Judge, on that.

THE COURT: Repeat your question.

MS. SHEALY: Do you think Trina gave you every detail of what happened that night when y'all spoke that day.

THE COURT: Well, that would be speculative.

MS. SHEALY: Okay.

Q. [Ms. Shealy] How lengthy was your conversation with her about the details of what had happened?

A. It might have been five minutes, if that.

Q. And Mr. Apostolou asked you about Trina's mental health and whether she had been abused; is that correct?

A. Yes, ma'am.

Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

1 Q. Who did you know that had abused her?

2 MR. APOSTOLOU: Objection, Your Honor --

3 THE COURT: Would you say that question one more
4 time?

5 MS. SHEALY: Who do you know that abused her.

6 MR. APOSTOLOU: Objection, Judge.

7 MS. SHEALY: May we approach?

8 THE COURT: Well, you raised the -- you raised
9 the issue. I guess she would -- you introduced it,
10 so --

11 MR. APOSTOLOU: May we approach, Judge? /

12 THE COURT: Yes.

13 [Whereupon, an off-the-record bench conference
14 is held]

15 Q. [Ms. Shealy] Ms. Singleton, who are you aware
16 of that harmed Trina?

17 A. In what way?

18 Q. In any way. In a physical way.

19 A. In a physical way, that I know of, is domestic
20 violence.

21 Q. And who was that on the part of? Who harmed
22 her?

23 A. Her baby's father.

24 Q. That man? Fat? Denzel?

25 A. Yes, ma'am.

Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

1 Q. And it wasn't just on the night in question, was
2 it?

3 A. No, ma'am.

4 Q. There had been a history of that?

5 A. Yes, ma'am.

6 Q. And Trina would share that with you?

7 A. Yes, ma'am.

8 Q. Had you ever seen her after he hurt her?

9 A. Yes, ma'am.

10 Q. Did you ever see any physical signs of it
11 yourself?

12 A. Yes, ma'am.

13 Q. What did you see?

14 A. Her hair was taken out of here, the side. She
15 had some braids but the hair was gone. And her lip was
16 busted or swelled up.

17 MR. APOSTOLOU: Judge, I'm going to object to
18 this, because she cannot tell the circumstances in
19 which those injuries occurred. She's just speculating
20 to how they occurred.

21 THE COURT: Overruled.

22 MS. SHEALY: Beg the Court's indulgence just a
23 moment.

24 Q. [Ms. Shealy] Let me just ask you if you're
25 familiar --

Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

1 THE COURT: Hold on. Wait a minute. What did
2 you -- what's that?

3 [Whereupon, an off-the-record bench conference
4 is held]

5 Q. [Ms. Shealy] Ms. Singleton, other than the time
6 when he ripped her hair and busted her mouth, were you
7 aware of other occasions that he had behaved in a similar
8 fashion towards her?

9 A. Yes, ma'am.

10 Q. And how did that affect your level of comfort
11 with her having a relationship with him?

12 A. I did not have a relationship with him, really.

13 Q. Were you happy that she did?

14 A. I wasn't happy.

15 Q. And, again, that happened on more than just one
16 occasion; is that correct?

17 A. Yes, ma'am.

18 Q. And are you aware of whether it happened in
19 other cities other than in Charleston?

20 A. Yes, ma'am.

21 Q. So other cities and other times?

22 A. Yes, ma'am.

23 MS. SHEALY: Ms. Singleton, I have no further
24 questions. Thank you very much.

25 THE WITNESS: Yes, ma'am.

Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

1 THE COURT: Recross?

2 MR. APOSTOLOU: No questions, Judge.

3 MR. MCCOY: No, sir, Judge.

4 THE COURT: You may step down.

5 [Whereupon, the witness is excused and exits the
6 witness stand]

7 MS. SHEALY: May we approach just briefly,
8 Judge?

9 THE COURT: Sure.

10 MS. SHEALY: Oh. May she be excused?

11 THE COURT: Yes. You're free to go.

12 MS. SHEALY: She's allowed to sit in the
13 courtroom now?

14 THE COURT: Yes, she can.

15 MS. SHEALY: Ms. Singleton, you can sit in the
16 courtroom.

17 [Whereupon, an off-the-record bench conference
18 is held]

19 THE COURT: The next witness might be a little
20 while, so we're going to -- might be lengthy, so we'll
21 go ahead and take a restroom break and we'll have you
22 back in about fifteen minutes.

23 Again, don't begin deliberations or discussions
24 about the case, and we will see you back in about
25 fifteen minutes.

Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

1 [Whereupon, the jury exits the courtroom at 2:28
2 p.m.]

3 THE COURT: All right. Just for the record,
4 when she was showing me this -- you didn't come up
5 here -- but I told her I wasn't going to allow
6 extrinsic evidence to follow up on that line, she was
7 basically stuck with whatever answer she got. And so
8 I didn't allow that for that reason.

9 MS. SHEALY: Could we make this a Court's
10 Exhibit?

11 THE COURT: Certainly.

12 [Whereupon, Court's Exhibit Number 8 is marked
13 by the court reporter]

14 THE COURT: All right. Fifteen minutes.

15 [Whereupon, a recess is held from 2:30 p.m. to
16 2:40 p.m.]

17 MR. APOSTOLOU: Judge, can we approach briefly?

18 THE COURT: Sure.

19 [Whereupon, an off-the-record bench conference
20 is held]

21 THE COURT: All right. Bring the jury in.

22 [Off the record momentarily]

23 [Whereupon, the jury enters the courtroom at
24 2:46 p.m.]

25 THE BAILIFF: All jurors are present, Your

Quasantrina Rivers - Direct Examination
by Ms. Shealy

Sidearis Singleton
Redirect Examination by Ms. Shealy
November 12, 2014

1 Honor.

2 THE COURT: All right. The State, call your
3 next witness.

4 MS. SHEALY: Quasantrina Rivers.

5 [Whereupon, Ms. Rivers comes forward]

6 THE CLERK OF COURT: If you would place your
7 left hand here. Raise your right.

8 [Whereupon, Ms. Rivers is duly sworn by the
9 clerk of court as follows: do you swear or affirm the
10 testimony you will give the Court and the jury in the
11 trial of this case will be the truth, the whole truth,
12 and nothing but the truth, so help you God]

13 THE WITNESS: Yes, sir.

14 THE CLERK OF COURT: You may be seated. Ma'am,
15 once seated, if you could please state your first and
16 last name. Spell your last loudly and clearly into
17 the microphone, please.

18 [Whereupon, Ms. Rivers takes the witness stand]

19 THE WITNESS: Quasantrina Singleton Rivers.

20 Q-U-A-S-A-N-T-R-I-N-A, Singleton, S-I-N-G-L-E-T-O-N,
21 Rivers, R-I-V-E-R-S.

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Quasantrina Rivers - Direct Examination by
Ms. Shealy

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 QUASANTRINA RIVERS;
2 Having Been First Duly Sworn,
3 was Examined and Testified as Follows:

4 DIRECT EXAMINATION

5 BY MS. SHEALY:

6 Q. Quasantrina, just to make it easier, I may refer
7 to you as Trina today. Okay?

8 A. Yes, ma'am.

9 Q. Tell the jury, please, how old are you?

10 A. I'm twenty-four.

11 Q. And where did you grow up?

12 A. In North Charleston.

13 Q. What high school did you go to?

14 A. I graduated from Fort --

15 Q. And how many children do you have?

16 A. One.

17 Q. And what is your child's name?

18 A. Trinity.

19 Q. And how old is Trinity?

20 A. Three.

21 Q. And who is Trinity's father?

22 A. Denzel Heyward.

23 Q. And where is Denzel Heyward? Do you see him in
24 the courtroom?

25 A. Yes, ma'am.

MIA PERRON, CVR-CM-M

-239-

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 Q. Where is he seated?
- 2 A. With the green sweater.
- 3 Q. With the glasses on?
- 4 A. Yes, ma'am.
- 5 Q. And your father's name is?
- 6 A. Lloyd Rivers.
- 7 Q. Tell us about your relationship with Denzel
- 8 Heyward. How long have you known him?
- 9 A. I've known Denzel for three years. He's the
- 10 father of my daughter.
- 11 Q. And how did you meet him?
- 12 A. I met him in a club.
- 13 Q. In a club?
- 14 A. Yes, ma'am.
- 15 Q. And did your relationship obviously become
- 16 romantic?
- 17 A. Yes, ma'am.
- 18 Q. Focusing your attention back to May of 2012,
- 19 were y'all still involved in a romantic relationship?
- 20 A. It was on and off.
- 21 Q. And without going into a lot of detail, could
- 22 you tell the jury whether or not this relationship
- 23 included some violence?
- 24 A. Yes, ma'am.
- 25 Q. And was that violence on your part, or toward

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 you?

2 A. Towards me.

3 Q. Now, despite the violence, do you continue to
4 have a relationship with him?

5 A. Yes, ma'am.

6 Q. Now, do you know Dashaun Simmons?

7 A. Yes, ma'am.

8 Q. And do you see him seated in the courtroom?

9 A. Yes, ma'am.

10 Q. Could you point him out for us?

11 A. [Witness indicates]

12 Q. What color shirt does he have on?

13 A. Blue and white.

14 Q. How did you know Dashaun?

15 A. Him and Denzel are friends.

16 Q. Him and --

17 A. Him and Denzel Heyward were friends.

18 Q. And do you know how long they had been friends?

19 A. Probably two years, a year.

20 Q. I'm sorry. Say that again.

21 A. About two years to a year.

22 Q. And are you talking about at the time of May,
23 2012, they had already been friends for a couple of years?

24 A. Yes, ma'am.

25 Q. Now, did Denzel Heyward attend South Carolina

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 State?

2 A. Yes, ma'am.

3 Q. And did you ever go and visit him there?

4 A. Yes, ma'am.

5 Q. Did you ever meet a guy named Lorenzo Mehcz?

6 A. Yes, ma'am.

7 Q. And what was his relationship with Denzel?

8 A. His friend.

9 Q. I'm showing you what's been marked as State's
10 Exhibit 123. Who is that a photograph of?

11 A. Lorenzo.

12 Q. Okay. When you and Denzel were together, did
13 y'all ever do anything with Lorenzo?

14 A. As far as dinners or anything involving with
15 South Carolina State.

16 Q. At South Carolina State?

17 A. Yes, ma'am.

18 Q. What about Dashaun Simmons? Would you see him
19 at South Carolina State?

20 A. Yes, ma'am.

21 Q. Now, was he a friend of Denzel?

22 A. Yes, ma'am.

23 Q. And would you do things socially with Dashaun
24 Simmons?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 Q. What type of things would y'all do together?
2 A. As far as dinners or events that they had at the
3 school.
4 Q. Did Dashaun have a girlfriend?
5 A. Yes, ma'am.
6 Q. And what was her name?
7 A. Shaude.
8 Q. And do you have another friend who's also named
9 Shaude?
10 A. Yes, ma'am.
11 Q. Would you and Denzel and Dashaun and Shaude do
12 things together?
13 A. No, ma'am.
14 Q. But you had met her?
15 A. Yes, ma'am.
16 Q. Did you know a guy named Kadeen Chambers?
17 A. No, ma'am.
18 Q. Did you know a guy named Jujuain Hemingway?
19 A. No, ma'am.
20 Q. Had you ever heard of either of those two people
21 before May 16th --
22 A. No, ma'am.
23 Q. -- 2012?
24 A. No.
25 Q. Tell us about earlier the day -- in the day of

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 May 16th. What were you doing, what was Denzel doing, was
2 Dashaun around? Can you describe for us what happened
3 earlier in the day?

4 A. May 16th, me and my daughter, Denzel, and
5 Dashaun was at his grandmother's house. We were sleeping.
6 And I got my child together and Denzel and Dashaun was
7 having communion [phonetic] talking.

8 So earlier that day he had to handle business as
9 far as the DMV and to go to a lawyer's office.

10 Q. Who was?

11 A. Denzel.

12 Q. Okay.

13 A. All of us was together: Denzel, Dashaun, and my
14 daughter Trinity. And with that happening, we ended up
15 dropping Trinity off back to her grandmother's house,
16 which is Denzel's grandmother.

17 Q. Which is what?

18 A. Denzel's grandmother.

19 MS. SHEALY: You know what I need you to do for
20 me? Just because your voice kind of falls a little
21 bit, just make sure you're speaking a little bit
22 louder for us and slow it down just a little bit.
23 Okay?

24 Q. [Ms. Shealy] So earlier in the day when you and
25 Denzel and Dashaun and Trinity were together, that's when

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 some of these errands were run?

2 A. Yes, ma'am.

3 Q. And what vehicle was used to run the errands?

4 A. A 1998 black Plymouth Breeze.

5 Q. And whose vehicle was that?

6 A. Mine.

7 Q. And you've indicated that you dropped Trinity
8 off at Denzel's grandmother's house?

9 A. Yes, ma'am.

10 Q. I'm sorry. Did you say yes?

11 A. Yes, ma'am.

12 Q. And is that -- who do y'all refer to her as?

13 A. Ernestine, his grandmother.

14 Q. So y'all went to run the errands. You dropped
15 Trinity off. And then what happened?

16 A. After dropping Trinity off, me, Denzel and
17 Dashaun wanted to go with his girlfriend Shaude. And we
18 found Shaude and we were headed back to the house. We had
19 plans to go to dinner and a movie. And in that time I
20 ended up taking my hair out, so I was discussing that I
21 didn't want to go. So up until that time, Denzel was
22 arguing with me about me not wanting to go.

23 So they're outside and they're already in the
24 car, and we were arguing, and he like put both hands on me
25 and forced me in the car. And his mother and everybody

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 just walked past.
- 2 Q. Watching him do that?
- 3 A. Yes.
- 4 Q. When you say he was putting his hands on you,
- 5 what do you mean?
- 6 A. As far as pulling me on my ponytail and telling
- 7 me to get in the car.
- 8 Q. Pulling on your ponytail?
- 9 A. Yes, ma'am.
- 10 Q. And was this during the daytime hours or the
- 11 evening hours?
- 12 A. Daytime hours.
- 13 Q. Now, do you know a guy named Skrill?
- 14 A. Yes, ma'am.
- 15 Q. At the point where Denzel pulled your ponytail,
- 16 had y'all gone over to Skrill's place before that?
- 17 A. Yes, ma'am.
- 18 Q. Let's talk about that for a second. When you
- 19 dropped Trinity off at Granny's house, is that when y'all
- 20 went over to where Skrill was?
- 21 A. Yes, ma'am.
- 22 Q. Now, the place that you went, was it Skrill's
- 23 home?
- 24 A. No, ma'am.
- 25 Q. And do you know Skrill's name?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 A. No, ma'am.
- 2 Q. And who drove -- who did you -- were you
3 driving?
- 4 A. Yes, ma'am.
- 5 Q. Your vehicle?
- 6 A. Yes, ma'am.
- 7 Q. And who was in the car with you?
- 8 A. Denzel and Dashaun.
- 9 Q. And can you describe to the jury what area of
10 town Skrill -- how would you refer to the place that you
11 go to? What type of place was it?
- 12 A. It's a trailer. Liveable.
- 13 Q. Liveable?
- 14 A. Yes, ma'am.
- 15 Q. But it's not where Skrill lived?
- 16 A. No, ma'am.
- 17 Q. What area of town is that in?
- 18 A. Ridgeville.
- 19 Q. And when you went to Skrill's house, is that the
20 first time you had been there? Or had you been there
21 previously?
- 22 A. Previously.
- 23 Q. So did you know how to get there?
- 24 A. Yes, ma'am.
- 25 Q. And when you got there, could you tell the jury

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 whether anybody in the car got out of the car?
- 2 A. Denzel Heyward got out of the car.
- 3 Q. And where did he go?
- 4 A. Inside the house.
- 5 Q. And did he come back outside?
- 6 A. Yes, ma'am.
- 7 Q. And did he come back outside with someone, or
- 8 alone?
- 9 A. He came outside, with Skrill standing on the
- 10 porch.
- 11 Q. When he came back outside, what, if anything,
- 12 did he have?
- 13 A. A black bag.
- 14 Q. And could you tell anything about what was in
- 15 the black bag?
- 16 A. The black bag had something sticking out of it.
- 17 Q. And what did it look like?
- 18 A. The top of a gun.
- 19 Q. The top of a gun?
- 20 A. Uh-huh. Yes, ma'am.
- 21 Q. Could you tell what type of gun it was?
- 22 A. No, ma'am.
- 23 Q. And the bag that it was in was what type of bag?
- 24 A. A duffle bag.
- 25 Q. Where was that put?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 A. In my trunk.
- 2 Q. Did Dashaun get out of the car at that point?
- 3 A. No, ma'am.
- 4 Q. Did Dashaun and Denzel tell you why they got the
5 gun?
- 6 A. No, ma'am.
- 7 Q. Explain to the jury: when Denzel was doing his
8 business, would he tell you the details of it?
- 9 A. When he was doing his business, he referred to
10 it as that he didn't want me to be involved or know
11 anything about it.
- 12 Q. He didn't what?
- 13 A. He didn't want to be involved or know anything
14 about it.
- 15 Q. He didn't want you to be involved?
- 16 A. Yes, ma'am.
- 17 Q. So you didn't know all the things that he was
18 doing?
- 19 A. No, ma'am.
- 20 Q. Do you know how he made his money?
- 21 A. He had a job at South Carolina State.
- 22 Q. And then in addition to that, how would he make
23 some money? Were you aware?
- 24 A. No, ma'am.
- 25 Q. And you've explained that the nature of your

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 relationship, he wouldn't confide in you about a lot?

2 A. No, ma'am.

3 Q. After the gun was put in the car, did Denzel get
4 back in the car with you?

5 A. Yes, ma'am.

6 Q. And where did y'all go?

7 A. Back to the granny's house.

8 Q. And when you got back to the granny's house,
9 what happened?

10 A. Denzel took the bag out of the car.

11 Q. And where did he put it?

12 A. Under the house.

13 Q. Let me ask you if you can identify these.

14 [Whereupon, the witness reviews documents]

15 A. Yes, ma'am.

16 Q. [Ms. Shealy] Showing you what has been
17 previously marked as State's Exhibit 114. It's going to
18 show up --

19 THE COURT: Are these ones that were previously
20 admitted?

21 MS. SHEALY: Yes, sir.

22 THE COURT: Okay. You can publish.

23 Q. [Ms. Shealy] Showing you what has been
24 previously marked as State's Exhibit 114, and it's up
25 there.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 When y'all got to Granny's house, did you see
2 where they put the gun?

3 A. When arriving to -- when getting to Granny's
4 house, Denzel took the bag out of the trunk. I wasn't
5 aware of where he put it at.

6 Q. I'm sorry. Say that again.

7 A. I'm not aware of where he put it at.

8 Q. You're not sure where he put it at that point?

9 A. Huh-uh.

10 Q. Okay. So you went inside?

11 A. Yes, ma'am.

12 Q. Trinity was there?

13 A. Yes, ma'am.

14 Q. Was Shaude there?

15 A. No, ma'am.

16 Q. And what were the plans for that evening that
17 you learned?

18 A. The plans about us going out to dinner, movies.

19 Q. And that was going to be with Shaude?

20 A. Yes, ma'am.

21 Q. And what did you tell Denzel about wanting to go
22 or not wanting to go?

23 A. That I wanted to get my hair done instead of
24 going.

25 Q. You wanted to do what?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. I wanted to get my hair done instead of going.

2 Q. And could you describe for the jury how he
3 reacted to your wanting to get your hair done instead?

4 A. He reacted in frustration and still wanting to
5 go.

6 Q. Still wanting to go?

7 A. Yes, ma'am.

8 Q. So what happened?

9 A. We went to get Shaude, and then we ended up back
10 at the house. And I was in the process of taking my hair
11 out, and that's when everybody was talking about going.
12 But I said I didn't want to go, so that's when he started
13 fighting me.

14 MS. SHEALY: Wait. You're going to have to slow
15 down. I could barely hear you myself. Can you talk
16 up just a little bit for us?

17 A. Everyone was outside, and we were talking about
18 going and I didn't want to go, so that's when he started
19 arguing and fighting me.

20 Q. [Ms. Shealy] And where was Shaude?

21 A. Outside.

22 Q. And when you say he was fighting you, is that
23 when you were telling us that he was pulling at your
24 ponytail?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. So what happened? Did all four of you get in
2 the car?

3 A. Yes, ma'am.

4 Q. And what happened with Shaude?

5 A. We took her back home.

6 Q. Now, before that happened, had y'all watched a
7 movie at your house?

8 A. Yes, ma'am.

9 Q. At Granny's house, I guess?

10 A. Yes, ma'am.

11 Q. Was Shaude there for that?

12 A. Yes, ma'am.

13 Q. And when you left Granny's, you went where?

14 A. To drop Shaude off.

15 Q. Did Dashaun stay with you or did he get out with
16 Shaude?

17 A. He got out with Shaude.

18 Q. Let me ask you a couple of things. Your phone
19 number -- what was your telephone number during that time?

20 A. 619 -- 843-619-5836.

21 Q. And whose phone number was 469-7487?

22 A. Denzel.

23 Q. Now, did Denzel keep one phone or did he have
24 multiple phones?

25 A. During that time, he had one phone but before

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 that, he had multiples.

2 MS. SHEALY: You're going to have to --

3 A. During that time he had one phone, but his phone
4 keep breaking so he got multiples.

5 Q. [Ms. Shealy] He had multiples? Is that what
6 you're saying?

7 A. Yes, ma'am.

8 Q. And what about you? Did you keep the same phone
9 number phone after phone?

10 A. Yes.

11 Q. If you lost a phone, you kept the same telephone
12 number when you got another phone?

13 A. Yes, ma'am.

14 Q. Would Denzel ever use your telephone?

15 A. Yes, ma'am.

16 Q. And was that a frequent thing that he would do?

17 A. No, ma'am.

18 Q. But sometimes he would use yours?

19 A. Yes, ma'am.

20 Q. Were y'all together a lot during the days during
21 this time period?

22 A. Yes, ma'am.

23 Q. And so whichever phone was available, he would
24 use?

25 A. During that time he didn't have a phone, so he

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 was using my phone.

2 Q. The 469-7487 was the telephone number he was
3 using on the 16th?

4 A. Yes, ma'am.

5 Q. After you drop off Shaude, what do y'all then
6 do?

7 A. After dropping off Shaude, we go back to the
8 granny's house and --

9 Q. What do you do there?

10 A. Upon arriving to the granny house, he asked me
11 to stop to the gas station. I didn't want to stop so he
12 started fighting me again.

13 Dashaun got out of the car, and me and Denzel
14 sit in the car and drove to an abandoned building. And
15 during that time, he's arguing with me and on the phone.

16 Q. He was on the phone?

17 A. Yes, ma'am.

18 Q. Could you tell who he was talking to?

19 A. No, ma'am.

20 Q. Could you tell what he was talking about?

21 A. Addresses.

22 Q. Addresses?

23 A. Yes, ma'am.

24 Q. And did you go back and get Dashaun, or he was
25 still with you --

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. He was at the granny's house. He was at the
2 grandmother's house.

3 Q. So do y'all go back and get Dashaun?

4 A. No, ma'am. We go back to the house and we stay
5 there.

6 Q. And when you go back and stay there, at some
7 point do y'all leave again that evening?

8 A. Yes, ma'am.

9 Q. When you leave that time, who gets in the
10 vehicle?

11 A. Me, Dashaun, and Denzel.

12 Q. And who drove?

13 A. Me.

14 Q. And prior to leaving, could you tell whether
15 anything was gotten from Granny's house?

16 A. No, ma'am.

17 Q. Did you see, at any point, the gun taken out of
18 the trunk at Granny's house that day?

19 A. No, ma'am.

20 Q. And you don't remember whether or not you saw
21 someone getting the gun back and putting it in the car?

22 A. No, ma'am.

23 Q. Now, as y'all drove, where were you told to
24 drive?

25 A. Johns Island.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And were you familiar with where Denzel had
2 lived previously?

3 A. Yes, ma'am.

4 Q. Do you remember the name of that road?

5 A. No, ma'am.

6 Q. Were you heading that direction when you were
7 going?

8 A. Yes, ma'am.

9 Q. So as you're heading over there, was there any
10 discussion about what was going to happen?

11 A. No, ma'am.

12 Q. You told us that you knew Lorenzo. Did people
13 call him Renzo?

14 A. Yes, ma'am.

15 Q. Had you ever been over to his mother's house
16 before?

17 A. No, ma'am.

18 Q. On this occasion, where do y'all drive up to?

19 A. Lorenzo's house.

20 Q. And how could you tell it was Lorenzo's house?

21 A. He came outside to talk.

22 Q. When he came outside to talk, where had you
23 pulled your vehicle?

24 A. In the driveway.

25 Q. So showing you State's Exhibit 1 --

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 MS. SHEALY: I'm going to hand you this pointer,
2 so if you need to stand up and point, do so, please.

3 Q. [Ms. Shealy] What is that a picture of?

4 A. Lorenzo's house.

5 Q. And when you initially drove up that evening,
6 would you point to where you pulled the car?

7 A. Originally, it was right here.

8 Q. Okay. Now, when you're saying originally, it
9 was where?

10 A. [Indicates]

11 Q. With the front of it facing which way?

12 A. This way.

13 Q. And were you in that green, grassy area when you
14 pulled over?

15 A. Yes, ma'am.

16 Q. Did you move the car at some point?

17 A. Yes, ma'am.

18 Q. And where did you move it?

19 A. [Indicates]

20 Q. And did you pull in forward, with your -- you in
21 the front heading towards the house, or did you back into
22 it?

23 A. Back in.

24 Q. Who told you to do that?

25 A. Denzel.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And at that point, had Lorenzo already come out
2 to talk to Denzel?

3 A. Yes, ma'am.

4 Q. Could you tell what they were talking about?

5 A. No, ma'am.

6 Q. Where were you while they were talking?

7 A. In my car.

8 Q. Where was Dashaun?

9 A. He got out of the car.

10 Q. Do you remember what color shirt Denzel had on
11 that night?

12 A. A red shirt.

13 Q. Do you remember what color shirt Dashaun had on
14 that night?

15 A. A black shirt.

16 Q. A black shirt?

17 A. Yes, ma'am.

18 Q. Did he change out of that shirt at some point
19 that evening?

20 A. No, ma'am.

21 Q. Did anything happen with the trunk area?

22 A. Yes, ma'am.

23 Q. What?

24 A. Denzel asked for the keys and went into the
25 trunk.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 Q. Denzel went into the trunk?
2 A. Yes, ma'am.
3 Q. And could you tell who got something out of the
4 trunk?
5 A. No, ma'am.
6 Q. What was the next thing that you saw after they
7 got -- after Denzel got something out of the trunk?
8 A. The mother pulling up.
9 Q. And when the mother pulled up, do you recall
10 what you had to do with your car?
11 A. I had to move out of the driveway.
12 Q. So where did you pull?
13 A. [Indicates]
14 Q. And that's back where you had been?
15 A. Yes, ma'am.
16 Q. What's the next thing that happened?
17 A. The next thing that happens is I'm parked still
18 right there and the young man with the other car, they
19 pull up and -- this is where he parked right here.
20 Q. Okay. So wait a minute.
21 When you say another car pulled up, did it
22 immediately stop there or did it pass by and turn around?
23 A. It pass by and then turn around.
24 Q. So taking that pointer please, will you show us
25 on the road which way it came in?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. It came in this way.

2 Q. Heading which way?

3 A. This way.

4 Q. Okay. And then what happened with it?

5 A. It turned around and came back this way.

6 Q. When it came back, where did it pull in?

7 A. [Indicates]

8 MS. SHEALY: I think you can go ahead and have a
9 seat for me again.

10 [Whereupon, Ms. Rivers complies]

11 Q. [Ms. Shealy] Now, when it pulled in, what then
12 happened?

13 A. When it pulled in, Denzel and the boy on the
14 passenger side was outside talking, saying what's up, and
15 Denzel like physically bum-rushed him. And I just
16 remember the boy saying, I already knew what time it was.
17 And with that happening --

18 MS. SHEALY: You're going to have to slow down
19 and you're going to have to talk a little bit louder
20 for me.

21 Q. [Ms. Shealy] You saw Denzel go where?

22 A. On the passenger side.

23 Q. And when you saw Denzel approach the passenger
24 door, was that the front passenger door?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. What did you hear Denzel say?

2 A. The boy got out of the car and was standing out
3 the car and they were talking saying, what's up. And the
4 boy was like, I already knew what time -- Denzel
5 physically pushed him up on the car and the boy said, I
6 already knew what time it was.

7 Q. I already knew what time it was?

8 A. Yes, ma'am.

9 Q. And you said Denzel did what to that boy?

10 A. Pushed him up against the car.

11 Q. So did he use his arms forcefully?

12 A. His body force.

13 Q. What?

14 A. His body force.

15 Q. He pushed him with his whole body?

16 A. Yes, ma'am.

17 Q. What happened after Denzel pushed the boy back
18 into the car -- or onto the car?

19 A. When Denzel pushed him onto the car, his brother
20 came out of the car and Dashaun came running out of the
21 woods and ran up on both of them.

22 Q. And what?

23 A. Dashaun came out of the woods and ran up on both
24 of them.

25 Q. And when you said -- let me show you State's

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Exhibit 2. Look up at that picture, if you would, for us.

2 Can you orient yourself there?

3 A. [Indicates]

4 Q. Do you know what that's showing?

5 A. Yes, ma'am.

6 Q. Okay. So show us there where your car was.

7 A. [Indicates]

8 Q. Show us where the two guys' car was.

9 A. [Indicates]

10 Q. Show us the woods that Dashaun ran out of.

11 A. [Indicates]

12 Q. And when Dashaun ran out of the woods, what, if
13 anything, did he have in his hands?

14 A. A gun.

15 Q. Describe the gun to the jury for me, please.

16 A. A black, long, rifle-type gun.

17 Q. Did it have a banana clip?

18 A. Yes, ma'am.

19 Q. Did it look like an AK-47?

20 A. I'm not sure what --

21 Q. You don't know? Okay.

22 When Dashaun approached those guys, what then
23 happened with the two guys?

24 A. When Denzel pushed them -- when Dashaun pushed
25 them, he had the gun drawn. And with the gun being drawn,

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 he told them to get down on the ground. And they're on
2 the ground and they're saying that they don't have
3 anything. And the brother with the white shirt was on the
4 ground and Dashaun and him was struggling or whatever.

5 Well, first, Denzel had the brother who died
6 physically fighting with him. Dashaun --

7 Q. Who was? I'm sorry.

8 A. Denzel had the brother who died and they were
9 tussling, so Dashaun had the gun and got the brother who
10 died.

11 THE COURT: I need you to speak into the
12 microphone so we can hear you a little bit better.

13 Q. [Ms. Shealy] So let's break that down a little
14 bit.

15 When Dashaun ran out of the woods, what was said
16 to the two boys?

17 A. Get on the ground.

18 Q. And did they, in fact, get on the ground?

19 A. Yes, ma'am.

20 Q. And were they yelling at them, or just speaking
21 to them?

22 A. Yelling at them.

23 Q. What was Dashaun doing with the weapon as they
24 were telling them to get on the ground?

25 A. He had the gun to the back of the boy's head.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. Back to both of their heads?

2 A. No. To one.

3 Q. And do you remember which guy had the gun to the
4 back of his head?

5 A. Dashaun.

6 Q. No. Which one on the ground? The one who died
7 or the other one?

8 A. The one who died.

9 Q. And when you saw the one who died, his shirt was
10 white?

11 A. Yes, ma'am.

12 Q. Now, how were you seeing all of this?

13 A. Sitting in my car. From my rear-view mirror.

14 Q. And what else did you see happen to those two
15 guys while you were watching with Denzel and Dashaun over
16 them? What else were they doing to them and saying?

17 A. Denzel -- and then Dashaun was over him with the
18 gun and Denzel was standing behind the brother. He just
19 was like asking him where everything was at and the
20 brother just kept saying that, I didn't have anything,
21 didn't have anything.

22 And that's when -- they both went on the ground
23 and they said they didn't have anything, and that's when
24 they're like talking or whatever about, I know y'all got
25 something or whatever. Denzel talking to them saying

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 that, I got something.

2 Q. Could you tell the jury what, if anything, you
3 saw Denzel do to the brother who lived?

4 A. Denzel --

5 Q. Did you see that?

6 A. Yes, ma'am.

7 Q. What did he do?

8 A. Stomped his head.

9 Q. And when you say stomped his head, are you
10 saying took his foot and did it on the back of his head?

11 A. Yes, ma'am.

12 Q. Did that happen one time or multiple times?

13 A. Multiple times.

14 Q. At some point, are you asked to get out of the
15 car?

16 A. Yes, ma'am.

17 Q. Who told you to get out of the car?

18 A. Denzel.

19 Q. And what did he tell you to do?

20 A. Grab the keys.

21 Q. Do you recall where the keys were?

22 A. On the ground.

23 Q. And when you grabbed the keys, did you have
24 anything in your hand?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. What?

2 A. A towel.

3 Q. Did you -- where did the towel come from?

4 A. On the ground.

5 Q. Did Denzel tell you to take the towel, or did
6 you decide to do that?

7 A. He told me to.

8 Q. And so when you picked up the keys, did your
9 hands touch the individual keys?

10 A. No, ma'am.

11 Q. What did you do with the keys once you got them?

12 A. I didn't do anything with them. I had them in
13 my hand, and I hesitated.

14 Q. And you what?

15 A. I hesitated.

16 Q. So what happened then?

17 A. I was standing there and Denzel was like, open
18 the trunk, look around in the car. And I didn't know how.

19 The brothers were still on the ground. Denzel
20 asked the brother to open the trunk, and Denzel was going
21 through the trunk.

22 Q. Well, let me stop you there.

23 When Denzel told the boys to open the trunk,
24 which boy got up? Which young man got up?

25 A. The one who's still alive.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And when he got up, you were still standing out
2 there?

3 A. [No response]

4 Q. Were you still out there?

5 A. No, ma'am.

6 Q. Where had you gone?

7 A. I hadn't got -- that was when I was still in my
8 car. I hadn't gotten out the car until when he asked
9 about the keys. Denzel was already in the car before he
10 asked me to go in and search through the car.

11 Q. Okay. Well, explain that to me, then. Where
12 was the -- the young man who lived, when was he asked to
13 go into the trunk, if you remember?

14 A. Before I got out.

15 Q. And was the trunk opened at that point?

16 A. Before I got out?

17 Q. Uh-huh.

18 A. It -- when I got out, the trunk was open.

19 Q. When you got out, the trunk was open?

20 A. Yes, ma'am.

21 Q. Did you see a suitcase come out of that car?

22 A. Yes, ma'am.

23 Q. And did you see clothes in the suitcase?

24 A. No, ma'am.

25 Q. You just saw the suitcase?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Yes, ma'am.

2 Q. Now, tell the jury, if you would, was anything
3 said by either Denzel or Dashaun to the guys about money?

4 A. Denzel -- they were asking about is there
5 anything as far as money or where everything was at.

6 Q. When the young man that lived went over to the
7 trunk, was Denzel over there with him?

8 A. Yes, ma'am.

9 Q. And when do you go back to the car?

10 A. I go back to the car when the brother was
11 already stomped and the other brother was on the ground.
12 And when the two shots -- when the two shots went off,
13 then I ran back to my car and the brother ran.

14 Q. Did you hear the first shot go off before the
15 two in a row?

16 A. Yes, ma'am.

17 Q. And could you see where the gun was pointed when
18 the first shot went off?

19 A. To the boy who's still alive.

20 Q. And it was pointed where towards him?

21 A. The ground.

22 Q. He was on the ground?

23 A. Yes, ma'am.

24 Q. And the gun was pointed where?

25 A. Towards his direction.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And then what happened with Dashaun -- was it
2 Dashaun who had the weapon at that point?

3 A. Yes, ma'am.

4 Q. What happened with the guy who died in the white
5 shirt? What happened with him after the one who lived was
6 shot at?

7 A. The brother who lived was on the ground and the
8 brother who died, he was tussling with Dashaun. And in
9 between that tussling, two shots went off, and the brother
10 who -- the brother who's still alive ran, and the brother
11 who's up -- the brother who was alive ran, and the brother
12 who died ran the opposite way. He said, I've been shot.

13 Q. And he said, I've been shot?

14 A. Yes, ma'am.

15 Q. Where were you?

16 A. Running back to my car.

17 Q. What happened with Denzel and Dashaun?

18 A. They get in the car.

19 Q. Where do they put the gun?

20 A. In the back seat.

21 Q. Who put the gun back there?

22 A. Dashaun.

23 Q. Did you -- which direction did you drive the
24 car at that point?

25 A. Up the street.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. Can you take that pointer and stand up and speak
2 loudly enough for us and show us in what direction you
3 ran -- you drove?

4 A. Went up the street.

5 Q. Okay. When you were driving up the street --

6 MS. SHEALY: You can go ahead and have a seat
7 back down.

8 [Whereupon, witness complies]

9 Q. [Ms. Shealy] -- tell the jury whether or not
10 you saw the young man who lived.

11 A. When driving up the street, my lights were off.
12 And the young man who lived was running in front of my
13 car. And Dashaun was in the back seat, shooting at him as
14 he ran in front of the car.

15 Q. And did you almost hit the young man who lived?

16 A. Yes, ma'am.

17 Q. What did you have to do to avoid that?

18 A. Swerve and turn my lights on.

19 Q. When you were leaving, tell the jury what Denzel
20 and Dashaun were saying to you.

21 A. They were telling me what direction to go.

22 Q. And where was that suitcase at this point?

23 A. In the back seat.

24 Q. So back in the back seat with Dashaun was the
25 assault rifle and the suitcase?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 A. Yes, ma'am.
- 2 Q. And where did y'all go from there?
- 3 A. To Ridgeville.
- 4 Q. And where in Ridgeville did you go?
- 5 A. As far as -- a house.
- 6 Q. Was it Skrill's place?
- 7 A. Yes, ma'am.
- 8 Q. Now, as y'all were driving there, could you tell
- 9 the jury whether or not Denzel was on his phone?
- 10 A. No, ma'am.
- 11 Q. Did you see Denzel at any point throw the phone
- 12 out?
- 13 A. Yes, ma'am.
- 14 Q. And after Denzel threw the phone out, which
- 15 phone did he begin using?
- 16 A. My phone.
- 17 Q. And your phone, again, is -- 619-5836 --
- 18 A. Yes, ma'am.
- 19 Q. -- was your telephone number?
- 20 A. Yes, ma'am.
- 21 Q. The one he threw out was 469-7487?
- 22 A. Yes, ma'am.
- 23 Q. Is that correct?
- 24 A. Yes, ma'am.
- 25 Q. When you got to Skrill's place, was Skrill

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 there?

2 A. Yes, ma'am.

3 Q. And what happened once y'all arrived there?

4 A. Denzel got out of the car and went to talk to
5 Skrill and me. And Dashaun was outside. And in between
6 that time, he was straightening the mats in the car.

7 Q. He was doing what?

8 A. Straightening the mats in the car.

9 Q. Straightening them?

10 A. Yes, ma'am.

11 Q. Was he doing anything else in the back of the
12 car?

13 A. No, ma'am.

14 Q. And when you saw him straightening the mats,
15 what was the next thing that happened?

16 A. I went in the house and Dashaun and Denzel, they
17 came in after. And there was like a brief conversation
18 about what had happened. And I --

19 Q. What was said?

20 A. Just about something that had happened.

21 Q. Do what?

22 A. Just about what happened. It --

23 Q. Well, who was talking about it?

24 A. Denzel.

25 Q. And who was he saying it to?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Dashaun and Skrill.

2 Q. And Skrill?

3 A. Uh-huh.

4 Q. So were they telling Skrill what happened?

5 A. Uh-huh. Yes, ma'am.

6 Q. So as they're telling Skrill what happened, what
7 do the three of y'all do, you, Denzel, and Dashaun?

8 A. I stay in the house and they go outside.

9 Q. And when they went outside, did Skrill go with
10 them?

11 A. Yes, ma'am.

12 Q. Prior to going outside, did they do anything
13 with their clothing?

14 A. It was talk about Dashaun burning his clothing.

15 Q. Talking about Dashaun bringing his clothing?

16 A. Burning his clothing.

17 Q. Burning his clothing?

18 A. Yes, ma'am.

19 Q. Did you go outside at any point after they
20 walked outside?

21 A. No, ma'am.

22 Q. When Dashaun came back in, did he have a shirt
23 on, or do you remember?

24 A. He had a shirt on.

25 Q. What about the shirt that he had worn earlier?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Do you know what happened with it?

2 A. No, ma'am.

3 Q. So you're in the house, they talk about burning
4 the clothes, and then they all come back inside?

5 A. Yes, ma'am.

6 Q. What then happened?

7 A. Then Skrill leaves and it's just me, Dashaun,
8 and Denzel there. And later on that night, I ended up
9 falling asleep there. And he got the phone call about the
10 young man had died.

11 Q. And do you know who he got the phone call from?

12 A. No, ma'am.

13 Q. Now, on the route to Ridgville -- Ridgville?

14 A. Yes, ma'am.

15 Q. On the route to Ridgville, could you tell
16 whether or not Denzel was on the phone talking to someone?

17 A. Yes, ma'am.

18 Q. And could you tell by what you heard who he was
19 talking to?

20 A. Yes, ma'am.

21 Q. Did you know who he was talking to?

22 A. [No response]

23 Q. Did you?

24 A. Yes, ma'am.

25 Q. Okay. Who was it?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Skrill.

2 Q. And do you know whether there was any later
3 phone conversation with Renzo?

4 A. Yes, ma'am.

5 Q. And you could hear Denzel's side of that
6 conversation?

7 A. Yes, ma'am.

8 Q. Do you remember what, if anything, he was saying
9 to Lorenzo?

10 A. Basically just not to say anything.

11 Q. When you and Denzel and Dashaun were at Skrill's
12 that night, Skrill left?

13 A. Yes, ma'am.

14 Q. You fell asleep?

15 A. Yes, ma'am.

16 Q. What happened the next day?

17 A. Skrill came back and Dashaun and Skrill wrapped
18 the gun up in a bag and then they left and me, and Denzel
19 was there.

20 Q. So Dashaun and Skrill wrapped the gun? Is that
21 what you said?

22 A. Yes, ma'am.

23 Q. And what did they wrap it in?

24 A. A black bag.

25 Q. And when you say a black bag, what type of black

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 bag are you talking about?

2 A. A garbage bag.

3 Q. And Skrill and Dashaun then left?

4 A. Yes, ma'am.

5 Q. What did you and Denzel do during that day?

6 A. Just stay there. He basically apologizing and
7 crying, saying he wished it never happened.

8 Q. And did he say anything to you about whether you
9 should share what happened, whether you should tell
10 anybody?

11 A. No, ma'am.

12 Q. Okay. So did y'all go anywhere, or did you go
13 anywhere that next day, that you recall?

14 A. Yes, ma'am.

15 Q. Where did you go?

16 A. To CDV court.

17 Q. Okay. And then after that, did y'all go back to
18 Skrill's?

19 A. Yes, ma'am.

20 Q. The following day, do you go anywhere?

21 A. I go to meet my mother until work. No. After?
22 We go to CDV court and then we go back to Skrill's house.

23 Q. You went back to Skrill's house?

24 A. Yes, ma'am.

25 Q. And did you and Denzel spend the night there

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 again?

2 A. Yes, ma'am.

3 Q. So we're talking about -- let's see -- the night
4 of, the early-morning hours of the 17th, you spent the
5 night there?

6 A. Yes, ma'am.

7 Q. And then the night of the 18th you spent the
8 night there?

9 A. Yes, ma'am.

10 Q. What do you do during the daytime hours of the
11 18th that you can remember?

12 A. One of those days I went to CDV court and one of
13 those days I went to work.

14 Q. And where were you working at the time?

15 A. ICorp.

16 Q. What is ICorp?

17 A. A call center.

18 Q. So you actually went to work that day?

19 A. Yes, ma'am.

20 Q. And did you have contact with Denzel during that
21 day?

22 A. Yes, ma'am.

23 Q. Could you tell the jury whether or not Denzel
24 was trying to keep track of where you were?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. Well, describe that for us. How did that go
2 that day?

3 A. He was calling and texting and just telling me
4 not to say anything.

5 Q. At some point, do you text your mother?

6 A. Yes, ma'am.

7 Q. And do you recall when it was that you texted
8 her?

9 A. When I was at work.

10 Q. Did you go and meet with her?

11 A. Yes, ma'am.

12 Q. And where did y'all meet?

13 A. At my grandmother's house.

14 Q. And that's on Surrey?

15 A. Yes, ma'am.

16 Q. And where do y'all meet?

17 A. In my granny's yard.

18 Q. Tell the jury, if you would, what you told your
19 mother that day.

20 A. I met with her and I was crying and I said that
21 something happened and that time was running out and I
22 needed to talk with her.

23 Q. And can you remember what details, if any, you
24 told her about what happened?

25 A. I didn't go into detail.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. Did you tell her someone had died?

2 A. Yes, ma'am.

3 Q. And what did your mother tell you?

4 A. She just basically told me that everything was
5 going to be okay and I had to do the right thing.

6 Q. And did she tell you what the right thing was?

7 A. Yes, ma'am.

8 Q. And that was what?

9 A. As far as turning myself in and letting someone
10 know.

11 Q. Turn yourself in and what?

12 A. And letting someone know.

13 Q. And letting someone know.

14 Did you, in fact, turn yourself in?

15 A. Yes, ma'am.

16 Q. Now, when you turned yourself in, where did you
17 tell Denzel you were?

18 A. I told Denzel I was -- I told him I was at my
19 father's house.

20 Q. And did you and Denzel -- did he have any plans
21 about where y'all should stay for the next few days?

22 A. As far as?

23 Q. Were you going to continue to stay at Skrill's
24 or were y'all going to go somewhere else?

25 A. At Skrill's.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. So when you went to turn yourself in, how did
2 that happen? Who did you go with?

3 A. My father and my mother.

4 Q. And when you got down to the police station,
5 were there other family members who also joined you there?

6 A. Yes, ma'am.

7 Q. Had you told any of your family members at that
8 point the details of what happened?

9 A. No, ma'am.

10 Q. When you got there, were you interviewed?

11 A. Yes, ma'am.

12 Q. And were you interviewed by Sherry Church?

13 A. Yes, ma'am.

14 Q. Now, tell the jury: on that first occasion when
15 you got interviewed, did you tell Detective Church every
16 single detail?

17 A. No, ma'am.

18 Q. And on that occasion, did you give a statement?

19 A. Yes, ma'am.

20 Q. And that would have been on the 19th of May; is
21 that correct?

22 A. Yes, ma'am.

23 Q. Do you recall giving a five-page statement?

24 A. Yes, ma'am.

25 Q. And then also a one-page statement?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 A. Yes, ma'am.
- 2 Q. Is that the statement that you gave on the 19th?
- 3 A. Yes, ma'am.
- 4 Q. And is this the one-page statement?
- 5 A. Yes, ma'am.
- 6 Q. Now, when you spoke with Detective Church, did
- 7 she read you your Miranda warnings?
- 8 A. Yes, ma'am.
- 9 Q. And she told you you had the right to remain
- 10 silent?
- 11 A. Yes, ma'am.
- 12 Q. That you had an absolute right to remain silent,
- 13 you didn't have to answer any questions or give a
- 14 statement and those facts cannot be used against you? Did
- 15 she tell you that?
- 16 A. Yes, ma'am.
- 17 Q. And she told you she could get you a lawyer if
- 18 you needed a lawyer?
- 19 A. No, ma'am.
- 20 Q. You don't remember her telling you that?
- 21 A. No, ma'am.
- 22 Q. But she went over your Miranda warnings and you
- 23 agreed to go ahead and give a statement?
- 24 A. Yes, ma'am.
- 25 Q. Can you describe for the jury why it is you

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 didn't give all the details that day?

2 A. I didn't give all the details because Denzel was
3 still out there and I was scared.

4 Q. Had Denzel had a conversation with you about
5 whether or not you should tell anybody about what
6 happened?

7 A. Yes, ma'am.

8 Q. And what did he tell you?

9 A. To not say nothing or if I did say something,
10 make something up.

11 Q. That what?

12 A. To not say nothing or if I did say anything, to
13 make something up.

14 Q. Now, going backwards for just a second -- I'm
15 sorry to have to do so. But after you met with your
16 mother, did you and Denzel have a conversation at a gas
17 station?

18 A. Yes, ma'am.

19 Q. What was the nature of that conversation?

20 A. Basically him crying, saying that he wanted to
21 kill both of us, and that he didn't want anything to
22 happen.

23 Q. Was he distraught?

24 A. Yes, ma'am.

25 Q. Was he upset?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Yes, ma'am.

2 Q. And at that point, did you tell him that you had
3 told your mother?

4 A. Yes, ma'am.

5 Q. And that's when he reacted that way?

6 A. Yes, ma'am.

7 Q. When you sat down with Detective Church then --
8 I think you were explaining to us you didn't give every
9 detail. Why was that again?

10 A. Because I was scared.

11 Q. Did you get arrested that night?

12 A. Yes, ma'am.

13 Q. And did you get arrested for accessory after the
14 fact of murder?

15 A. Yes, ma'am.

16 Q. And accessory after the fact with an armed
17 robbery?

18 A. Yes, ma'am.

19 Q. And accessory after the fact of an attempted
20 murder?

21 A. Yes, ma'am.

22 Q. And you went to jail?

23 A. Yes, ma'am.

24 Q. Now, let me ask you about what had been in your
25 car. When you went to jail, where had your car been left?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. At my father's house.

2 Q. At your father's house?

3 A. Yes, ma'am.

4 Q. And inside your vehicle, there were some
5 telephones; is that correct?

6 A. Yes, ma'am.

7 Q. Showing you --

8 MS. SHEALY: Beg the Court's indulgence just a
9 moment.

10 Q. [Ms. Shealy] Some phones had been left in your
11 vehicle; is that correct?

12 A. Yes, ma'am.

13 Q. Showing you this item. Whose phone was that?

14 A. Denzel's.

15 Q. Denzel's?

16 A. Yes, ma'am.

17 Q. And that is an HGC cell phone?

18 A. Yes, ma'am.

19 MS. SHEALY: Your Honor, at this time I would
20 offer into evidence State's Exhibit --

21 [Off the record momentarily]

22 [Whereupon, State's Exhibit Number 127 is marked
23 by the court reporter]

24 THE COURT: Any objection?

25 MR. MCCOY: No objection, Judge.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 MR. APOSTOLOU: No objection.

2 THE COURT: It's admitted.

3 [Whereupon, State's Exhibit Number 127 is
4 admitted into evidence by the Court]

5 [Whereupon, State's Exhibit Number 128 is marked
6 by the court reporter]

7 Q. [Ms. Shealy] And do you remember that being
8 left behind in the glove box of the Plymouth? Or do you
9 know where it was in the car?

10 A. I didn't know where it was in the car.

11 Q. Showing you this phone. Can you tell me whose
12 that is?

13 A. Mine.

14 Q. And that is a Blackberry cell phone?

15 A. Yes, ma'am.

16 Q. Do you remember it being in the center armrest
17 of the Plymouth?

18 A. No, ma'am.

19 Q. But you remember it being in the car?

20 A. Yes, ma'am.

21 MS. SHEALY: Your Honor, I would also offer 128
22 I believe without objection.

23 MR. MCCOY: No objection, Judge.

24 THE COURT: Admitted.

25 [Whereupon, State's Exhibit Number 128 is

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 admitted into evidence by the Court]

2 Q. [Ms. Shealy] When you and Denzel were together,
3 were you frequently in the Plymouth together?

4 A. Yes, ma'am.

5 Q. Because you had a car?

6 A. Yes, ma'am.

7 Q. So you gave your statement to Detective Church.

8 And can you tell the jury whether or not -- while you
9 didn't give every detail, did you tell her, Detective
10 Church, who else was involved?

11 A. Yes, ma'am.

12 Q. Did you give the name Denzel Heyward?

13 A. Yes, ma'am.

14 Q. Did you give the name Dashaun Simmons?

15 A. Yes, ma'am.

16 Q. Did you also tell her about Dashaun shooting the
17 boy?

18 A. Yes, ma'am.

19 Q. And shooting at the other boys?

20 A. Yes, ma'am.

21 Q. On that occasion, did you give any information
22 about Skri11 and where he had gotten the gun?

23 A. No, ma'am.

24 Q. Was there a particular reason you didn't?

25 A. I was scared with Denzel still being there.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. With Denzel not being in jail yet?

2 A. Yes, ma'am.

3 Q. So when you gave your statement to Detective
4 Church, Dashaun Simmons was still on the street; right?

5 A. Yes, ma'am.

6 Q. And Denzel Heyward was still on the street?

7 A. Yes, ma'am.

8 Q. Then later you give another statement when you
9 come up to the solicitor's office; is that correct?

10 A. Yes, ma'am.

11 Q. Now, at that point you had an attorney who had
12 been appointed to represent you on your charges; is that
13 correct?

14 A. Yes, ma'am.

15 Q. And can you tell the jury what his name is?

16 A. Steele Barr.

17 Q. And is he currently in the courtroom?

18 A. Yes, ma'am.

19 MS. SHEALY: Could you stand up, Mr. Barr?

20 Q. [Ms. Shealy] That's your attorney?

21 A. Yes, ma'am.

22 Q. And when you came in, did you meet with members
23 of the solicitor's office?

24 A. Yes, ma'am.

25 Q. Now, in describing the difference between your

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 conversation with Detective Church and your conversation
2 at the solicitor's office, which place were you at more
3 details?

4 A. The solicitor's office.

5 Q. And was that a lengthy interview?

6 A. Yes, ma'am.

7 Q. And on that occasion, you gave a twelve-page
8 statement --

9 A. Yes, ma'am.

10 Q. -- is that correct?

11 And Detective Owen was present?

12 A. Yes, ma'am.

13 Q. And Detective Owen is seated right behind
14 counsel; is that correct?

15 A. Yes, ma'am.

16 Q. Then there were some follow-up questions that
17 you were also asked on that occasion; is that correct?

18 A. Yes, ma'am.

19 Q. And that day, you were read your Miranda
20 warnings again?

21 A. Yes, ma'am.

22 Q. Is this the twelve-page statement that you gave?

23 A. Yes, ma'am.

24 Q. And this is the two-page question and answer?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. And on that occasion, did you also sign a
2 proffer agreement with the solicitor's office?

3 A. Yes, ma'am.

4 Q. And in that proffer agreement, did you agree to
5 be truthful?

6 A. Yes, ma'am.

7 Q. And that proffer agreement is dated when?

8 [Whereupon, the witness reviews documents]

9 A. July 12th.

10 Q. [Ms. Shealy] July 12th.

11 Now, that wasn't the only time that you met with
12 the solicitor's office; is that correct?

13 A. No, ma'am.

14 Q. Do you remember how many times you've been up to
15 our office?

16 A. Three.

17 Q. How many?

18 A. Three.

19 Q. And on each occasion, is it fair to say that you
20 gave greater detail?

21 A. Yes, ma'am.

22 Q. In the twelve-page statement, you tried to give
23 far greater detail than you had been able to with
24 Detective Church; is that correct?

25 A. Yes, ma'am.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 Q. Now, on that occasion, did you tell about going
2 to Skrill's house?

3 A. No, ma'am.

4 Q. That was a later occasion?

5 A. Yes, ma'am.

6 Q. Was that something hard for you to admit?

7 A. Yes, ma'am.

8 Q. When you were in the solicitor's office and you
9 told about going to Skrill's house, were you crying?

10 A. Yes, ma'am.

11 Q. What made that particularly hard to share?

12 A. The fact that he was out here and the fact that
13 I don't know what he was capable of with me being out
14 here.

15 Q. Who supplied the assault rifle to Denzel Heyward
16 and Dashaun Simmons?

17 A. Skrill.

18 Q. Who helped cover up things after the killing?

19 A. Skrill.

20 Q. And --

21 THE COURT: I need --

22 Q. [Ms. Shealy] And he had not been --

23 THE COURT: I need you to speak up. I can't
24 hear her answer.

25 MS. SHEALY: Talk a little bit louder for us.

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Skrill.

2 Q. [Ms. Shealy] And when you came into the
3 solicitor's office, as far as you knew, where was Skrill?

4 A. I had no idea.

5 Q. Did you think he was arrested?

6 A. No, ma'am.

7 Q. So he was on the street?

8 A. Yes, ma'am.

9 Q. Now, originally when the police asked you about
10 Skrill, did you -- did they drive you somewhere?

11 A. Yes, ma'am.

12 Q. And did you lead them in the right direction?

13 A. No, ma'am.

14 Q. Why was that?

15 A. Because I was still out and staying at Skrill's
16 house.

17 Q. And so is it fair to say that a lot of what you
18 didn't reveal was because of fear?

19 A. Yes, ma'am.

20 Q. You had told us about your relationship with
21 Denzel Heyward. Can you describe to the jury -- well, let
22 me ask you this. Did you go see him in jail?

23 A. I took my daughter, yes, ma'am.

24 Q. And you've done that on a number of occasions,
25 have you not?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Yes, ma'am.

2 Q. You did it after your statement with Detective
3 Church?

4 A. Yes, ma'am.

5 Q. You did it after your twelve-page statement with
6 our office?

7 A. Yes, ma'am.

8 Q. And you went to visit him as recently as October
9 of this year; is that correct?

10 A. Yes, ma'am.

11 Q. When you went to go see him, was there usually
12 someone accompanying you?

13 A. Yes, ma'am.

14 Q. And who was that?

15 A. My daughter Trinity.

16 Q. Can you please explain to the jury why you would
17 want to go see Denzel Heyward after all this?

18 A. It's hard to say, but the fact that I have a
19 three-year-old daughter and the fact that you have to deal
20 with the fact of her wanting to know where her father's
21 at, when she goes to school she's like, well, where's my
22 daddy, everybody else dad is coming.

23 I had to stand and talk with her about it but it
24 came a point where I had to let it be up to my three-year-
25 old to the point where she wanted to see her dad, so I

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 felt it wasn't my power to take that away from her because
2 she -- it's not her fault that her dad choose to do the
3 things that he did.

4 So she decided that she wanted to see her dad so
5 I took her. And it came a point where she made the
6 decision where she said she didn't want to go see her
7 daddy anymore.

8 Q. Do you understand how that's hard for other
9 people to understand?

10 A. It's hard for other people to understand because
11 they're not in that situation where you have a three-year-
12 old who doesn't have her father and has been going through
13 this process of where her mother hasn't been there and her
14 father. And if you haven't been in a single-family home,
15 you wouldn't know about that. So the thoughts of your
16 three-year-old coming home crying or asking where's my
17 dad, or why isn't my dad coming to school with me, that's
18 hurtful.

19 Q. And in the statements that you have given to, at
20 this point Detective Church and the solicitor's office,
21 and your testimony today, have you revealed the details
22 that you can remember?

23 A. Yes, ma'am.

24 Q. Are there other details that you still have not
25 shared?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. No, ma'am.

2 MS. SHEALY: Beg the Court's indulgence just a
3 moment.

4 [Whereupon, Ms. Shealy and Ms. Savas confer]

5 MS. SHEALY: Okay. Just a couple -- okay. Just
6 a couple of other things.

7 Q. [Ms. Shealy] When you said that Dashaun had on
8 a black shirt, did you see him at any point in a white
9 undershirt?

10 A. No, ma'am.

11 Q. And you told us that there was discussion about
12 burning the clothes?

13 A. Yes, ma'am.

14 Q. Do you know whether those clothes got burned?

15 A. Yes, ma'am.

16 Q. And did they? Did they get burned?

17 A. Yes, ma'am.

18 Q. And when you said that you were told by Denzel
19 to come try to open the trunk -- is that what he wanted
20 you to do?

21 A. He wanted me to look under the hood.

22 Q. To look under the hood?

23 A. Yes, ma'am.

24 Q. So the trunk was open, but he wanted you to look
25 under the hood?

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

1 A. Yes, ma'am.

2 Q. And do you remember what you did with the keys
3 after that?

4 A. No, ma'am.

5 Q. While Denzel has been in jail, have you spoken
6 to him on the phone?

7 A. No, ma'am.

8 Q. Has he written you letters?

9 A. Yes, ma'am.

10 Q. Has he written you numerous letters?

11 A. Yes, ma'am.

12 Q. And in his letters, has he encouraged you not to
13 be cooperative?

14 A. Yes, ma'am.

15 Q. Has he apologized in those letters?

16 A. Yes, ma'am.

17 Q. Who is Kadeen Woods?

18 A. His brother.

19 Q. And what is his mother's name?

20 A. Dana Woods.

21 Q. And who is Annie?

22 A. His aunt.

23 Q. Who is Annie? I'm sorry.

24 A. Denzel's aunt.

25 Q. Has his brother Kadeen had any conversations

Sidearis Singleton
Direct Examination by Ms. Shealy
November 12, 2014

- 1 with you?
- 2 A. Not while being out, no, ma'am.
- 3 Q. Not what?
- 4 A. Not while being out, no, ma'am.
- 5 Q. Did he while you were in?
- 6 A. Yes, ma'am.
- 7 Q. Would he come to see you?
- 8 A. Yes, ma'am.
- 9 Q. Did you know that Denzel sent him to see you?
- 10 A. Yes, ma'am.
- 11 Q. Do you know that Denzel sent him to see Dashaun
- 12 Simmons, as well?
- 13 A. No, ma'am.
- 14 Q. So the name Udania Woods is his mother?
- 15 A. Yes, ma'am.
- 16 Q. Kadeen Woods is his brother?
- 17 A. Yes, ma'am.
- 18 MS. SHEALY: Bet the Court's indulgence.
- 19 [Whereupon, Ms. Shealy and Ms. Savas confer]
- 20 MS. SHEALY: Trina, I don't have any further
- 21 questions. Please answer any that the defense may
- 22 have.
- 23 MR. MCCOY: Thank you, Judge. May it please the
- 24 Court.
- 25 THE COURT: Go ahead.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

CROSS-EXAMINATION

BY MR. MCCOY:

Q. Ms. Rivers, my name is Peter McCoy and I'm representing Dashaun Simmons. And it's true that we've never spoken before; is that correct?

A. No, sir.

Q. You mentioned earlier on your direct testimony that you've also been charged in this particular incident. So you're technically a codefendant in this case and you've been charged with accessory after the fact of murder, accessory after the fact of attempted murder, and accessory after the fact of armed robbery; is that correct?

A. Yes, sir.

Q. And are you aware of what the penalties of what each one of those carry?

A. Yes, sir.

Q. And you've got a lawyer that's advised you as to what those do carry?

A. Yes, sir.

Q. All right. And let's talk about -- we've gone through a lot here, and we've heard a lot of testimony from you, so we're going to just have to pick a place and go for it. Okay?

A. Yes, sir.

MIA PERRON, CVR-CM-M

-298-

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. The first thing I want to talk about with you is
2 a proffer agreement, an agreement that's made between you
3 and the State. Okay?

4 A. Yes.

5 Q. You mentioned it briefly on direct examination.
6 And do you know what I'm talking about right now?

7 A. Yes, sir.

8 Q. Do you understand what a proffer statement does?

9 A. Yes, sir.

10 Q. In your own words, what does it do?

11 A. Tell what happened by the truth.

12 Q. Okay. That it's your responsibility to tell the
13 truth?

14 A. Yes, sir.

15 Q. And it's your responsibility to tell the truth
16 or what?

17 A. Can you rephrase that?

18 Q. Sure.

19 If you don't tell the truth, what happens?

20 A. If you don't tell the truth, then it can be used
21 against you.

22 Q. And in signing a proffer or promise agreement
23 with the State, are you in hopes of gaining some sort of
24 benefit towards your potential case?

25 A. No, sir.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. You're not trying to get any sort of benefit at
2 all?

3 A. No, sir.

4 Q. By cooperating and signing this agreement,
5 you're not hoping in the back of your mind, with three
6 serious felonies, that you're not going to get some sort
7 of benefit of the doubt?

8 A. No.

9 Q. Because a normal person would. I would. You're
10 not at all?

11 A. I'm worried about it but at the same time,
12 someone lost their life. So it's not about how I'm
13 feeling or the way I'm charged with this, it's about
14 someone lost their life so I feel like justice needs to be
15 done.

16 Q. And I agree justice needs to be done and the
17 right person does need to be held accountable for these
18 crimes.

19 MS. SHEALY: Your Honor, I would ask that he ask
20 questions and not testify.

21 THE COURT: Without the editorializing, go
22 ahead.

23 MR. MCCOY: Thank you, Judge.

24 Q. [Mr. McCoy] Ms. Rivers, we glanced over this on
25 direct testimony when it comes down to the statements that

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 you have given law enforcement. Okay? Is it true that
2 you gave a statement on May the 19th of 2012?

3 A. Yes, sir.

4 Q. And in that particular statement, you were read
5 your Miranda warnings; correct?

6 A. Yes, sir.

7 Q. In that first statement, did you mention at all
8 an assault rifle being picked up earlier in the day?

9 A. No, sir.

10 Q. Did you mention at all an assault rifle being in
11 the back of the car when y'all go to Cynthia Avenue that
12 night?

13 A. No, sir.

14 Q. Did you mention at all in that first statement,
15 you know, about an assault rifle being used or you seeing
16 somebody being shot with an assault rifle in that first
17 statement?

18 A. Yes, sir.

19 Q. You did? Where did you do that in your
20 statement? Would you like me to show it to you?

21 A. Yes, sir.

22 MR. MCCOY: Your Honor, may I approach the
23 witness?

24 THE COURT: Sure.

25 Q. [Mr. McCoy] And you've given two statements on

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 the 19th. Okay? And that was a couple of days after this
2 happened. And I'm going to show you what's this -- this
3 is the first statement that we have right here. Do you
4 remember giving that statement?

5 A. Yes, sir.

6 Q. Does it say anywhere in that statement that you
7 see an assault rifle being used to kill somebody that
8 night and that you witnessed it?

9 [Whereupon, the witness reviews documents]

10 A. Not on this statement, no, sir.

11 Q. [Mr. McCoy] And in looking at the second
12 statement that we have right here, the one that you were
13 given the Miranda warnings on that we don't mention an
14 assault rifle being picked up before, we don't mention an
15 assault rifle being seen before. But do you mention -- or
16 do you see in this statement where you said there was an
17 assault rifle used and you actually witnessed the killing
18 in this statement? Do you see that anywhere in there?

19 [Whereupon, the witness reviews documents]

20 A. It mentions a gun, but it doesn't say what type.

21 Q. [Mr. McCoy] Right.

22 And, also, when I'm -- the question I'm asking
23 you, again, is in this statement do you say you witnessed
24 an assault rifle being used to kill somebody?

25 A. No, sir.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. Okay. And you've already testified, too, for
2 Ms. Shealy, that you didn't tell the whole truth in
3 statement one or statement two on the 19th because you
4 were scared; is that correct?

5 A. Yes, sir.

6 Q. And you were scared because Denzel and Dashaun,
7 who are sitting right over here, were still out; is that
8 correct?

9 A. Yes, sir.

10 Q. But if you've already mentioned their names in
11 this case or in this statement as having been involved in
12 this altercation or this assault, the names were out
13 there. So what motive and what incentive do you have to
14 hold anything back?

15 A. The names are out there, but they're still out
16 there. If I was to just leave and they're out there.

17 Q. But do you follow what I'm saying? I'm having a
18 hard time understanding your logic with the fact that,
19 hey, I'm scared to give names or the full story but at the
20 same time, I've already fingered Fat and I've already
21 fingered Dashaun Simmons here in your first statement. So
22 you've done it. You've thrown their names out there.
23 They're all in the mix; right?

24 A. Yes, sir.

25 Q. So where is the fear in not bringing out and not

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 telling the full truth the first or second time?

2 A. The fear the first or second time, with not
3 having gone through something like this and the fact of
4 your baby father physically abusing you and the fact that
5 something like this has happened that you wouldn't state,
6 it puts fear in you to where when you go in to talk to
7 this detective you're not willing to go in and be honest
8 or truthful. And with your baby father already having a
9 conversation with you about not saying anything, you're
10 fearful for your life.

11 Q. But, I mean, and I guess that's where we're
12 going to agree to disagree, because I just don't see how
13 you can already put their names out there and say they
14 were there and say they were involved --

15 MS. SHEALY: Your Honor, argumentative.

16 MR. MCCOY: I'm asking a question still, Judge.

17 THE COURT: It's cross. Go ahead.

18 Q. [Mr. McCoy] -- and you're asking -- and you've
19 already said that they're there and they're out there but
20 you're just scared to tell the whole truth. Because the
21 details you left out in this first second statement
22 [phonetic] and in the second statement are minuscule in
23 compared to them being out there that night. Wouldn't you
24 agree?

25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. We talked about the first second -- the first
2 statement and the second statement happened on the 19th;
3 is that correct?

4 A. Yes, sir.

5 Q. The second one you gave was on July the 17th of
6 2012. This was a lengthy one. Do you remember this?
7 It's a twelve-page statement.

8 A. Yes, sir.

9 Q. And this was done -- and under your testimony,
10 you said this was done at the solicitor's office; is that
11 correct?

12 A. Yes, sir.

13 Q. And do you remember whether you signed the
14 proffer agreement before or after you gave this third
15 statement?

16 A. Before.

17 Q. Okay. So you give this third statement and then
18 you sign the proffer agree?

19 A. Yes.

20 Q. Did you tell the whole truth in this third
21 statement?

22 A. Yes, sir.

23 Q. You did? You told everything about Skrill,
24 everything about the gun beforehand, and everything about
25 the gun before the crime and after the crime?

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 A. Yes, sir.

2 Q. You did? Can you show me in this second
3 statement -- or third statement where you've done that?
4 And I'm not trying to confuse you. I'm just trying to get
5 a better understanding. Okay?

6 Specifically I'm looking for mention of a gun,
7 before, getting picked up with Skrill and I'm looking for
8 a gun being brought to the scene at Lorenzo's house.

9 [Whereupon, the witness reviews documents]

10 A. No.

11 Q. [Mr. McCoy] You don't see it?

12 A. [Indicates negatively]

13 Q. And that's correct, because it's not in there.
14 Okay?

15 That's opportunity number one, number two, and
16 number three that are now gone for you to tell the entire
17 truth. Okay? And this was done, the third statement was
18 done, after the murder happened; correct?

19 A. Yes, sir.

20 Q. And that was done, again, on the 17th of July;
21 is that correct?

22 A. Yes, sir.

23 Q. And your proffer agreement is signed on the 12th
24 of July; is that correct?

25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. And in your language of your promise agreement
2 with the State, isn't it true that it has language in
3 there that you are to fully disclose and provide truthful
4 information to the State? Is that correct?

5 A. Yes, sir.

6 Q. Does it also have language in here that says
7 that clients failure to be fully truthful and forthright
8 at any stage, will the sole discretion of the State, cause
9 the obligations of the State within this agreement to
10 become null and void? Is that true?

11 A. Yes, sir.

12 Q. And it says, lack of truthfulness on the
13 client's part, the State may use for any purposes any and
14 all statements made and other information provided by the
15 client in the prosecution of the client in any charges,
16 including perjury. Is that correct?

17 A. Yes, sir.

18 Q. And you made this statement and then five days
19 later you give your third statement, that still isn't
20 truthful, that's in direct violation of your promise
21 agreement that you signed with the State but you still
22 continue to put false information and not the complete
23 truth in your third statement. Is that correct?

24 A. I never put false information. I left details
25 out, but I never put false information.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 Q. Okay. Now we fast forward to a year later or a
2 year and a half later. Do you remember -- I wasn't
3 Dashaun's lawyer at this time, but do you remember there
4 was an opportunity and a time where this case was almost
5 called to trial the beginning of 2014?

6 A. Yes, sir.

7 Q. Do you remember that?

8 A. Yes, sir.

9 Q. Do you remember two days, two days -- not a
10 week, but two days before you were supposed to go trial is
11 when you finally give the information about Skrill and
12 seeing the gun beforehand? Do you remember that?

13 A. I don't remember the exact date.

14 Q. My question to you is, too, is that to me, you
15 know, this happens in May of 2012, and in the early months
16 of 2014 you were still providing information, very, very
17 pertinent information to this trial and very damning
18 information to this trial, as it goes on, after you sign
19 this proffer agreement, and the details are still rolling
20 in. Do you find that troublesome at all?

21 A. No, sir.

22 Q. You don't?

23 A. [No response]

24 Q. Let's take you briefly out to the night this
25 happened on Cynthia Drive. And you had to move your car

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 several times; is that correct?

2 A. Yes, sir.

3 Q. And the final time you moved your car, and the
4 final resting point where your car was before this
5 incident happened, your car was facing which direction
6 down Cynthia?

7 A. The right.

8 Q. The right way?

9 A. Yes, sir.

10 Q. And you testified earlier that the other guys
11 that were in the car drove past you, I guess -- you're
12 facing them. So they drove past you and turned around?

13 A. I was facing this way, and then they drove past,
14 and then they turned around and came back. My car's still
15 facing this way.

16 Q. And when they turned back around to you, your
17 only view of what was going on was through a rear-view
18 mirror; is that correct?

19 A. Yes, sir.

20 Q. And when you say rear-view mirror, were you
21 talking about any side-view mirrors or are you just
22 talking about the one that's in your car?

23 A. I'm talking about both.

24 Q. Talking about both.

25 Do you remember what time of night this was?

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 A. Nighttime.

2 Q. Nighttime.

3 Were there streetlights that were out there that
4 would help you see?

5 A. Yes, sir.

6 Q. Do you remember?

7 A. Yes, sir.

8 Q. You do? Okay.

9 And when the incident happens and everybody is
10 out front and you are at a vantage point where you're
11 seeing from behind you, do you -- at any point in time, do
12 you remember going to sleep?

13 A. Beforehand.

14 Q. Beforehand, you did fall asleep while you were
15 out there?

16 A. Yes, sir.

17 Q. And when you fall asleep out there and look in
18 your rear-view mirror, are you paying attention to exactly
19 what's going on and can you see every single party at all
20 times while they're out there behind you?

21 A. Yes, sir.

22 Q. You can see everybody?

23 A. Yes, sir.

24 Q. There was no point in time where somebody is off
25 to the side --

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 A. No, sir.

2 Q. -- at all?

3 So there's not a point in time -- because it's
4 not mentioned in one, two, or three statements. You said,
5 when you testified, you saw Dashaun run out of the woods;
6 right?

7 A. Yes, sir.

8 Q. You could see that all through your rear-view
9 mirror?

10 A. Yes, sir.

11 Q. The solicitor brought up the fact that you go
12 and you see a good bit -- you go and see Fat in jail a
13 good bit because y'all share a child; is that correct?

14 A. Yes, sir.

15 Q. Do you know about how many times you went to see
16 him?

17 A. It's been multiple times.

18 Q. Ma'am?

19 A. It's been multiple times.

20 Q. A lot of times?

21 A. Yes, sir.

22 Q. Multiple? Would you say ten? would you say
23 five? What's multiple?

24 A. More than ten.

25 Q. More than ten.

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 And did the visits ever stop, or were they
2 continual throughout this process?

3 A. They would start, then they would stop, then
4 they would start.

5 Q. They did -- they would start in 2012; correct?

6 A. Yes, sir.

7 Q. Have you seen him at all in 2014?

8 A. Yes, sir.

9 Q. When was the last time you went to see him?

10 A. October.

11 Q. Do you remember the date?

12 A. No, sir.

13 Q. I've got on here the last time you went to see
14 him was the first of October. Does that sound correct?

15 A. I'm not sure on the date.

16 Q. And I've got on here that you've visited him
17 basically every week since he's been in.

18 A. No, sir.

19 Q. That's not accurate?

20 A. No, sir.

21 Q. Would the jail logs not be telling the truth on
22 that?

23 A. It wouldn't be every week.

24 Q. Judge, may I have just a moment?

25 [Whereupon, Mr. McCoy and Ms. Turner confer]

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 MR. MCCOY: Judge, may I have one moment,
2 please, still.

3 [Whereupon, Mr. McCoy and Ms. Shealy confer]

4 Q. [Mr. McCoy] Ms. Rivers, I'm just going to
5 direct your attention to a couple of the photographs that
6 are already into evidence in the State's case.

7 This is State's Number 91. If you can turn
8 around and take a look at that. Do you know what that is
9 right there?

10 A. Yes, sir.

11 Q. What is that?

12 A. My '98 Plymouth Breeze.

13 Q. That's your Plymouth Breeze.

14 Okay. Is that the same condition, roughly the
15 same car -- is it the same car that was used that night
16 when y'all were out there --

17 A. Yes, sir.

18 Q. -- all together?

19 MR. MCCOY: And would you go to 92 for me?

20 Q. [Mr. McCoy] Do you see an issue with your
21 side-view mirrors there at all?

22 A. The one on the right side is missing.

23 MR. MCCOY: Could you fast forward to 94 for me,
24 please? Thank you.

25 Q. [Mr. McCoy] And is this the same rear-view

Quasantrina Rivers
Cross-Examination by Mr. McCoy
November 12, 2014

1 mirror that you used to basically witness everything that
2 happened that night?

3 A. Yes, sir.

4 MR. MCCOY: Judge, I don't have any other
5 questions on cross.

6 THE COURT: Do you have any, Mr. Apostolou?

7 MR. APOSTOLOU: I do, Judge.

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Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

CROSS-EXAMINATION

BY MR. APOSTOLOU:

Q. Quasantrina, you gave a statement on 5/19; is that correct?

A. Yes, sir.

Q. Two statements; right?

A. Yes, sir.

Q. And you made those statements at the police department; correct?

A. Yes, sir.

Q. And from the police department, you went to the jail?

A. Yes, sir.

Q. And you stayed there until July the 30th?

A. Yes, sir.

Q. And then you got out on July the 30th?

A. Yes, sir.

Q. Okay. So you made your statement on 5/19 and you made your proffer on the 17th of July; is that correct?

A. I thought it was the 12th.

Q. I think you signed -- I think you signed it on the 12th. I think you actually made your statement on the 17th. I'm not -- care too much about the dates.

But about two weeks before you got out of jail,

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 you made that agreement, that statement, with the State;
2 right?

3 A. Yes, sir.

4 Q. And as a result of that proffer, you were able
5 to get out of jail, basically; is that correct?

6 A. Yes, sir.

7 Q. What's that?

8 A. My bond got reduced so I --

9 Q. Right.

10 The State agreed to reduce your bond because you
11 made that proffer agreement; right?

12 A. Yes, sir.

13 Q. And on the first statement you said you hadn't
14 seen a gun at all out there, and in the second statement,
15 or on proffer, which is actually your third statement, you
16 said you had never seen a gun beforehand --

17 A. Yes, sir.

18 Q. -- that night?

19 And they asked you if you had seen Denzel with a
20 gun at all and you said, no, not at all that day, that
21 night; is that correct?

22 A. Yes, sir.

23 Q. Now, a year and a half after that, days before
24 we go to trial in February of 2014, then you come up with
25 the whole statement about seeing the gun beforehand at

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Skrill's house; is that correct?

2 A. Yes, sir.

3 Q. Hadn't been in the case at all up until that
4 point; right?

5 A. Yes, sir.

6 Q. A thousand pages, no mention of that kind of
7 important detail; is that correct?

8 A. Yes, sir.

9 Q. And now two days before this trial, you added
10 the part about him grabbing the ponytail. That hadn't
11 been in the case at all and you just added that two days
12 before this trial; is that correct?

13 A. The ponytail?

14 Q. Yes.

15 A. No. That's in.

16 Q. What's that?

17 A. The fact of him fighting me, that's been in
18 there.

19 Q. Okay. That's been in there?

20 A. Yes, sir.

21 Q. You didn't just add that when you went to the
22 solicitor's office earlier this week?

23 A. No, sir.

24 Q. Did you add anything when you went to the
25 solicitor's office this week?

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 A. No, sir.

2 Q. Let's talk about this suitcase. There's no
3 mention of a suitcase in the first statement; is that
4 correct?

5 A. Yes, sir.

6 Q. But when you do the proffer agreement --
7 basically, the proffer agreement and statement number one
8 and two are basically the same statement but you add in
9 this part about the suitcase; is that correct?

10 A. Yes, sir.

11 Q. Well, let's talk about this suitcase for a
12 second. When is the first time you saw the suitcase?

13 A. When I was getting out of the Mercedes.

14 MR. APOSTOLOU: I'm going to have to ask you to
15 speak up a little bit more.

16 A. When Denzel got out of the Mercedes.

17 Q. [Mr. Apostolou] When Denzel did what?

18 A. When Denzel had the suitcase in his hand,
19 putting it in my car.

20 Q. When he had it, that's the first time you saw
21 it?

22 A. Yes, sir.

23 Q. And that's after -- tell me the sequence of
24 events. He had called you out and you had gone to the
25 trunk of the car? Is that what I understand? No, I'm

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 sorry. The hood of the car?

2 A. Yes, sir.

3 Q. And did you actually open the hood?

4 A. No, sir.

5 Q. And so when Denzel took the suitcase out of the
6 trunk, where were you standing?

7 A. I was sitting in my car.

8 Q. So you were already back in your car?

9 A. I wasn't -- when he had the suitcase -- can I
10 have another question?

11 Q. What's that?

12 A. Can I have another question?

13 Q. Sure, sure, sure.

14 I'm asking you the first time you saw the
15 suitcase, where were you when you first saw the suitcase?

16 A. I don't remember.

17 Q. You don't remember the first time you saw it?

18 A. I was back in my car the first time I remember,
19 but I don't remember the time space when it got put there.

20 Q. I'm sorry. You speak so quickly and a little
21 soft, it's hard for me to understand what you're saying.

22 Can you repeat that answer?

23 A. I was in the car.

24 Q. You were in your car?

25 A. [Indicates affirmatively]

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. And so you were watching through the rear-view
2 mirror?

3 A. Yes, sir.

4 Q. That's a yes?

5 A. I don't -- can I -- I don't want to answer this
6 question because it's not detail for detail as to the time
7 I recall when the trunk -- when I saw the suitcase being
8 in the car.

9 Q. I'm sorry. I didn't understand that. Can you
10 say that again?

11 A. You're asking me about when was the first time
12 you seen the suitcase?

13 Q. Yes.

14 A. I saw the suitcase in my trunk, but I can't
15 recall the timing of when it -- as it's taking place.

16 Q. Okay. Well, that's an answer. That's an
17 answer.

18 So you don't remember the first time you saw the
19 suitcase?

20 A. I saw the suitcase being brought by Denzel, but
21 I don't recall the timing.

22 Q. No, I'm not asking you for the specific time. I
23 want to know the circumstances out there. You were there
24 that night; right?

25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. I wasn't; right?

2 A. [No response]

3 Q. The jury wasn't. So you've got to tell us what
4 you saw that night.

5 So when is the first time you saw the suitcase?

6 A. Denzel had the suitcase in his hand.

7 Q. Denzel had it in his hand?

8 A. Yes, sir.

9 Q. So was it in his right hand or his left hand?

10 A. It was a big suitcase so it took both of his
11 hands.

12 Q. He had it in both hands?

13 A. Yes.

14 Q. And how did you see this?

15 A. From me being in my car.

16 Q. From what?

17 A. Me being in my car.

18 Q. From you being in your car.

19 And your testimony today has been that you
20 watched this through your rear-view mirror?

21 A. Yes, sir.

22 Q. And you were able to see all the players and all
23 the events through your rear-view mirror?

24 A. Yes, sir.

25 Q. And one of those things -- I mean, where did you

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 see Denzel? I mean, did you see him go into the trunk of
2 the Mercedes and get the suitcase?

3 A. The brother -- he told the brother to open the
4 trunk, and then he went in there.

5 Q. And at some point you get out of the car?

6 A. Yes, sir.

7 Q. And you go over to this scene and you're out
8 there interacting with all of these people; is that
9 correct?

10 A. I'm not interacting. I'm told by Denzel to get
11 the keys and to go in the hood.

12 Q. So you picked the keys up with the rag; is that
13 my understanding?

14 A. Yes, sir.

15 Q. And at that point, was the trunk open?

16 A. Yes, sir.

17 Q. And had Denzel taken the suitcase out of the
18 car?

19 A. Yes, sir.

20 Q. So he had already taken the suitcase out.

21 So he asked Mr. Hemingway to go open the
22 trunk?

23 A. Mr. Hemingway? Hemingway opened the trunk and
24 then Denzel went to the car. And then that's when they
25 were -- the keys were placed back on the ground, they were

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 on the ground, and the brothers were saying that they
2 didn't have anything. And with that happening, that's
3 when Denzel told me to grab the keys.

4 Q. And so you got the keys.

5 Did you open the trunk -- the hood of the car or
6 not?

7 A. No, sir.

8 Q. And then you went back to your car?

9 A. Yes, sir.

10 Q. And then you continued to watch everything
11 through the rear-view mirror?

12 A. No, sir. With me going back to my car, we left.

13 Q. What's that?

14 A. With me going back to my car, we left.

15 Q. With you going back to the car, that was the end
16 of the events?

17 A. Yes, sir.

18 Q. So you were out there when the shots were fired?

19 A. The last two when the brothers was on the ground
20 and he -- the brother got up and ran. When he -- when the
21 brother who's alive was running the opposite way and the
22 brother who died was running the opposite way, I was
23 running towards my car with the brother who lived, towards
24 my car.

25 Q. So you were out there when the shots were fired?

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 A. Yes, sir.

2 Q. So I'm still struggling with the suitcase. If
3 you were out there when the shots are fired -- so you and
4 Dashaun and Denzel all run to the car at the same time?

5 A. Dashaun is with the boy who said, I have been
6 shot. The brother jumped up and ran. And the brother who
7 had been shot, Dashaun -- Dashaun was running toward the
8 car with the guy like backwards.

9 Q. I'm sorry. Can you just speak just a little
10 slower and a little louder? I'm trying to understand what
11 you're saying. I'm not trying to trick you up. I'm
12 trying to understand what your testimony is. This is an
13 important matter and I need to understand it. So can you
14 explain it to me just a little slower and a little louder?
15 Because I'm trying to understand what happened out there.

16 A. The brother who was still alive was on the
17 ground. Dashaun was still tussling with the brother who
18 got shot.

19 Q. And at that point -- let me interrupt you. And
20 at that point, you're standing right there out there with
21 Denzel, with Dashaun, and with both of these gentlemen; is
22 that correct?

23 A. Yes, sir.

24 Q. So you're standing right there. How far away
25 from Denzel are you at that point?

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 A. Like right here [indicates].

2 Q. What's that?

3 A. Like a little area right here [indicates].

4 MR. APOSTOLOU: May I approach, Your Honor?

5 A. Either right here or like right here
6 [indicates].

7 Q. [Mr. Apostolou] Okay. Can we just -- I mean,
8 how far physically are you away from him? Five feet, ten
9 feet?

10 A. Not far.

11 Q. So right next to him?

12 A. No. I wouldn't say right next to him. I would
13 say as far as me and this thing right here, and I'm right
14 here, but not up on him close to him.

15 Q. And has the suitcase already come out of the
16 trunk at this point?

17 A. Yes, sir.

18 Q. Was the suitcase taken out of the trunk and
19 carried into the trunk of your car and then somebody come
20 back to the scene?

21 A. It was carried in the back seat and then Denzel
22 went back to obtain it.

23 Q. Okay. So while you're standing out roadside,
24 the trunk gets opened on the Mercedes?

25 A. No, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. Okay.

2 A. I'm in my car when the trunk gets -- I'm in my
3 car when the trunk was opened by the brother who's still
4 alive. With that happening, the brother still alive, he
5 was told to get back on the ground and Denzel was going
6 throughout the car.

7 Q. So Denzel was inside the car looking for stuff
8 to steal; is that correct?

9 A. Yes, sir.

10 Q. And you're out roadside at this point?

11 A. No, sir.

12 Q. So you're seeing this from the rear-view mirror
13 of your car?

14 A. Yes, sir.

15 Q. And that's before you got out of the car; is
16 that correct?

17 A. Yes, sir.

18 Q. So Denzel is all inside. You didn't go inside
19 the car, did you?

20 A. No, sir.

21 Q. The Mercedes?

22 A. No, sir.

23 Q. So the trunk is opened by Mr. Hemingway?

24 A. Yes, sir.

25 Q. And at that point, Denzel takes the suitcase?

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 A. Yes, sir.

2 Q. And he carries it to your car?

3 A. Yes, sir.

4 Q. And at this point, you have not gotten out of
5 your car at all?

6 A. No, sir.

7 Q. And you are watching all of this on the rear-
8 view mirror of your car?

9 A. Yes, sir.

10 Q. And you're able to see all of this?

11 A. Yes, sir.

12 Q. And so you're pointing this way, the Mercedes is
13 pointing that way, you can see these guys on the roadside,
14 and you can see Denzel with the trunk?

15 A. Yes, sir.

16 Q. And you're -- how are you certain that Denzel
17 had Mr. Hemingway get out and open the trunk?

18 A. The one with the white shirt is the one who
19 died, and he was with Dashaun. And the one who's alive
20 was the one who had his head stomped.

21 Q. Yeah. I understand that.

22 But how are you certain that Denzel instructed
23 the guy on the ground to get up and open the trunk if
24 you're sitting thirty feet away in your car?

25 A. I heard it.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. You heard it through -- did you have your window
2 open?

3 A. My window was cracked.

4 Q. The window was cracked?

5 A. Yes.

6 Q. And you heard Denzel say what?

7 A. To open the trunk.

8 Q. To open the trunk?

9 A. Yes, sir.

10 Q. And while you were sitting there with the window
11 cracked and looking out the rear-view mirror, you were
12 able to see the guy get up?

13 A. Yes, sir.

14 Q. And you were able to see him open his trunk?

15 A. Yes, sir.

16 Q. And you were able to see -- where was Denzel at
17 that point?

18 A. Denzel was with him.

19 Q. He walked with him?

20 A. Uh-huh. And then --

21 Q. So he was --

22 A. -- he told him to get back down on the ground,
23 and Dashaun had both of them on the ground with the gun
24 facing him.

25 Q. So Dashaun is standing over the top of him with

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 the gun pinning him to the ground?

2 A. Yes, sir.

3 Q. And then so he -- Hemingway opens the trunk and
4 gets back on the ground. Is that what your testimony is?

5 A. Yes, sir.

6 Q. And then at that point, Denzel walks over and --
7 so the trunk is already open?

8 A. Yes, sir.

9 Q. And you're watching, through your rear-view
10 mirror, coming back for your car; right?

11 A. Yes, sir.

12 Q. And you see him grab the suitcase?

13 A. Yes, sir.

14 Q. And the suitcase is big?

15 A. Yes, sir.

16 Q. Describe the suitcase for us.

17 A. A blue suitcase.

18 Q. A blue suitcase?

19 A. Yes, sir.

20 Q. What's it made out of?

21 A. I don't know about fabric.

22 Q. Is it hard plastic, is it leather, is it fabric?

23 A. More like cotton.

24 Q. It was made out of cotton?

25 A. I don't -- I'm not real good with fabric, but it

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 wasn't leather and it wasn't plastic or anything like
2 that.

3 Q. How big is it?

4 A. About that size.

5 Q. About that big?

6 MR. APOSTOLOU: Let the record reflect --

7 Q. [Mr. Apostolou] Somewhere in the neighborhood
8 of about three feet?

9 A. Yes.

10 Q. So a pretty good size?

11 A. Yes, sir.

12 Q. Was it wide?

13 A. Yes.

14 Q. How wide?

15 A. About this size.

16 Q. So the record reflect somewhere about, what, two
17 feet?

18 A. Yes, sir.

19 Q. Foot and a half, two feet?

20 A. Yes, sir.

21 Q. And so Denzel's carrying it with what? one hand?
22 two hands?

23 A. With both hands.

24 Q. With both hands?

25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

- 1 Q. And the trunk of your car wasn't open?
- 2 A. No, sir.
- 3 Q. So how did the trunk in your car get open?
- 4 A. The trunk of my car wasn't open.
- 5 Q. Put it in the back seat?
- 6 A. Yes, sir.
- 7 Q. And what color blue was it? There's a lot of
- 8 different colors of blue.
- 9 A. Dark blue.
- 10 Q. Dark blue.
- 11 Like what the jurors have on their little jury
- 12 badges?
- 13 A. Yes, sir.
- 14 Q. About that color?
- 15 A. Yes, sir.
- 16 Q. And so that goes in the back seat of the car?
- 17 A. Yes.
- 18 Q. And this is before you got out of the car at
- 19 this point?
- 20 A. Yes, sir.
- 21 Q. Is that right?
- 22 A. Yes, sir.
- 23 Q. And so he calls you -- so he puts the suitcase
- 24 in the back seat of your car?
- 25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. And you're watching this through the rear-view
2 mirror; right?

3 A. Yes, sir.

4 Q. And then he goes back to the scene where the
5 guys are on the ground; is that right?

6 A. Yes, sir.

7 Q. And this is before the first shot has even been
8 fired; right?

9 A. [No response]

10 Q. Or has there been a shot fired? You tell me.

11 A. It's been a shot fired.

12 Q. There's already been a shot fired?

13 A. Yes.

14 Q. So the shot was fired pretty early in the
15 equation?

16 A. Yes.

17 Q. You testified I think that Denzel and
18 Mr. Chambers got into a physical fight pretty immediately
19 right after that? Soon as it starts; right?

20 A. Yes.

21 Q. And then I think you testified that Dashaun
22 Simmons bum-rushes, was the term, the other guy?

23 A. Yes, sir.

24 Q. And when in this process is the shot fired?

25 A. The shot is fired when the brother who is still

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 alive was on the ground.

2 Q. So they order them on the ground and they fire a
3 shot early into --

4 A. No.

5 With them being on the ground, they're talking
6 and tussling with them and Dashaun fired the shot with the
7 boy laying on the ground.

8 Q. The tussling -- the guys are on the ground. How
9 are they tussling with Mr. Simmons? Mr. Simmons had the
10 gun; is that correct?

11 A. Yes, sir.

12 Q. And this is the AK-47?

13 A. Yes, sir.

14 Q. Which is about three and a half feet long?

15 A. [No response]

16 Q. How did -- how do they tussle them with the
17 ground -- tussling with them if they're on the ground?

18 A. He's laying forward, face down, and he's trying
19 to move -- like move his body. The men -- the young man
20 that died, he's moving his body trying to get Dashaun off
21 him.

22 Q. Okay. Both of these gentlemen are on their
23 stomachs on the ground?

24 A. Yes.

25 Q. And they're in the roadway?

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 A. Yes.

2 Q. Are they in front of the Mercedes, beside the
3 Mercedes, or behind the Mercedes?

4 A. On the side of the Mercedes.

5 Q. On the side of the Mercedes.

6 The Mercedes was parked on the side of the
7 road --

8 A. The far back of the Mercedes.

9 Q. I'm sorry?

10 A. The Mercedes, the far back of the Mercedes.
11 Like this area of the Mercedes.

12 Q. The hindquarter of the Mercedes?

13 A. Yes.

14 Q. And so it's parked on the side of the road.

15 So they're on the ground outside the hindquarter
16 of the Mercedes? Is that -- is that what I'm
17 understanding?

18 A. Yes, sir.

19 Q. And they're on their stomachs?

20 A. Yes, sir.

21 Q. And Mr. Simmons is standing up somewhere like
22 this?

23 A. Yes, sir.

24 Q. And how far away from him from they -- how far
25 away from them is he? I'm sorry.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 A. Dashaun?

2 Q. Yeah.

3 A. He's on the -- the boy who died, he's literally
4 on top of him, with the gun towards his head.

5 Q. So he's down on all fours kind of thing?

6 A. Uh-huh. With the gun towards his head.

7 Q. He's holding the gun to his head?

8 A. Yes, sir.

9 Q. And Mr. Hemingway is beside him?

10 A. With Denzel. Not exactly beside, but one is
11 over here facing this way and the other one facing this
12 way.

13 Q. And Denzel is on top of him?

14 A. Dashaun is on top of the brother who died.

15 Q. Right.

16 And then what does Denzel and Mr. Hemingway
17 do?

18 A. Denzel stomped Mr. Hemingway's head.

19 Q. Stomped him in the head. Okay. And then what
20 happened?

21 A. Denzel stomped Mr. Hemingway on the head, and
22 then he was crying or whatever and the brother was like,
23 leave him alone. And then the boy who's alive, he got up
24 and ran and the other brother, he ran too and he's like,
25 I've been shot.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. You keep going back to that, but I'm going to
2 try to go a little bit slower, if you don't mind.

3 So at that point -- I mean, that's the end of
4 this thing; right?

5 A. Yes.

6 Q. When he goes running, that's the last few
7 seconds that y'all were on the roadside; right?

8 A. Yes, sir.

9 Q. So we're at the very beginning when he's got
10 Mr. Hemingway down on the ground. And he stomps his head
11 very early in the story; right?

12 A. Yes, sir.

13 Q. And then we haven't even got to the suitcase.
14 You know, they're charged with armed robbery, so we want
15 to talk about it in the sequence in which it happened.
16 Can you do that?

17 A. [No response]

18 Q. Yes? Can you answer?

19 A. [No response]

20 Q. Can you answer the question?

21 A. Yes, sir.

22 Q. All right. So he's on the ground.

23 Now, after Denzel kicks him in the head, what
24 happens? I mean, we've got -- as I understand it, Dashaun
25 Simmons on the ground holding an AK-47 to the back of the

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 head of this guy. And your testimony has been that
2 they're tussling. How are they tussling?

3 A. They're tussling with the man -- the young man
4 who died on the ground, and Dashaun is on top of him, and
5 he's trying to get up.

6 Q. And so the guy's tussling with Dashaun?

7 A. Yes.

8 Q. Is he -- but he's not facing him? They're not
9 wrestling over the gun at all?

10 A. They're -- that's tussling. But he's trying to
11 move his body then to the point where he got up and he was
12 able to like roll him over and get up. And that's when --
13 with Dashaun getting up, that's when he started firing the
14 other two shots.

15 Q. So, again, that's to the end of it. We haven't
16 even talked about the armed robbery, the suitcase, part.

17 So can you just tell me: when Dashaun Simmons
18 stomped his head, that is how many minutes before Dashaun
19 Simmons fires a shot?

20 A. I'm not accurate of the minute.

21 Q. Can you give us a ballpark?

22 A. No.

23 Q. Okay. How long does this whole thing last?

24 A. It lasts for a while.

25 Q. It lasts for a while? Okay. Well, let's talk

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 about it.

2 So Dashaun Simmons is -- kicks Hemingway's head.
3 What happens after that? I mean, you can't go straight to
4 the gunshot, because you haven't even gotten out of the
5 car yet; right?

6 A. No, sir.

7 Q. Well, let's go. Tell me what happened.

8 A. I'm sitting in the car, and the brother who's
9 still alive was talking and Dashaun fired the gun towards
10 his head.

11 Q. Okay. And Dashaun was on the ground when he
12 fired the shot next to his head?

13 A. Dashaun was with the boy who died, and then the
14 brother who's still alive was talking and he fired the
15 shot towards his head.

16 Q. Dashaun fired the shot by the boy that lives
17 head?

18 A. Yes, sir.

19 Q. Was Dashaun standing up at that point?

20 A. No, sir.

21 Q. So he was still on top of -- I mean, I hate to
22 get graphic here. But he's still on top of Kadeen
23 Chambers?

24 A. Yes, sir.

25 Q. And he reaches over and shoots a shot off by the

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 head of Jujuain Hemingway?

2 A. Yes, sir.

3 Q. Where is Denzel Heyward at this point?

4 A. Denzel is still right there.

5 Q. Denzel is standing right there?

6 A. Yes, sir.

7 Q. There's been -- and both Chambers and Hemingway
8 are on their face? Face down?

9 A. Yes, sir.

10 Q. And the shot goes off by their heads?

11 A. By the man -- the young man who's still alive.

12 Q. And then what happens? And Denzel was standing
13 up over here somewhere?

14 A. Yes, sir.

15 Q. And then what happens?

16 A. [No response]

17 Q. You're watching everything through the rear-view
18 mirror of the car; right?

19 A. Yes, sir.

20 Q. Tell me what happens.

21 A. When the shot is fired towards his head -- I
22 can't recall if before -- if his head got stomped before
23 or after.

24 Q. And then what happens?

25 A. His head gets stomped and then that's when I get

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 out of my car and I'm like, what's going on or whatever,
2 and Denzel says grab the keys and to look in the hood.
3 And when I go to get the key, I hesitate and I just stand
4 there. So they're still on the ground tussling. And then
5 when I'm running back towards my car, they --

6 Q. Okay. All right. We overlooked the suitcase
7 then.

8 A. They're on the ground and Denzel asked them do
9 they have anything, and they're basically saying that they
10 don't have anything. And Denzel asked the brother that's
11 still alive to get up and to open the trunk.

12 Q. And are you in the car or are you still --

13 A. I'm still in the car.

14 Q. You're still in your car?

15 A. Yes.

16 Q. And did you ever see Denzel and Dashaun go
17 through the pockets of Mr. Hemingway and Mr. Chambers?

18 A. No.

19 Q. You didn't see that?

20 A. No.

21 Q. But you did see Denzel going through the car
22 itself?

23 A. Yes, sir.

24 Q. And he's all in there?

25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. Nobody is wearing masks or gloves at this point;
2 right?

3 A. No, sir.

4 Q. Did anybody say Fat or Denzel roadside at all?
5 Did you ever hear that name at all?

6 A. No, sir.

7 Q. So Denzel is all in the car looking for stuff?

8 A. Yes, sir.

9 Q. And then is the trunk open at that point? He
10 comes out of the car and opens the trunk?

11 A. The brother --

12 Q. He comes out of the car after searching the car
13 and at some point he asks Mr. Heyward to open the trunk?

14 A. Yes.

15 Q. And you're still in your car at that point?

16 A. Yes.

17 Q. And so Mr. Heyward opens the trunk? I'm sorry.
18 Mr. Hemingway opens the trunk?

19 A. Yes.

20 Q. And then he goes and he lays back down?

21 A. Yes.

22 Q. And this is after the shot has already been
23 fired off by their head; right?

24 A. Yes.

25 Q. No neighbors were turning the lights on or

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

- 1 coming out to see what's going on at this point?
- 2 A. No, sir.
- 3 Q. And so the trunk is open before you come out of
- 4 the car; right?
- 5 A. Yes, sir.
- 6 Q. And so is there anything else in the trunk?
- 7 A. I never looked in the trunk.
- 8 Q. You didn't look in the trunk.
- 9 Okay. So you didn't see the suitcase in the
- 10 trunk itself but you saw --
- 11 A. I only --
- 12 Q. I'm sorry.
- 13 A. I only saw the suitcase when it was being placed
- 14 in my car.
- 15 Q. You only saw the suitcase when?
- 16 A. When it was being put in my car.
- 17 Q. When it was being put in your car?
- 18 A. Yes, sir.
- 19 Q. Well, when you go over to come outside, is the
- 20 trunk open?
- 21 A. Of my car or their car?
- 22 Q. Of their car.
- 23 A. When I come out?
- 24 Q. Yes.
- 25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. It's already open?

2 A. Yes.

3 Q. So you come out and then the shots are fired at
4 that point? Because you testified that you were standing
5 right there when the shots were fired.

6 A. Yes.

7 Q. Even though in your statement you said you never
8 saw anybody get shot --

9 A. I never --

10 Q. -- is that correct?

11 A. The shots were fired, but I never directly saw
12 where he -- I saw the shots fired where he was on the
13 ground, but I never actually saw the shots like go through
14 him or anything like that.

15 Q. So you didn't see the shots hit him?

16 A. No.

17 Q. But you were standing out there when the shots
18 were fired?

19 A. Yes.

20 Q. And has the suitcase been carried to your car
21 already?

22 A. Yes.

23 Q. So the suitcase is carried to the car before you
24 ever get out?

25 A. Yes, sir.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. In this case I've also heard some testimony
2 about some boxes being carried from one to the other. Do
3 you see any boxes being carried from the Mercedes to your
4 car?

5 MS. SHEALY: Objection, Your Honor. May we
6 approach?

7 THE COURT: Uh-huh.

8 [Whereupon, an off-the-record bench conference
9 is held]

10 Q. [Mr. Apostolou] Quasantrina, I may have
11 misspoken. Did you see any boxes going from the Mercedes
12 to your car?

13 A. A box of food.

14 Q. What's that?

15 A. A box of food.

16 Q. A box of food.

17 Can you describe the box of food to the
18 Court?

19 A. A white container of food in a bag.

20 Q. A white container of food in a bag. Like a
21 fast-food bag?

22 A. Yes.

23 Q. So Denzel stole a bag of food from these guys?

24 A. The only thing that was put in the car was the
25 food and the suitcase.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. What's that?

2 A. The thing that looked like food, and a suitcase.

3 Q. And so he's already carried it. He comes back.

4 Were there any other trips between the Mercedes and your
5 car?

6 A. No, sir.

7 Q. Just the one trip carrying the suitcase; right?

8 A. He got the suitcase and the food. I can't
9 recall if there was two trips in between that.

10 Q. But he comes back out there and they're standing
11 on the side --

12 Are they doing anything at that point?

13 A. [No response].

14 Q. And they call you over after he's already gone
15 and come back and you're watching. So what do they do
16 after he comes back with the suitcase?

17 A. They're still on the ground and he's -- they're
18 standing over them.

19 Q. And they're standing over him?

20 A. Uh-huh.

21 Q. Anything else happen at that point?

22 A. That's when he tells me to get the keys to look
23 in the trunk -- I mean, to look in the hood.

24 Q. The keys to look in the hood. Okay.

25 And so you come out of your car and you're

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 standing there. And that's when the shots are fired?

2 A. No.

3 Q. Okay. Well, tell me.

4 A. The shot was already fired towards his head and
5 when I got out the car and was standing out there, the
6 shot -- the other two shots were fired.

7 Q. And you testified that you saw him shoot but you
8 didn't see it hit anybody; is that right?

9 A. Yes.

10 Q. And how far away from him when you -- when this
11 happens, how far away are you?

12 A. When the shots are fired?

13 Q. Uh-huh.

14 A. I'm right there.

15 Q. You're right there. Okay.

16 And then all three of y'all run back to the car
17 at the same time?

18 A. Yes, sir.

19 Q. And you jump in the driver's seat, Denzel jumps
20 in the passenger seat, and Dashaun Simmons gets in the
21 back?

22 A. Yes, sir.

23 Q. And he's got the AK-47?

24 A. Yes, sir.

25 Q. And when do they -- when you pulled up, that's

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 when they got the AK-47 out of the car?

2 A. [No response]

3 Q. When y'all pulled up before the other guys had
4 arrived -- how long were y'all out there before they
5 arrived?

6 A. For a while.

7 Q. A while?

8 A. Yes, sir.

9 Q. How long?

10 A. An hour or two.

11 Q. And hour or two. Okay.

12 And when did they get the AK-47 out of the
13 trunk?

14 A. I'm not sure.

15 Denzel came over and asked for the keys and that
16 was the only time he asked for the keys.

17 Q. And then what did he do with the keys when he
18 got them?

19 A. He went in the trunk.

20 Q. And he took the AK-47 out?

21 A. I didn't see what he took out of the trunk.

22 Q. So he took something out of the trunk?

23 A. Yes, sir.

24 Q. And you're -- in your proffer agreement you say
25 that the trunk hadn't been opened that night, though; is

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 that correct?

2 A. Yes, sir.

3 Q. But you added that a year and a half after the
4 fact?

5 A. Yes, sir.

6 Q. Two days before the trial; is that right?

7 A. Yes.

8 Q. Huh?

9 A. Yes, sir.

10 Q. All right. Tell me what happens. What's inside
11 the suitcase. Tell me where you -- when do you see the
12 suitcase next? We have a blue, three-by-two-suitcase.
13 Where does it go?

14 A. It's in the back seat. And then when we're at
15 Skrill's house, that's the last time I see it.

16 Q. The last time you saw it is at Skrill's house?

17 A. Yes, sir.

18 Q. And where does it go?

19 A. I'm not sure.

20 Q. When you pulled up at Skrill's house, somebody
21 gets it out of the car?

22 A. When get out -- when we pulled up to Skrill's
23 house, Denzel gets out of the car. And me and Dashaun are
24 out there and Dashaun is straightening the mats and I
25 don't see the suitcase out there.

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 Q. Do you see anybody take the suitcase out of the
2 car?

3 A. No, sir.

4 Q. Well, the suitcase wasn't in the car when the
5 police inventoried it; right?

6 A. No, sir.

7 Q. So at some point, the suitcase came out of the
8 car and you don't know when it came out of the car?

9 A. No, sir.

10 Q. Did you ever see the suitcase again?

11 A. No, sir.

12 Q. Did you ever see the contents of the suitcase?

13 A. The content meaning the way it looked in shape?

14 Q. No. Well, just what was inside?

15 A. No, sir.

16 Q. You never saw the inside of it?

17 A. No, sir.

18 Q. You go to see Denzel at the jail; right?

19 A. Yes, sir.

20 Q. And instead of facing thirty years to life for a
21 murder charge, you're facing zero to fifteen for an
22 accessory after the fact; is that correct?

23 A. Yes, sir.

24 Q. And instead of facing ten to thirty years in
25 prison for an armed robbery, you're facing zero to fifteen

Quasantrina Rivers
Cross-Examination by Mr. Apostolou
November 12, 2014

1 for an accessory; is that correct?

2 A. Yes, sir.

3 Q. And instead of facing zero to twenty for
4 attempted murder, you're facing zero to ten for an
5 attempted murder for an accessory; is that correct?

6 A. Yes, sir.

7 Q. So you can get out of this with probation; is
8 that correct?

9 A. I'm not sure.

10 Q. Well, all your charges are zero.

11 When you go to see Denzel, you tell him that
12 you're going to do whatever it takes to stay out here to
13 stay with your baby; is that correct?

14 A. No, sir.

15 MR. APOSTOLOU: I have no further questions,
16 Your Honor.

17 THE COURT: Redirect?

18 MS. SHEALY: May it please the Court.

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Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

REDIRECT EXAMINATION

BY MS. SHEALY:

Q. Quasantrina, you weren't writing these things down as they happened, were you, that night?

A. No, ma'am.

Q. You weren't taking notes?

A. No, ma'am.

Q. You haven't been in a situation before where someone takes an assault rifle and kills a man on the scene, have you?

A. No, ma'am.

Q. Have you ever been present with Denzel Heyward when he armed-robbed someone before?

A. No, ma'am.

Q. Stomped someone in the head multiple times?

A. No, ma'am.

Q. Stole what he could out of a vehicle?

A. No, ma'am.

Q. Now, the defense counsel has asked you several questions. First of all, you didn't go see Denzel every week, did you?

A. No, ma'am.

Q. And Mr. Apostolou just asked you something about another trial. There's been no other trial; has there?

A. No, ma'am.

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 Q. So let's look at your statement of May 19th.
2 Tell the jury, if you would: before you turned yourself
3 in, had your name been on the television?

4 A. No, ma'am.

5 Q. Were the police looking for you?

6 A. No, ma'am.

7 Q. And on that day, May 19th, looking on that first
8 page, where did you tell the police this happened? On the
9 fifth line down, where did y'all go?

10 A. Johns Island.

11 Q. And where is that in relationship to Denzel's
12 old house?

13 A. A street or two over.

14 Q. And from the bottom of the page, five lines up,
15 who did you tell Detective Church on May 19th, just a
16 little over two days after this happened, who was tussling
17 with the gun?

18 A. Dashaun.

19 Q. Where did you say everyone was in after the two
20 shots had been fired?

21 A. Back to the car.

22 Q. And what word did you use? Fourth line up.

23 A. Rushed back in the car.

24 Q. Rushed back in the car.

25 And on page 2, sixth lines down, is the question

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 that who came in the room and said let's take a ride. Who
2 did you tell Detective Church said that?

3 A. Dashaun.

4 Q. And on the bottom of the page the question was
5 that: how many gunshots did you hear.

6 How many gunshots did you tell Detective Church
7 you heard that night?

8 A. Four.

9 Q. And those four are what? The one that goes near
10 Jujuan's head? The young man who lived?

11 MR. MCCOY: Objection to testifying, Your Honor.

12 Q. [Ms. Shealy] Tell us what the four shots were
13 from. Tell us how you heard four shots.

14 A. Two went off by his head and then the other two
15 when he got up and ran.

16 Q. And was Dashaun shooting as y'all were at the
17 vehicle?

18 A. Yes, ma'am.

19 Q. And on that day when you were asked do you know
20 what the boy was wearing that Dashaun was holding the gun
21 on, what color shirt did you tell him he was wearing?
22 That's on page 3.

23 A. A white shirt.

24 Q. And on the bottom of that page when you were
25 asked when Denzel and Dashaun got back in the car, where

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 did they sit and did either of them have anything in their
2 hands, what did you answer on May 19th?

3 A. Dashaun was in the back seat with the gun.

4 Q. And where was Denzel? What did you say?

5 A. The front seat.

6 Q. And when you described the gun on May 19th, last
7 sentence on that page, how did you describe the gun?

8 A. What page? The second page?

9 Q. No. That same page you were just on. The third
10 page at the bottom and you were asked that about when
11 Dashaun -- when Denzel and Dashaun got back in the car,
12 where did they sit and did either of them have anything in
13 their hands. Would you read your full answer out for us?

14 A. [No response]

15 Q. Do you see the page?

16 A. No.

17 Q. Okay. Hold on. Look at my statement, my copy.

18 May 19th when you were asked that question, will
19 you indicate to the jury how you answered?

20 A. Denzel got in the front seat with nothing.
21 Dashaun got in the back seat behind me with a long gun
22 laying down.

23 Q. So you described that gun, two days after those
24 guys take you out there, as a long gun; is that correct?

25 A. Yes, ma'am.

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 Q. Then your lengthy statement in July of 2012. Do
2 you see that statement, 7/18/12?

3 A. Yes, ma'am.

4 Q. And go to the first page towards the bottom
5 starting with the third line from the bottom where it
6 says: so me, Dashaun.

7 Do you see that?

8 A. Yes, ma'am.

9 Q. Would you read that sentence that continues on
10 to the next page for me?

11 A. So me, Dashaun --

12 MR. MCCOY: I would ask that there be a question
13 in there somewhere, Your Honor, not just reading her
14 statement.

15 A. So me, Dashaun, his girlfriend, Denzel --

16 MR. MCCOY: Objection again, Your Honor.

17 THE COURT: Are you asking --

18 MS. SHEALY: I can ask it in a question form.

19 THE COURT: All right. Because I don't --
20 unless it's being offered to impeach her, she can't
21 just read from the statement.

22 Q. [Ms. Shealy] Either Mr. McCoy or Mr. Apostolou
23 suggested that you just came up with the whole ponytail
24 being pulled situation. Could you tell the jury on page 1
25 of your July 18th statement what you indicated on that

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 date as to what happened between you and Denzel and your
2 ponytail?

3 A. Putting hands on me. So he comes around, grabs
4 me by my ponytail, towards the ground. His mon walked
5 right by. Then he pushed me into the car and we left to
6 talk -- we left to take Dashaun's girlfriend home.

7 Q. Okay. And you told that on July 18th of 2012?

8 A. Yes, ma'am.

9 Q. On the third page of the July 18th statement,
10 directing you to the third line from the bottom, could you
11 tell the jury, please, how you described the weapon that
12 was used that night?

13 A. Dashaun was in the back seat with a long gun.

14 Q. Long gun?

15 A. Yes, ma'am.

16 Q. On the fourth page of the July 18th statement,
17 in the middle of the page before that large writing, nine
18 lines from the top, could you tell the jury how you
19 described Dashaun pointing the gun and about the suitcase
20 and the food?

21 MR. MCCOY: Your Honor, briefly, I've got a
22 little bit of an issue. Ms. Shealy is doing nothing
23 but directing the witness. Four lines up from the
24 bottom, four lines down from the top, telling her how
25 to answer the question. Just ask her a question off

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 her statement and let her answer it.

2 MS. SHEALY: I don't know that I would call it
3 directing --

4 THE COURT: You can direct her to a portion
5 to -- if it is to an answer in a question.

6 MS. SHEALY: And I did just answer -- ask a
7 question.

8 THE COURT: All right. Go ahead.

9 Q. [Ms. Shealy] So could you go ahead,
10 Quasantrina?

11 A. Can you repeat the question?

12 Q. On the fourth page of your statement, could you
13 tell the jury what you indicated on July 18th as it
14 related to Dashaun pointing the weapon and Denzel with the
15 suitcase and the food?

16 A. [No response]

17 Q. Do you need for me to show you where it is?

18 A. Yes.

19 MR. MCCOY: Judge, again, if she can't answer
20 the question, I don't understand why she's allowed to
21 be directed to a part of her statement that she wrote.
22 She gave this statement. Why does it have to be
23 pointed out by the prosecutor every step of the way on
24 this particular line of questioning?

25 MS. SHEALY: The alternative is to let her look

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 at twelve pages and find it.

2 THE COURT: She can direct her to an answer, if
3 it's to a question, to rehabilitate her from an
4 attempt to impeach her during cross.

5 Q. [Ms. Shealy] Starting here.

6 A. Dashaun's on one side. Dashaun tells them get
7 on the ground. Dashaun still has the gun pointing at --
8 but is top of the guy with the white shirt, pointing it to
9 his head. Denzel goes to stomp the boy's head --

10 MS. SHEALY: Slow down just a little bit,
11 Quasantrina, and talk a little bit louder, please.

12 A. Denzel goes to stomp the boy's head, then Denzel
13 takes a suitcase and food saying that he's taking whatever
14 he touched because his fingerprints are on it.

15 Q. [Ms. Shealy] Okay.

16 A. They --

17 Q. [Ms. Shealy] Go ahead. I'm sorry.

18 A. Dashaun still on top of the boy with the gun,
19 and Denzel's back standing by the dude -- by the dude's
20 head he stomped and yells for me to get the keys.

21 Q. And, again, that was on July the 18th?

22 A. [No response]

23 Q. Now, on July 18th, did you indicate that y'all
24 met up with Skrill afterwards? And I'll direct you to
25 page 5.

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 A. Yes, ma'am.

2 Q. And you may have to even start the page before.
3 But could you tell the jury what you told the police and
4 the solicitor's office on July 18th of 2012 as it related
5 to Skrill?

6 A. We pulled up. Denzel goes in to holler at
7 Skrill. We then get out. I go in the house towards --
8 Skrill. We then get out. I go in the house towards
9 the -- straightening stuff up in the car. Dashaun gets
10 suitcase outside of the car. I go back in the house --
11 talking about -- talking about burning clothes. Dashaun
12 puts in trash bag. Sleep at the house. Denzel calling
13 someone asking what's going on or about the news. Then he
14 tells me the boy dies. I say, are you serious, and was
15 just afraid. Then he asked me if I'm okay. Then -- they
16 then telling Skrill what happened, and went outside -- it
17 was -- was about the guys from Myrtle Beach. Either next
18 morning or that night, Dashaun have gun in bag. Him and
19 Skrill takes it, wrapping it up, and leaves me and Denzel
20 only there. He's basically saying he doesn't know -- he
21 doesn't --

22 Q. You can stop -- you can actually stop there.

23 So on that day of July 18th of 2012, you told
24 the solicitor's office about Skrill, about the weapon,
25 about the weapon being wrapped; is that correct?

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 A. Yes, ma'am.

2 Q. Now, what you didn't tell was about the earlier
3 episode of picking up the gun from Skrill; is that
4 correct?

5 A. Yes, ma'am.

6 Q. When the suitcase and the bag of food were in
7 the vehicle, do you know whether Denzel hoped there was
8 money in it?

9 A. No, ma'am.

10 Q. You don't know what he thought might be in
11 there?

12 A. No, ma'am.

13 Q. You were asked today about coming to the
14 solicitor's office this week.

15 Can you tell the jury: have you been to the
16 solicitor's office this week?

17 A. No, ma'am.

18 Q. When Mr. Apostolou was asking you a bunch of the
19 details of the behavior that night, who pointed the gun to
20 the back of the head of the two guys?

21 A. Dashaun.

22 Q. Who stomped the head of the boy who lived?

23 A. Denzel.

24 Q. Who took the boy who lived back to the car to
25 try to get into the trunk?

Quasantrina Rivers
Redirect Examination by Ms. Shealy
November 12, 2014

1 A. Denzel.

2 Q. Who asked you to go into the engine to look for
3 stuff?

4 A. Denzel.

5 Q. Is this easy for you to be here today, .

6 Quasantrina?

7 A. No, ma'am.

8 MS. SHEALY: Beg the Court's indulgence.

9 [Whereupon, Ms. Shealy and Ms. Savas confer]

10 MS. SHEALY: I have no further questions. Thank
11 you.

12 THE COURT: Recross?

13 MR. MCCOY: Briefly, Judge.

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Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

RECROSS-EXAMINATION

BY MR. MCCOY:

Q. Ms. Rivers, did you know that Ms. Shealy is prosecuting your case? Your criminal case.

A. Who?

Q. Ms. Shealy, the prosecutor right here.

A. Yes, sir.

Q. Do you know that she's prosecuting you? She's the solicitor assigned to your case. Did you know that?

A. Yes, sir.

Q. Is it important to you to listen to what she says and follow directions from her?

A. It's correct to follow directions from anyone.

Q. I am -- I get more and more confused every time I hear -- read a statement from you or hear a statement from you or talking to you on the stand here --

MS. SHEALY: Your Honor, again --

Q. [Mr. McCoy] -- so let me get something straight here.

MS. SHEALY: -- I would ask that he not editorialize.

THE COURT: Well, it's cross-examination.

I'll give you a little bit of leeway, but ask a question in there.

Q. [Mr. McCoy] You just testified to Ms. Shealy on

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 redirect that there were four shots: two that was done to
2 the guy's head on the ground that lived, two that was done
3 to the guy who passed away. On direct examination, you
4 told us about a shot with Dashaun Simmons hanging out of
5 the window firing a weapon at the guy who was living as
6 they were going down the street. Is that five or is that
7 four?

8 A. I never was counting the shots that were fired
9 when he was outside the back of my car.

10 Q. We're not counting -- we're not counting --
11 okay. We're not counting that. Okay.

12 MS. SHEALY: Again, Your Honor --

13 Q. [Mr. McCoy] And just so I'm clear on this, as
14 well. All right? This is a serious matter that we need
15 to take very seriously. Okay?

16 Your car -- all right. You're sitting in your
17 car and you testified that you were asleep at one point
18 during this opportunity. What woke you up?

19 A. The fact of me having to move my car.

20 Q. The fact that you had to move your car is what
21 woke you up. And you're asleep on the scene?

22 A. Yes.

23 Q. Do you recall in your first statement when you
24 say that you were woken up after your slumber through the
25 first gunshot? Do you recall that?

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 A. Yes, sir.

2 Q. So which one is true? You were woken up from
3 your slumber because you had to move your car, or you were
4 woken up from your slumber because you heard the first
5 gunshot?

6 A. It was true that I fell asleep in my car, and
7 then the gunshot happened, but I woke up from me having to
8 move my car.

9 Q. So the gunshot goes off, boom. You wake up.
10 Somebody is shaking you saying, Trina, you've got to move
11 your car, you've got to move your car. Is that how it
12 went down?

13 A. No, sir.

14 Q. Well, tell me how it went down. I'm confused.

15 A. It went down with me sitting in my car playing
16 on my phone, and I fell asleep, and Denzel came back to
17 ask me if I was okay and told me to move my car in the
18 driveway.

19 Q. So you're playing on your phone, there's an
20 assault rifle in your car, they're meeting some guys from
21 Myrtle Beach that you don't know, you hear an altercation,
22 and you can just go to sleep?

23 A. The sleep part happened before anything
24 happened.

25 Q. I thought the sleep part happened and then you

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 were awoken by a gunshot.

2 A. No, sir.

3 Q. That's not how it happened? So your first
4 statement is a lie?

5 A. Yes, sir, because I was scared.

6 Q. You -- okay. You were scared to tell the truth
7 about what woke you up; correct?

8 A. No.

9 With me going in, I was scared and so I didn't
10 give them any detail of what happened or really went into
11 it.

12 Q. And you testified earlier, too, okay -- and this
13 was on my first cross-examination of you -- that you
14 watched this whole thing on the rear-view mirror and your
15 side-view mirror; is that correct?

16 A. Yes, sir.

17 Q. And these are side-view mirrors that don't
18 exist -- because we saw the photographs -- is that
19 correct?

20 A. Only one mirror is missing, and that's the right
21 side. The left-side mirror was on --

22 Q. The left-side mirror was on there. So you
23 can -- you got a good angle from A and then B; correct?

24 A. Yes, sir.

25 Q. Cars are how far apart?

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 A. This car is facing this way, and this car is
2 right here, and the driveway is right there.

3 Q. Let's say you're sitting in your car right now,
4 okay, asleep or not asleep. I don't know. But I'm in the
5 other car. Tell me when to stop. How close?

6 A. Stop.

7 Q. Stop right here? And you're facing the other
8 direction? You're turned this way, correct --

9 A. Yes, sir.

10 Q. -- sitting in your car?

11 Everything is going down. Let's say I -- let's
12 say my table is right here and it's the back of the car.
13 Correct?

14 A. Yes, sir.

15 Q. And let's say it was pictured like it's right
16 behind you. All right? And where on the street is the
17 whole thing going down and where are the guys lying down?

18 A. In the middle of the street.

19 Q. Which is on what side?

20 A. Where you're standing at, it would be right
21 there on the right side.

22 Q. So --

23 A. The car's on your left side --

24 Q. All right.

25 A. -- and everything is happening on the right

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 side.

2 Q. - Happening on this side?

3 A. Yes. In the middle of the street.

4 Q. And they're off to the side of the car. The
5 back of the car is here; right?

6 A. Yes.

7 Q. And these guys are where? Tell me where to
8 stop. In this general area right here?

9 A. Yes.

10 Q. And are their legs facing you on the ground or
11 are their heads facing you on the ground? Or how are they
12 positioned?

13 A. Heads are facing towards my car --

14 Q. Heads are facing towards your car?

15 A. Yes.

16 Q. They're on the ground. Okay? They're all the
17 way down. They're face down?

18 A. Yes, sir.

19 Q. Okay. And are -- and they're lying side by
20 side, is your testimony?

21 A. There's room between them. They're not laying
22 side by side.

23 Q. Then how are they lying? Are they lying
24 perpendicular to each other?

25 A. There's a gap in between where they're laying.

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 They're not laying side by side.

2 Q. Okay. There was a space between them?

3 A. Yes.

4 Q. They're on the ground; right? They're face-down
5 on the ground?

6 A. Yes, sir.

7 Q. Tell me about this struggle. I'm having a hard
8 time. Let's say I'm Dashaun and I'm on top of the guy,
9 the first guy; right?

10 A. Yes.

11 Q. Is it your testimony that he leans over and
12 fires this shot?

13 A. Yes, sir.

14 Q. And then is it your testimony that there's a
15 struggle over the gun somehow; right?

16 A. Yes, sir.

17 Q. Is the guy who Dashaun Simmons is on top of,
18 does he turn around at any point in time or put his hands
19 on the gun to fight him over the gun? How does that work?

20 A. I don't see him put his hands on the gun but I
21 see him turn around and they're tussling.

22 Q. Is he on -- when he's on the ground, is he still
23 on his back?

24 A. When he's on the ground?

25 Q. Yes.

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 A. When he's on the ground, he's on his stomach.
2 And eventually he gets up to where he's tussling with
3 Dashaun. He's not -- he's turning over.

4 Q. He's rolling over? He's originally face-down
5 and then he rolled over to fight Dashaun?

6 A. Yes.

7 Q. And when you see the tussle, are you watching
8 through this rear-view mirror?

9 A. When I -- when the tussle is happening, I'm
10 right there.

11 Q. You're right there. You're on the scene. So
12 you've woken up. You're on the scene --

13 A. Yes, sir.

14 Q. -- and you're seeing this tussle, you're seeing
15 this struggle, over this gun; correct?

16 A. Yes, sir.

17 Q. Are any punches thrown at all?

18 A. No, sir.

19 Q. Have you already gotten this briefcase out of
20 the car, this suitcase out of the car, at this point?

21 A. Sir?

22 Q. Has the suitcase already come out of the car,
23 the Mercedes, and been put into your car at this point?

24 A. When the other two shots are fired?

25 Q. No. Before the two shots are fired.

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 A. The two shots are fired at the boy who's still
2 alive's head, or after?

3 Q. You've got the two -- you've got the boys on the
4 ground. He gets a shot fired at his head. And then
5 you've got the guy, who obviously dies, in two shots.
6 When did the suitcase come into the car? Before or after
7 that?

8 A. The shots of the two fired before --

9 Q. I'm asking you to -- to tell me.

10 A. You're asking me to tell me [phonetic] when the
11 shots came into play with the suitcase?

12 Q. When did the suitcase come out of the car and
13 into your car, that was heavy and that was carried by two
14 hands, by Denzel?

15 A. Before the boy got his head stomped.

16 Q. Where in relation to the gunshots?

17 A. The gunshots were when they were laying on the
18 ground.

19 Q. When did the car -- okay. When did the car have
20 that suitcase in there: before all the shots were fired,
21 in between the first two shots, or after all the shots
22 were fired?

23 A. In between.

24 Q. In between.

25 So the first two shots were fired and in the

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 middle of all this Denzel is grabbing the suitcase -- it's
2 heavy -- with two hands and he's walking it back and
3 putting it on the car and you've got two guys on the
4 ground. Is that your testimony?

5 A. Yes, sir.

6 Q. Two shots are fired. Okay? Suitcase put in the
7 car. And then what happens after the struggle for the
8 gun, the struggle and fighting? Did they ever come up off
9 their knees or off of a sitting position when they're
10 struggling for the gun?

11 A. They get up and Dashaun runs off that way with
12 the gun facing the boy, and the boy runs.

13 Q. Dashaun finally gets the gun away. Is that what
14 you're saying?

15 A. It wasn't where Dashaun never had the gun out of
16 his hands.

17 Q. I know. But I'm just saying there was a
18 struggle. And you said they were fighting over the
19 weapon. But at some point in time you're telling me
20 Dashaun got the weapon away with the struggle and all?

21 A. Uh-huh.

22 Q. And then he backs away?

23 A. Dashaun is physically walking backwards and the
24 boy who died, he's running the opposite way.

25 Q. He's running.

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 Where are the car keys at this point? Because I
2 know you handled the car keys in between this time, as
3 well.

4 A. I'm not sure.

5 Q. You don't know where they are? You don't know
6 what you did with them after you handled them?

7 A. No, sir.

8 Q. Why would you use car keys to open the hood of a
9 car?

10 A. I don't know, sir.

11 Q. I mean, you own the automobile, don't you?

12 A. Yes, sir.

13 Q. Okay. Have you ever looked in the hood of your
14 car?

15 A. No, sir.

16 Q. You never have?

17 A. No, sir, not as far as --

18 Q. Have you ever used keys to get into a hood?

19 A. No, sir.

20 Q. And you testified, also, that you went back to
21 Skrill's place. Okay. You're back to his hideout. And
22 you don't see a suitcase anymore; is that correct?

23 A. No, sir.

24 Q. You do see a suitcase?

25 A. No, sir, I don't.

Quasantrina Rivers
Recross-Examination by Mr. McCoy
November 12, 2014

1 Q. You don't see a suitcase?

2 A. No.

3 Q. Do you see the bag of food that was taken?

4 A. No, sir.

5 Q. And, again, you're watching all of this through
6 a side-view mirror that's nonexistent and a rear-view
7 mirror that's maybe eight inches long; is that correct??

8 A. [No response]

9 Q. Did you see the picture of the left side of the
10 car?

11 A. [No response]

12 Q. I'm just asking you. I mean, I wasn't there.
13 You were obviously there. But I'm saying you watched this
14 whole thing go down through that --

15 A. Through my rear-view mirror and my left-side
16 mirror, yes, sir.

17 MR. MCCOY: Okay. Thank you.

18 THE COURT: Mr. Apostolou?

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Quasantrina Rivers
Recross-Examination by Mr. Apostolou
November 12, 2014

RECROSS-EXAMINATION

BY MR. APOSTOLOU:

Q. Quasantrina, you stayed with Denzel for two days after this; is that right?

A. Yes, sir.

Q. Did you hear any conversation about what the contents of the suitcase were?

A. No, sir.

Q. Did you ever ask him what the contents of the suitcase were?

A. No, sir.

Q. Did Denzel and Dashaun brag about the great bounty that they got out of this suitcase?

A. No, sir.

Q. The suitcase was never mentioned again in the whole two days at all?

A. It was mentioned that nothing was in it, but that was it.

Q. It was mentioned that nothing was in it?

A. Yes, sir.

Q. Okay. Who said that?

A. I mean as with them sitting there talking. I'm not -- I'm not sure.

Q. Okay. Well, who said it? Who was having the conversation?

Quasantrina Rivers
Recross-Examination by Mr. Apostolou
November 12, 2014

1 A. Denzel and Dashaun.

2 Q. Denzel and Dashaun? What did they say about the
3 suitcase?

4 A. Just they said nothing was in it.

5 Q. They said nothing was in it?

6 A. Yes, sir.

7 Q. Were there drugs in it?

8 A. Nothing was in it.

9 Q. The proffer agreement that you signed says tell
10 the truth; right?

11 A. Yes, sir.

12 Q. It doesn't say tell the truth, supplement a year
13 and a half later with other information, does it? It says
14 tell the truth now?

15 A. Yes, sir.

16 MR. APOSTOLOU: I would like to -- can we
17 approach the bench, Judge?

18 [Whereupon, an off-the-record bench conference
19 is held]

20 MR. APOSTOLOU: Thank you. I have no further
21 questions.

22 THE COURT: All right. You may step down.

23 [Whereupon, Ms. Rivers is excused and exits the
24 witness stand]

25 THE COURT: All right. Folks, this looks like a

ERIN MEYER - DIRECT BY MS. SHEALY

1 Q. And that was from Kadeem Chambers; is that
2 correct?

3 A. Yes, ma'am.

4 Q. I think I neglected to ask you, are the other
5 items that came from MUSC's ER -- was there also some
6 cash that came along with Kadeem Chambers's clothing?

7 A. Yes, ma'am.

8 Q. And is the amount of that cash reflected on this
9 envelope?

10 A. 648.27.

11 MS. SHEALY: Your Honor, at this time we
12 would admit State's Exhibit 142.

13 THE COURT: Admitted.

14 (State's Exhibit No. 142 was marked for
15 identification and admitted into evidence.)

16 BY MS. SHEALY:

17 Q. So regarding the other item that was taken and
18 brought to you from autopsy, showing you 145-B, could you
19 explain to the jury what that is.

20 A. Either a piece of a copper jacket or a piece of a
21 projectile, a bullet.

22 Q. And that came from autopsy?

23 A. Yes, ma'am.

24 Q. And did you take a photograph of that when you got
25 back, similar to the ones you had taken earlier? Do you

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 THE COURT: All right. What is your schedule
2 for the afternoon?

3 MS. SHEALY: I have -- this next witness will
4 be lengthy, Your Honor. Then I have a very brief
5 witness, and then I anticipate four other witnesses.

6 THE COURT: Okay. Who is the next witness?

7 MS. SHEALY: Jujuain Hemingway.

8 (In open court, jury present.)

9 THE COURT: Be seated. Okay, folks. Welcome
10 back. We'll resume with the State calling their next
11 witness.

12 MS. SHEALY: Thank you, Your Honor. Jujuain
13 Hemingway.

14 JUJUAIN HEMINGWAY,
15 having been first duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 THE WITNESS: First name Jujuain, last name
19 Hemingway.

20 BY MS. SHEALY:

21 Q. You did a good job that time being close to the
22 microphone. If you could, speak up for us, because I
23 know you're very quiet spoken.

24 Could you tell the jury, please, if you would, how
25 old are you now?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Nineteen.

2 Q. And back in 2012, in May, how old were you?

3 A. Seventeen.

4 Q. In 2012, where were you living?

5 A. With my mom.

6 Q. With your mother? And where did your mother live?

7 A. Longs, in Horry County.

8 Q. And is that sort of near North Myrtle Beach,
9 Conway?

10 A. Yes, ma'am.

11 Q. Your mother is Loretta Hemingway?

12 A. Yes, ma'am.

13 Q. And did you have a brother named Kadeem Chambers?

14 A. Yes, ma'am.

15 Q. And was he your older brother or your younger
16 brother?

17 A. My older brother.

18 Q. Now, do you and he share the same parents?

19 A. We got the same dad.

20 Q. Same father. Okay. Do you have a brother named
21 Kareem?

22 A. Yes, ma'am.

23 Q. And do you and he share the same parents?

24 A. Same mother.

25 Q. Okay. And how old is Kareem compared to you?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. He's 27, about eight years older.

2 Q. And did Kadeem have a brother named Hasheem?

3 A. Yes, ma'am.

4 Q. And that is Kadeem's brother by --

5 A. His mother.

6 Q. By his mother. Okay. How far did you go in
7 school?

8 A. Eleventh grade year.

9 Q. And when you finished in the eleventh grade, did
10 you start working?

11 A. Yes, ma'am.

12 Q. What kind of work did you start doing?

13 A. Landscaping.

14 Q. And what type of work are you doing now?

15 A. Well, right now landscaping business is kind of
16 slow because of wintertime, so I ain't really working
17 nowhere right now.

18 Q. So you got to find another job?

19 A. Yes, ma'am.

20 Q. Now, you don't have any type of criminal
21 conviction, do you?

22 A. No, ma'am.

23 Q. Tell us a little bit more about your relationship
24 with Kadeem. Were y'all very close?

25 A. Yes, ma'am. We were close.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. Did y'all grow up in the same home or not in the
2 same home?

3 A. Well, at one point in time we was staying together
4 in the same home.

5 Q. I'm sorry?

6 A. We were staying together at the same home at one
7 point in time.

8 Q. Was that your mother's home or his mother's home?

9 A. My mother's home.

10 Q. Your mother's home. So your brother Kareem, who
11 is not biologically related to Kadeem, are they like
12 brothers too?

13 A. Yes, ma'am.

14 Q. Do you have a large family?

15 A. Yeah.

16 Q. Now, you've mentioned that y'all shared the same
17 father. Is your father still alive?

18 A. No. He passed.

19 Q. And did he die in a car wreck?

20 A. Yes, ma'am.

21 Q. Any when that happened, was there some settlement
22 money that was divided amongst his children?

23 A. Yes, ma'am.

24 Q. And the provision was that you could get it at
25 what age?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 A. At 18.

2 Q. Could you tell the jury, at the time in May, you
3 had not turned 18 yet; is that correct?

4 A. No, ma'am.

5 Q. But Kadeem had?

6 A. Yeah.

7 Q. What did Kadeem do with the money he inherited?

8 A. I don't really know what he did, but he did buy a
9 car.

10 Q. Did he ultimately buy that Mercedes?

11 A. Yes.

12 Q. Were you and Kadeem close at the time that this
13 occurred in May?

14 A. Yes, ma'am.

15 Q. And how often would y'all get to see each other?

16 A. Every other day.

17 Q. And focussing your attention -- let me ask you
18 this: In May of 2016, can you tell me who had the
19 telephone number 694-2950?

20 A. I think that's my number. Yeah, that's my number.

21 Q. That was your number?

22 A. Yeah.

23 Q. And what about the number 742-8740?

24 A. That was Kareem's number.

25 Q. I'm going to show you two phones and ask you if

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 you recognize these. This is State's Exhibit 129, and
2 it's a cellphone that was found in the Mercedes. Whose
3 phone is that?

4 A. Kadeem's phone.

5 Q. Kadeem's phone?

6 A. Yeah.

7 Q. And showing you what's been marked as State's
8 Exhibit 138, could you tell us whose phone that is?

9 A. Kadeem's phone.

10 Q. Now, earlier in the day on the 16th, did you and
11 Kadeem have a discussion about driving out of town?

12 A. Yes, ma'am.

13 Q. And what did you agree to do?

14 A. Ride with him.

15 Q. Where did he say y'all were going to go?

16 A. He said we were going to Charleston.

17 Q. Could you tell the jury, had you ever been to
18 Charleston before?

19 A. No.

20 Q. And when y'all made that decision, who drove?

21 A. I drove.

22 Q. Was it fun for you to get to drive?

23 A. Yeah. It was the first time he let me drive that
24 far away.

25 Q. And you were driving a Mercedes?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Uh-huh.

2 Q. And how did you know where to go?

3 A. GPS.

4 Q. And was there a GPS device, or were you doing it
5 on the phones?

6 A. Kadeem was doing it on his phone.

7 Q. Was he also having conversations on the phone?

8 A. Yeah.

9 Q. Now, did Kadeem tell you why he needed to go to
10 Charleston?

11 A. No. He never let me know what he was doing.

12 Q. Did he indicate to you whether he had any business
13 to do?

14 A. No.

15 Q. Okay. And did you know who it was that y'all were
16 going to meet up with or what y'all were going to do?

17 A. No, ma'am.

18 Q. But you went along for the ride?

19 A. Uh-huh.

20 Q. Now, on the way there, did you and Kadeem smoke
21 some marijuana?

22 A. Yes, we did.

23 Q. And was that marijuana yours or Kadeem's?

24 A. Mine.

25 Q. Showing you what has been marked as State's

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Exhibit 82, Jujuaain, if you could look behind you, is
2 that a photograph of the bag that had marijuana in it?

3 A. Yes.

4 Q. And showing you State's Exhibit 83, is that
5 another baggy that had marijuana on it?

6 A. Yes.

7 Q. And as y'all were traveling to Charleston, y'all
8 had some marijuana?

9 A. Yes.

10 Q. How did y'all smoke it?

11 A. In a cigarette.

12 Q. In a cigarillo?

13 A. Uh-huh.

14 Q. And how does that work, you just stuff it in?

15 A. Uh-huh.

16 Q. Now, do you remember whether there was anything in
17 the back seat of the car as y'all were traveling?

18 A. Some food.

19 Q. What kind of food?

20 A. Some hibachi food.

21 Q. Do you know where that came from?

22 A. I think it came from a place we usually go eat at
23 in North Myrtle Beach.

24 Q. You said it was hibachi?

25 A. Uh-huh.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. Were you -- whose food was it, your food or
2 Kadeem's?

3 A. Kadeem's food.

4 Q. Were you with him when he purchased the food?

5 A. No, ma'am.

6 Q. Do you know whether he had eaten the food?

7 A. No, ma'am.

8 Q. What type of bag was it in the back, do you
9 remember?

10 A. A plastic bag.

11 Q. Like a to go bag?

12 A. Yeah.

13 Q. Okay. What else was in the vehicle that you can
14 remember? Did y'all have some CDs in the vehicle?

15 A. Yeah, a lot of CDs.

16 Q. What about any kind of drink bottles, do you
17 remember?

18 A. Gatorade bottle.

19 Q. Did you have the opportunity before you left to
20 look in the trunk of the Mercedes?

21 A. No, no, I didn't look in no trunk.

22 Q. You indicated that you were getting direction from
23 Kadeem, and then you would put it in the GPS -- or, no,
24 he was putting it in the GPS?

25 A. Yeah.

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 Q. Where were the directions getting texted to, did
2 you know?

3 A. Say it again?

4 Q. Where were the directions getting texted to? Was
5 he receiving directions on his phone?

6 A. I don't know if he was receiving directions. I
7 don't know how he got it --

8 Q. But he was telling you how to drive?

9 A. He was telling me where to go.

10 Q. You're telling us you hadn't been to Charleston.
11 Had you ever been to Johns Island before?

12 A. No, ma'am.

13 Q. Did Kadeem tell you the nickname or who it was
14 y'all were supposed to meet?

15 A. No, ma'am.

16 Q. And do you know whether Kadeem would go to South
17 Carolina State at all?

18 A. No, ma'am.

19 Q. You don't know whether he had friends there?

20 A. No.

21 Q. Now, did Kadeem appear to know where to go when he
22 was telling you what to do?

23 A. No. He didn't really know where to go at.

24 Q. Did you eventually pull into a neighborhood?

25 A. It was like a street with a lot of houses.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. So not a subdivision, but a street with homes on
2 it?

3 A. Yes.

4 Q. And do you pull over at some point?

5 A. Yeah.

6 Q. When you pulled over, do you remember having a
7 discussion with your brother about where y'all were?

8 A. Yeah.

9 Q. And what were y'all's thoughts?

10 A. What was our thoughts?

11 Q. Yes. Did it feel right?

12 A. It felt like something wasn't right, like
13 something was about to go down or something.

14 Q. Why did you feel that way?

15 A. Because it was on a dark straight road.

16 Q. And it just didn't feel right?

17 A. Yeah.

18 Q. Did Kadeem tell you to turn off the car?

19 A. Yeah. He told me turn off the car.

20 Q. Did you turn off the car?

21 A. No.

22 Q. Why?

23 A. 'Cause I ain't want to turn off the car.

24 Q. Did you feel uneasy turning off the car?

25 A. I felt uncomfortable.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. What was the next thing that happened after y'all
2 pulled over?

3 A. A dude came through the cut and my brother was
4 talking.

5 Q. Let me back up for just a second. When you pulled
6 down that road, did you have to turn around at any point?

7 A. Yeah, 'cause that road, down the road, the GPS
8 wasn't reading right so we had to turn around and come
9 back up.

10 Q. Looking for a certain address?

11 A. Yeah.

12 Q. Let me show you what's been marked as State's
13 Exhibit 1. Is there a pointer up there, Jujuaain? Can
14 you recognize that picture?

15 A. Yes.

16 Q. Okay. So, if you would, if you'll stand up and
17 make sure you speak loudly enough for the court reporter
18 to hear you and the jury to hear you, you can use this
19 pointer, and show me from what direction you first came
20 down the road.

21 A. First rode by, rode this way.

22 Q. And did you go further up the road?

23 A. Yes.

24 Q. What did you do when you drove up further down the
25 road?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. We turned around in the driveway.

2 Q. And where did you then come?

3 A. We turned around, and we came farther up this
4 bush.

5 Q. Say that again a little louder?

6 A. We turned around and we parked right here on the
7 side of the bush.

8 Q. On the side of those bushes?

9 A. Yeah.

10 Q. Tell the jury, if you would, when you were going
11 down the street and turning around, did you see another
12 vehicle?

13 A. Yes. I seen a green car back in right there.

14 Q. Back in right there?

15 A. Yeah.

16 Q. And did you see that vehicle early on move at any
17 point?

18 A. Yeah, eventually move right here, in a row.

19 Q. Down there?

20 A. Uh-huh.

21 Q. Okay. You can go ahead and have a seat.

22 So you indicated that your brother was talking to
23 somebody at first; is that correct?

24 A. Yes.

25 Q. Did anybody approach your side when your brother

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 was first talking to someone on the passenger side?

2 A. Say that again?

3 Q. Did anybody come on your side when that person
4 came to speak to Kadeem at first?

5 A. No.

6 Q. And the first part of that conversation, did it
7 appear to be friendly or did it appear to be hostile?

8 A. Friendly.

9 Q. Then what happened?

10 A. And then that's when the person hit my brother.

11 Q. And where was your brother when he hit him?

12 A. In the car.

13 Q. What happened then?

14 A. That's when somebody came with a gun.

15 Q. And where -- did you see where he came from?

16 A. No.

17 Q. When he came with the gun, what happened with you?

18 A. He told us to get out the car.

19 Q. The first guy that approached the vehicle, did he
20 have on -- what kind of shirt did he have on?

21 A. The first guy?

22 Q. The first guy.

23 A. A red shirt.

24 Q. And the second guy who had a gun, what kind of
25 shirt did he have on?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. I really don't kind of know, but I think white
2 shirt.

3 Q. White shirt?

4 A. Yeah.

5 Q. When he came up with the gun, did he come all the
6 way to your side or did he just point the gun and have
7 y'all move?

8 A. He came on my brother's side first and then he
9 came on my side.

10 Q. Did the guy with the gun say anything to y'all?

11 A. Don't move or I'll shoot.

12 Q. And then what did somebody tell you to do?

13 A. Get out of the car and get on the ground.

14 Q. Get out of the car and get on the ground?

15 A. Yes.

16 Q. In looking at this photograph, could you tell us
17 where you were on the ground, or is it hard to tell from
18 this shot?

19 A. I can't really tell from that picture.

20 Q. Let me see if I have another picture. Let me show
21 you State's Exhibit 11. Do you see the bush on that
22 picture?

23 A. Right over there.

24 Q. Stand up with the pointer, if you don't mind.

25 A. Right over here, there is the bush. We was, like,

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 laying right in here. I was laying right here. My
2 brother was over here.

3 Q. Okay. So stay there for a second, but you are,
4 Jujuaain, going to have to speak a little louder.

5 Which way was your car pointed at that time?

6 A. This way toward that way.

7 Q. Towards the vehicle that you see in that photo?

8 A. Yes.

9 Q. And so show us again. You laid down where?

10 A. Right here and right there (indicating).

11 Q. And your brother laid down where?

12 A. Over here (indicating).

13 Q. And are you doing the best can you in telling us
14 where two years later?

15 A. Yes.

16 Q. Okay. After the two of you got on the ground --
17 you can have a seat now for me.

18 After the two of you were put on the ground --
19 tell us this first: Did they tell you to get on the
20 ground?

21 A. Yes.

22 Q. And where was the guy in the red shirt and where
23 was the guy in the white shirt when you laid down? Were
24 they near you?

25 A. One of the guys was near me, in the red shirt.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. And did you get a look at him then?

2 A. Not really.

3 Q. So he puts you down on the ground?

4 A. Uh-huh.

5 Q. Could you tell the jury what, if anything, they
6 were saying to y'all?

7 A. Where the money at? And he kept saying, Where is
8 it at? Where is it at?

9 Q. Where is it at? Where is it at?

10 A. Uh-huh.

11 Q. And did you also say they said the word "money,"
12 or did they use another word?

13 A. That's it. He just kept saying, Where's it at --

14 Q. Now, the guy in the red shirt, do you remember how
15 tall you thought he might be?

16 A. About five-eleven.

17 Q. The guy in the red shirt?

18 A. Uh-huh.

19 Q. What is his weight? Do you remember about how big
20 you thought he was?

21 A. About 200 pounds.

22 Q. And then the guy in the white shirt, about how
23 tall did he seem?

24 A. About five-ten.

25 Q. Okay. After you were on the ground, what

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 happened?

2 A. I was on the ground. He kept telling me -- dude
3 kept kicking me in the head, asking me where it was at.

4 Q. Let me just stop you there for just a second.
5 When y'all laid down, did y'all lay down on your own or
6 was there any pushing y'all down?

7 A. Laid down on our own.

8 Q. And when someone -- you said he stomped you on
9 your head?

10 A. Yeah.

11 Q. Who stomped you in the head?

12 A. Dude in the red shirt.

13 Q. And what was he saying to you or asking of you
14 when he stomped you in the head?

15 A. Where's it at?

16 Q. Where's it at?

17 A. Uh-huh.

18 Q. Were either you or Kadeem saying anything at this
19 point?

20 A. Tell him we ain't have none.

21 Q. Do you remember what you did with your keys when
22 you got out of the car?

23 A. I had them in my hand.

24 Q. And when you were laying down, do you remember
25 whether you had them or not?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Yeah, I had them.

2 Q. At some point, are you asked -- what happens after
3 you say, We don't have anything? We don't have anything?
4 What's the next thing that happens?

5 A. I got stomped in the head, and my teeth were
6 pushed back at the time.

7 Q. Your teeth were pushed back?

8 A. Yeah.

9 Q. Did you have any bleeding?

10 A. Yeah.

11 Q. Then what happened?

12 A. We kept telling him we didn't have none, and
13 Kadeem -- I can't -- told us to open the trunk.

14 Q. Told what?

15 A. Kept telling him we had nothing, and then dude
16 told us to shut up, and I kept talking and dude shot by
17 my head.

18 Q. Now, when you say a dude shot by your head, was
19 that the guy in the red shirt or the guy in the white
20 shirt?

21 A. White shirt.

22 Q. Tell the jury what the weapon looked like.

23 A. A long assault rifle.

24 Q. A long assault rifle?

25 A. Yeah.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. And when it shot near your head, was it close to
2 you?

3 A. Yeah. I felt the bullet fragment come out the
4 gun.

5 Q. Then what happened?

6 A. Then my ears starts ringing, and I can't really
7 hear nothing after that until like a few seconds later,
8 and they told us -- told him get off the ground and open
9 the trunk.

10 Q. Who told you to get off the ground and open the
11 trunk?

12 A. The dude in the red.

13 Q. And did you?

14 A. Yeah.

15 Q. Where was the guy with the weapon when you were
16 getting off the ground?

17 A. He was over there by my brother.

18 Q. And what was he doing with the weapon?

19 A. He had it pointed at my brother.

20 Q. And where on your brother did he have it pointed?

21 A. Like, on his head, on his chest.

22 Q. When you went over, did you open the trunk for
23 them?

24 A. Uh-huh.

25 Q. You did?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 A. Yeah, I did.

2 Q. Tell the jury, when you opened the trunk, did you
3 see anything in the trunk?

4 A. Suitcase.

5 Q. And at the time you saw it, was the suitcase
6 opened or was the suitcase closed?

7 A. It was closed.

8 Q. Do you remember what color the suitcase --

9 A. I can't really say if it was closed or opened.

10 Q. You don't remember?

11 A. It was just laid out flat, so probably was closed.

12 Q. Do you remember what color the suitcase was?

13 A. Black.

14 Q. Okay. And what happened with the suitcase after
15 you opened the trunk?

16 A. I lay back on the ground.

17 Q. Did they tell you to lay back on the ground?

18 A. Yeah.

19 Q. And did you see anything happen with the suitcase
20 at that point?

21 A. I laid back on the ground. One dude took the
22 suitcase out of the trunk.

23 Q. The dude did?

24 A. Yeah.

25 Q. Which dude?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. The dude in the red.

2 Q. Could you see where he took it?

3 A. Put it in the other car, the green car that was
4 back in the driveway.

5 Q. Say that again. I'm sorry.

6 A. Put it in the green car that was backed in the
7 driveway.

8 Q. And when you say green car, are you talking about
9 a light shade or a dark shade?

10 A. Dark shade.

11 Q. After the suitcase got put in the other car, then
12 what happened?

13 A. About a minute or so later, my brother and the
14 other dudes touched one of the guns and two shots rang
15 out.

16 Q. Let me ask you about that. Before that happened,
17 did you see a female, or was it after that happened?

18 A. It was before.

19 Q. Tell us about seeing the female.

20 A. The female picked up the keys before I opened the
21 trunk.

22 Q. I still didn't catch -- did what to the trunk?

23 A. The female picked up the keys, got the keys from
24 me before I opened the trunk.

25 Q. Before you opened the trunk?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Yeah.

2 Q. When she picked up the keys, could you tell us
3 whether anything drew your attention? Was there anything
4 about the way she picked them up was odd at the time?

5 A. Like, with a paper towel or something.

6 Q. So she wasn't touching the keys directly?

7 A. No.

8 Q. And when she could not get the trunk open, that's
9 when they made you go over there?

10 A. Yeah.

11 Q. When you were over at the trunk area, was the guy
12 with the red shirt with you?

13 A. Yeah.

14 Q. Did you get a good look at him at that point?

15 A. Yeah, at the trunk.

16 Q. And was there anything else about the guy in the
17 white shirt that was distinguishable? Did you hear how
18 he talked?

19 A. Yeah. I heard him talk.

20 Q. Was there anything unusual about the way he spoke?

21 A. Yeah. He had a Geechie accent.

22 Q. Do you remember what kind of shoes the two guys
23 had on?

24 A. No. It was two years ago.

25 Q. Do you remember what color shorts they had on?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. I think the dude in the red had red shorts on, if
2 I ain't mistaken.

3 Q. And do you remember anything distinguishable about
4 the type of shorts the guy with the gun had on?

5 A. No.

6 Q. Now, I'm going to jump ahead for just a second,
7 but you gave a statement later that morning, or that
8 afternoon, afterwards, right?

9 A. Uh-huh.

10 Q. And so is it fair to say that the details you gave
11 then, you may have remembered more back then than you do
12 now?

13 A. Yeah.

14 Q. Okay. You've told us about the guy in the red
15 shirt having stomped you in the head. Could you tell the
16 jury whether he did that on more than one occasion, or
17 was there just one stomping?

18 A. More than one occasion.

19 Q. Did anything happen to one of your teeth while you
20 were out there?

21 A. I was missing -- one of my teeth had chipped. The
22 other one was pushed back.

23 Q. Okay. Now, you were getting ready to tell us
24 about the your brother and the guy tussling. Is that how
25 you described it?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Uh-huh.

2 Q. Where were you when that happened?

3 A. I was on the ground.

4 Q. And can you describe that for us, what happened?

5 A. He was over there. He had a gun pointed at me,
6 and they started tussling and two shots rang out, and I
7 jumped off the ground.

8 Q. Now, before that happened, had anything happened
9 with your pockets?

10 A. Before what?

11 Q. Before your brother got shot, had they made any
12 effort to see if y'all had anything on you, the two guys?

13 A. Yeah, but he didn't go in our pockets.

14 Q. They didn't go in your pockets?

15 A. No.

16 Q. But he kept asking you if you had something?

17 A. Yeah.

18 Q. And when you described the gun before as a long
19 rifle, did it have a banana clip?

20 A. Yes.

21 Q. What type of gun did it look like?

22 A. An AK47.

23 Q. When your brother got shot, did he say anything?

24 A. After the shots rang out he said, Bro, I'm hit.

25 Q. What did you do?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. I jumped up and ran.

2 Q. And when you ran, which direction did you run
3 then?

4 A. The opposite direction the car was facing.

5 Q. So showing you again State's Exhibit 1, which
6 direction did you run?

7 A. I ran that way (indicating).

8 Q. And could you hear what was going on behind you at
9 that point?

10 A. Yeah.

11 Q. What could you hear?

12 A. Car door shutting.

13 Q. You have told us previously about seeing the girl
14 when she was picking up the keys?

15 A. Yeah.

16 Q. Do you remember how her hair was that night?

17 A. It was a ponytail.

18 Q. Do you remember what kind of shoes she had on?

19 A. No.

20 Q. And, again, if you remembered it on May 17th, that
21 was closer to when it had happened?

22 A. Yeah.

23 Q. As you were running on the road, could you tell us
24 whether or not a car came up behind you?

25 A. Yeah. A car had, like -- yeah, a car was driving

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 fast behind me.

2 Q. Say that again? I'm sorry.

3 A. I said a car was driving fast behind me.

4 Q. Okay. And did you stay on the road or did you cut
5 through somewhere?

6 A. I cut through some people's yard, jumped the
7 fence, fell in the ditch.

8 Q. After you jumped over a fence and fell in a ditch,
9 what did that area look like? Were you trying to hide
10 somewhere?

11 A. It was, like, a new housing development. I ran in
12 the porta-potty.

13 Q. Showing you what has been marked as State's
14 Exhibit 50, this is a daytime shot, Jujuain. Just tell
15 me whether you can recognize it. Does that appear to be
16 the porta-potty where you hid?

17 A. Yes.

18 Q. Now, after you got into the porta-potty, what did
19 you do?

20 A. Called my brother, my other brother.

21 Q. When you were running down the street before you
22 cut through all the yards, did you throw out that little
23 baggy of marijuana?

24 A. Yeah.

25 Q. And then when you got in the porta-potty, did you

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 throw out another little baggy of marijuana that was in
2 the toilet area?

3 A. Yeah, but I wasn't trying to get to my phone.

4 Q. When you were in the porta-potty, you were trying
5 to get to your phone?

6 A. Uh-huh.

7 Q. What about when you were running down the street?
8 Did you intentionally do it there?

9 A. No.

10 Q. You were just trying to get it out?

11 A. Uh-huh.

12 Q. You've admitted to the jury y'all smoked pot that
13 night, right?

14 A. Uh-huh.

15 Q. So when you got in the porta-potty, the first
16 phone call you made was to whom?

17 A. My brother, my other brother.

18 Q. And why did you call your brother?

19 A. Because I didn't know what to do at the time.

20 Q. And which brother was that that you called?

21 A. Rasheed Generette.

22 Q. What did he suggest you do?

23 A. Call 911.

24 Q. And did you, in fact, call 911?

25 A. Yes.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. When you called 911, did you know where you were?

2 A. No.

3 Q. Did you think you were in Charleston?

4 A. Yes.

5 MS. SHEALY: Beg the Court's indulgence for
6 just a minute. At this time -- I beg the Court's
7 indulgence for just a minute.

8 At this time we would like to play the 911
9 call.

10 THE COURT: Go ahead.

11 (State's Exhibit No. 121 was marked for
12 identification and admitted into evidence.)

13 (Whereupon, the 911 call was played for the
14 jury.)

15 BY MS. SHEALY:

16 Q. Was that the end of your phone call?

17 A. Yes.

18 Q. And at the end of the phone call, did it end
19 because the other officers came to the porta-potty?

20 A. Yes.

21 Q. Okay. So let me ask you a couple questions about
22 your 911 call.

23 When they asked you to get a piece of paper to
24 tell them an address, you indicated it's on your phone?

25 A. Yeah.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. When you say, It's on my phone, what did you mean
2 by that?

3 A. Say that again?

4 Q. On the 911 call, when the dispatcher is asking
5 you, Can you get a piece of paper? or Where are you,
6 what's the address? and you said, It's on my phone, were
7 you talking about the GPS or the texting?

8 A. Yeah. I was talking about Kadeem's phone.

9 Q. Kadeem's phone?

10 A. Uh-huh.

11 Q. And when they asked you your name, you gave them
12 your name?

13 A. Yes. Well, I can't remember. I think I lied to
14 them at first.

15 Q. You're talking about the officers who came up to
16 the porta-potty?

17 A. Uh-huh.

18 Q. I'm talking about the 911 tape. You gave the name
19 Jujuain Hemingway; is that correct?

20 A. Yes.

21 Q. Now, the dispatcher also asked you, can you give
22 them a description, a description, and can you tell the
23 jury what was going on in your mind during that 911 call?

24 A. My brother's safety.

25 Q. Did it seem to you like it was taking too long,

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 the phone call?

2 A. Yeah. I thought he was playing around.

3 Q. When officers came to the porta-potty -- could you
4 tell the jury, when they approached the porta-potty, what
5 did they have in their hands?

6 A. Guns.

7 Q. And were you scared?

8 A. Yeah.

9 Q. When Officer Buckhannon asked you your name, did
10 you give him the right name?

11 A. No.

12 Q. Why?

13 A. I was scared.

14 Q. Okay. Did you then give him the right name?

15 A. Once we got to the hospital.

16 Q. And when Officer Buckhannon asked you about a
17 description of the people, did you tell him what you told
18 us today about the red shirt and the white shirt?

19 A. Yeah.

20 Q. And the heights of the two people?

21 A. Yes.

22 Q. The size of the two people?

23 A. Yes.

24 Q. Now, when you went to the hospital, did you know
25 what was going on with Kadeem?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. No. They wouldn't let me know.

2 Q. Did you know Kadeem made his way back to the
3 vehicle?

4 A. No.

5 Q. When did you learn that, do you remember?

6 A. When the detectives came to question me the first
7 time.

8 Q. When the detectives did? Before that night, did
9 you know Denzel Heyward?

10 A. No.

11 Q. Did you know Dashaun Simmons?

12 A. No.

13 Q. Did you know Quansantrina Rivers?

14 A. No.

15 Q. And of those three people, the guy in the red
16 shirt, the guy in the white shirt, or the girl with the
17 ponytail, who did you have the best look at?

18 A. The guy in the red shirt.

19 Q. Had you ever heard the nickname before this
20 incident Fat?

21 A. No.

22 Q. Or Reef?

23 A. No.

24 Q. When those officers approached you at the
25 porta-potty, did they put your hands in handcuffs?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Yeah.

2 Q. Tell us how your shirt looked that night. Do you
3 remember?

4 A. Blood.

5 Q. Huh?

6 A. There was blood.

7 Q. Bloody? Do you know how your face looked?

8 A. My mouth was bleeding.

9 Q. Was most of the bleeding coming from your mouth
10 injury?

11 A. Yeah.

12 Q. Let's just take a second to talk about that for a
13 minute, and I realize this isn't as important as
14 everything else, but what did you have to have done to
15 your mouth because of what happened that night?

16 A. Crowns. I had to wear, like, a wire for, like,
17 three months.

18 Q. Say that again?

19 A. I had to wear a wire in my mouth for three months.

20 Q. So it's been several visits to try to get that
21 straight?

22 A. Yeah.

23 Q. Is that correct? Okay. Now, when you were at the
24 hospital, what did you ask the doctors and nurses?

25 A. Is my brother okay?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 Q. What was the biggest concern of yours that day,
2 that night?

3 A. My brother.

4 Q. Did you know whether he was alive?

5 A. No.

6 Q. Did you know whether he died?

7 A. No.

8 Q. Did you know whether he was at the hospital?

9 A. Yeah. They told me he was at the hospital.

10 Q. Did they let you go see your brother?

11 A. No. They won't let me see him.

12 Q. Did you ask to be able to see your brother?

13 A. Yes.

14 Q. And they wouldn't let you go see him?

15 A. Yeah.

16 Q. How long were you there before anyone from your
17 family got there?

18 A. About an hour and 30 minutes.

19 Q. When did you learn that your brother had died?

20 A. About 30 minutes after my family got here.

21 Q. Who told you?

22 A. Well, I think the doctor walked in the room and
23 told all us.

24 Q. At the same time?

25 A. Uh-huh.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. How long did you stay at the hospital that night?

2 A. About two-and-a-half hours, three hours.

3 Q. Do you remember exactly how long?

4 A. No.

5 Q. And is it fair to say -- from your family your mom
6 was there?

7 A. Uh-huh.

8 Q. Was Kadeem's mom there too?

9 A. No, she wasn't there.

10 Q. Your mom was there, and who else was there?

11 A. A couple nephews, Kadeem's brother, and my sister.

12 Q. Is it fair to say everyone was pretty upset?

13 A. Yeah. Everybody was upset.

14 Q. And who did you ride back to Longs with?

15 A. My mom and my brother, my nephew.

16 Q. Your mother, Loretta Hemingway, was she close to
17 Kadeem?

18 A. Yeah. She was like his mom too.

19 Q. She loved him like a son?

20 A. Yeah.

21 Q. And when you got to your house on the 17th, can
22 you describe to the jury what was going on at your house?

23 A. There was a crowd. There was a lot of people
24 there at the time.

25 Q. There were a lot of people what?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. There was a lot of people at the time we got
2 there.

3 Q. Now, at that point had you slept at all the hours
4 of the -- the evening hours of May 16th into the morning
5 hours of 17th? Had you had any sleep?

6 A. No. I had no sleep.

7 Q. How did you react when you got to your house and
8 saw it was crowded with people?

9 A. I really didn't want nobody around at that time.

10 Q. And why was that, Jujuaain?

11 A. Because I wanted to be by myself.

12 Q. Had you had the opportunity to even think the
13 whole thing through?

14 A. No. I didn't have the opportunity to.

15 Q. On that same day then, on the 17th, did some
16 detectives show up at your house?

17 A. Yeah.

18 Q. And was that Detective Alexander and Detective
19 Kahn?

20 A. Yeah.

21 Q. When they got there, how long would you say you
22 had talked to them, do you remember? Was it a long time?

23 A. I would say about two hours, an hour and 30
24 minutes.

25 Q. And when you were talking with them, was there

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 cousins and other family members still around the house?

2 A. Yes.

3 Q. At some point do y'all try to go someplace quiet
4 so you can talk to the officers?

5 A. Told everybody to get out of the house.

6 Q. And when you were talking to the officers, would
7 you tell the jury whether or not your mother, Loretta
8 Hemingway, was present for some of that?

9 A. Yeah. She was present for some of it.

10 Q. And what about your brother Kareem? Was he also
11 there?

12 A. Yeah.

13 Q. Could you describe to the jury, were you excited
14 about talking to the detectives that night?

15 A. No. I ain't want to talk to them at the time.

16 Q. And why didn't you want to talk to them?

17 A. Because I ain't have no time to even think about
18 the simple fact that my brother had passed.

19 Q. Frankly, Jujuaain, had you had an opportunity to
20 cry at that point?

21 A. Yeah, but it wasn't really like -- yeah, I had an
22 opportunity to cry.

23 Q. When you were talking to Detectives Alexander and
24 Kahn, did you begin with writing a statement?

25 A. Yeah.

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 Q. And that was after they kept questioning you?

2 A. Yeah.

3 Q. Tell the jury, did the detectives seem pleased
4 with your amount of detail at that point?

5 A. No.

6 Q. Were they getting frustrated with you?

7 A. Not really. They were just telling me for more
8 detail.

9 Q. And when they were asking for more detail, did --
10 Kareem and your mother, were they trying to encourage you
11 to be more cooperative?

12 A. Yeah.

13 Q. So when you first started writing a statement --
14 was it a three-page statement?

15 A. Yes.

16 Q. And is that when your mother was saying, Be more
17 cooperative, and Kareem was saying, Tell them what you
18 know?

19 A. Yes.

20 Q. So after you wrote that three-page statement, did
21 the officers tell you to start all over?

22 A. Yes.

23 Q. And did you finally give them more detail that
24 night?

25 A. Yes.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. And when you did, you had to start back over
2 writing your statement; isn't that correct?

3 A. Yes.

4 Q. And was that an eight-page statement?

5 A. Yes.

6 Q. And that was on the 17th?

7 A. Yes.

8 Q. After you hadn't slept?

9 A. Yes.

10 Q. After you learned that your brother had been shot
11 dead?

12 A. Yes.

13 Q. Did you begin to realize that it was important for
14 them to have a description as best you could of who did
15 this to you?

16 A. Yes.

17 MS. SHEALY: Beg the Court's indulgence just
18 one minute.

19 BY MS. SHEALY:

20 Q. I may have to grab that statement back from you.
21 When you gave the statement, did you give the details
22 about the color of shirt?

23 A. Yes.

24 Q. What about the description of heights and the
25 pounds?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Yes.

2 Q. And did you tell them where you all had driven
3 that night?

4 A. Yeah. I told them.

5 Q. The best that you could?

6 A. Yeah.

7 Q. Did you tell them about the type of gun?

8 A. Yeah.

9 Q. What did you say about the guy who kicked you?
10 I'll hand you a statement if you want to look at it.
11 What kind of description did you give them?

12 A. Saying what type of description?

13 Q. Yeah.

14 A. Two hundred pounds, red shirt, facial hair.

15 Q. Facial hair? And then regarding the guy who had
16 the gun, do you recall what you told the officers?

17 A. Black male, 150 pounds, black male, Geechie
18 accent, white shirt.

19 Q. And did you give as much details as you could that
20 evening under the circumstances?

21 A. Yes.

22 Q. Now, they asked you whether or not you could
23 identify the black male wearing the red shirt with the
24 low-cut hair and the beard when you saw a line-up. Do
25 you remember them asking you that?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. Yes.

2 Q. And what did you answer?

3 A. No.

4 Q. When they asked you whether you could identify a
5 picture of the person with the --

6 A. I told them yeah.

7 Q. Now, that night, you were not shown any line-up;
8 is that correct?

9 A. No.

10 Q. That is correct, you weren't shown one?

11 A. No. I wasn't shown one.

12 Q. That evening when you were being interviewed, did
13 your brother Kareem say anything to you about what the
14 talk was?

15 A. Say that again?

16 Q. When you were being interviewed by Detective Kahn
17 and Detective Alexander, did your brother Kareem say
18 anything in your presence about the name or the nickname
19 he was hearing?

20 A. No.

21 Q. That evening you don't remember that?

22 A. No. He didn't say anything about it.

23 Q. And is it fair to say that when Detective Kahn and
24 Detective Alexander were questioning you that they --
25 sometimes they would be talking to other people at the

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 party, one of them would, while the other was talking to
2 you?

3 A. Yeah.

4 Q. Now, the next day did Detective Alexander come
5 back?

6 A. Yes.

7 Q. And when he came back, did he have some line-ups
8 for you to look at?

9 A. Yes.

10 Q. And did you, in fact, look at them?

11 A. Yes.

12 Q. Now, first --

13 MS. SHEALY: Beg the Court's indulgence for
14 just a moment.

15 At this times I move these two exhibits into
16 evidence without objection.

17 THE COURT: All right.

18 MS. SHEALY: And they're 164 and 165.

19 THE COURT: They're admitted.

20 (State's Exhibit Nos. 164 and 165 were marked
21 for identification and admitted into evidence.)

22 BY MS. SHEALY:

23 Q. When Detective Alexander showed you the line-ups,
24 did he try to suggest to you in any way who you should
25 choose?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 A. No.

2 Q. And, in fact, did he ask you a series of -- or
3 tell you a series of things that you should consider in
4 looking at a line-up?

5 A. I can't really remember.

6 Q. Well, take a look at the cover sheet on 165. Do
7 you remember initialling each of those?

8 A. Oh, yeah, I remember.

9 Q. Okay. And you signed the page. When he showed
10 you this line-up -- Sam --

11 MR. APOSTOLOU: I just wanted to reiterate my
12 previous objection to that.

13 THE COURT: They were overruled.

14 BY MS. SHEALY:

15 Q. This is the cover sheet we were just speaking
16 about, Jujuain; is that correct?

17 A. Yes.

18 Q. And in showing you page two, did you recognize
19 anyone in that?

20 A. No.

21 Q. And showing you State's Exhibit 164, is that the
22 cover sheet that you initialed and signed?

23 A. Yes.

24 Q. And is there a place on that document where you
25 can reflect whether or not you could ID someone?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 A. Uh-huh.

2 Q. Did you indicate that you could or --

3 A. Couldn't.

4 Q. Could not? And no was checked?

5 A. Yes.

6 Q. Now, when he showed you this line-up, could you
7 identify someone?

8 A. Yes.

9 Q. Well, can you explain to the jury why you didn't
10 tell Detective Alexander that.

11 A. Because I was angry at the time, and I was upset
12 about the fact my brother was gone.

13 Q. Why did that affect whether or not you ID'd the
14 person that was involved?

15 A. Because I was mad.

16 Q. And showing you page two of this line-up, can you
17 see that well, or should I bring that over to you?

18 A. I can see it.

19 Q. Did you recognize someone in this?

20 A. Yes.

21 Q. What number?

22 A. Three.

23 Q. Who was number three?

24 A. Denzel.

25 Q. At the time you didn't know his name was Denzel,

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 though, did you?

2 A. No.

3 Q. Tell the jury, who was number three as it related
4 to what happened that night? What did number three do?

5 A. Had on a red shirt.

6 Q. And what did he do to you?

7 A. Stomped me.

8 Q. And where did he take you in relationship to your
9 car?

10 A. To his trunk.

11 Q. And was he yelling out that evening at y'all?

12 A. Yeah.

13 Q. And is he the one that took the suitcase to the
14 trunk or to their car?

15 A. Yeah.

16 Q. So when Detective Alexander left that night, did
17 you tell him at any point, I lied. I really can identify
18 the person?

19 A. Say that again?

20 Q. When Detective Alexander left Longs that night,
21 after you said you could not make an ID, did you ever
22 correct that with Detective Alexander? Did you ever say,
23 I lied?

24 A. I can't remember.

25 Q. What happened the next day, on the 19th?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. I got questioned again by a detective.

2 Q. And did you see a new officer, Charles Lawrence,
3 the next day?

4 A. Yes.

5 Q. And did he come to Longs?

6 A. Yes.

7 Q. And did he come along with Detective David Owen?

8 A. Yes.

9 Q. When they got there, did they take you from your
10 home to another location?

11 A. Yeah, to a police station.

12 Q. How did going into a police station make you feel?

13 A. Uncomfortable.

14 Q. Uncomfortable? Were you scared you might be in
15 some kind of trouble?

16 A. Yeah, at the time.

17 Q. And is that because you didn't make the ID the
18 night before?

19 A. Yes.

20 Q. When you got there, did Detective Lawrence show
21 you three line-ups?

22 A. Yes, showed me three line-ups.

23 Q. And let's go through those if we can. When y'all
24 were at the sheriff's office, were y'all in, like, a
25 conference room?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 A. Yeah.

2 MS. SHEALY: Your Honor, I would like to go
3 ahead and get these marked as well, subject to the
4 earlier objection.

5 MR. APOSTOLOU: Correct.

6 MS. SHEALY: And those numbers are --

7 THE COURT: When you say one was marked, are
8 offering them for admission?

9 MS. SHEALY: I am.

10 THE COURT: They're admitted over defendant's
11 objection.

12 (State's Exhibit Nos. 166, 167, and 168 were
13 marked for identification and admitted into evidence.)

14 BY MS. SHEALY:

15 Q. Now, when you were given these lineups, and this
16 was on the 19th, did you have any idea that a girl in
17 Charleston was talking about what happened?

18 A. No.

19 Q. Showing you what's been marked as State's Exhibit
20 168, was there a similar cover sheet?

21 A. Yes.

22 Q. And did you look through the photographs of the
23 females?

24 A. Yes.

25 Q. Did you recognize anybody?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. No.

2 Q. So one female, you could not recognize her by that
3 one picture; is that correct?

4 A. Yes.

5 Q. A second female, and you could not recognize her
6 by that picture?

7 A. Yes.

8 Q. And a third female, you could not recognize her by
9 that picture?

10 A. Yes.

11 Q. Showing you State's Exhibit 167, similar cover
12 sheet?

13 A. Yes.

14 Q. And could you recognize anyone on the 17th that
15 was shown to you that night?

16 A. No.

17 Q. Could you not identify that photograph?

18 A. No.

19 Q. That photograph?

20 A. No.

21 Q. That photograph?

22 A. No.

23 Q. That photograph?

24 A. No.

25 Q. Or this photograph?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. No.

2 Q. When the guy with the white T-shirt, the whole
3 time you saw him, what did he have in his hands?

4 A. Gun.

5 Q. Showing you State's Exhibit 166, similar cover
6 page?

7 A. Yes.

8 Q. And when you looked through this line-up that
9 night, were you able to identify someone?

10 A. Yes.

11 Q. You were this time?

12 A. Yes.

13 Q. And you hadn't the night before?

14 A. Yes.

15 Q. But this is a different line-up; is that correct?

16 A. Yes.

17 Q. And when you were shown the following photographs,
18 how did you indicate on the photograph itself who you
19 could identify?

20 A. Circled it.

21 Q. So you didn't ID this person; is that correct?

22 A. No.

23 Q. You did not identify this person; is that correct?

24 A. No.

25 Q. You did not identify this person; is that correct?

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 A. No.

2 Q. Or this one?

3 A. No.

4 Q. Or this one?

5 A. No.

6 Q. But you did identify this one?

7 A. Yes.

8 Q. And you circled it and also put the date and your
9 initials; is that correct?

10 A. Yes.

11 Q. And the time?

12 A. Yes.

13 Q. And the person that you circled, who was he? What
14 did he do the night in question?

15 A. That's the one that stomped.

16 Q. Stomped you?

17 A. Yeah.

18 Q. What did you write where it indicated that you
19 could write something about your ID?

20 A. He had a goatee and he was the one standing in the
21 driveway.

22 Q. The one standing in the driveway?

23 A. Yeah.

24 Q. When y'all first drove up?

25 A. Yeah.

JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY

1 Q. Is he the one that went to your brother's side of
2 the car first?

3 A. Yeah.

4 Q. Is he the one that stomped you?

5 A. Yes.

6 Q. Read the first part of that sentence.

7 A. His face, he's got fat jowls and a goatee.

8 Q. Fat jowls and a goatee?

9 A. Yeah.

10 Q. When Detective Lawrence showed you these line-ups,
11 did you tell him that you could have identified him the
12 night before?

13 A. Yes.

14 Q. You told Detective Lawrence on that date that you
15 could have identified the guy the day before? Do you
16 understand what I'm asking?

17 A. No, no, I don't think so.

18 Q. You've told us that you saw the picture the night
19 before, but you refused to ID him; is that correct?

20 A. Uh-huh.

21 Q. Did you tell Detective Lawrence that?

22 A. No -- I don't remember telling him.

23 Q. Did you ever tell Detective Owens that?

24 A. No. I don't remember telling him that either.

25 Q. The person that you've ID'd, can you tell us, is

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 he in the courtroom?

2 A. Yes.

3 Q. Point him out to us?

4 A. (Indicating.)

5 Q. What does he have on?

6 A. Glasses.

7 Q. Did he have glasses on that night?

8 A. No.

9 Q. Did he have on a coat jacket?

10 A. No.

11 Q. Tie?

12 A. No.

13 MS. SHEALY: Beg the Court's indulgence for
14 just one moment.

15 BY MS. SHEALY:

16 Q. Do you remember how you got to the police station
17 when Detective Owen and Detective Lawrence took you to
18 that conference room? Do you remember how y'all got
19 there?

20 A. I rode down.

21 Q. In a police car?

22 A. Yeah.

23 Q. Who rode with you?

24 A. I think my brother.

25 Q. Kareem?

—JUJUAIN HEMINGWAY - DIRECT BY MS. SHEALY—

1 A. Yeah.

2 Q. And Kareem was the one, the first night the
3 detectives came, that was trying to encourage you to tell
4 everything?

5 A. Yeah.

6 Q. Do you remember Kareem ever telling you that he
7 heard the name Fat as being involved in this?

8 A. I remember him saying that.

9 Q. He told the detectives that's the name he was
10 hearing?

11 A. Yeah.

12 MS. SHEALY: I have no further questions.
13 Please answer any the defense attorneys may have.

14 THE COURT: Tell you what: Why don't we take
15 a ten-minute break before we begin cross-examinations.
16 We've been doing this for a little while after lunch.

17 So take ten minutes. Don't begin
18 deliberations or discussions about the case, and we'll
19 see you back in just a few minutes.

20 (In open court, jury not present.)

21 THE COURT: Mr. Hemingway, while we're on a
22 break, you can't talk to anybody. If you need to use the
23 rest room, I'll have the bailiffs take you to one of
24 these back here. You're not allowed to talk to anyone
25 while you're on the witness stand.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 (Recess taken.)

2 (In open court, jury present.)

3 THE COURT: All right. Are you ready to do
4 your cross?

5 MR. APOSTOLOU: I am, Your Honor.

6 THE COURT: All right. Go ahead.

7 CROSS-EXAMINATION

8 BY MR. APOSTOLOU:

9 Q. May it please the Court: All right, Jujuain.
10 Never been to Charleston before this incident; is that
11 correct?

12 A. No.

13 Q. And you had no idea why you were here this time?

14 A. No.

15 Q. Your brother came to you and said, Let's go; is
16 that correct?

17 A. Uh-huh, yeah.

18 Q. And that's all you know?

19 A. Yeah.

20 Q. He didn't say he was coming to do business or
21 anything like that?

22 A. No.

23 Q. Okay. And you don't have any business down here,
24 right?

25 A. No.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. Because you never been here before, right?

2 A. Uh-huh.

3 Q. Okay. And when you got there, you never looked in
4 the trunk of the car?

5 A. No.

6 Q. And, presumably, the suitcase was already in the
7 trunk because you didn't see them loading the suitcase in
8 the car; is that right?

9 A. No.

10 Q. And you had never been to Johns Island before
11 because you had never been to Charleston? You have to
12 get to Charleston from Longs to get to Johns Island,
13 right?

14 A. Uh-huh.

15 Q. And you didn't know that Kadeem went to South
16 Carolina State sometimes?

17 A. No.

18 Q. Okay. Did you know coincidentally that Denzel
19 Heyward did go to South Carolina State?

20 A. No.

21 Q. Okay. And you -- I've read your statements, or
22 heard your statements, and you guys were lost; is that
23 correct?

24 A. Yeah.

25 Q. So you guys came down here from Longs, just didn't

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 know where --

2 A. That's what I wrote in my statement.

3 Q. Yeah, I know, but we're just asking about your
4 testimony now. So you were driving down here from Longs?

5 A. Yeah.

6 Q. Y'all got confused as to where you are?

7 A. Uh-huh.

8 Q. You decided to just go head back to Longs?

9 A. Uh-huh.

10 Q. Ended up on Johns Island?

11 A. Uh-huh.

12 Q. You parked on the side of the road?

13 A. Uh-huh.

14 Q. You -- he was going to his app on his phone? I
15 guess that's a GPS?

16 A. Yeah.

17 Q. And that's when this whole incident occurred?

18 A. Yeah. That's what I wrote on the statement.

19 Q. She's taking down everything you say, so you have
20 to speak clearly so we have a nice clean record, okay?

21 A. Yeah.

22 Q. Okay. Thank you.

23 It was really just dumb luck y'all ended up on
24 Cynthia Avenue to begin with, wasn't it?

25 A. Yeah.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. Your brother did not sell drugs, did he, Jujuain?

2 A. I wouldn't know that. He wouldn't let me know
3 that.

4 Q. You didn't know what he did?

5 A. Yeah.

6 Q. And you didn't sell drugs, did you?

7 A. No.

8 Q. And when you guys were rolling down here from
9 Longs, you didn't have an AK47 in the car, did you?

10 A. No.

11 Q. And since it's just kind of coincidence that y'all
12 ended up on Cynthia Avenue on Johns Island, when this
13 person walked up to you, you didn't know who it was, did
14 you?

15 A. No, I didn't.

16 Q. And your brother didn't either because it's just
17 dumb luck that you happened to be there to begin with,
18 right?

19 A. Yeah.

20 Q. Is that correct?

21 A. Say that again.

22 Q. Your brother didn't know the person that walked up
23 on y'all in Johns Island --

24 A. I don't know what he knew.

25 Q. But it would be phenomenally coincidental --

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. What are you laughing for?

2 Q. What's that?

3 A. Quit laughing. Ain't nothing funny.

4 Q. I'm sorry?

5 A. Quit laughing. Ain't nothing funny.

6 Q. Okay. All right. I understand the seriousness of
7 the matter, but the person that came up to your car -- I
8 mean, you guys live in Longs. You're lost. You stop on
9 Johns Island. It would be a very, very small chance that
10 you would happen to know the person that came up to
11 y'all, right?

12 A. I ain't know. I don't know what my brother know.

13 Q. Okay. First time you saw the suitcase it was
14 after this incident occurred?

15 A. Yeah.

16 Q. And that was after the trunk was opened?

17 A. When they opened the trunk, I seen the suitcase.

18 Q. And that's the first time you saw the suitcase?

19 A. Yeah.

20 Q. What color was the suitcase?

21 A. Black.

22 Q. What kind of size was it?

23 A. About that long and that wide (indicating).

24 Q. But you have no idea what the contents of that
25 were?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. No.

2 Q. You testified to Ms. Shealy a couple minutes ago
3 that you had several stomps to your head?

4 A. Yeah.

5 Q. It wasn't just one, it was several?

6 A. Yeah.

7 Q. And, basically, he's -- the person in red, the
8 person you've identified as my client, Denzel Heyward, is
9 taking stuff from your open trunk, and he's taking it to
10 the green car, and every time he passes by, he gives you
11 a kick in the head; is that right?

12 A. Yeah.

13 Q. So how many times are we talking about?

14 A. About six, six times.

15 Q. And what all is he carrying out of the back of
16 y'all's trunk on these six different times?

17 A. I don't know what he was carrying out of the trunk
18 unless it was just a suitcase.

19 Q. Just the one suitcase?

20 A. Yeah.

21 Q. What was he carrying on the other trips?

22 A. I don't know.

23 Q. You don't know?

24 A. No.

25 Q. Was it boxes?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. I don't know. I just told you I don't know what
2 he was carrying.

3 Q. But it was coming out of y'all's trunk?

4 A. Yeah. It was coming out.

5 Q. All right. And I believe you testified several
6 times you didn't know where you were, right?

7 A. Yeah.

8 Q. But when you called the 911 tape, you did identify
9 yourself as being on Johns Island, right?

10 A. Yeah.

11 Q. How did you find out at that point to inform the
12 911 operator that you were on Johns Island?

13 A. On my phone.

14 Q. It was on your phone?

15 A. Yes.

16 Q. So you checked, what, your GPS?

17 A. Yeah.

18 Q. And the phone told you you were on Johns Island?

19 A. Yeah.

20 Q. And that's how you were able to get that
21 information to the 911 operator?

22 A. Yeah.

23 Q. And then you don't know Denzel Heyward, right?

24 A. No.

25 Q. Never seen him before this incident?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. No.

2 Q. All right. You've never heard the name Fat
3 before?

4 A. No.

5 Q. All right. And you didn't hear it that night on
6 the roadside, did you?

7 A. No.

8 Q. Your brother didn't say hey, Fat, what's up?

9 A. No.

10 Q. He didn't say, Hey, Fat, what are you doing with
11 an AK47?

12 A. No.

13 Q. Just never heard that name before, correct?

14 A. Correct.

15 Q. And since you never heard the name Fat, you never
16 spoke to anybody before this incident about Fat; is that
17 correct?

18 A. No.

19 Q. And nobody ever spoke to you about Fat before this
20 incident, right?

21 A. No.

22 Q. And so Ms. Shealy asked you about a couple
23 statements to the police officers, and I believe your
24 testimony was the first time you didn't do such a good
25 job, right?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. Yeah.

2 Q. And the second time, you were a little more
3 accurate; is that correct?

4 A. First time they questioned me, I didn't give them
5 as much detail as the second time.

6 Q. And the second time you were more forthcoming with
7 information?

8 A. Yeah.

9 Q. All right. And pretty much since that point,
10 you've told a couple of little lies in this case to start
11 off with, right?

12 A. My name.

13 Q. That's the only lie you told? Did you tell any
14 officers that --

15 A. I told officers I ain't seen nobody. I told
16 officers I didn't see the person that did that.

17 Q. Okay. Right. I understand. Did you tell the
18 officers that the reason y'all came to Charleston was to
19 see some girls?

20 A. I don't remember that.

21 Q. You don't remember that?

22 A. No.

23 Q. Okay. Did you tell the officers you don't know
24 how you got there because your brother was driving and
25 you were in the passenger seat asleep?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. I ain't never recall saying that either.

2 Q. Okay. All right. Do people call you Juice?

3 A. No.

4 Q. You never been called Juice before?

5 A. No.

6 Q. So the next day after this incident -- this
7 incident occurred on May 16, 2012, right?

8 A. Yeah.

9 Q. About 11:30-ish at night, I believe?

10 A. Yeah.

11 Q. All right. And you get out of the hospital around
12 noon on the 17th?

13 A. About 2:00, 2:30.

14 Q. And then you guys drive back up to Longs, right?

15 A. Yeah.

16 Q. All right. And then Detective Alexander and Kahn
17 come up there and meet with you; is that right?

18 A. Yeah.

19 Q. Okay. And then they interviewed you at that
20 point?

21 A. Yeah.

22 Q. And one of the questions they asked you was, Do
23 you know Fat?

24 A. I don't recall them asking me that.

25 Q. You don't recall being asked that?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. I don't remember.

2 Q. You don't remember being asked that in your
3 three-hour statement that you -- interview you had with
4 the police?

5 A. No.

6 Q. Okay. Well, if it's necessary, we can go back and
7 replay it for you, if it's helpful.

8 A. Go ahead.

9 Q. Okay.

10 MS. SHEALY: I'm sorry. What was the last
11 question that was asked?

12 MR. APOSTOLOU: If the officers asked him if
13 he knew anybody named Fat.

14 BY MR. APOSTOLOU:

15 Q. I'll tell you what, Jujuin. We'll come back to
16 that.

17 Your brother, when he was first contacted with the
18 police, said Fat Chuck. Are you aware of that?

19 A. Yeah, I'm aware of that.

20 Q. And at any point in this investigation did the
21 police come to you and, Say do you know anybody named
22 Fat?

23 A. I just told you I don't remember.

24 Q. So as far as you know, no one ever asked you if
25 you knew Fat?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. They just asked me a question. I told you I don't
2 remember.

3 Q. All right. So they did show you a line-up,
4 though, right?

5 A. Yeah. They showed me a line-up.

6 Q. And you recognized Denzel Heyward in that line-up?

7 A. Yes.

8 Q. And how did you recognize him? Did you recognize
9 him from being out on the roadway that day?

10 A. Yeah.

11 Q. And from no other source?

12 A. No.

13 Q. And that was line-up number one. And you chose at
14 that point not to identify and to tell the officers that
15 you did, in fact, recognize him, right?

16 A. Uh-huh.

17 Q. And then they come back the next day, right?

18 A. Yeah.

19 Q. And they have another line-up. Line-ups are
20 called six packs because there's generally six people in
21 the line-up when you look at them, right?

22 A. Uh-huh.

23 Q. And they had another six individuals, right?

24 A. Yeah.

25 Q. And one of the individuals was -- the same person

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 that was in line-up number one was in line-up number two,
2 and the other five guys were all different; is that
3 right?

4 A. Yeah.

5 Q. Okay. And so --

6 A. But first they never showed me a line-up. The
7 second day they showed me a line-up.

8 Q. I understand. That's on the 17th. They come up
9 and they question you. They don't show you a line-up,
10 right?

11 A. Yeah.

12 Q. But they do come back on the 18th and show you a
13 line-up?

14 A. Yeah.

15 Q. And they do come back on the 19th and show you a
16 line-up?

17 A. Yeah.

18 Q. So it's the next day, and that's the one with
19 Ms. Shealy, you talked about the fact that they went to
20 the police department, took you to the police department,
21 and gave you a chance to look at it down there, right?

22 A. Yeah.

23 Q. All right. And only one person in that line-up
24 was the same person?

25 A. Yeah.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. And that person happened to be Denzel Heyward?

2 A. Yeah.

3 Q. All right. So you recognized him the first time.
4 You said you didn't know him. Now you got a second
5 line-up, and he's right there again, right?

6 A. Uh-huh.

7 Q. What did that tell you?

8 A. That Dashaun have something to do with it.

9 Q. In an earlier proceeding in this case, we talked
10 about the same topic before, didn't we?

11 A. Yeah.

12 Q. And I think your testimony at that time, more or
13 less, you felt like the police must know something
14 because they keep showing you the same guy; is that
15 correct?

16 A. Yes.

17 Q. So on the second time you look at it, now you ID
18 him, right?

19 A. The third time, yeah.

20 MR. APOSTOLOU: Court's indulgence. May I
21 approach, Your Honor?

22 THE COURT: You may.

23 BY MR. APOSTOLOU:

24 Q. Jujuain, I'm going to show you the statement right
25 here, and this is the line-up that you ID'd him on. This

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 is the one that -- the date's right here, 5/19/2012, and
2 this statement right here, and you read it with
3 Ms. Shealy. I'm going to ask you to read it with me
4 again one more time.

5 A. His face, he got fat jowls and a goatee. That was
6 the guy standing at the driveway waiting for us.

7 Q. Okay. Thank you.

8 When you looked at that statement with Ms. Shealy,
9 I didn't hear you say, I know him as Fat, in that
10 statement. You wrote that in that statement, right?

11 A. Yeah.

12 Q. And I didn't hear you say that, but that is on
13 that line that you filled out on May the 19th, 2012. I
14 know him as Fat, right?

15 A. Yeah.

16 Q. And we talked about earlier proceedings in this
17 case, and I asked you about that?

18 A. Yeah.

19 Q. And you clarified that for me, that you could
20 recognize the person that was at the scene. Other people
21 have told you that his name was Fat?

22 A. Yeah.

23 Q. You put those two pieces together, and you said, I
24 know him as Fat, meaning I know him as the guy from the
25 roadside who everybody says is named Fat?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. Yeah.

2 Q. Okay. So when you guys are rolling down to
3 Charleston, you don't have any idea why you're coming
4 here, right?

5 A. No.

6 Q. You weren't coming to collect money, as far as you
7 know?

8 A. No.

9 Q. Do you know who Thurston Hardiman is?

10 A. That's my cousin.

11 Q. That's your cousin? You call him T.J.?

12 A. Uh-huh.

13 Q. Okay. Now, the truth of the matter, as you just
14 told me, is you didn't have any reason why, knowing why
15 you're coming down here, right?

16 A. Uh-huh.

17 Q. So you wouldn't have told somebody that you were
18 coming to collect money because that wouldn't be the
19 truth, right?

20 A. Are you talking about a recording on the jail
21 phone? Is that what you're talking about?

22 Q. We'll talk about that in a second.

23 A. Go ahead and get to it.

24 Q. If you don't mind, I'll handle the questions. I
25 understand this is a difficult situation for you, but I

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 also understand my client is over here on trial for his
2 life.

3 MS. SHEALY: I object to the editorializing.

4 THE COURT: Mr. Hemingway, this will go a lot
5 smoother if you listen to his question and answer his
6 question. If you need to explain your answer, you can,
7 but I need you to answer his question.

8 All right? Go ahead.

9 BY MR. APOSTOLOU:

10 Q. Because you had no knowledge of why you were
11 coming here, you would never have told someone that you
12 were coming to collect money because that would not have
13 been the truth; is that correct?

14 A. Say that again.

15 Q. Okay. Because you had no knowledge of why you
16 were coming to Charleston, South Carolina, you were just
17 rolling down here with your brother at his request, you
18 would not have told somebody before this incident
19 occurred from the time you left Longs until the time you
20 guys got lost on Johns Island you would not have told
21 someone that you were coming down here to collect some
22 money.

23 A. No, I didn't tell nobody.

24 Q. What's that?

25 A. No, I didn't tell nobody.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. So let's go back to T.J., Thurston Hardiman.

2 A. I never told nobody.

3 Q. Okay. Do you remember where Thurston Hardiman was
4 somewhere around May 16 of 2012?

5 A. He was in jail.

6 Q. He was in jail. And jail phone calls are
7 recorded, aren't they?

8 A. Yeah.

9 Q. And you and Thurston Hardiman had a conversation
10 on the drive while you guys were coming down to
11 Charleston; is that correct?

12 A. Him and my brother had a conversation.

13 Q. And you weren't on the phone at all?

14 A. No.

15 Q. Okay. Who answered the phone first?

16 A. Who answered the phone first?

17 Q. Uh-huh.

18 A. I think I answered the phone first.

19 Q. Okay. So you answered the phone, and Thurston
20 Hardiman calls you on a recorded jail call on May the
21 12th, 2012, right?

22 A. Yeah.

23 Q. And he asks you, What are you doing?

24 MS. SHEALY: Your Honor, I'm going to object.
25 This was on May 12th; is that what you said?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 MR. APOSTOLOU: I'm sorry. I apologize. May
2 the 16th.

3 BY MR. APOSTOLOU:

4 Q. On May the 16th, y'all have a phone call from
5 Thurston Hardiman. You guys are already in the car,
6 rolling down to Charleston.

7 He asks you, Where are you going?

8 And you tell him, We're going to Charleston.

9 And he says --

10 MS. SHEALY: Objection to the hearsay.

11 THE COURT: What are you offering him for?

12 MR. APOSTOLOU: This is an inconsistent
13 statement --

14 MS. SHEALY: Your Honor, could we approach
15 the bench?

16 (Discussion held at sidebar.)

17 BY MR. APOSTOLOU:

18 Q. Jujuain, in this conversation when you and your
19 brother are driving from Longs to Charleston and you
20 talked to T.J. Hardiman --

21 A. No.

22 Q. You already testified you answered phone when he
23 called?

24 A. I answered the phone. I didn't talk to him.

25 Q. Did you tell him you were going to Charleston to

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 collect some --

2 A. No.

3 MS. SHEALY: Your Honor, I object. He
4 indicated he didn't talk to him.

5 THE COURT: He said -- his question is, did
6 you tell him, so he's entitled to ask him that.

7 Now, he may have denied that he didn't talk
8 to him and he followed up. Sometimes people remember
9 things, sometimes they don't.

10 BY MR. APOSTOLOU:

11 Q. Did you tell him you were going to Charleston to
12 collect a debt?

13 A. No.

14 Q. Do you know the jail calls are recorded?

15 A. Yeah.

16 Q. Do you know that the State of South Carolina
17 picked up those jail tapes, Detective Owen here signed
18 off on those tapes, and, as part of the discovery of this
19 case, the sharing of the information, provided them to my
20 office?

21 A. Uh-huh.

22 Q. And I have the conversation right now, so I'm
23 going to play the phone call for you, and then we'll talk
24 about whether you said that to T.J. Hardiman.

25 MS. SHEALY: May we approach, Your Honor?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 THE COURT: Okay.

2 (Discussion held at sidebar.)

3 THE COURT: Let me send the jury out.

4 (In open court, jury present.)

5 THE COURT: Do you have the tape?

6 MR. APOSTOLOU: I do, Your Honor. It says
7 that a couple more times in here.

8 (Whereupon, the tape was played.)

9 THE COURT: I couldn't tell what was said.

10 MR. APOSTOLOU: Okay. It's a little
11 difficult.

12 THE COURT: It's a lot difficult. What does
13 he say? What is he saying there?

14 MR. APOSTOLOU: He says, I'm on my way to
15 Chucktown.

16 What the F are you doing down there?

17 Going to get some money.

18 MS. SHEALY: I did not hear that.

19 THE COURT: I heard the Chucktown part.

20 MS. SHEALY: And then the next part that
21 plays is something about, Can you go get the money back?

22 I mean, it doesn't sound connected at all to
23 this --

24 THE COURT: I'm not saying that --

25 MR. APOSTOLOU: Going to Chucktown.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 What are you going there for?

2 Some money.

3 THE COURT: Well, can you play it? If that's
4 what the jury hears, it says --

5 MS. SHEALY: Your Honor -- I'm sorry. I
6 shouldn't interrupt. What in that tells us that it's
7 Jujuain making that statement? Because the mother of
8 Kadeem is telling me that's Kadeem.

9 MR. APOSTOLOU: Well, it switches over to
10 Kadeem on the phone.

11 THE COURT: Well, the witness testified that
12 he took the call and that it sounded like it was the
13 same.

14 Ultimately, the jury will have to decide
15 whether it was somebody else, but he has laid the
16 foundation to say, Did you say this?

17 He said no. He's got something that says
18 opposite. He said, I took the call, but I didn't say
19 anything else.

20 So that theoretically impeaches it, if that's
21 what he said --

22 MS. SHEALY: I don't believe that he has laid
23 the foundation. There is nothing about what he wants to
24 play that suggests when the phone call was made, to what
25 phone number it was made, what the date was, or anything.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 I mean, if he wants to bring somebody up from
2 Horry County to establish those things, that's one thing.

3 MR. APOSTOLOU: Judge, have a records
4 custodian from the jail under subpoena. I have got the
5 tape that the State produced to us. It's got the date on
6 there of 5/16/2012 at 2139.

7 MS. SHEALY: That still doesn't satisfy
8 laying the foundation for it.

9 THE COURT: Well, the foundation is, did you
10 make a phone call on such and such a date to such and
11 such a person?

12 And if he says that it is to this person
13 that's in jail on the 16th of May 2012, which he has
14 done, that's all the foundation he's got to lay.

15 MS. SHEALY: But, number one, he didn't place
16 the phone call. The phone call is being placed to
17 whatever number is being called.

18 THE COURT: But he has admitted that he was
19 involved in that phone call. He just doesn't admit what
20 was said in the phone call.

21 MS. SHEALY: But what we have not asked of
22 him yet is whether he admits in that phone call that was
23 just played.

24 What Mr. Apostolou just asked him was, Did
25 you receive a phone call from Thurston Hardiman?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 And he said, Yes, I answered it.

2 So there's nothing in the record to establish
3 from this witness that that phone call is the one he was
4 referencing when Mr. Apostolou asked him that question.

5 MR. APOSTOLOU: It's his voice on the phone,
6 Judge.

7 THE COURT: Well, I think he's laid enough of
8 a foundation to play that tape, the first part of it
9 there. All right?

10 MR. APOSTOLOU: Judge, since we have the jury
11 out, perhaps -- there is a second phone call as well.

12 THE COURT: And when is it?

13 MR. APOSTOLOU: It is the day after.

14 THE COURT: And to who was it made?

15 MR. APOSTOLOU: It's between Jujuain
16 Hemingway and Thurston Hardiman. In this phone call,
17 made after this incident occurs and right after the
18 police leave, Mr. Hemingway tells him it was Fat, tells
19 him all sorts of -- convinces him of who Fat is.

20 Hardiman says, I don't know Fat.

21 And he says, Oh, you know. Him he went to --
22 it is crystal clear in this nine-minute tape that
23 Mr. Hemingway has known Fat for a long time.

24 He says in this tape that they're going to
25 Charleston to collect money. He says -- he says a lot of

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 things in this tape, and every single one is different
2 than his testimony here today.

3 THE COURT: And to who is he making the
4 statement?

5 MR. APOSTOLOU: It's the same two people.

6 MS. SHEALY: I think we need Thurston
7 Hardiman in here.

8 THE COURT: Well, Thurston Hardiman, where is
9 he?

10 MR. APOSTOLOU: I do not know the location of
11 Thurston Hardiman.

12 MS. SHEALY: Thurston Hardiman could tell us
13 who he was speaking to.

14 MR. APOSTOLOU: The testimony that is
15 important is from Mr. Hemingway.

16 THE COURT: I think the foundation is laid
17 about the phone call, if he admits that he made the phone
18 call to this person. I don't know where the guy is, no
19 one knows where the guy, is but if it was made to the
20 jail and he's admitting to that --

21 MS. SHEALY: He hasn't admitted to anything
22 about the second phone call.

23 THE COURT: Well, we haven't gotten there,
24 but if he lays that foundation, we're not going to make
25 him jump through the same hoops, but if he gets to the

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 point where -- first of all, Mr. Apostolou has got to ask
2 him these questions, and if he says the same thing and
3 denies it, then he gets to impeach him, but if he admits
4 it, then he doesn't get to impeach him. But if he asks
5 him and he denies it, then he can play it.

6 You ready?

7 MR. APOSTOLOU: I am, Judge.

8 THE COURT: Okay. Bring the jury back in.

9 (In open court, jury present.)

10 BY MR. APOSTOLOU:

11 Q. Mr. Hemingway, I'm going to play you a tape.

12 (Whereupon, the tape was played for the
13 jury.)

14 BY MR. APOSTOLOU:

15 Q. In that phone call, prepaid collect call from
16 Thurston, that's you and your cousin Thurston talking
17 about it. You answered the phone, and you testified
18 before the jury that you did, and you tell him you're
19 going down to Charleston to collect some money?

20 A. I answered the phone, but that wasn't me talking.

21 Q. Okay. At what point did you hand that phone off?

22 A. When I answered the phone and accepted the call.

23 Q. So you didn't talk to him at all in that
24 conversation at all?

25 A. No.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. Okay. All right. And you never told him that you
2 were going to Chucktown? That wasn't you?

3 A. I just told you that.

4 Q. Okay. Well, there's two people in the car, right?
5 There's you and there's Kadeem.

6 A. Uh-huh.

7 Q. And there's two different people talking on that
8 telephone call, so one of them has to be you, right?

9 A. Play it.

10 Q. Want me to play it? Okay.

11 MS. SHEALY: Your Honor, I object to this
12 phone call.

13 THE COURT: Stop it --

14 MS. SHEALY: May we approach?

15 THE COURT: Yeah. He has denied that was
16 him. We played the part that you wanted to impeach him
17 on, and he said it's not him.

18 MR. APOSTOLOU: Well, he said he didn't
19 answer the phone. There is two people in the car. Both
20 of them say --

21 BY MR. APOSTOLOU:

22 Q. All right, Jujuain. So that is about two hours
23 before this incident, right?

24 A. I don't know.

25 Q. Okay. And you two talked about it. After this

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 incident, you talked to T.J. again the next day, right?

2 A. No.

3 Q. You never talked to him the next day?

4 A. No.

5 Q. Okay. Did you know that he places a prepaid call,
6 jail call, to that exact same number?

7 A. Say that again?

8 Q. That he places a prepaid cellphone to that exact
9 same number the next day?

10 A. I don't recall getting a phone call.

11 Q. You don't recall getting a phone call. Do you
12 recall telling him that Fat is the one that shot Kadeem?

13 A. No.

14 Q. Do you remember telling him that you were going
15 down -- the reason you went to Charleston was because he
16 owed some money to you two?

17 A. No.

18 Q. Do you remember telling him that the money was
19 both of y'all's?

20 A. No.

21 Q. Do you remember telling him that they didn't get
22 anything -- that they didn't get anything in this armed
23 robbery?

24 A. No.

25 Q. And the reason they didn't get anything is because

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 you didn't have anything; is that right?

2 A. I don't know. Play the tape.

3 MS. SHEALY: Your Honor, could we approach
4 again? I'm sorry.

5 (Discussion held at sidebar.)

6 BY MR. APOSTOLOU:

7 Q. Jujuaain, that's you on the phone talking to your
8 cousin, T.J. Hardiman, right after the detectives leave,
9 May the 17th, the day after your brother, unfortunately,
10 was killed; is that correct?

11 A. I don't remember.

12 Q. You don't remember? Okay. Well, we learned a lot
13 of information from that call.

14 MS. SHEALY: Your Honor, could we have that
15 CD marked into evidence, please?

16 MR. APOSTOLOU: Judge, if I need to play it
17 again -- I'll just leave it in there. We'll put it into
18 evidence.

19 THE COURT: Okay.

20 (Defendant's Exhibit No. 5 was marked for
21 identification and admitted into evidence.)

22 BY MR. APOSTOLOU:

23 Q. So, first of all, it sounds a lot like you know
24 Fat in that conversation, right?

25 A. No.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. No? How do you know he goes to South Carolina?
2 Because he says he's the biggest nigger -- pardon my
3 language; I do apologize for it, circumstances -- he was
4 the biggest nigger but the biggest bitch on campus, and
5 you said, I know.

6 Your cousin's -- you tell him, It was Fat.

7 Your cousin says, Fat?

8 And you say, Man, you know that nigger?

9 He says, I know him, yeah.

10 I think you was locked up with that nigger or
11 something, man.

12 And then he says, Did he mention my name?

13 And you said --

14 MS. SHEALY: Your Honor, I think we've
15 already listened to the recording. I don't think we need
16 to have him testify to the recording.

17 THE COURT: Overruled. Go ahead.

18 BY MR. APOSTOLOU:

19 Q. And you said, No. I remember you saying you was
20 locked up with that nigger, or bro said you was locked up
21 with that nigger or something.

22 It sounds like you had conversations about
23 Mr. Heyward before; is that right?

24 A. With some people at the sitting down.

25 Q. Some people where? What is that? I'm sorry.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. By the gathering at my house.

2 Q. So that's when you heard Fat?

3 A. Yeah.

4 Q. Okay.

5 A. That's what my brother was talking about.

6 Q. That's what you're talking about?

7 A. That's what my brother was talking about.

8 Q. Well, I mean, I hate to be -- your brother,
9 unfortunately, passed away at this time, right?

10 A. Yeah.

11 Q. And your brother wasn't at your house that day,
12 unfortunately, right?

13 A. No.

14 Q. And you said, I remember bro said you were locked
15 up with that nigger.

16 A. I could have been talking about anybody.

17 Q. Okay. Could have been talking about anybody? All
18 right.

19 How did you know that the Fat in the conversation
20 -- your cousin says, In Georgetown?

21 And you say, No, in Charleston.

22 How do you know that Fat lives in Charleston?

23 A. Just told you. I had a conversation with some
24 people at the gathering.

25 Q. So your testimony today is that everything that

—JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU—

1 you've testified to up until this point is truthful,
2 right?

3 A. Everything is true. I got no reason to lie.

4 Q. Okay. Except for all of the information in this
5 phone call you found out in the hours after your brother
6 had passed away; is that right?

7 A. Say that again?

8 Q. All of the information -- you talk a lot about
9 stuff about Fat in this conversation. You talk about the
10 fact that he had been locked up with Thurston Hardiman.
11 You talk about the fact that you and Thurston had had a
12 conversation with him.

13 We have all of Thurston's jail calls. It went
14 from the call on the 16th to the call on the 17th.

15 MS. SHEALY: Your Honor, again, I'd ask that
16 he ask a question and not editorialize.

17 THE COURT: Ask a question.

18 BY MR. APOSTOLOU:

19 Q. Thank you.

20 Did you talk to Thurston Hardiman in between those
21 two phone calls?

22 A. What two phone calls?

23 Q. The phone call that we played on the 16th and the
24 phone call we just played on the 17th, because in this,
25 you testify that you had talked to -- or you state in

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 here that you had talked to Hardiman about Fat, and if
2 he's in jail, then you couldn't have talked to him about
3 it, right?

4 A. Say that again.

5 Q. We just heard you say that you talked to Thurston
6 Hardiman about Fat: No, I remember you saying that he
7 was locked up with that nigger, and if your testimony
8 today is that you had never heard of Fat until after the
9 incident, then you would have had to have that
10 conversation with Thurston Hardiman between the time that
11 you got back and people told you about it and this other
12 phone call.

13 So my question to you is, did you have another
14 conversation with Thurston Hardiman earlier in that day?

15 A. I told you I had a conversation with people at the
16 gathering.

17 Q. Right, but you didn't tell me you had a
18 conversation with Thurston Hardiman. So did you have
19 another conversation with Thurston Hardiman before that
20 one on that day?

21 A. No.

22 Q. Okay. Let's go to it, Jujuain.

23 You also said that Fat owed you some bread. You
24 said that it was both of our bread, and you weren't going
25 to let bro ride down by himself. You were going to go

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 with him, right?

2 A. I don't remember saying that, but I don't remember
3 getting a phone call from Thurston.

4 Q. Okay. Well, you just heard it, and what you say
5 is:

6 So that -- Goddamn, no. I ain't going to let bro
7 go. No, I ain't going to let bro ride down there by
8 himself, so I ride with him. You see what I'm saying?
9 It's both our bread.

10 So when you say both our bread, are you talking
11 about money?

12 A. I don't remember.

13 Q. Okay. And you say, I'm riding with him.

14 And then he says, They didn't get nothing, did
15 they?

16 And you say, Oh, no. We didn't have shit.

17 So, in fact, they didn't get anything out of your
18 car, did they, because you didn't have anything in your
19 car?

20 A. I told you, when I got out the car, there was a
21 suitcase.

22 Q. Okay. But you told Thurston Hardiman, No --

23 He says, Did we get -- they didn't get nothing,
24 did they?

25 And you said, Oh, no. We didn't have shit.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 So no, meaning no they didn't get anything, and
2 the reason they didn't get anything is because you didn't
3 have shit, because you were going down there to collect a
4 debt from him, and that is why you went down there to
5 begin with, right?

6 A. I was going with my brother.

7 Q. All right. Okay.

8 A. And it really don't matter what they was going to
9 collect. My brother's dead. That's all that matters
10 right now.

11 Q. I can respect that, I truly can, but my client has
12 an interest in the truth.

13 MS. SHEALY: Objection, Your Honor.

14 MR. APOSTOLOU: All right.

15 BY MR. APOSTOLOU:

16 Q. All right. Jujuain, never been to Charleston
17 before; is that right?

18 A. No.

19 Q. Okay. You and your brother drove down here. This
20 incident happened in May of 2012. You and your brother
21 Kadeem drove to Denzel Heyward's house right around the
22 corner from Cynthia Avenue on Johns Island in December
23 2011, about four-and-a-half months before this incident
24 occurred, yes?

25 A. No.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. You brought him some marijuana and there were
2 other people in the room one of which is by the name much
3 Devron Cohen, and you came down there, you brought him
4 some marijuana, you hung out, you smoked marijuana with
5 him. Devron Cohen was in the room with you, and then you
6 guys went back to Myrtle Beach; is that correct?

7 A. No.

8 Q. You know that Devron Cohen is on our witness list
9 and Devron Cohen was here earlier today and will be
10 coming back again? Do you know that?

11 A. No.

12 Q. Okay. Do you want to change your story that you
13 weren't in Charleston in December 2011?

14 A. No.

15 Q. Who is Kelton Chestnut?

16 A. I don't know Kelton.

17 Q. You don't know Kelton Chestnut? You heard of him?
18 Okay. He's from Longs, isn't he? You guys grew up with
19 him, didn't you?

20 A. I don't know Kelton. I just heard of him.

21 Q. You've heard of him but you don't know him? Okay.
22 Did your brother know him?

23 A. I don't know.

24 Q. Okay. Did you know that he's Denzel Heyward's
25 roommate at South Carolina State?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 A. No.

2 Q. Okay. Did you drive over to South Carolina State
3 with your brother and sell Kelton Chestnut and Denzel
4 Heyward some marijuana?

5 A. No.

6 Q. Never did that?

7 A. No.

8 Q. Did you hang out in a room with Travis Seabrook at
9 South Carolina State and smoke some pot when you gave
10 Denzel the marijuana and then drove back at Longs?

11 A. No.

12 Q. Did you know Travis Seabrook is on our witness
13 list and was here earlier today?

14 A. No.

15 Q. Okay. Is it necessary for me to call them for you
16 to tell the truth, Jujuain?

17 A. Do what you want to do.

18 Q. What's that?

19 A. Do what you want to do.

20 Q. Okay. All right. You met Denzel Heyward through
21 Kelvin Chestnut who y'all grew up with. He's Denzel's
22 roommate. You started selling marijuana to him, right?

23 A. No.

24 Q. He owed y'all some money. He was having a hard
25 time paying. How this works is, you got him the

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 marijuana. They pay you back with cash. You give him
2 more money, and that is kind of how the cycle works,
3 right?

4 A. No. I don't know what you're talking about.

5 Q. All right. Denzel hadn't paid you, so you and
6 your brother drove down here, and you demanded that he
7 come out and meet you all because you wanted to get your
8 money, right?

9 A. I don't know what you're talking about.

10 Q. Okay. And Denzel said -- you had been to his
11 house, right around the corner on Hobson Lane, right
12 around the corner from Cynthia Avenue before, so he said,
13 I'll meet you out there, and that's how you ended up
14 meeting out there. He didn't live there any longer, but
15 you had already been familiar --

16 MS. SHEALY: Is there a question?

17 BY MR. APOSTOLOU:

18 Q. And that's how you ended up on Cynthia Avenue on
19 this night, isn't it?

20 A. I don't know how we end up there.

21 Q. Okay.

22 A. I was doing what my brother told me to do.

23 Q. All right. Well, that's not what you testified
24 earlier. You testified that you were lost and it was
25 just dumb luck that you ended up on Cynthia Avenue,

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 right?

2 A. That was my first statement.

3 Q. This was what?

4 A. That was my first statement.

5 Q. That was your first statement? Okay. Well,
6 what's the truth, Jujuin?

7 A. That my brother got killed. That's the truth.

8 Q. I understand that.

9 A. I'm telling the truth. My brother got killed.

10 Q. You have a brother named Hasheem, don't you?

11 A. Not related by blood, but yeah, we're brothers.

12 Q. Are you aware of the fact that he was arrested
13 with an AK47 --

14 MS. SHEALY: Objection, Your Honor.

15 BY MR. APOSTOLOU:

16 Q. -- ten months before this?

17 MS. SHEALY: May we approach?

18 (Discussion held at sidebar.)

19 THE COURT: Ladies and gentlemen: That last
20 statement was completely inappropriate, and I'm ordering
21 that you disregard it.

22 BY MR. APOSTOLOU:

23 Q. The reason that you said in there that you didn't
24 have shit is you were collecting money from him. It
25 doesn't make any sense for him to try to rob you, does

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 it?

2 A. So what are you trying to say?

3 Q. I'm trying to say that you guys went down there to
4 collect the debt from him, that you guys brought the AK47
5 in your car, yes?

6 A. So if I brought an AK47, do you think my brother
7 would be killed that day?

8 Q. Did you bring an AK47 in the car that day,
9 Jujuain?

10 A. No.

11 Q. When you met Denzel Heyward out there, y'all
12 started to talk. You wanted the money. He didn't have
13 it. Y'all got mad. You and Denzel got into a fist
14 fight, right?

15 A. Man, quit trying to make up something that never
16 happened.

17 Q. Okay. And then your brother ran to try to get the
18 AK47 out of the car; is that correct?

19 A. No.

20 MR. APOSTOLOU: Court's indulgence.

21 MS. SHEALY: Your Honor, could we approach?

22 (Discussion held at sidebar.)

23 BY MR. APOSTOLOU:

24 Q. You loved your brother, didn't you, Jujuain?

25 A. What kind of question is that?

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. I know you loved him, and it's a sad thing. You
2 want to see somebody pay for what happened to him, right?

3 A. Yep.

4 Q. And that is why you're not telling the truth
5 because these guys ended up with these charges, and
6 you're saying what you need to say to try to get them
7 convicted of them so somebody pays for your brother; is
8 that correct?

9 A. Yeah. It's the truth.

10 Q. Okay. What is the truth?

11 A. They killed my brother.

12 Q. Okay. The truth is that you and Kadeem came to
13 Charleston to collect both --

14 A. No. Like I just told you, it doesn't matter what
15 we came to Charleston for. It matter that my brother
16 dead.

17 Q. I'm going to ask you a question. I would like you
18 to answer that. You and Kadeem came to collect both of
19 your money, not just his money, both of your money. Your
20 statement earlier was, Nigger owed us some bread. It was
21 both our money.

22 A. I just told you it wasn't me.

23 Q. You told -- you called Denzel and told him y'all
24 were coming and he needed to meet y'all out there? Is
25 that yes?

—JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU—

1 A. Say that again?

2 Q. Y'all called Denzel, and you told him that you
3 needed to meet him out on Johns Island where you had been
4 four months earlier, and you needed him to meet you
5 there; is that correct?

6 A. No.

7 Q. Denzel came, but he didn't have all the money he
8 owed y'all for marijuana that he had sold you, right?

9 A. No. I don't recall that.

10 Q. That made y'all angry, and you ended up getting
11 into a fist fight; is that right?

12 A. No.

13 Q. And that's why your face looked like you had been
14 in a bar fight, like the officer testified earlier,
15 because you were on the losing end of that argument,
16 right?

17 A. No.

18 Q. While y'all were on the ground fighting, your
19 brother ran to y'all's car and pulled out the AK47,
20 right?

21 A. No.

22 Q. And accidental shot rang out when Denzel Simmons
23 jumped in to stop your brother from pulling that gun out.
24 They started wrestling over the AK47; isn't that right?

25 A. No.

JUJUAIN HEMINGWAY - CROSS BY MR. APOSTOLOU

1 Q. And that's when a shot skimmed off, and that's the
2 first time you saw that, was when the shot skimmed by
3 y'all's head, right?

4 A. No.

5 Q. Because you and Denzel were on the ground
6 wrestling, and that's when the shot was accidentally
7 fired off, right?

8 A. No.

9 Q. Nobody was trying to kill you at that time, right?

10 A. No.

11 Q. And when the shot fired off, you went running into
12 the woods. Denzel took off; is that correct?

13 A. No.

14 Q. And how did you get GSR on your hand, Jujuain? Is
15 that from gunshot residue? Did you handle the AK47?

16 A. No.

17 Q. Did you help put it in the car?

18 A. No.

19 Q. So I'm going to ask you, did you know Denzel
20 Heyward before this incident?

21 A. No.

22 Q. Did you know Fat before this incident?

23 A. No.

24 Q. Did you go to South Carolina State University in
25 his dorm room and smoke marijuana?

—JUJUAIN HEMINGWAY - CROSS BY MR. McCOY—

1 A. No.

2 Q. Did you go to Johns Island at his house, right
3 around this corner, in Christmas of 2011 with your
4 brother and smoke pot?

5 A. No.

6 Q. And sell him some marijuana?

7 A. No.

8 MR. APOSTOLOU: Court's indulgence.

9 I don't have any more questions, Jujuain.

10 THE COURT: Mr. McCoy?

11 MR. McCOY: Thank you, Judge.

12 CROSS-EXAMINATION

13 BY MR. McCOY:

14 Q. We're going to jump right into it, okay?

15 We heard earlier on testimony that your brother
16 had two telephone numbers. Do you remember what they
17 were?

18 A. The one was a 742; the other was a 694.

19 Q. If I was to tell you 742-8740, does that sound
20 accurate?

21 A. Yeah, that's about right.

22 Q. And if I were to tell you 694-2950, does that
23 sound accurate?

24 A. I don't remember that number.

25 Q. You said there was a 694 number, though, right?

JUUUAIN HEMINGWAY - CROSS BY MR. MCCOY

1 A. Yes.

2 Q. It sounds about right?

3 A. Yeah.

4 Q. And we already heard that you had a couple of
5 telephones that night. Do you remember the numbers you
6 had in 2012?

7 A. No.

8 Q. If I were to tell you 855-8234 does that sound
9 familiar?

10 A. Yeah.

11 Q. Okay. And if I were to tell you 694-5080, does
12 that sound familiar?

13 A. Yeah, that sounds familiar.

14 Q. Okay. And let's go back to you and your brother
15 in Longs, South Carolina, in May of 2012, okay? Y'all
16 were hanging out that night; is that accurate?

17 A. Who?

18 Q. You and your brother?

19 A. What date?

20 Q. This was the night of the incident before you
21 drove down to Charleston. Were y'all hanging out all day
22 or just that night?

23 A. About 5:00 that day.

24 Q. 5:00 that day? Had you gotten off work and then
25 gone to hang out with them, or were you unemployed at

—JUJUAIN HEMINGWAY - CROSS BY MR. McCOY—

1 this time?

2 A. No, I was just -- I was off that day.

3 Q. You were off that day?

4 A. Uh-huh.

5 Q. And when y'all were hanging out, did y'all smoke
6 marijuana while you all were together in Longs?

7 A. I can't even remember.

8 Q. You can't remember? Do you know what y'all were
9 doing that night? Were y'all just hanging out watching
10 TV?

11 A. Playing a game.

12 Q. Playing games? What kind of games were y'all
13 playing, video games?

14 A. Yeah.

15 Q. Did your brother or did you receive a phone call
16 that prompted you to go down to Longs -- or go down to
17 Charleston?

18 A. Say that again?

19 Q. Did you or your brother receive a phone call that
20 prompted y'all to get in the car and leave?

21 A. I never received a phone call. I don't know if my
22 brother received it.

23 Q. Okay. And we've heard a lot of interesting
24 testimony today in terms of why you really went down to
25 Charleston in terms of collecting bread.

JUJUAIN HEMINGWAY - CROSS BY MR. MCCOY

1 Now, did your brother tell you, Hey, I need to go
2 down to Charleston to do this?

3 A. No.

4 Q. Did he tell you he needed to handle some business?

5 A. No.

6 Q. He didn't tell you that?

7 A. Huh-uh.

8 Q. Do you remember saying that in a statement?

9 A. He never told me what he was going out there for.
10 He told me he was going out for some business, though.

11 Q. He did tell you he was going out for some
12 business?

13 A. Yeah, but he never told me what he was going out
14 there for.

15 Q. So you hop in the car with him and you drive?

16 A. Yes.

17 Q. And is your testimony here today in open court,
18 under risk of perjury, which that solicitor can charge
19 you with right here, that you've never been to Charleston
20 before?

21 A. No.

22 Q. Okay. So y'all hope in the car, and you're
23 driving, correct?

24 A. Yeah.

25 Q. Heading down to Charleston?

—JUJUAIN HEMINGWAY - CROSS BY MR. McCOY—

1 A. Yeah.

2 Q. Your brother is on the phone, receiving texts,
3 receiving phone calls, correct?

4 A. Yeah. He was receiving phone calls.

5 Q. Let me back up a little bit. You testified a
6 little earlier today that you don't know if your brother
7 sold any sort of drugs; is that correct?

8 A. Uh-huh.

9 Q. And you're denying that you and your brother went
10 to SC State and sold people drugs; is that correct?

11 A. Uh-huh.

12 Q. And you're denying going to Johns Island selling
13 people drugs earlier in December of 2011, correct?

14 A. Uh-huh.

15 Q. Was there ever an occasion where your brother
16 would text you pictures of marijuana or drugs to your
17 cellphone?

18 A. I don't recall him doing it.

19 Q. If I were to show you a photograph, would that
20 recollect your memory?

21 A. Yeah.

22 Q. Okay. I will show you first some photographs --

23 MR. McCOY: I'm going to approach and have
24 these marked as defense exhibits, please.

25 THE COURT: All right.

JUUUAIN HEMINGWAY - CROSS BY MR. McCOY

1 MR. McCOY: And I'm marking this for ID only,
2 Judge.

3 (Defendant's Exhibit No. 1 was marked for
4 identification.)

5 BY MR. McCOY:

6 Q. I'm going to show you what has been marked for ID
7 purpose only as Defense No. 1, okay? If you can take a
8 look at that, this is saying it's coming from an outgoing
9 phone number of 855-8234 to an incoming number of
10 694-5080, and those are the numbers that we testified
11 earlier and put on our record, okay? Could you take a
12 look at those and tell me what those are?

13 A. Marijuana.

14 Q. What is it?

15 A. Marijuana.

16 Q. And are these consistent? I want you to look at
17 all of them, now, because there are a couple of them in
18 here, okay? And are these consistent with numbers or
19 pictures that have been texted between you and your
20 brother?

21 A. I don't recall him texting me.

22 Q. You don't recall him texting it?

23 A. No.

24 MR. McCOY: At this time I would move
25 Defendant's Exhibit 1 into evidence based on the fact

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 we've laid a foundation with the phone numbers and based
2 on the fact he's taken a look at these photographs.

3 MS. SHEALY: Your Honor, our position would
4 be that the proper foundation has not been laid.

5 THE COURT: How do we know where he got those
6 from?

7 MR. McCOY: Sir?

8 (Discussion held at sidebar.)

9 MR. McCOY: Thank you, Judge.

10 BY MR. McCOY:

11 Q. Jujuain, where I left off with you, we're taking a
12 look at some photographs that have been texted from your
13 brother to you on April the 23rd, and you've gone through
14 them and you have looked at them, and you've told the
15 jury what they are. There are photographs of marijuana
16 that is being texted between the phones, correct?

17 A. Yeah.

18 Q. Okay. If we take a look at the last photograph
19 that's in, that's not a small bit of marijuana, is it?

20 A. No.

21 Q. That's not? I mean, that's a decent amount,
22 correct?

23 A. Yeah.

24 Q. How much do you think that is?

25 A. Huh?

JUUUAIN HEMINGWAY - CROSS BY MR. McCOY

1 Q. You don't know?

2 A. No.

3 Q. When you're getting pictures of this on your
4 phone, you don't know what that is?

5 A. No.

6 Q. If you aren't dealing in drugs and your brother is
7 not dealing in drugs and it's not a scenario that you
8 surround yourself with on a daily basis, why are you
9 getting photographs of weed on your phone? And large
10 quantities of weed at that.

11 A. I don't know.

12 Q. Don't know? You don't have an answer for that?

13 A. No.

14 Q. And that's the best you can bring in this
15 courtroom is I don't know?

16 A. Yeah.

17 Q. That's it?

18 A. Uh-huh.

19 Q. Okay. All right. So we started talking about
20 your ride down to Charleston with your brother, okay, and
21 you're testifying you ain't never been down there, that
22 you ain't never had any deals with Fat or anybody
23 associated with Fat, and that's accurate, all right?
24 You're riding down the road, and you're on the way down.
25 You get to Charleston and you get to Johns Island and you

JUJUAIN HEMINGWAY - CROSS BY MR. MCCOY

1 park your car; is that accurate?

2 A. Yeah.

3 Q. And you testify and you also state in one of your
4 statements that right away, once you park, a guy comes up
5 to the passenger side door and just pops your brother in
6 the face; is that what happened?

7 A. First statement.

8 Q. First statement?

9 A. Yeah.

10 Q. So I know you've given a couple statements, and I
11 know it's getting mighty confusing in here, so is that
12 true or is that not true?

13 A. It is true.

14 Q. It is true?

15 A. I didn't give the details in the first statement.

16 Q. Okay. Didn't give details in the first statement.
17 All right. So your brother is getting popped, okay, in
18 the front seat of the car, correct?

19 A. Yeah.

20 Q. Does he get slapped with an open hand, or does he
21 get punched with a fist?

22 A. I don't know. I was just looking at the phone,
23 and he got hit in his face.

24 Q. Okay. Let's back up a second again. So --

25 A. So I don't know if it was an open hand or a punch.

JUJUAIN HEMINGWAY - CROSS BY MR. MCCOY

1 All I know is he hit him.

2 Q. So you pull up, and you were on your phone; is
3 that accurate to say now?

4 A. Yeah.

5 Q. This is the first I'm hearing of this too, so
6 you're on your phone. You're pulling up. You pull over
7 to the side of the road, and is your brother's window
8 down or is his door open?

9 A. Opened the door.

10 Q. He opened the door?

11 A. Yeah.

12 Q. And you testified earlier the keys are in the
13 ignition. You don't notice when the door opens and your
14 brother gets popped in the face?

15 A. Yeah. I looked up.

16 Q. Where did he get hit in the face?

17 A. I told you, I was looking at my phone.

18 Q. You're looking at your phone, so do you look up
19 after you hear a smack, or do you look up after you know
20 some sort of contact has been made?

21 A. I hear a smack.

22 Q. You hear a smack, so you don't know whether it's
23 an open hand smack or if it's a punch?

24 A. Uh-huh.

25 Q. All right. Who threw this punch?

JUJUAIN HEMINGWAY - CROSS BY MR. McCOY

1 A. The guy in the red.

2 Q. The guy in the red. And the guy that you
3 testified who was in the white shirt, where was he?

4 A. I didn't see him. He went out of curve.

5 Q. You didn't see him. He went out of curve.

6 A. Uh-huh.

7 Q. We heard a lot of testimony that a storm was
8 coming that night. Do you remember that? Do you
9 remember if it was getting ready to rain that night?

10 A. It was getting ready to rain that night, but I
11 didn't know if it did rain that night.

12 Q. Okay. Did you not see anybody come around,
13 including the guy in the red shirt, because you were on
14 your phone still?

15 A. Say that again?

16 Q. Did you not see anybody else come around? The guy
17 you already testified to who had a gun, you didn't see
18 him come around because you were still on your phone?

19 A. I see him after the punch, after my brother got
20 punch in the face.

21 Q. Okay. And after your brother gets punched in the
22 face, does he just stand there, the dude in the red just
23 stand there? What does he do?

24 A. Try to -- he punched him in the face, and the dude
25 came up with the gun, said, Don't move.

JUJUAIN HEMINGWAY - CROSS BY MR. MCCOY

1 Q. What were you doing on the phone? Were you
2 texting somebody or trying to find out where you are on a
3 map? What were you doing?

4 A. I can't remember what I was doing on the phone.

5 Q. You don't remember what you were doing on the
6 phone?

7 So all of a sudden, your brother's door opens up.
8 Y'all have no idea why you're there. You have no idea
9 who you're even meeting, or why you even pulled over to
10 this particular location, but it's just happenstance that
11 there are some guys there that are waiting for you; is
12 that correct?

13 A. Yeah.

14 Q. All right. And once the door opens, your brother
15 has been popped, other guy, in the white shirt, runs up
16 with a big assault rifle, and what does he do? Does he
17 point it at your brother or point it at you?

18 A. Point it at my brother first.

19 Q. Okay.

20 A. We were right there beside each other, so
21 basically pointed it at both of us.

22 Q. Did your brother say anything or do anything at
23 this time?

24 A. No.

25 Q. He's just sitting there in the car?

JUJUAIN HEMINGWAY - CROSS BY MR. MCCOY

1 A. Yes.

2 Q. He's just taking a lick to the face?

3 A. Yeah.

4 Q. Have you put your phone down yet?

5 A. I been put my phone down.

6 Q. You been put your phone down. Why didn't you just
7 hit the gas and take off?

8 A. It's an AK47. It has 30 rounds.

9 Q. It has how many rounds?

10 A. Thirty.

11 Q. How do you know that?

12 A. Who doesn't know that?

13 Q. I don't know that. So you're telling me -- let's
14 talk about that a little more.

15 Tell me about your familiarity with AK47s. You
16 testified that you didn't bring it down there, okay?
17 Your brother didn't bring it down there. Y'all didn't
18 load it up in the car, but you're just telling me now
19 that an AK47 -- and the reason why you didn't run and
20 just hit the gas on your car is because they have 30
21 rounds in a clip; is that correct?

22 A. Yes.

23 Q. Tell me how you know they have 30 rounds in a
24 clip.

25 A. What, an AK47?