

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Certiorari to Orangeburg County

Honorable Benjamin H. Culbertson, Circuit Court Judge

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S.C. SUPREME COURT

ROMEO BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-002401

APPENDIX

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COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

CASE NO. 2011-GS-38-0012
2012-GS-38-0792

STATE OF SOUTH CAROLINA

VOLUME ONE OF TWO

versus

TRANSCRIPT OF RECORD

ROMEO ANTHONY BROWN,

DATE :

DEFENDANT

MAY 22, 2012

BEFORE:

HONORABLE DIANE SCHAFFER GOODSTEIN, PRESIDING JUDGE
AND A JURY.

APPEARANCES:

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1 DATE:

2 MAY 22, 2012

3 THE COURT: For the record, the reason that I have
4 postponed the jury selection is because of the constraint
5 issue regarding the defendant. The detention facility folks
6 in Orangeburg have a different system and, of course, with
7 us having PCRs downstairs on the second floor and trying
8 this case upstairs I have interfered with the smooth
9 working of the Orangeburg security folks, and what I should
10 have done yesterday and failed to do yesterday was to
11 ascertain and find out whether or not the detention facility
12 folks here, the security people here in Orangeburg had the,
13 the under the pant restraint system, which they do not, and
14 I did not realize that until, thank goodness, Mr. Gipson
15 brought that to my attention just a few moments ago. What I
16 have done is, I have asked the Dorchester County detention
17 folks to have the under the pant restraint system sent from
18 Dorchester County which will allow us to use that restraint
19 system on the defendant in this case. It is unacceptable to
20 me, obviously, I'm not going to have him in any kind of
21 restraints which the jury could see or hear, and I don't
22 think it's prudent particularly in a courtroom of this size,
23 but there's got to be some restraint system in place.
24 Therefore, I have sent the jury to lunch early, the jury
25 panel, so that we can obtain and use the under the pant

1 restraint system on the defendant.

2 So, what we will do is, my plan is that as soon as
3 those have been delivered by Dorchester County to go ahead
4 and have the defendant place those restraints system and
5 then, and then y'all bring him on out, and then, you can
6 have a seat at the counsel table so that when the jury
7 starts coming in he's already here. Okay? Y'all go get
8 some lunch.

9 Now, do you want to go ahead and do that or do you want
10 to go over the indictment with me now? Why don't we do that
11 now and then y'all can go get some lunch. Okay?

12 SOLICITOR SORENSON: I just have one question I wanted
13 Mr. Gipson to, a voir dire question.

14 THE COURT: Yes, come on back in the jury room and
15 we'll do that back here.

16 (Recess)

17 (Whereupon, the jury panel
18 enters the courtroom.)

19 THE COURT: Ladies and Gentlemen, I hope you all had a
20 very pleasant lunch, and in just a moment I'm going to call
21 on Mr. Sorenson, and I'm going to ask him to call the first
22 case for trial this week.

23 Now, before I call on Mr. Sorenson to do that I want to
24 explain to you that Mr. Sorenson is an Assistant Solicitor,
25 and in South Carolina we are the only state in the union who

1 calls the prosecutor the Solicitor. We are so unique here.
2 In every other state the prosecutor is called the District
3 Attorney. I guess sometimes they call it the State's
4 Attorney, but typically they're called the District
5 Attorney. In South Carolina we call the prosecuting
6 attorney the Solicitor. So, in just a moment I'm going to
7 call on Mr. Sorenson, who is an Assistant Solicitor, I'm
8 going to ask him to please call our first case for trial.
9 That would be your cue.

10 SOLICITOR SORENSON: Thank you, may it please the
11 Court, Your Honor. At this time the State would call the
12 case of the State versus Romeo Anthony Brown. It's two
13 indictments, Your Honor, 2011-GS-38-0012, and 2012-GS-38-
14 0792, charging him with one count of murder and one count of
15 possession of a firearm by a person convicted of a violent
16 crime.

17 THE COURT: Thank you so much, Mr. Sorenson.

18 Now, Ladies and Gentlemen, I want to tell you how we're
19 going to be proceeding. In just a moment I am going to be
20 reading to you some of the allegations of the indictment,
21 but before I do that I want to tell you why we do such a
22 thing, and then I want to explain to you what an indictment
23 is and what it is not. And then I'm going to introduce you
24 to some folks, and then I'm going to ask you some questions,
25 and we're going to begin that process now.

1 Ladies and Gentlemen, what has happened is that Mr.
2 Sorenson has just call the first case for trial, and he's
3 done that by calling to my attention two indictments. Now,
4 what an indictment is, it's a piece of paper, it's actually
5 two pieces of paper because there are two indictments, and
6 one charges one piece of paper and another charges on
7 another piece of paper. So, first and foremost, an
8 indictment is a piece of paper. Now, it is a document and
9 it is a document that under our law notifies a citizen that
10 the State alleges that that citizen has violated one or more
11 of the criminal laws of the State of South Carolina. You
12 can put two charges on one piece of paper, it just so
13 happens that we have two charges, one on one piece of paper
14 and one on the other piece of paper.

15 Now, let me tell you what an indictment is not. An
16 indictment is not evidence of any of the allegations that it
17 contains. Let me say that again. An indictment is not
18 evidence of any of the allegations that it contains. It is
19 simply a notice document. It is simply a notice document.
20 I will hasten to tell you that to each and every allegation
21 of these indictments that the defendant in this case, Mr.
22 Brown, who I will introduce you to in just a little bit, has
23 pled not guilty, not guilty, and that places the burden on
24 the State to prove each and every allegation of each of
25 these indictments beyond a reasonable doubt.

1 Now, Ladies and Gentlemen, I am now going to read to
2 you some of the allegations of the indictments, but I want
3 to tell you why I'm going to do that. The reason I'm doing
4 that is that I want to find out, I need to find out whether
5 or not any of you know or think you may know, or have you
6 heard or think you may have heard anything about these
7 allegations, to include anything that you may have heard
8 today. And that's the reason that I am going to be reading
9 to you the allega - some of the allegations of the
10 indictments. Now, do keep in mind that to each of these
11 allegations in each of these indictments the defendant has
12 pled not guilty.

13 Now, Indictment 2011-GS-38-0012, the indictment reads
14 in part: "That in Orangeburg County, on or about October
15 the Twenty-seventh, Two thousand and ten, with malice
16 aforethought, the defendant, Romeo Anthony Brown, did kill
17 one Alexander Harrison by means of shooting the victim. The
18 victim did die as a proximate result thereof, this event
19 being in violation of the common law," and there's a
20 section, a particular code section that is also referred to.

21 The second indictment, which is Indictment 2012-GS-38-
22 792, alleges "That in Orangeburg County, on or about October
23 the Twenty-seventh, Two thousand and ten, the defendant,
24 Romeo Anthony Brown, did unlawfully possess a Forty-five
25 caliber hand gun. This offense occurred after the

1 conviction of a violent crime as defined by South Carolina
2 Code Section 16-1-60, to-wit, Nineteen Ninety-nine
3 conviction for armed robbery, in violation of Section 16-23-
4 500 of the Code of Laws of South Carolina, as amended."

5 Now, Ladies and Gentlemen, again, these are notice
6 documents, and to these indictments and the allegations
7 contained therein the defendant has pled not guilty.

8 Now, Ladies and Gentlemen, have any of you heard or
9 think you may have heard, including today, or do you know or
10 think you may know anything, anything about these
11 allegations? If so, please stand at this time.

12 (Whereupon, some jurors stand.)

13 THE COURT: Very well, what I'm going to ask you all
14 to do for me is, I'm going to ask you to approach.

15 And counsel, you certainly may approach as well. Just
16 approach one at a time. Ms. Jamison, just have them come up
17 one at a time, I'm going to meet them down there.

18 (Whereupon, the Court and counsel
19 confer with jurors who stood, one
20 at a time, out of the hearing of
21 the remaining jury panel and court
22 reporter.)

23 THE COURT: Alright, now, Ladies and Gentlemen, please
24 allow me in just a moment to introduce you to the Solicitor.
25 However, you're going to hear me use this term throughout

1 the week, and I need to define it for you. The term is,
2 acquainted with. You'll hear me say time and again, are you
3 related by blood or marriage or acquainted with. I need to
4 define acquainted with for you, because I intend a very
5 general definition because I'm trying to find out if you
6 have any connection with these people that I'm asking you
7 about at all. Let me give you an example. It may be that
8 you went to school with someone who I'll ask you about
9 Twenty years ago. You haven't seen the person, you haven't
10 thought about them in Twenty years, but you know you went to
11 school with them Twenty years ago. Believe it or not, that
12 relationship would be in compass with my very general
13 definition of acquainted with. So, you would just simply
14 tell me that. Now, it may be that you simply work at the
15 same location as someone does that I'll ask you about, and
16 that, too, that relationship, as limited as it is, would be
17 in compass within my definition of acquainted with, and you
18 would tell me about that, too. So, but please know that
19 when I use the term acquainted with I'm trying to find out
20 if you have any relationship at all with the folks that I'll
21 be asking you about. So, with that as a preliminary
22 definition I am now going to introduce you to Mr. Sorenson.
23 And I'm going to ask Mr. Sorenson to introduce the folks
24 from his office.

25 SOLICITOR SORENSON: Would you like to see who is in

1 the courtroom or the lawyers in our office, or what?

2 THE COURT: Who's going to be assisting you and the
3 lawyers in your office.

4 SOLICITOR SORENSON: Alright. My name is Donald
5 Sorenson, I'm the senior Assistant Solicitor here in
6 Orangeburg County, and seated with me is Harrison Bell, who
7 is another senior Assistant Solicitor. Ms. Tammy Craven,
8 who is my victim advocate. The other lawyers in our office
9 are Tommy Scott, he's a Deputy Solicitor, Ms. Sara Ford, Rob
10 Clariday, Ms. Crystal Chapman, and Mr. Bryan Jeffries, who
11 prosecutes our CDV cases.

12 THE COURT: Thank you so much. Ladies and Gentlemen, -
13 - and, of course, it would be elected Solicitor, Mr. David
14 Pascoe. Ladies and Gentlemen, are you related by blood or
15 marriage or acquainted Mr. Sorenson, Mr. Bell or any of the
16 folks that Mr. Sorenson just mentioned who are in the
17 Solicitor's office? If so, please stand at this time.
18 (Some jurors stand.)

19 THE COURT: And we'll start here, our Forty-fifth
20 juror. And your name, for the record?

21 JUROR DUKES: I'm Carol Dukes.

22 THE COURT: Yes.

23 JUROR DUKES: And I'm acquainted with Rob, as he is a
24 good friend of my son.

25 THE COURT: Rob Clariday?

1 JUROR DUKES: Rob Clariday.

2 THE COURT: Alright, very well. Now, as a result of
3 that relationship might that, could that in any regard
4 interfere with your ability to be completely fair and
5 impartial both to the State as well as to Mr. Brown? And
6 that answer's got to be yes or no.

7 JUROR DUKES: No.

8 THE COURT: Can you set that relationship completely
9 aside and make up your mind based on what you hear in Court
10 while Court is in session?

11 JUROR DUKES: Yes.

12 THE COURT: Thank you, Ms. Dukes, please stay with us.

13 JUROR DUKES: I also have another relationship with
14 Sara Ford.

15 THE COURT: Yes.

16 JUROR DUKES: I know both her mother and father, - - -

17 THE COURT: Yes.

18 JUROR DUKES: And worked with them at Longwood
19 Plantation maybe ten years ago.

20 THE COURT: Very well. Do you currently visit in each
21 other's homes?

22 JUROR DUKES: No.

23 THE COURT: The relationship is just as you have
24 described it?

25 JUROR DUKES: Yes.

1 THE COURT: As a result of that relationship, just as
2 you have described it, you can look at it individually and
3 also with the relationship of Mr. Clariday, might that,
4 could that in any regard interfere with your ability to be
5 completely fair and impartial to the State as well as to Mr.
6 Brown?

7 JUROR DUKES: No.

8 THE COURT: Can you set that relationship aside --
9 those, and make up your mind based on what you hear in Court
10 while Court is in session?

11 JUROR DUKES: Yes.

12 THE COURT: Thank you, please stay with us.

13 Now, I have excused you -- if I have already excused
14 you, you need not stand, but thank you, I meant to tell you
15 that. I'm so sorry.

16 Very well. Alright, now, Ladies and Gentlemen, please
17 allow me to introduce you to Mr. Romeo Anthony Brown -- and
18 Mr. Gipson, if Mr. Brown could stand and face the jury.
19 There we go. Thank you. This is Mr. Brown. Mr. Brown, if
20 you can just turn a little bit for these folks. It's so
21 much easier to put a face with the name. Thank you,
22 perfect. Thank you. And Mr. Brown, you may be seated.
23 Thank you so much.

24 Ladies and Gentlemen, are you related by blood or
25 marriage or acquainted with Mr. Romeo Anthony Brown? If so,

1 please stand at this time.

2 (One juror stands.)

3 THE COURT: Alright, and I believe you've already
4 discussed this?

5 JUROR RICKENBAKER: Yes.

6 THE COURT: Alright, very well. Any additional
7 information other than what we discussed earlier?

8 JUROR RICKENBAKER: No.

9 THE COURT: Very well, thank you so much. And just for
10 our record, you are still Ms. - - -

11 JUROR RICKENBAKER: Rickenbaker.

12 THE COURT: Still. Juror One sixteen.

13 Now, Ladies and Gentlemen, please allow me to introduce
14 you to Mr. Byron Gipson. And this is Mr. Gipson. Mr.
15 Gipson represents Mr. Brown, and he is going to introduce
16 the folks from his office.

17 MR. GIPSON: Good afternoon, Your Honor. My name is
18 Byron Gipson, and I'm with the law firm of Johnson, Toal and
19 Batiste, and the lawyers in my office are I. S. Levy
20 Johnson, Luther Batiste, Bill Toal, George Jonnson, myself
21 and Yvonne Murray.

22 THE COURT: Very well. And assisting you?

23 MR. GIPSON: My paralegal, Tammy.

24 THE COURT: Thank you. Thank you so much.

25 Ladies and Gentlemen, are you related by blood or

1 marriage or acquainted with, or have you or any member of
2 your immediate family to your knowledge ever been
3 represented by Mr. Gipson or any of the members of his firm?
4 If so, please stand at this time?

5 (One juror stands.)

6 JUROR MILLER: I've been represented by Mr. Gipson and
7 also Mr. Batiste.

8 THE COURT: Alright. And we've already spoken, is that
9 correct, and you've been excused, is that right?

10 JUROR MILLER: Yes.

11 THE COURT: You know, I should have told -- I told some
12 of the folks, if you've been excused you do not need to
13 stand again. That isn't clear but -- alright. And for our
14 record you are Ms. Williams?

15 JUROR MILLER: Miller, Linda.

16 THE COURT: Miller, Linda Miller, Juror Number 9999,
17 transfer. Thank you. Thank you very much.

18 Now, Ladies and Gentlemen, I am going to be reading to
19 you a list of potential witnesses, potential witnesses. The
20 lawyers help me at this stage of the trial, and they give to
21 me the list of potential witnesses because this is my
22 opportunity to ask if you know any of these folks. And so,
23 my question as to each of these individuals is, are you
24 related by blood or marriage or acquainted with any of these
25 individuals? And I am going to read to you the list now.

1 James Shumpert -- and if you happen to be in the courtroom
2 if you would stand for me that would be great. And this is
3 Lieutenant James Shumpert. Thank you, sir.

4 Randy Culler, Craig Davis, Patricia Eikhoff, Marty
5 Carrigg, Rene Williams, Leonard Cain, Billy ETHEREDGE. Mr.
6 Gipson and Mr. Sorenson are helping me because they know I'm
7 from Dillon, and so they wanted to help me, and they didn't
8 want to embarrass, and so, I'm so grateful. It's Rene
9 Williams. Again, I'm from Dillon, y'all have got to be
10 patient. Now, Monique Shawn Guinyard - I know that from
11 living in Charleston, or near Charleston. I think I
12 mentioned Barry Wilson already. Sabrina Fellers, Jeffrey
13 Crooks, John Roberts -- and that's not the Chief Justice of
14 the United States Supreme Court, that would be a gentlemen
15 with South Carolina Law enforcement Division. Suzanne
16 Cromer, Dr. Janice Ross, Joe Thomas, Randy Ryant, Tammy
17 Ryant. Is it Donell? Donell Ryant, Brandy Mack, Ulysses
18 Daniels, Bernard Isaac Morgan, Vandy Morgan, Theodore
19 Whetstone, Faye Harrison, Eric Irick-Brown.

20 SOLICITOR SORENSON: That's supposed to be Erica.

21 THE COURT: Thank you. Erica Irick-Brown, Dennis
22 Jones, Walt Turner, and Vernetha Gadson-Glenn, there she
23 goes. Alright. Thank you.

24 (One juror stands.)

25 THE COURT: Very well. Yes, ma'am, stand for me,

1 please, and tell me your name?

2 JUROR BERRY: Carol Berry.

3 THE COURT: And you know our Clerk of Court?

4 JUROR BERRY: Yes, ma'am. A family member.

5 THE COURT: A family member? Alright. As I understand
6 it, she may or may not be producing records that are Court
7 records, and as a result of her involvement could that in
8 any way impact on your ability to be fair and impartial to
9 both the State as well as to the defendant? She's simply
10 going to be delivering documents.

11 JUROR BERRY: Uh-huh. Well, - - -

12 THE COURT: Whoa, whoa, whoa, too much discussion.

13 JUROR BERRY: Okay.

14 THE COURT: That's a yes or a no. Well, come on
15 forward and let me talk to you.

16 (Whereupon, the Court and counsel
17 confer with juror out of the hearing
18 of the remaining jury panel and
19 court reporter.)

20 THE COURT: Randolph Ryant. Of course, you've met Mr.
21 Brown. Johanna Crider, who is the records custodian for
22 Regional Medical Center, Johanna Crider.

23 (Three jurors stand.)

24 THE COURT: Alright, this is for Ms. Crider. For
25 information purposes, Ms. Crider is the records custodian,

1 she would simply be bringing documents. In other words,
2 counsel, you correct me if I'm wrong, her role is to just
3 simply bring records, is that correct?

4 MR. GIPSON: Yes, ma'am, similar to the Clerk.

5 THE COURT: Similar to the Clerk of Court. In other
6 words, these are, here's the records. So, with that in
7 mind, do you believe that your relationship with Ms. Crider
8 might or could in any regard interfere with your ability to
9 be completely fair and impartial both to the State as well
10 as to Mr. Brown? And your name?

11 JUROR DUKES: Carol Dukes.

12 THE COURT: Yes.

13 JUROR DUKES: No.

14 THE COURT: Thank you.

15 JUROR WHISENHUNT: Katheryn Whisenhunt. No.

16 JUROR CASON: Regina Cason. No.

17 THE COURT: Thank you all so much. That was great.

18 Alright. Oh, I'm going to mess this one up. Tedriks
19 Green?

20 MR. GIPSON: That's correct.

21 THE COURT: Tedriks Green, Jennifer Coaxum, alright, I
22 think I've already said this but out of an abundance of
23 caution, Patricia Eikhoff, and Vandy Morgan. Are you
24 related by blood or marriage or acquainted with any of those
25 individuals? Anyone else need to stand?

1 No one else is standing. Anybody worried or need me to
2 go over the list again?

3 Alright, no one is standing.

4 Now, Ladies and Gentlemen, let me tell you what I'm
5 going to do, I'm going to -- can y'all hear me back there?
6 The room is small, I think you probably can. Alright. I
7 think I would like to stay down here just because if I need
8 to talk to anybody I'm a little bit closer. Alright, now,
9 Ladies and Gentlemen, do you contribute money to or hold
10 memberships or a membership in any law enforcement agency
11 such as the Fraternal Order of Police, the South Carolina
12 Troopers Association, and like? If so, please stand.

13 No one is standing.

14 Alright, I'm going to ask you four questions together,
15 and I don't want you to respond -- actually, I'm going to
16 ask you five questions together. I don't want you to
17 respond to any of these questions until I have asked all
18 five. Now, first questions, has any member of our jury
19 panel or a member of your immediate family to your knowledge
20 ever been the victim of a violent crime? That's the first
21 question, no one responds until I've asked them all, that's
22 the first one. Number, the next question, was there
23 anything about that experience that causes you to have any
24 bias or prejudice for or against law enforcement personnel
25 or for or against people who have been charged with a

1 criminal offense? Next, does any member of our jury panel
2 have a religious or philosophical position with regards to
3 the use of firearms? And that's either pro or con. Next,
4 does the fact that a defendant, a person has been charged
5 with a criminal offense, in and of itself, leave you suspect
6 that that person must have broken the law, done something
7 wrong or he would not have been charged? And finally, have
8 you formed an opinion about the guilt of anyone charged in
9 this case? Now, do you want me to go over them again,
10 because that was several? Would you like me to go over them
11 again? Thank you, I'll be happy to do that.

12 First question, has any member of our jury panel or a
13 member of your immediate family to your knowledge ever been
14 the victim of a violent crime -- what is a violent crime, a
15 crime you consider to be violent, no matter what it is?

16 The next one, was there anything about that experience
17 that would cause you to have any concern about, for or
18 against the law enforcement or for or against any criminal
19 defendant -- I'll ask you that when you get up here, because
20 that's obviously related to the earlier question, I'll just
21 follow up if you approach on -- if you or a member of your
22 immediate family have been the victim of a violent crime,
23 and then I'll ask you at that point.

24 The next question is, does any member of our jury panel
25 have a religious or philosophical position that you hold,

1 not that you thought about it one time, but I'm talking
2 about if you have some real good strong feelings about one
3 way or the other for or against the use of firearms?

4 Next, does the fact that a person has been charged with
5 a criminal offense, in and of itself, without anything else,
6 leave you to believe that he or she must have broken the law
7 in some fashion or else he or she would not have been
8 charged?

9 And lastly, have you formed an opinion one way or the
10 other regarding the guilt of anyone charged in this case?

11 Now, if you need to respond to any of those questions
12 I'm going to ask you to please come forward. I'm going to
13 ask that you come just one at a time.

14 Yes, ma'am, come on forward. Counsel, you, too.
15 (Whereupon, the Court and counsel
16 confer with jurors out of the hearing
17 of the remaining jury panel and
18 court reporter.)

19 THE COURT: Okay. Are you or any member of your
20 immediate family or a close personal friend -- and let me
21 tell you how close this close personal friend is, this close
22 personal friend is so close you like them better than you do
23 your brother or your sister, that's how close this one is.
24 Are you, any member of our immediate or a close personal
25 friend affiliated with any auxiliary police organization or

1 citizens group whose primary aim is the prosecution or
2 pursuit of individuals involved in criminal activity such as
3 CAVE, Citizens Against Violent something, SADD, Students
4 Against Drunk Driving, or MADD, Mothers Against Drunk
5 Driving, that would be question? I struggled with that one,
6 didn't I? Have you or any member of your immediate family
7 or a close personal friend been a member of or affiliated
8 with or given money, I should say, have given money to an
9 organization whose primary aim is the prosecution or pursuit
10 of individuals involved in criminal activity such as CAVE,
11 SADD or MADD? If so, please stand at this time.

12 I find no one standing.

13 Now, has any member of our jury panel read, have you
14 read or seen any news reports about this incident? If so,
15 please stand.

16 No news reports. Okay, very well.

17 Now, Ladies and Gentlemen, Ladies and Gentlemen, this
18 is my last question -- Counsel, unless you tell me there's
19 voir dire that I've missed -- and it's general and I mean it
20 to be general, and it says, do you know any reason why you
21 ought not, should not, could not be a juror in this case,
22 being ready, willing and able to listen to the evidence and
23 make up your mind based solely on what you hear in Court
24 while Court is in session, being completely, completely
25 unaffected by matters, the term is used as extraneous,

1 meaning matters outside the Court while Court is in session?
2 Now, if you have any concerns, and we haven't already
3 excused you, but if you have any concerns about your ability
4 to do that, if anything, if there's any matter that we need
5 to talk about that we haven't talked about. Maybe there was
6 a question that I asked this morning and you were shy, but
7 we've been together a while, and we've kind of warmed up,
8 you're a little more comfortable now and you can tell me now
9 what you wanted to tell me earlier. It may be really
10 anything, it may be that while you were at lunch you had
11 your cell phone and somebody called you and said, by gosh,
12 there are Forty-five people standing outside your house and
13 they've got one of those big old checks, and you can't think
14 about what we're thinking about because you want to know
15 what's written on that check. It really could be anything,
16 and this is a true story, we'd reached this part of the jury
17 qualification, this point right here, right now, this point,
18 and I asked this question, and this adorable young man stood
19 up, and I said, yes, sir. He said, Judge, my wife is in
20 labor down at Trident Hospital with our first child. Is
21 anybody in labor? Anybody's wife in labor? Okay.
22 Seriously, we've reached that point. So, in any event, if
23 so -- or it could even be, you know, when you went to lunch,
24 the tickets to Tahiti were above your visor, you know, and
25 how in the world are you supposed to tell me you're supposed

1 to go to Tahiti in two days and you forgot about the trip?
2 Anything?

3 (One juror stands.)

4 THE COURT: Come on forward and let us talk about it.
5 (Whereupon, the Court and counsel
6 confer with juror out of the hearing
7 of the remaining jury panel and
8 court reporter.)

9 THE COURT: Quickly, thank you. I'm going to excuse
10 you, yeah.

11 Alright, and do you know your jury number, by chance?

12 JUROR : Yes, ma'am.

13 THE COURT: What is your jury number?

14 JUROR : One forty-two.

15 THE COURT: Alright, very well, thank you.

16 Counsel, now I need to see y'all just a minute,
17 please, at the side bar. We need to be sure that our
18 numbers are correct. Y'all come on up here and let's see if
19 everybody agrees. Hang loose, Ms. Harry Dot, and let's see
20 if they agree. Okay.

21 (Whereupon, a bench conference
22 is held off the record.)

23 THE COURT: Now -- oh, yes, yes, come forward.

24 (Whereupon, the Court and counsel
25 confer with juror out of the hearing

1 of the remaining jury panel and
2 the court reporter.)

3 THE COURT: Thank you for that information. Stay with
4 us, please.

5 Now, let me tell you what happens next. Now, as your
6 name is called you just get out from where you're seated and
7 then, now, this is unusual, y'all just look with me here.
8 I'm thinking somewhere -- Mr. Gipson, can you see if they're
9 here?

10 MR. GIPSON: I can, yes, ma'am.

11 THE COURT: It will be most convenient, given how
12 everybody is located. And just stand here. I'm so happy to
13 tell you that I once was on a jury panel, got called out,
14 and had to go stand like this a long time ago, and all I
15 could remember is, I wish I could remember what to do with
16 my hands, I didn't know what to do with them. It's okay to
17 bring them with you.

18 Now, and interestingly enough, if you are selected, if
19 you are selected to serve we will take you very temporarily
20 in the jury room across the hall just because I ran out of
21 space in the jury box. Now, if you are selected to serve,
22 though I'm going to tell you, do not discuss this matter,
23 don't allow anybody to discuss it with you. You can say,
24 Hi, and you can just visit but don't discuss this matter,
25 please. I will just tell you that. And we'll be right back

1 with you, we'll be right back with you. But I think to be
2 orderly I'm going to take you across the hall. No one's
3 there?

4 BAILIFF: I'll make sure.

5 THE COURT: That will be wonderful. And Ms. Jamison
6 will be with them in case somebody says, I'm starving, or I
7 want a drink, and she's going to attend to it.

8 Okay, and at this point I'm turning it over to y'all.
9 And you know we've got ten, five, two, one. Okay, we're
10 going to need to print out -- very well. Now, we've got the
11 list from the computer downstairs.

12 Did y'all meet your clerk of court, did everybody meet
13 her? Yes?

14 Alright, here we go.

15 CLERK: Shoshawna Neal.

16 THE COURT: Again, this is going to be the first ...

17 CLERK: Juror One thirty-six.

18 THE COURT: And you've just got to stand right there,
19 and feel really odd. And you're going to first hear from
20 the State, and then in the event, you may hear from the
21 State.

22 CLERK: What says the State?

23 SOLICITOR SORENSON: Please present Ms. Neal.

24 CLERK: What says the defense?

25 MR. GIPSON: Please swear the juror.

1 THE COURT: Very well, if you'll come across the hall.
2 Thank you.

3 CLERK: Richard Govan, Juror Seventy-five. What says
4 the State?

5 SOLICITOR SORENSON: Please present Mr. Govan.

6 CLERK: What says the defense?

7 MR. GIPSON: Please excuse Mr. Govan from service in
8 this case.

9 CLERK: Please return to your seat. Thank you.

10 Transferred Juror Lisa Curles. What says the State?

11 SOLICITOR SORENSON: Please present Ms. Curles.

12 CLERK: What says the defense?

13 MR. GIPSON: The Court's indulgence one moment.

14 THE COURT: Indeed. Ladies and Gentlemen, let me share
15 with you that this is, of course, in our State, one of the
16 original Thirteen colonies, our system of justice is very,
17 very ancient. This is the system we have used for selecting
18 juries for what, nearly what, Two hundred and fifty years at
19 this point. And there are about Two million different
20 considerations that go into selection of jurors. And I know
21 that we've had a juror be excused, but I was telling you my
22 story, I was immediately excused. And I would want no one
23 to take any offense from these lawyers because I can assure
24 you they have nothing but respect and gratitude for your
25 time and your presence here today. There's just so many

1 different elements that go into that selection. I can assure
2 you that no one means you anything but respect and
3 gratitude. Again, there's just so many different items that
4 go into jury selection.

5 MR. GIPSON: We can -- please excuse the jury from
6 service in this case.

7 THE COURT: Very well.

8 CLERK: Juror Number Twenty-three, Barbara Butler.
9 What says the State?

10 SOLICITOR SORENSON: Please present Ms. Butler.

11 CLERK: What says the defense?

12 MR. GIPSON: Please swear the juror.

13 CLERK: Juror Number One seventeen, Jeanette Lucas.
14 What says the State?

15 SOLICITOR SORENSON: Please present Ms. Lucas.

16 CLERK: What says the defense?

17 MR. GIPSON: Please swear the juror.

18 CLERK: Juror Number Thirty-four, Regina Cason. What
19 says the State?

20 SOLICITOR SORENSON: Please present Ms. Cason.

21 CLERK: What says the defense?

22 MR. GIPSON: Please swear the juror.

23 CLERK: Juror Number One hundred and ten, Albert Kelly.
24 What says the State?

25 SOLICITOR SORENSON: Please present Mr. Kelly.

1 CLERK: What says the defense?

2 MR. GIPSON: Please swear the juror.

3 CLERK: Juror Number One sixty-five, Alveta Seawright.

4 What says the State?

5 SOLICITOR SORENSON: Please excuse Ms. Seawright.

6 CLERK: Please return to your seat.

7 Juror Number One fifty-two, Deloris Peeples. What says
8 the State?

9 SOLICITOR SORENSON: Please present Ms. Peeples.

10 CLERK: What says the defense?

11 MR. GIPSON: Please excuse the juror from service in
12 this case.

13 CLERK: Please return to your seat.

14 Juror Number One eighty-three, Tabitha Weatherford.

15 What says the State?

16 SOLICITOR SORENSON: Please present Ms. Weatherford.

17 CLERK: What says the defense?

18 MR. GIPSON: Please swear the juror.

19 CLERK: Juror Number Twenty-si9x, Terrell Byrd. What
20 says the State?

21 SOLICITOR SORENSON: Please excuse Mr. Byrd.

22 CLERK: Please return to your seat.

23 Juror Number Ninety-six, James Irick. What says the
24 State?

25 SOLICITOR SORENSON: Please present Mr. Irick.

1 CLERK: What says the defense?

2 MR. GIPSON: The Court's indulgence for one moment?

3 THE COURT: Sure.

4 MR. GIPSON: Please swear the juror.

5 CLERK: Juror Number Sixty-nine, Joseph Garrick. What
6 says the State?

7 SOLICITOR SORENSON: Please present Mr. Garrick.

8 CLERK: What says the defense?

9 MR. GIPSON: Please excuse the juror from service in
10 this case.

11 CLERK: Thank you, please return to your seat.

12 Juror Number One thirteen, James Koger. What says the
13 State?

14 SOLICITOR SORENSON: Please excuse Mr. Koger.

15 CLERK: Please return to your seat.

16 Juror Number One thirty-two, Michael Moore. What says
17 the State?

18 SOLICITOR SORENSON: Please present Mr. Moore.

19 CLERK: What says the defense?

20 MR. GIPSON: Please excuse the juror.

21 CLERK: Juror Number Forty, Malcolm Cokley. What says
22 the State?

23 SOLICITOR SORENSON: Please excuse Mr. Cokley.

24 CLERK: Please return to your seat.

25 Juror Number One twenty, James Marle. What says the

1 State?

2 SOLICITOR SORENSON: Please present Mr. Marle.

3 CLERK: What says the defense?

4 MR. GIPSON: Please excuse the juror.

5 CLERK: Juror Number Twenty-two, Timothy Bryce. What
6 says the State?

7 SOLICITOR SORENSON: Please present Mr. Bryce.

8 CLERK: What says the defense?

9 MR. GIPSON: Please swear the juror.

10 CLERK: Juror Number Fifty-four, George Early, III.
11 What says the State?

12 SOLICITOR SORENSON: Please excuse Mr. Early.

13 CLERK: Please return to your seat.

14 Juror Number Nine, Stanford Bishop, Jr. What says the
15 State?

16 SOLICITOR SORENSON: Please present Mr. Bishop.

17 CLERK: What says the defense?

18 MR. GIPSON: Please swear the juror.

19 CLERK: Juror Number One fifty-seven, Cynthia Ritter.
20 What says the State?

21 SOLICITOR SORENSON: Please present Ms. Ritter.

22 CLERK: What says the defense?

23 MR. GIPSON: Please swear the juror.

24 CLERK: Juror Number One twenty-nine, Dorothy Miller.
25 What says the State?

1 SOLICITOR SORENSON: Please present Ms. Miller.

2 CLERK: What says the defense?

3 MR. GIPSON: The Court's indulgence.

4 THE COURT: Sure.

5 MR. GIPSON: Please swear the juror.

6 CLERK: Juror Number Fifty-two, Carol Dukes. What says
7 the State?

8 SOLICITOR SORENSON: Please present Ms. Dukes.

9 CLERK: What says the defense?

10 MR. GIPSON: Please swear the juror.

11 THE COURT: We will now begin with the selection of our
12 alternates. One for the State, two for the defense.

13 CLERK: Juror Number One seventy-two, Vandy Stephens.
14 What says the State?

15 SOLICITOR SORENSON: Please present Ms. Stephens.

16 CLERK: What says the defense?

17 MR. GIPSON: Please swear the juror.

18 CLERK: Juror Number Ninety-nine, Iman Jenkins. What
19 says the State?

20 SOLICITOR SORENSON: Please present Ms. Jenkins.

21 CLERK: What says the defense?

22 MR. GIPSON: Please swear the juror.

23 THE COURT: Alright, counsel are there any matters
24 regarding the qualification and selection of the jury from
25 the State?

1 SOLICITOR SORENSON: No, Your Honor.

2 THE COURT: From the defense?

3 MR. GIPSON: No, ma'am.

4 THE COURT: Very well. Ladies and Gentlemen, you are
5 now known as our remaining jurors. Remember the sheets that
6 you were given this morning? That had the jury information
7 line on it. I'm going to ask you to please call the jury
8 information line after six o'clock this evening, just like
9 we talked about downstairs, and follow whatever the
10 instructions are. Probably you will simply be asked to call
11 back in at another time, but you could be asked to return to
12 the courthouse for the selection of our next jury.
13 Irrespective of what the instruction is, please follow it.
14 But again, I don't know what the instruction might be.
15 Now, please wait until after six, that means six-o-one,
16 seven:thirty, midnight. Wait until six o'clock because
17 prior to that point the instruction on the machine won't
18 make a bit of sense to you.

19 You know, you've given us an awful lot of your time
20 today and I am so grateful to each and every tick of the
21 clock and I cannot wait to see you all later in the week.

22 Now, anybody that needs anything for your employer
23 they'll be delighted to get that for you downstairs, though
24 obviously, when you finish your week's service there will
25 certainly be verification that you served on the jury. But

1 sometimes employers want to have it right now. So, if you
2 need it with you today all you need do is stop by the
3 clerk's office downstairs on the first floor and there's
4 information folks down there and they can direct you exactly
5 where to go. But it's downstairs on the first floor and
6 they'll be glad to get that for you.

7 I am grateful for every tick of the clock. If you'll
8 do so for me quietly now that I have my jurors. I don't
9 want them to leave the room and try to go with you, so if
10 y'all will just leave for me quietly I would be most
11 appreciative. Thank you so much.

12 Let's see, there were a couple of things we needed to
13 put on the record, and a couple of motions. First of all,
14 we'll begin with the State. Anything that the State needs
15 to put on the record motions from the State?

16 SOLICITOR SORENSON: I don't believe so at this time,
17 Your Honor.

18 THE COURT: Very well. Alright, yes, sir, Mr. Gipson?

19 MR. GIPSON: Yes, ma'am. First of all I would just
20 like to have the witnesses sequestered in the case, Your
21 Honor.

22 THE COURT: Okay, other than, of course, the case
23 agent, victims?

24 MR. GIPSON: Yes, ma'am.

25 THE COURT: Alleged victim's family. Alright, very

1 well, any objection to that?

2 SOLICITOR SORENSON: No. So, we'd be asking for
3 Lieutenant Shumpert to stay, and then I've got the victim's
4 wife who is on my jury list, I mean, my witness list. I was
5 going to have to call her anyway, but she's on there, so ...

6 THE COURT: It doesn't matter, I'm not going to exclude
7 the victim's wife, even if she is a witness. Alright, very
8 well, the victim's family may be present.

9 Alright, and sauce for the goose would be, of course,
10 sauce for the gander, right?

11 MR. GIPSON: Yes, ma'am.

12 THE COURT: Alright, very well.

13 THE COURT: And I had put the defendant's wife on my
14 witness list. I probably am not going to call her, I would
15 -- I don't know if she's here, but I wouldn't have any
16 objection if she is in the courtroom.

17 THE COURT: Wanted to be in the courtroom as support
18 for him. Very well, alright.

19 Alright, and what -- yes?

20 MR. GIPSON: And second, Your Honor, we spoke briefly
21 in chambers just to kind of get an idea of where we were
22 standing with some of the motions, and one, Your Honor, was
23 that I would like to make an oral motion just to, we're
24 willing to stipulate that Mr. Brown has a prior conviction
25 in Nineteen ninety-nine, it was for armed robbery, and that

1 conviction qualifies under the statute as a violent crime.

2 And so - - -

3 THE COURT: Yes.

4 MR. GIPSON: --- an so, as the defense we're willing to
5 stipulate to that fact, Your Honor.

6 THE COURT: Very well. Of course, you know, a
7 stipulation is an agreement of counsel and the Court cannot
8 coerce that stipulation because it is, in fact, an agreement
9 of counsel. What is the State's position?

10 SOLICITOR SORENSON: What is Mr. Gipson proposing, that
11 they would stipulate that he has a Nineteen ninety-nine
12 conviction for armed robbery and that is a violent crime
13 that is classified by our legislature, I guess, or under the
14 statute? That's my understanding.

15 MR. GIPSON: That's what I stated, Your Honor.

16 SOLICITOR SORENSON: Can I think about that? I hadn't
17 planned on, I mean, it would probably be one of my last
18 witnesses, but ...

19 THE COURT: Sure. Very well, it sounds fair. Alright.

20 MR. GIPSON: And there is another stipulation Mr.
21 Sorenson and I will probably work through as it regards to,
22 in regards to the records custodian, and I haven't provided
23 to him, and I'll provide some language that we may be able
24 to agree upon as it relates to Mr. Brown's leg injury, so
25 we'll alert the Court if we reach an agreement.

1 THE COURT: Okay, very well.

2 MR. GIPSON: And just quickly, Your Honor, I've got a
3 couple of - I asked the Court, or I'll ask the Court now to
4 consider at least limiting the State's ability to go into
5 Mr. Brown's prior record. He's got -- well, a record from
6 Nineteen ninety-two, Nineteen ninety-four, and Nineteen
7 ninety-nine. And my position is, with these being ten years
8 or older there's a question as to their admissibility,
9 Number One. Two, there not probative for what he's actually
10 charged with today. I mean, I think the prejudicial value
11 outweighs the probative effect in this situation. We're
12 dealing with an armed robbery which has absolutely nothing
13 to do with the allegation here, which is for murder. And I
14 understand we're kind of constrained by the legislature in a
15 way because one of the elements allows -- possession of a
16 weapon by a person convicted of a violent crime allows them
17 to speak of that, but at a minimum I'd ask that the Court
18 give a limiting instruction for what that's supposed to
19 stand for. But I'd also ask that you consider, if the
20 stipulation is not able to be agreed upon, that we can at
21 least limit their ability to mention those things.

22 THE COURT: I understand. Now, with regards to the
23 Ninety-two and the Ninety-four convictions, I don't know
24 what they are for, I think one of them is burg, second, and
25 I don't know the -- the Ninety-four is burg, second, and I

1 don't know what the Ninety-two is.

2 MR. GIPSON: And I think the other one is a strong arm,
3 I just don't have it in front of me at the moment.

4 THE COURT: Okay.

5 SOLICITOR SORENSON: Yeah, I'm trying to put my hands
6 on it as well. Okay. And part of this, Your Honor, if I
7 can just be heard at this point in time.

8 THE COURT: Sure.

9 SOLICITOR SORENSON: I mean, obviously, most of what
10 Mr. Gipson is bringing up right now really doesn't become an
11 issue until we get to the point in time where he would be
12 potentially calling his client to the stand, so I would ask
13 if we could may be just - - -

14 THE COURT: Hold on?

15 SOLICITOR SORENSON: --- I'm not sure we need to be
16 addressing right this second, I mean ...

17 THE COURT: I'm with you completely. I understand. It
18 is my understanding that you did serve notice, though, on
19 the defense that you intended to ask, to go beyond the ten
20 years?

21 SOLICITOR SORENSON: Yes, Your Honor.

22 THE COURT: Alright.

23 SOLICITOR SORENSON: We did, pursuant to Rule Six O
24 Nine, - - -

25 THE COURT: Right.

1 SOLICITOR SORENSON: --- that indicates that there's
2 three convictions, it's a Ninety-two conviction for robbery,
3 a Ninety-five for burglary, second, and a Ninety-nine for
4 armed robbery, which would be three that I would be, and did
5 pursuant to Rule Six O Nine, A, Two, serve him with notice
6 more than ten days ago that I would be potentially seeking
7 to get into them for impeachment purposes if he testifies.

8 THE COURT: I understand.

9 MR. GIPSON: And in fact, Your Honor, he served me, or
10 at least somewhere in the whereabouts of March Nineteenth or
11 Twentieth, so he's complied with the statute, is certainly
12 my position. It's just that the probative value -- excuse
13 me, that the prejudicial effect outweighs the probative
14 value. But he, without question, has served me with his
15 intent.

16 THE COURT: I understand. You know, I'm going to give
17 you an indication of what I'm most probably going to do. I
18 don't want to be held to it because I'm so new to the trial.
19 I, obviously, the Ninety-nine is going to come in as an
20 element of the offense. I will limit that so that the jury
21 considers it only as the element, and in no way with regards
22 propensity. With regards to whether or not it's admissible
23 for credibility purposes I will reserve that, but I will
24 tell you that I am inclined not to allow Ninety-two, Ninety-
25 four, Ninety-nine. But I'm going to reserve that. And I'm

1 reserving probably more than Ninety-nine, I'm probably not
2 going to reserve the Ninety-two and the Ninety-four, they're
3 too distant, even as to the issue of credibility, which is
4 the only, what it would be admissible at all. So, just to
5 be clear, I think Ninety-two is out, Ninety-four is out, I
6 don't think you ought to worry about that. Ninety-nine is
7 going to be in with regards to it being the element of the
8 offense. You were served with the notice of the armed
9 robbery. The only reason that I may give some consideration
10 to it is because of the lack of time that the defendant was
11 in the community, and that would be the only reason, but I'm
12 going to think about it, but I'm probably not going to allow
13 it with regards to credibility. It's in with regards to it
14 being an element of the offense. And, of course, I'll give
15 it a limiting instruction, and you are more than welcome to
16 propose one.

17 MR. GIPSON: Yes, ma'am.

18 THE COURT: Okay? Now, what else have we got?

19 MR. GIPSON: Now, on yesterday we talked in chambers
20 and I did want to bring it to the record, Your Honor, about
21 a Biggers hearing as it related to the out of court
22 identification and the lineup.

23 THE COURT: yes.

24 MR. GIPSON: And after some discussion with Mr.
25 Sorenson it became clear that it looks like at least three

1 of the proposed eye witnesses may have had some interaction
2 with Mr. Brown at some point in time, and the case law seems
3 to suggest, well, not seems, the case law suggests that,
4 that if there's some prior knowledge of a person who is in a
5 lineup, then at that point in time it's not necessary to
6 conduct a Biggers hearing. And the only questions was to
7 whether or not one witness, whose name I believe is Brandy
8 Mack, may have had that prior knowledge as well, and that's
9 something we said we'll cross that bridge when we get to it,
10 but we're not there yet, Your Honor.

11 THE COURT: Yes.

12 MR. GIPSON: But that may be something that we speak
13 on.

14 THE COURT: I do understand. And Mr. Sorenson, your
15 research was replete, and I read it and I thank you for it.
16 I mean, you covered it just in terms of, if you recognize
17 someone, if you know someone, then the Biggers hearing State
18 versus Biggers hearing is not required, even if you only
19 know the first name, and you don't -- you know the person
20 but you know them by the first name rather than the first
21 and the last name. I thought that was also an interesting
22 case, but again, we'll cross that bridge when we get there.
23 It looks like there's a possibility that there may be a need
24 for one and there may not. Very well.

25 SOLICITOR SORENSON: If we could just briefly, Your

1 Honor, if we could just real briefly kind of go through and
2 make sure we're square on some prior record for the
3 witnesses before we get rolling.

4 THE COURT: Oh, by, yes, yes, thank you, yes, sir.

5 SOLICITOR SORENSON: And I guess I can go and kind of
6 outline what we have. Alright, the first one, Your Honor,
7 is Dennis Jones. Mr. Jones, Your Honor, has a possession
8 with intent to distribute crack cocaine conviction from
9 Nineteen eighty-nine.

10 THE COURT: Okay. That's it? Alright, I'm so sorry,
11 it's PWID what? Alright, PWID?

12 SOLICITOR SORENSON: PWID, crack cocaine.

13 THE COURT: Okay.

14 SOLICITOR SORENSON: From Nineteen eighty-nine, and the
15 only thing since then is driving under suspension from Two
16 thousand twelve.

17 THE COURT: Okay.

18 SOLICITOR SORENSON: And obviously, Nineteen eighty-
19 nine, and it's not even a crime of dishonesty, I mean,
20 that's more than ten years old, and then the ones that --
21 and the driving under suspension obviously is not, doesn't
22 fall under anything under Six O nine.

23 THE COURT: Right.

24 SOLICITOR SORENSON: The next one, Your Honor, is
25 Ulysses Daniels. Mr. Daniels, Your Honor, has a Two

1 thousand one failure to stop for a blue light.

2 THE COURT: Okay.

3 SOLICITOR SORENSON: Two thousand three he's got a drug
4 conviction, I'm not sure I could figure out exactly, I think
5 it was dealing with the feds I believe, so if you'll bear
6 with me one second.

7 THE COURT: Okay.

8 SOLICITOR SORENSON: We're having trouble reading
9 exactly what it was. I'm sorry, it's a PWID, I'm just not
10 sure what it is, but a PWID of some nature in Two thousand
11 three.

12 THE COURT: Okay.

13 SOLICITOR SORENSON: He received a three year sentence,
14 so that doesn't help either as to probably what the drug is.
15 Let's see, he's got a criminal domestic violence from Two
16 thousand five, and then a distribution of cocaine, which is
17 what he is currently, he is incarcerated, Your Honor, in the
18 federal government on that, and that's from a Two thousand
19 ten arrest, so I believe he was probably sentenced in Two
20 thousand eleven on that, but obviously, I think that's
21 admissible. Probably the Two thousand three one probably
22 is, too.

23 THE COURT: Yes.

24 SOLICITOR SORENSON: But the other one would be CCV is
25 obviously a Thirty day Magistrate level offense, that's not

1 a crime of dishonestly.

2 THE COURT: Right.

3 SOLICITOR SORENSON: Failure to stop is, you know,
4 Twelve years old, so - - -

5 THE COURT: Right.

6 SOLICITOR SORENSON: Are we good on that?

7 MR. GIPSON: Yes, that's fine.

8 SOLICITOR SORENSON: Alright, the next one is Monique
9 Shawn Guinyard. He goes by Shawn.

10 THE COURT: Yes.

11 SOLICITOR SORENSON: His record is, let's see, he's got
12 a simple assault and battery from, two counts from Nineteen
13 ninety-three. He's got an ABHAN from Nineteen ninety-six, a
14 fraudulent check from Nineteen ninety-six, a CDV from
15 Nineteen ninety-seven. And that may be a couple of driving
16 things.

17 MR. GIPSON: And the ABHAN is Ninety-six?

18 SOLICITOR SORENSON: Uh-huh. So, our position on him
19 would be that those are all outside of, you know,
20 significantly outside of ten years.

21 Alright, the next one, Your Honor, is Ms. Brandy Mack.
22 Mr. Mack has, she has several things that are not shown in
23 disposition, and I don't know the dispositions, a couple of
24 shopliftings and a forgery. She does have a Two thousand
25 seven forgery conviction, and a Two thousand nine

1 shoplifting conviction.

2 THE COURT: Okay. And those two are?

3 SOLICITOR SORENSON: They're both crimes of dishonesty.

4 THE COURT: Yes.

5 SOLICITOR SORENSON: The next one, Your Honor, is Isaac
6 Morgan, Isaac Bernard Morgan, or Bernard Isaac, however you
7 look at it. Mr. Morgan, Your Honor, all he has is a, he has
8 a driving under suspension arrest from back in O-three, and
9 he's got a driving under suspension, second offense, so I
10 assume that first one must have been a conviction, from
11 January of this year that I think may still be pending, I'm
12 not positive about that.

13 THE COURT: Okay.

14 SOLICITOR SORENSON: Obviously, those are just
15 magistrate level.

16 MR, GIPSON: Right. That's nothing to talk about.

17 SOLICITOR SORENSON: Vandy Morgan, Your Honor, has a
18 Ninety-one disorderly conduct, and that would be it.

19 THE COURT: Okay.

20 SOLICITOR SORENSON: Randolph Ryant, or Randy Ryant has
21 a, I think it's from Ninety-nine, it's a DUI, driving
22 without a license, and I believe that's everything.

23 And Tammy Ryant doesn't have anything.

24 THE COURT: Okay.

25 SOLICITOR SORENSON: And I think that's -- I'm sorry,

1 Joe Thomas, I missed him, he's got a Two thousand six
2 driving under suspension. So, that also, that's all of my
3 witnesses.

4 THE COURT: And Donell Ryant nothing?

5 SOLICITOR SORENSON: I'm probably not calling him. So,
6 I've gone over the ones that I have right now, if one of the
7 others, if something changes I will address that, but those
8 are the ones that, I think just about all of those people
9 are here today. So, ...

10 THE COURT: Okay, I'm with you. The only one that I
11 ponder is whether or not under Guinyard the fraudulent check
12 in Ninety-six has any play.

13 SOLICITOR SORENSON: Fraudulent, so worthless check
14 from Sixteen years ago?

15 THE COURT: That's the only one that I think has any
16 essential play at all.

17 SOLICITOR SORENSON: I mean, if Mr. Gipson wants to ask
18 him about a bad check from Sixteen years ago, I don't care.

19 THE COURT: Okay.

20 MR. GIPSON: Fair enough.

21 SOLICITOR SORENSON: If the case turns on that then ...

22 MR. GIPSON: It depends on how big the check was.

23 SOLICITOR SORENSON: It's under a thousand, probably
24 under Two hundred back then actually.

25 MR. GIPSON: Yeah, I think you're right.

1 THE COURT: Okay.

2 SOLICITOR SORENSON: Alright.

3 THE COURT: Anything else?

4 MR. GIPSON: Your Honor, I think that's all I have at
5 the moment.

6 THE COURT: Alright. Do you need five minutes to make
7 sure of your witnesses?

8 SOLICITOR SORENSON: Yes, if I can kind of get
9 everybody kind of organized.

10 THE COURT: Sure.

11 SOLICITOR SORENSON: And I do have a couple of things
12 that maybe I can get Ms. Harry Dot to mark before we start
13 also. It's not a lot of but just a couple of photographs
14 and a couple of diagrams.

15 THE COURT: Okay. I know Ms. Harry Dot's going to need
16 to take a break, too, and then we'll get up and get going.
17 Great. Why don't y'all go take your break, and then, Ms.
18 Harry Dot, you take your break, and then you mark when you
19 get back.

20 (Recess)

21 THE COURT: Okay. Is everybody ready? Yes?

22 MR. GIPSON: Just a quick clarification, Your Honor.

23 THE COURT: Uh-huh, yes.

24 MR. GIPSON: Can we talk about this, I just wanted to
make sure that I'm not running afoul of the Court's

1 position. The prior run-in, is that something that we're
2 going to be allowed to even talk about during openings?

3 THE COURT: No.

4 MR. GIPSON: And the fleeing allegation?

5 THE COURT: No.

6 MR. GIPSON: I just want to make sure we're on the same
7 page.

8 THE COURT: You can hit it hard in your closing but I
9 have made a determination.

10 MR. GIPSON: Thank you, Your Honor.

11 THE COURT: Very well. Is everybody ready to go?

12 MR. GIPSON: Yes, ma'am.

13 THE COURT: Very well, let us have the jury.

14 (Whereupon, the jury
15 enters the courtroom.)

16 THE COURT: At this time, Ladies and Gentlemen, you're
17 going to be sworn in as the jury in this case.

18 CLERK: I'm going to ask you to please stand and raise
19 your right hand.

20 (Whereupon, the jury is duly
21 sworn and impaneled.)

22 CLERK: Thank you, you may have a seat.

23 (Court's Exhibit One
24 marked and filed.)

25 THE COURT: Now, Ladies and Gentlemen, I want to

1 discuss with you the seating arrangement. Mr. Bishop,
2 you've got the hot seat. I'm going to ask you, please, sir,
3 as our presiding juror, if you would be so kind, the
4 presiding juror really has three additional tasks of a
5 regular juror, and they are as follows: You will actually
6 have possession of, physical possession of the verdict form
7 at the conclusion of the case. And at the conclusion of the
8 deliberations of the jury you will simply write the verdict
9 of the jury on the verdict form. Secondly, you will
10 presiding in the jury room during those deliberations just
11 to be sure everybody has a chance to participate. And then,
12 lastly, you are the jury spokesperson here in Court. And
13 what that means is, Judge, I thought you were going to bake
14 us cookies, where are they? Or, It's too hot, or we're
15 having trouble hearing, or it's too cold, or really,
16 anything that the jury may need to communicate to me, if you
17 would take that down in writing and then give it to Ms.
18 Jamison, and she will give that to me. You are the jury
19 spokesperson here in Court, and those are the three
20 additional tasks of the presiding juror, and I appreciate
21 you serving in that capacity. And if you'll keep that seat
22 throughout the trial, just so I can keep up with you as our
23 presiding juror.

24 Now, let's see now, Ms. Stephens, alright. Ms.
25 Stephens, help me, now. Alright. Vandy, Mr. Stephens,

1 thank you so kindly, you are great. And Ms. Jenkins, y'all
2 are our alternates. Would you do me a big favor and keep
3 those two seats throughout the trial so that I can keep up
4 with you as our alternates, if you would be so kind? Now,
5 if y'all want to swap, and Ms. Jenkins, if you want to come
6 and say, Mr. Stephens, I want to check out that seat, how
7 about swapping with me, that's fine. I just need to keep up
8 with you as our alternates. So, if y'all would keep those
9 seats I would be most appreciative. I promise it's not so
10 we know where to put the whoopie cushion, I promise. And
11 y'all will help me. Y'all be seated.

12 With regards to everybody else, there is no assigned
13 seating. If you get a seat that you like, keep it. If you
14 don't get here early and get another seat. There is no
15 assigned seating other than I need to keep up with my
16 alternates and my presiding juror.

17 Now, Ladies and Gentlemen, I do have a few preliminary
18 remarks for you before we get right into the trial of the
19 case, and the reason that I'm going to be doing that,
20 Ladies and Gentlemen, is simply so you can put the trial in
21 a framework, is the reason I'm going to be doing that.

22 Now, Ladies and Gentlemen, I want to tell you, before
23 we even begin this trial, that it's probably going to be
24 different than you will expect. Many people do not have the
25 chance to attend actual court sessions as you are now doing,

1 and may think particularly from watching many of those shows
2 on television, some of them from actual cases such as CSI is
3 based on actual cases, certainly Court T.V. is based on
4 actual cases, Nights of Grace is always railing about
5 something that has occurred in reality, but those matters
6 are actually done for entertainment. This is not done for
7 your entertainment. You know from watching much of the
8 media and perhaps reading books that in those venues trials
9 are always full of high drama and intense action. And while
10 that action will be true at times, this trial again is not
11 for entertainment, a. It is, I would submit to you, it is,
12 b, a fundamental part of our democracy, a search for the
13 truth in an effort to be sure that justice is done between
14 the parties before the Court. Searching for the truth and
15 making sure that justice is done is often slow, deliberate,
16 and repetitive, the opposite of what you have seen on T.V.
17 or movies or read in books. This courtroom is a place of
18 honor dedicated to the protection and the preservation of
19 citizens' rights through what many have called and I submit
20 to you is the greatest system of justice that people have
21 ever come up with.

22 Ladies and Gentlemen, the attorneys, and you've met
23 them, you've had a chance to meet Mr. Sorenson and Mr.
24 Gipson, and they are advocates for the parties they
25 represent, but I want you to know that first and foremost

1 they are officers of the Court and they are sworn to uphold
2 the integrity and the fairness of our judicial system and to
3 help you in the search for the truth. You should expect
4 them to be professional and competent and ethical in their
5 representation of their clients' interests. Remember that
6 you've just taken an oath to try this case and you are also
7 expected to be professional, reasonable and ethical.

8 I first of all want to thank you for accepting this
9 most important responsibility of jury service and for your
10 contribution to our way of life and to our system of
11 justice.

12 Now, Ladies and Gentlemen, I want to talk to you about
13 the procedures that we're going to be following. And again,
14 the reason that I'm going to be doing that is that you'll
15 know where we are in the process. The first thing that is
16 going to occur is, you are going to hear from Mr. Sorenson
17 in his opening statement. You are then going to be hearing
18 from Mr. Gipson in his opening statement on behalf of Mr.
19 Brown. Now, what are opening statements? Well, opening
20 statements present an opportunity for counsel to outline for
21 you what they believe the issues are in this case. They may
22 tell you what you can anticipate hearing, but these
23 statements are intended to give a road map to their case and
24 to what they believe the evidence will show, and also what
25 they believe the issues are in this case.

1 Now, once the opening statements are finished -- and
2 they are not true arguments, and I'll talk about those in a
3 moment -- once the opening statements are finished then the
4 State will present its evidence and, of course, evidence may
5 take many forms. It will be sworn witnesses, it may be
6 photographs and the like. It is so important, Ladies and
7 Gentlemen, that you pay close attention to all the evidence.
8 You know, evidence comes in one piece at the time, and so it
9 is so very, very important that you listen to all of the
10 evidence that is presented.

11 Now, Ladies and Gentlemen, the State has the burden of
12 proving its case beyond a reasonable doubt. And that means
13 that the State must prove each and every element of each of
14 the indictments beyond a reasonable doubt. The burden is on
15 the State and it will be your decision, Ladies and
16 Gentlemen, to determine whether the State has met that
17 burden, and that will be the inquiry that you will be
18 making.

19 Now, Ladies and Gentlemen, under our system of justice
20 a defendant isn't required to prove anything. And we will
21 talk more, much more about that in the concluding
22 instructions that I will give you.

23 Now, Ladies and Gentlemen, once the evidence has been
24 presented in this case then the lawyers will have an
25 opportunity to present to you their closing arguments.

1 Those will be true arguments, and no doubt they will
2 emphasize certain portions of the evidence to try to
3 convince you to agree with their version of the facts.

4 Now, Ladies and Gentlemen, I want you to know that what
5 the attorneys say is very important, I urge you to give them
6 you undivided attention, but remember that what the
7 attorneys say is not evidence. Evidence will come the sworn
8 witnesses in this case and from any exhibits which are
9 admitted into evidence.

10 Now, there are a couple of other things, Ladies and
11 Gentlemen, that I want to talk to you about. First of all,
12 I want you to know that you and I have different duties to
13 perform. You are the finders of the facts. In other words,
14 in this case, Ladies and Gentlemen, no one else will be
15 permitted to make the findings of facts based upon the
16 evidence but you, but you. You know, there is ordinarily
17 no way under our system to correct an erroneous
18 determination of the facts by a trial jury. I, on the other
19 hand, have a very different role to play in this trial, I am
20 the judge of the law. And this really is important for you
21 to consider in two different ways: First of all, you are
22 now, by your oath you must accept and apply the law as I
23 give it to you. I will do that at the conclusion, primarily
24 at the conclusion of the trial. Under our law I am not
25 allowed to intimate, comment on, or make any reference

1 whatsoever with regards to the facts because that is solely
2 within your purview. So, I ask you now if I should do or
3 say anything that looks like it may be a comment on the
4 facts I ask you to please disregard that because I don't
5 have an opinion regarding these facts. Ladies and
6 Gentlemen, that is a matter solely for you to determine.
7 And so, if it appears that I have made a comment on a fact
8 please disregard that, maybe it's too much lunch or
9 something, but I can assure you I have no opinion regarding
10 these facts.

11 Now, Ladies and Gentlemen, over the course of the trial
12 no doubt you will hear these attorneys from time to time
13 say, objection, objection. And I think it's important to
14 explain to you what's going on when that happens. We have
15 under our rules the rules of evidence, and they exist for a
16 very definite purpose. Their purpose is to insure that the
17 information that you receive is the most trustworthy and
18 reliable information that is available. Under our rules of
19 evidence attorneys are given an opportunity to call to my
20 attention as the judge a possible violation of these rules.
21 The way that they do that is by saying, objection, or Your
22 Honor, we have a matter of law, or may we approach? And
23 that's the means by which the attorneys are calling to my
24 attention, as is their duty, a possible violation of the
25 rules of evidence. Now, if I sustain the objection that

1 means the bit of evidence or the bit of testimony cannot be
2 received because it is a violation of the rules of evidence.
3 If I overrule the objection then that bit of testimony, or
4 that exhibit perhaps, can be received. That means that it
5 is not a violation of the rules of evidence. So, you will
6 hear me say, sustained, or overruled.

7 Now, Ladies and Gentlemen, it is my duty to rule on
8 whether evidence is admissible at all or not. That's a
9 matter of law. What weight you give to that evidence,
10 whether you believe it, any inferences you choose to draw
11 from that evidence, Ladies and Gentlemen, those are matters
12 solely for you to determine. That explains how we each have
13 different duties to perform over the course of this trial.
14 Some -- I've heard lawyers actually, in their comments to
15 the jury, say, you know, you're the judges of the facts, and
16 the judge is the judge of the law, and that's fairly
17 accurate.

18 Now, Ladies and Gentlemen, I am going to ask that you
19 pay very close attention to all of these matters. I'm going
20 to ask that you not allow your thoughts to wander but that
21 you give the strictest attention to these matters so that at
22 the conclusion of all of the evidence and the arguments of
23 counsel and my charge on the law that you will then be in a
24 position to make the true findings of facts, take those
25 findings of facts, apply the law to those facts, and hence,

1 render a true and just verdict.

2 Now, counsel, I need you all to approach for just a
3 second.

4 (Whereupon, a bench conference
5 is had out of the hearing of
6 the jury and court reporter.)

7 THE COURT: Now, Ladies and Gentlemen, I know that it
8 is after lunch, but you cannot fall asleep, you cannot. And
9 these matters are of the utmost, the utmost importance to
10 these parties and to our system, and you absolutely cannot
11 be in a position to appropriately deliberate if you fall
12 asleep. I ask you to pay the closest attention to these
13 matters and to cause yourself to be sufficiently alert not
14 to fall asleep. If I see you close your eyes we will have
15 to stop the proceedings. Very well.

16 Now, at this time both sides must be allowed an
17 opportunity to object to anything the Court may have said in
18 opening remarks to the jury. Anything from the State?

19 SOLICITOR SORENSON: Nothing, Your Honor.

20 THE COURT: From the defense?

21 MR. GIPSON: No objections, Your Honor.

THE COURT: Very well. Ladies and Gentlemen, I ask
that you please draw close as we listen to the opening
statements of our counsel.

Mr. Sorenson.

1 SOLICITOR SORENSON: Thank you, may it please the
2 Court, Your Honor?

3 THE COURT: Yes, sir.

4 OPENING STATEMENT BY SOLICITOR SORENSON:

5 Good afternoon, Mr. Foreman and Ladies and Gentlemen of
6 the jury. In my Sixteen years as a prosecutor one of the
7 things that I find myself confronted with multiple times
8 that's kind of disturbing is how suddenly a person can lose
9 their life; how they can be one moment having a good time,
10 hanging out with friends, without a care in the world, and
11 moments later be gone. Back on the night of October Twenty-
12 seventh of Two thousand ten, Thirty-six year old Alex
13 Harrison was that man. He was over at a friend's house here
14 in Orangeburg County on Wingfield Street, outside
15 socializing as a lot of people you're going to hear often do
16 at this house, drinking, talking, having a good time.
17 Moments later he's dead from two gun shot wounds, one to the
18 back and one to the abdomen, and left to die in the grass in
19 that front yard. I submit to you, Ladies and Gentlemen, the
20 man that pulled that trigger two times with that Forty-five
21 caliber gun, the man that took Mr. Harrison's life is here
22 in the courtroom with us today. His name is Romeo Brown.
23 And as Her Honor told you earlier, as you've been told a
24 couple of times today, as a result of his actions that night
25 he's been indicted by the Orangeburg County Grand Jury with

1 two offenses, one for the offense of murder, and one for
2 possession of a firearm by a person convicted of a violent
3 crime.

4 Now, as I was introduced to earlier today, my name is
5 Don Sorenson and I'm a prosecutor here in Orangeburg County.
6 And it's my duty, my responsibility and one that I relish to
7 prosecute this case.

8 I want to take just a couple of minutes, you've heard a
9 lot from Judge Goodstein about kind of where we're going to
10 proceed from here over the next several days. What I want
11 to do is to just take a couple of minutes with you at this
12 point in time and talk to you a little bit about the two
13 charges against Mr. Brown and then just briefly give you a
14 little bit of an idea, kind of a little framework about what
15 you're going to hear from this witness stand when we start
16 calling witnesses up here in a short while.

17 As you were told, he's charged with two offenses. The
18 first one is murder, the most serious crime that one can be
19 charged with in our state. By the same token, it is
20 probably about the shortest and simplest definition of any
21 crime. Murder, Ladies and Gentlemen, is very simply the
22 unlawful killing, the unlawful intentional killing of
23 another man, another person with malice aforethought, either
24 express or implied. Very simply, what that means is, when
25 you take another person's life intentionally and you do it

1 with malice, in other words, ill will, you're guilty of
2 murder. You're guilty of murder. And you're going to hear
3 a little more at the end when Her Honor charges you on the
4 law and gives you a little more of the definitions involved.

5 The other charge that Mr. Brown is charged with is
6 possession of a firearm by a person convicted of a violent
7 crime. And basically, to be able to convict him of that we
8 have to prove to you that obviously back on the night of
9 October the Twenty-seventh of Two thousand ten he possessed
10 a firearm, in this case we're going to allege it was a
11 forty-five caliber pistol that he killed Mr. Harrison with,
12 and also at that point in time that he had a prior
13 conviction for a violent crime. You're going to hear that
14 he had a conviction from Nineteen ninety-nine for armed
15 robbery, which has been deemed a violent crime by our
16 legislature.

17 So, those are the two offenses.

18 Now, as I told y'all, it's my job to prosecute Mr.
19 Brown. I represent the people of Orangeburg County and the
20 family of Alex Harrison here in the courtroom today. And
21 the way that I'm going to do that, Ladies and Gentlemen, is
22 by calling witnesses. Okay? And also, it is my burden, the
23 burden is always in every criminal case on the State of
24 South Carolina to prove a person's guilt beyond a reasonable
25 doubt. And you're going to hear more about that term. But

1 very simply what that means is, after you've heard all the
2 evidence from this witness stand, after all the exhibits,
3 photographs and the like have been put into evidence, after
4 you've heard the closing arguments and the charge on the
5 law, when you get back to your jury room, Ladies and
6 Gentlemen, if you at that point in time are firmly convinced
7 that we have proven to you Mr. Brown's guilt, then under
8 your oath it's your duty to find him guilty of murder and
9 guilty of that firearm charge. Now, by the same token, if
10 you find that we haven't, that there's a real possibility
11 that we have not proven that to you, under your oath you
12 have that same duty to find him not guilty of those charges.

13 Now, you may ask yourself, well, how are we going to go
14 about, you know, learning about this case? And that's going
15 to happen from that witness stand. You're going to hear
16 from a handful of witnesses that were out there that night,
17 that were there prior to the shooting, a handful of them
18 that were there during the shooting and saw the shooting, a
19 handful of them that will come in here, put their hand on
20 that Bible, take an oath to tell the truth, and point the
21 finger at that man as being the person they saw shoot Alex
22 Harrison two times that night. You're going to hear from
23 some of the law enforcement personnel involved, and you're
24 going to hear from the pathologist who's going to come in,
25 that did the autopsy on Alex. That's basically just in a

1 brief nut shell, I mean, as I said, you're going to have an
2 opportunity shortly to start hearing from these witnesses,
3 but just to give you a little idea of what you're going to
4 hear about.

5 Now, as Her Honor told you, at the close of all the
6 evidence in this case we're going to have an opportunity,
7 myself and the Mr. Gipson also, to come back before you to
8 argue to you about what we feel the facts in this case have
9 proven. This whole process is kind of like putting together
10 a jig saw puzzle sometimes. No single witness sometimes
11 will prove everything, no single witness or piece of
12 evidence will prove everything. So, I ask you, Ladies and
13 Gentlemen, as you hear the witnesses that come before you
14 the one thing that I do ask of you throughout this whole
15 thing is to not only pay attention, as I'm sure you will,
16 but to keep an open mind. Okay? As I said, this is kind of
17 like putting together a jig saw puzzle. And I submit to
18 you, when you've heard all the evidence in this case, when
19 you've heard from all the witnesses, and we've had a chance
20 to come back before you and give our closing arguments, and
21 you've heard the charge on the law, I submit to you that
22 puzzle is going to be complete, that picture is going to be
23 clear. And I submit to you, it's going to prove to you not
only beyond a reasonable doubt, but beyond any doubt that
the man that pulled that trigger two times back on October

1 Twenty-seventh, Two thousand ten, and killed Alex Harrison
2 is that man, Romeo Brown.

3 Thank you.

4 THE COURT: Thank you, Mr. Sorenson.

5 Mr. Gipson.

6 MR. GIPSON: Thank you, Your Honor, may it please the
7 Court.

8 THE COURT: Yes, sir.

9 MR. GIPSON: Mr. Sorenson.

10 OPENING STATEMENT BY MR. GIPSON:

11 Mr. Foreperson, and Ladies and Gentlemen of the jury,
12 good afternoon. There's a proverb that says that the
13 witness who speaks first seems correct until someone tells
14 the other side of the story and sets the record straight.
15 The witness who speaks first seems correct until someone
16 tells the other side of the story and sets the record
17 straight. Folks, I'm here today to set the record straight.
18 Romeo Brown did not shoot Alex Harrison. Romeo Brown did
19 not kill Alex Harrison. Romeo Brown didn't even see Alex
20 Harrison that particular day.

21 As we come here to set the record straight you have to
22 understand a few things. First and foremost, as Mr.
23 Sorenson said, we are here for a tragic situation. It's
24 truly tragic anytime a young person loses their life at the
25 hands of someone by a gun, it's tragic, there's no question

1 about it. But it's even more tragic if somebody's alleged
2 of committing a crime that they didn't commit. It's even
3 more tragic when you just come into this courtroom and call
4 somebody a murderer when they didn't do it. So, that's why
5 we're here, that's why we're here, to set the record
6 straight.

7 Ladies and Gentlemen, as we've talked about, my name is
8 Byron Gipson and I do represent Romeo Brown. And over the
9 next couple of minutes I'll do similar to what Judge
10 Goodstein has done and what Mr. Sorenson has done, just to
11 lay a little bit of a foundation and to give you just a
12 little bit of a game plan or a map of what to expect over
13 the next couple of days, and just generally how this
14 process works.

15 This case has come to you by an indictment, or two
16 indictments, quite frankly, that Mr. Sorenson has presented
17 before you that have alleged murder and they have alleged
18 possession of a weapon by somebody convicted of a violent
19 crime. But you have to realize that these indictments are
20 just plain old paper. As Judge Goodstein said, they mean
21 absolutely nothing unless the jury, which means all Twelve
22 of you, and that's no disrespect to our alternates, but the
23 jury, you, the jury, have to come back after listening to
24 all the evidence that comes from this witness stand, you
25 have to listen to it and come back with a verdict. And at

1 that point that's when you have an opportunity to attach
2 meaning, or no meaning, to the indictments that Mr. Sorenson
3 brought before you. So, at this point it's paper, it's a
4 ticket that requires you to come to Court because you've
5 been, somebody said something happened. But unless you, the
6 jury, attaches proof to it beyond a reasonable doubt it
7 means nothing.

8 And you keep hearing the term, beyond a reasonable
9 doubt. The Courts in South Carolina have defined reasonable
10 doubt as the amount of doubt that causes a reasonable person
11 to hesitate to act, the amount of doubt that causes a
12 reasonable person to hesitate to act. There's also an
13 alternate definition that you may hear from the Court, and
14 that definition says that in order to find somebody guilty
15 of any crime you have to be firmly convinced of their guilt.
16 Again, in order to find somebody guilty of a crime you have
17 to be firmly convinced of their guilt. So, and if you hear
18 the term, reasonable doubt, tossed around, you have to
19 understand that the folks sitting at this table have what is
20 called the burden of proof. They have to bring all of the
21 information to you that's necessary for you to make those
22 decisions about what happened, and more importantly, what
23 did not happen out there on October Twenty-seventh, Two
24 thousand ten. So, that's going to be gravely important in
25 this case.

1 As jurors, as Judge Goodstein mention, you all are
2 going to be the judges of the facts. And again, she is the
3 judge of the law. So again, you have to take the law as she
4 gives it to you, and you'll have to determine what the facts
5 are and what happened and didn't happen. And then at the
6 end of the case she will instruct you as to what the law is,
7 and you'll apply the law to the facts of this case and come
8 back with a verdict.

9 And you're probably asking yourself, or some of you who
10 have not had jury duty before may be asking, well, how am I
11 supposed to come up with a verdict, what am I supposed to
12 do, what magical thing is going to happen to help me
13 understand how I need to do this job? And I'll tell you
14 that you are already equipped with all of the things that
15 you need just based on life experiences. Just like right
16 now you're looking at me and you're judging my credibility,
17 my believability, you're seeing if you think that I'm full
18 of it or if you think that I'm being honest with you.
19 You'll have an opportunity to do that with every witness
20 that comes up and sits in this chair. So, I submit to you,
21 you have everything that you need already. When you parked
22 your car this morning you didn't leave your common sense out
23 there, you brought it with you, and that's all that we're
24 asking you to do. That's why we went through that
25 painstaking process this morning and this afternoon to pick

1 you all as jurors because we wanted to make sure that we
2 could get impartial people to sit and listen to the facts of
3 this case, because you know it's a serious matter. You
4 don't have any friends to reward or any enemies to punish,
5 you're here as a jury to well and truly try the facts of
6 this case. Not something that you've heard on T.V. or not
7 something that you may have read in the paper, but the facts
8 of this case that come from this witness stand that are
9 heard in this courtroom, and to make a decision based on
10 those things. Not a decision based on passion or what you
11 feel should be or could be, but what happens in this
12 courtroom and what's presented by the folks at this table.

13 Now, I suspect that you're going to hear from several
14 types of witnesses in this case. You'll hear from some law
15 enforcement witnesses, you'll hear from some folks who may
16 be qualified as experts, which means they can give their
17 opinion on different matters, you'll hear from folks who
18 purport or say that they are eye witnesses to this matter,
19 and you may hear from others. But I suspect that as the
20 case proceeds you'll hear from those types. What I'm going
21 to ask you to do is to judge each of these types of
22 witnesses critically. First and foremost you're going to
23 hear from law enforcement, and I will tell you this until
24 I'm blue in the face, they have an extremely difficult job
25 to do, and it's a job that we all respect and it's a job

1 that has to be done, and I respect what they do and the
2 bravery with which they go about doing what they do.
3 However, they put their pants on one leg at a time just like
4 you and I do, and they are to be judged, meaning their
5 credibility, their believability, just like anybody else in
6 this courtroom who gets up to testify. They're not to be
7 given any additional deference simply because they wear a
8 badge. If they made a mistake, failed to do something that
9 should have been done, you are to hold them accountable just
10 as you would any person sitting in that witness stand,
11 because they are accountable, because a man has been charged
12 with murder in this case. It's not time for shortcuts, it's
13 not time for would have, could have, should have, or I meant
14 to, or I thought, or I forgot, it's not time for that. This
15 Court is committed to justice and committed to making sure
16 that anybody who's accused of a crime has an opportunity to
17 come into this Court cloaked in innocence and have you, the
18 jury, make a determination about what did and didn't happen.
19 So, you hold law enforcement to that standard, you hold lay
20 persons, meaning people just like you or me, to that
21 standard. You hold experts to that standard, and if you
22 believe that there are supremely qualified, and the Court
23 will give you instructions later, to give certain opinions -
24 - and I'm relating to experts now -- then you give them that
25 deference. But still hold them accountable for all of the

1 decisions that they made and the things that they did or
2 shouldn't have done.

3 And think about what's reasonable in a situation.
4 Think about a scenario where a person who you care about or
5 your friend gets injured or killed, and ask the question,
6 how long would it take to tell the police who did it? Ask
7 yourself that question. Ask about what's reasonable. Ask
8 about credibility and believability of witnesses as you
9 start to let that play around in your heads throughout this
10 trial.

11 You're going to be introduced to two major types of
12 evidence in this case. The first is -- and technically
13 three. The first is direct evidence. Direct evidence is
14 evidence that you can see, that you can touch, that you can
15 feel. And the sheriff's department may bring some direct
16 evidence, things that you can look at, shot gun, shell
17 casings, things of that nature, they may bring those things
18 in and that could be considered direct evidence if you, the
19 jury, determine that it's relevant and that it's evidence.
20 You may also hear what's called circumstantial evidence.
21 Circumstantial evidence is evidence that you can infer
22 exists based on a series of facts. Let me say that one more
23 time, evidence that you can infer just based on a series of
24 facts. And simply what that is, an example of that, a
25 classic example, we're sitting in this courtroom, and let's

1 assume that the blinds are down and closed. And if you go
2 out of here at five or five:thirty today and you see snow
3 out on the ground, you see snow tracks, and it's cold
4 outside. You can infer that it snowed even though it feels
5 like summertime in here, you can infer that it snowed just
6 based on the fact that you see the prints, you see snow, you
7 can see the lines, you see icing out there, you can infer
8 that it snowed even though you didn't see it. So, that's
9 kind of an example of circumstantial evidence, and that's
10 just as good as direct evidence if you, the jury, determine
11 that it's real evidence and you feel like it's credible.
12 Lastly, there's stipulations, and stipulations are types of
13 evidence, evidence that maybe Mr. Sorenson and I agree upon.
14 And if we agree the Court will inform you and will read the
15 stipulation to you, and the stipulation is to be taken as an
16 absolute fact and not to be questioned because both sides
17 agree to it. But that's generally the three types of
18 evidence that you're going to have.

19 Now, Mr. Sorenson, after -- he mentioned that cases
20 like this are like putting together a jig saw puzzle, and
21 that's one thing that I do, I have a jig saw puzzle complex.
And that's because, as he said, there's going to be pieces
of evidence that you'll get over here and put it on the jig
saw puzzle, a piece over here that you put together, a
piece down here that you put together. And little by little

1 you start putting the puzzle together in an attempt to
2 complete it. But sometimes, as you all know, playing with
3 those puzzles as kids, sometimes the pieces aren't there,
4 and if the pieces aren't there you can't complete it. And
5 in a case like this, the folks at this table are charged
6 with bringing you those pieces. If they fail to bring you
7 those pieces and you can't put that puzzle together -- it's
8 not up to you to speculate, but based on the oath that you
9 took to well and truly try the facts of this case around
10 three o'clock today that you just took, you have to find Mr.
11 Brown not guilty, because again, it's their job to bring
12 that information to you, and they've got to prove it to you
13 beyond a reasonable doubt.

14 What types of things would you expect to find in a
15 murder case? You expect to find some DNA, you expect to
16 find some nail scrapings of some sort, you expect to find
17 signs of a struggle, maybe footprints, maybe finger prints,
18 maybe some blood spatter, maybe some evidence to say that
19 something happened or to prove what other people are saying
20 happened, you expect that. It's almost like, you know, at
21 home if you bake a cake, you leave the house and come back,
22 you're going to still have the smell of cake. And that's
23 the kind of thing that you expect to find. What I'm asking
24 you to think about critically, those are the types of things
25 that I'm asking you to think about, what would you expect to

1 find in this situation?

2 I'd ask you also to just remember, and it's not been
3 really discussed yet, but it's important, there's a thing in
4 this country called the Fifth Amendment, and it's played
5 around, you've seen it played around with the different
6 rules here, but the short version of it is, if you're
7 alleged to have committed, somebody alleges that you
8 committed a crime of some sort, you don't have to testify.
9 You can sit back and allow these folks, because they have
10 the burden of proof, they have to bring the evidence to you
11 beyond a reasonable doubt, they have to bring the case to
12 you, and you don't have to testify. You don't have to say a
13 word, you can sit on your hands and listen, and they still
14 have to bring enough evidence to convince you of those
15 things. If a person chooses not to testify you can't hold
16 that against them because that is their constitutional
17 right, and it's a constitutional right that we fought and
18 bled for for over Two hundred and fifty years in this
19 country, and it's one that I respect and as a jury we
20 respect in this courtroom, and Mr. Sorenson respects. It is
21 a right, and if Mr. Brown chooses not to testify you cannot
22 hold that against him.

23 I'd just ask you again to apply the facts and the law
24 together as you make your decision, and if something makes
25 you hesitate, then just remember the standards that you, as

1 a jury, are sworn to uphold.

2 And I'll leave you with this quotation, it comes from
3 an Eighteenth century philosopher named Omar Kidan. The
4 quotation says that, "The moving finger writes, and having
5 writ, moves on, nor all your piety nor wit shall lure it
6 back or cancel half a lie, nor all your tears wipe out a
7 word." "The moving finger writes, and having writ, moves
8 on, and all your piety nor wit shall lure it back or cancel
9 half a lie, nor all your tears wipe out a word." At the end
10 of this case I'll explain to you why the quotation and
11 proverb from over Eight hundred years ago applied just as
12 well then as it does in Two thousand twelve. And just
13 remember that Mr. Brown has come to this courtroom cloaked
14 in innocence, and at the end of this case I'm going to ask
15 you to return a verdict of not guilty because he's innocent,
16 and too, the State has failed to prove its case beyond a
17 reasonable doubt.

18 Thank you.

19 THE COURT: Thank you, Mr. Gipson.

20 Mr. Sorenson, call your first witness, please.

21 SOLICITOR SORENSON: The State calls Lieutenant Craig
22 Davis.

23 THE COURT: Alright.

24 CLERK: Will you please put your left hand on the Bible
25 and raise your right.

1 (Whereupon, Craig Davis
2 is duly sworn.)

3 CLERK: Thank you. You may have a seat, and state your
4 name again for the record.

5 WITNESS: Lieutenant Craig Davis, Orangeburg County
6 Sheriff's office.

7 CLERK: Thank you.

8 (NOTE: Blank lines on this page do not indicate any part of
9 record has been omitted. Headers on testimony pages and
10 hard page breaks between testimony are now required by the
11 Court. See next ensuing page for sequential continuation of
12 record.)

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1. CRAIG DAVIS - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Lieutenant Davis, obviously you just indicated that
4 you're employed at the sheriff's office. How long have you
5 been there?

6 A. Six years.

7 Q. Okay. What are your current duties there?

8 A. I'm a lieutenant, patrol division.

9 Q. Okay. And how long have been employed in that capacity?

10 A. Two years.

11 Q. Okay. And as a lieutenant are you a supervisor there?

12 A. I am.

13 Q. And how many, how many other offices do you supervise in
14 the patrol division?

15 A. I have nine currently assigned to my shift.

16 Q. Okay. And if you would, do you have any prior law
17 enforcement experience prior to the sheriff's office?

18 A. Yes, I served as an investigator with the South Carolina
19 State University Police Department. Prior to that I was an
20 investigator with the State of New Jersey.

21 Q. Okay. And I want to turn your attention, Lieutenant, if
22 I could, back to the evening of Wednesday, October Twenty-
23 seventh, of Two thousand ten. Were you on duty that
24 evening?

25 A. I was.

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1 Q. And did you have an opportunity, an occasion to respond
2 out to Wingfield Street here in
3 Orangeburg?

4 A. Yes, sir.

5 Q. Okay. And is that located in Orangeburg County?

6 A. Yes, sir.

7 Q. Okay. And if you would, tell the jury what the nature
8 of you responding out there that night was?

9 A. We were dispatched to a shooting incident.

10 Q. Okay. And what time, do you remember what time it was
11 that you were dispatched that night?

12 A. Not off the top of my head, I'd have to review the
13 report.

14 Q. Did you prepare an incident report after that incident?

15 A. I did.

16 Q. And would that help refresh your memory as far as times
17 and things of that nature?

18 A. Yes, sir.

19 SOLICITOR SORENSON: Any objection to me showing him
20 that?

21 MR. GIPSON: No objection.

22 Q. Does that kind of refresh your memory, Lieutenant?

23 A. It does.

24 Q. Okay. And what time was it that y'all, that you were
25 dispatched out there that night?

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1 A. I was dispatched at Twenty:fifty-seven.

2 Q. So what time would that be?

3 A. That would be Eight:fifty-seven.

4 Q. Eight:fifty-seven in the evening?

5 A. Yes, sir.

6 Q. Okay. And what time did, did you arrive out there, sir?

7 A. At Eight:fifty-nine.

8 Q. Okay. So, a couple of minutes after, after the
9 dispatch?

10 A. Yes, sir.

11 Q. Alright. And you said the nature of that call was a
12 shooting?

13 A. Yes, sir.

14 Q. Okay. And if you would, when you arrived out at that
15 scene, Lieutenant, could you describe for the jury kind of
16 what you came upon when you got out there that night?

17 A. Okay. When I first arrived on the scene I was the first
18 officer on arrival. I observed several people surrounding a
19 young man that appeared to be lying on the ground.

20 Q. Okay. And where was he located at in reference to the
21 residence?

22 A. In the front yard.

23 Q. Okay. And

24 SOLICITOR SORENSON: Let me show you these.

25 MR. GIBSON: Without objection.

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1 THE COURT: Very well.

2 Q. Let me show you what's been marked as State's Exhibits
3 One through Four, and do those photographs kind of
4 accurately depict kind of where things were located at at
5 that residence when you arrived out there?

6 A. Yes, sir.

7 Q. Okay. And in those photographs there's a sheet covering
8 the victim, is that right?

9 A. Yes, sir.

10 Q. And was that sheet on him when you got there or was that
11 put on him after you got there?

12 A. That was after EMS arrived.

13 Q. Okay. And there are a couple of other markers that are
14 on the ground, were those after crime scene investigators
15 got there?

16 A. Yes, sir.

17 Q. Otherwise, does that accurately depict the scene that
18 you arrived on that night?

19 A. Yes, sir.

20 SOLICITOR SORENSON: Your Honor, at this time we'd
21 offer State's One through Four into evidence.

22 THE COURT: And I gather there's no objection?

23 MR. GIPSON: That's correct, Your Honor.

24 THE COURT: State's Exhibits One through Four into
25 evidence without objection, they are photographs.

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1 (State's Exhibits One through Four
2 marked and filed.)

3 Q. I'm showing you - - -

4 SOLICITOR SORENSON: Could I have the lieutenant step
5 down just briefly?

6 THE COURT: You may. Let me tell you what's difficult.
7 I'm not worried about the volume of his voice, I am worried
8 about the size of the photographs, and we're going to have
9 to probably - - -

10 SOLICITOR SORENSON: Move?

11 THE COURT: Yes, you are, I think three different
12 sections is what you can plan on. Yes.

13 Q. I'm showing you State's Exhibit Number One, what is
14 depicted in State's Exhibit Number One? Kind of point it
15 out and then we'll go and kind of slide down.

16 A. This is the residence where the incident took place, you
17 can see the vehicles parked in the front yard. To the left
18 are some picnic tables that were there. Where you see the
19 sheet on the floor is where the deceased was.

20 Q. Okay. Now let's slide down and kind of go through that
21 again.

22 A. Okay. This is the residence, this is the address, it's
23 that location, several vehicles that were parked on the
24 premises, these were picnic benches, things of that nature,
25 you had some tables that were to the left of the residence,

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1 and where the sheet is, that's going to be where we found
2 the deceased.

3 Q. Now, when you arrived that night you indicated, I guess
4 it was a minute or so before nine o'clock in the evening?

5 A. Yes, sir.

6 Q. Had the sun gone down?

7 A. Yes, sir.

8 Q. And describe, if you could, for the jury what the
9 lighting was out in that yard when you got there that
10 night?

11 A. Just basically the light provided by the stars and the
12 moon, and some street lights that were on the street.

13 Q. Okay. And were you able to see in the yard when you got
14 up in there?

15 A. Yes, sir.

16 Q. Okay. Have any, if somebody was, you know, five to ten
17 feet away from you were you able to see them when you were
18 out there?

19 A. Yes, sir, in my opinion.

20 Q. I'm showing you State's Exhibit Number Three, let's go
21 down this way.

22 A. Pretty much the same photograph, different angle, picnic
23 tables where the, some chairs and everything were, the
24 residence here, this was the incident, the house, several
25 vehicles that were parked in the yard, the deceased in this

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1 area.

2 Q. And I'm showing you State's Exhibit Number Two, does
3 that then show kind of where the deceased's body was?

4 A. Yes, sir. This is where the picnic tables were that we
5 previously mentioned, and this is where the deceased was
6 located outside the residence.

7 Q. Okay. And State's Exhibit Number Four I guess is just
8 kind of a close-up, is that correct?

9 A. That's correct.

10 Q. And the deceased after a sheet's been put on him, over
11 him?

12 A. This is, again, a photograph of the victim after EMS
13 had arrived on the scene, declared, and placed a sheet over
14 him.

15 Q. Thank you, Lieutenant, just have a seat. Now, when you
16 arrived on the scene that night, Lieutenant, obviously, the
17 victim, did you ultimately learn the victim's name?

18 A. I did.

19 Q. And what was that that you learned for your report?

20 A. Alexander Travis Harrison.

21 Q. Okay. Now, when you, when you arrived there, the
position of where his body is in the photograph, is that
where he was when you got there?

A. Yes, sir.

Q. Okay. Now, tell the jury, was there anybody else out

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1 there when you got there that night?

2 A. There were a host of people, I believe they were out
3 playing cards and playing games or just drinking at the
4 picnic tables there when this incident occurred. There was
5 a host of people that were surrounding the body at the
6 time.

7 Q. Did they appear to be doing anything when you got there?

8 A. They looked like they were just trying to render aid,
9 maybe protect the wound, put something over the wound,
10 things of that nature.

11 Q. Okay. And in fact, was there a shirt found kind of next
12 to the victim's body?

13 A. Yes, sir.

14 Q. Now, you had indicated a few moments ago that EMS
15 arrived out there?

16 A. Yes, sir.

17 Q. And did they attempt to treat Mr. Harrison?

18 A. Yes, sir.

19 Q. Alright. And were they able to?

20 A. He was pronounced dead at the scene.

21 Q. Were you aware of where he was, what kind of injuries he
22 had suffered at all?

23 A. Gun shot wounds, multiple gun shot wounds.

24 Q. What -- Lieutenant, then, what, as kind of that initial
25 responding officer, what, then, is kind of your duties and

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1 your responsibilities when you come upon a scene such as
2 this where you have a handful of witnesses out there and a
3 deceased body, what did you then do at that point in time?

4 A. The first thing I did at that scene, and I would do at
5 most scenes when there's a shooting and a deceased would be
6 to secure the area, make sure no evidence is contaminated to
7 the best of my ability. I would rope it off, I would
8 initiate what we deem as a protocol within our department
9 for whatever particular incident that we're responding to
10 that would include calling the on call investigator. In a
11 case like this you normally would get your head
12 investigator out to the crime scene, the duty captain,
13 things of that nature, would all be called to the scene.
14 I'd rope off the scene and try to isolate the witnesses as
15 best as possible.

16 Q. Okay. And as far as initiating that protocol and
17 contacting your supervisor, the investigations and crime
18 scene, was that all done in this case?

19 A. Yes, sir.

20 Q. Alright. And did those people respond out there?

21 A. Yes, sir.

22 Q. And then you also testified that one of the other things
23 you would do would be to attempt to kind of secure the scene
24 and rope it off?

25 A. Yes, sir.

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1 Q. Was that done in this case?

2 A. Yes, sir.

3 Q. And what area did you, did you attempt to rope off or
4 tape off?

5 A. If I remember correctly we roped off from, I think there
6 was a tree or something from in front of the residence all
7 the way to the other side of the residence, the complete
8 front end of the residence and around to the side so there
9 would be no entry from the side, the front, I think there
10 was a tree or something to the left of it.

11 Q. I'm showing you State's Exhibits Numbers One and Three,
12 do those pictures actually show some of that crime scene
13 tape?

14 A. Yes, sir.

15 Q. Okay. And basically you kind of secured that entire
16 front lawn area, is that correct?

17 A. Yes, sir.

18 Q. Okay. Now, was Mr. Harrison's body moved at that point
19 in time?

20 A. No, sir.

21 Q. And then the last thing I believe you indicated,
22 Lieutenant, that you would have then done would be to
23 attempt to kind of separate and isolate whatever witnesses
24 were out there?

25 A. That's correct.

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1 Q. Okay. And did you in this case attempt to do that also?

2 A. I did.

3 Q. Okay. And ultimately, were other officers arriving out
4 there to assist you in doing some of these duties?

5 A. Yes, sir, yes, sir.

6 Q. And let me ask you, Lieutenant, did you have an
7 opportunity then to formally sit and question any of those
8 witnesses that were out there?

9 A. I did not, just getting basic information to try to get
10 identification on the victim or, or the defendant at that
11 time, whatever I could pass on to the investigators.

12 Q. Okay. And did you also in your report note at least
13 some, a few of the witnesses that you briefly spoke to out
14 there?

15 A. I did.

16 Q. And who was that that you noted that you had spoken to
17 before they were, kind of everybody was turned over to
18 investigations?

19 A. Initially a Mr. Vandy Morgan, a Mr. Joe Thomas, a Mr.
20 Isaac Morgan, and a Miss Brandy Mack.

21 Q. Those are the four that you kind of noted that you at
22 least had some contact with?

A. Yes, sir.

Q. Okay. Let me ask you this, do you remember specifically
what any of those individuals may have told you,

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1 specifically what any individual may have told you or
2 anything or ...

3 A. Not specifically, only that they possibly had
4 information pertaining to the incident, and they were
5 separated.

6 Q. Okay. What would they have done with them, whose job
7 was it to kind of follow up and talk to them?

8 A. The investigators.

9 Q. And what did your duties consist of then the rest of the
10 night out there?

11 A. Just to insure that the scene was still secure until
12 crime scene arrived, and we had to call in SLED's crime
13 scene at this incident. They came and processed the area,
14 and once they had enough deputies on scene, officers on
15 scene to keep it secure I went back to my patrol duties.

16 Q. Okay. And what time did you end up clearing the scene,
17 or was the scene cleared that night, is that noted in your
18 report?

19 A. I cleared -- I cleared at Twelve:twenty-nine.

20 Q. So, Twelve:thirty in the morning or so?

21 A. Correct.

22 Q. To your knowledge, Lieutenant, did you ever come into
23 contact with Mr. Romeo Brown out there that night, to your
knowledge?

A. I did not.

CRAIG DAVIS - DIRECT BY SOL. SORENSON

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1 SOLICITOR SORENSON: Thank you, Lieutenant, please
2 answer any question that Mr. Gipson may have.

3 A. Yes, sir.

4 THE COURT: Cross-examination.

5 MR. GIPSON: Thank you, Your Honor.

6 THE COURT: Yes.

7 (NOTE: Blank lines on this page do not indicate any part of
8 record has been omitted. Headers on testimony pages and
9 hard page breaks between testimony are now required by the
10 Court. See next ensuing page for sequential continuation of
11 record.)

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 CRAIG DAVIS, CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good afternoon, Lieutenant Davis.

4 A. Good afternoon.

5 Q. I'll scoot back a little bit. Now, I'm going to ask you
6 a series of questions, and if you could just do me the favor
7 of answering them yes or no?

8 A. Yes, sir.

9 Q. And then you'll have ample opportunity to explain each
10 answer.

11 A. Yes, sir.

12 Q. Alright. Now, you've had about how many years total in
13 law enforcement?

14 A. About Nineteen years.

15 Q. Okay. And out of those Nineteen years you mentioned
16 you've had about, you had some with South Carolina State?

17 A. Yes, sir.

18 Q. And you were -- well, let's start from the beginning,
19 you said the State of New Jersey?

20 A. Yes, sir.

21 Q. Okay, what was your position there in New Jersey?

22 A. Investigator.

23 Q. Okay. And in order to be an investigator you've got to
24 go through a good bit of schooling, correct?

25 A. Yes, sir.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Alright. So, it starts with the Criminal Justice
2 Academy, I'm not sure exactly what it was called in New
3 Jersey?

4 A. Academy training.

5 Q. Okay. And so, to do that or essentially to become a
6 certified officer you have to go through an array of
7 different kinds of experiences and tests and things of that
8 nature, right?

9 A. Yes, sir.

10 Q. And some of it is just plain old just -- and when I say
11 plain that's no disrespect but just plain old officer
12 training just in terms of on how to secure a crime scene --
13 well, let's start from the beginning, just patrolling,
14 things of that nature?

15 A. Yes, sir.

16 Q. And then after patrolling you learned a little bit about
17 taking witness statements down and you also learned a little
18 bit about just kind of general memorializing a crime scene,
19 you know, writing down things, just securing a crime scene,
20 just kind of basic things, correct?

21 A. Yes, sir.

22 Q. And you do that because as a young law enforcement
23 officer if you're just on patrol you're going to run across
24 all types of things, right?

A. Yes, sir.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. And so, you just have to be able to know a little bit
2 about a lot of different things just in case you come in
3 contact with them, right?

4 A. Yes, sir.

5 Q. Alright. And about how many weeks would that initial
6 training be in New Jersey?

7 A. It's about three months long, the academy training
8 generally.

9 Q. Okay. And so you were certified in New Jersey?

10 A. Yes, sir.

11 Q. Alright. And you went further than that, right?

12 A. Yes, sir.

13 Q. And you became an investigator, right?

14 A. Yes, sir.

15 Q. So, to become an investigator you had to get even more
16 training, right?

17 A. Well, they promote you based on your performance.

18 Q. Right. So, based on your merits you were promoted to
19 investigator, right?

20 A. Yes, sir.

21 Q. And again, you received even more training at that
22 point, right?

A. Yes, sir.

Q. And it teaches you more about writing down what happened
and how to investigate crime scenes and things of that

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 nature, right?

2 A. Yes, sir.

3 Q. So, you do have a good bit of training in that area just
4 from your New Jersey experience alone, right?

5 A. Yes, sir.

6 Q. So, when you moved to South Carolina you received -- did
7 that certification transfer to South Carolina?

8 A. It did not, I had to go through the academy again.

9 Q. Alright. So, you've been twice trained?

10 A. Yes, sir.

11 Q. Or doubly certified?

12 A. Yes, sir.

13 Q. So, you were certified in New Jersey and here?

14 A. Yes, sir.

15 Q. And it was really a lot of the same techniques, wasn't
16 it?

17 A. Pretty much, yes, sir.

18 Q. And different states may have a couple of different
19 nuances, but it's a lot of the same things?

20 A. Yes, sir.

21 Q. And so, you became an investigator here as well,
22 correct?

23 A. Yes, sir.

24 Q. And you spent a couple of years over at South Carolina
25 State?

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 A. One year.

2 Q. Okay. One year at State and then moved over to the
3 sheriff's department here?

4 A. Yes, sir.

5 Q. And you've been here about six years?

6 A. Yes, sir.

7 Q. And again, based on your merit and the good work that
8 you do you were promoted to lieutenant?

9 A. Yes, sir.

10 Q. And that's been for two years?

11 A. Yes, sir.

12 Q. Alright. And you have, you said about nine people under
13 your supervision?

14 A. Yes, sir.

15 Q. Alright. So, one of the things that you've learned as
16 an investigator that it is crucial to write down all of the
17 things that take place, right?

18 A. Yes, sir.

19 Q. And one of the things, one of the reasons you do that is
20 because there may become a point in time when you have to
21 come into Court, right?

22 A. Yes, sir.

23 Q. And you need to write it down contemporaneously or right
24 about the time that it happens so you don't have to worry
25 about remembering stuff, right?

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 A. Yes, sir.

2 Q. Because quite frankly, if something happens, your mind
3 is going to be a lot fresher right when it happens as
4 opposed to, say for instance, in this situation, about
5 Eighteen, Nineteen months later?

6 A. Yes, sir.

7 Q. Alright. So again, you're taught to write it down and
8 then you have somebody who approves it, right?

9 A. Well, yes, sir.

10 Q. And you do that again because, Number One, you just want
11 to be thorough, right?

12 A. Correct.

13 Q. And you don't want to miss anything, right?

14 A. Yes, sir.

15 Q. And you want to make sure that, especially when it's a
16 serious matter like this where somebody has been killed, you
17 want to make sure that you have done everything that you
18 need to do and there's proof that you've done it by writing
19 it down, right?

20 A. Yes, sir.

21 Q. And that's exactly what you did here?

22 A. Yes, sir.

23 Q. Alright. Now, you were not the investigating officer in
24 this case, correct?

25 A. That's correct.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Who was it?

2 A. I'm not sure who was assigned it through investigations.

3 Q. Okay. But you weren't the one?

4 A. No, sir.

5 Q. So, essentially, your job was to, as a first responder,
6 being one of the first who got on the scene, was to secure
7 the scene, right?

8 A. Yes, sir.

9 Q. To separate witnesses?

10 A. Yes, sir.

11 Q. Make sure things didn't get contaminated?

12 A. Yes, sir.

13 Q. And to also just kind of prepare it for whomever the
14 sheriff's department deemed to be the person to come in and
15 investigate, right?

16 A. That's correct.

17 Q. And based on your experience, technically you could do
18 it but you just weren't, that wasn't your job that day?

19 A. That was not my capacity that day, that's correct.

20 Q. And so, the buck doesn't stop with you because you
21 weren't the investigator, right?

22 A. Correct.

23 Q. So, whoever is the investigator is who the buck stops
24 with?

25 A. I would assume so, yes, sir.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Okay. Do you know if it was Investigator Eikhoff?

2 A. I honestly don't remember who was assigned to it, there
3 were multiple investigators that were called to the scene.

4 Q. Okay.

5 A. I don't know who took lead.

6 Q. Let me ask you another question, are you familiar with a
7 thing called a crime scene entry log?

8 A. Yes, sir.

9 Q. Okay, did you keep one of those or was that your job
10 that day?

11 A. I believe I might have gave someone else that
12 responsibility.

13 Q. Okay. I'm just going to hand this to you for a moment
14 and just let me know if you recognize it now?

15 A. Sure.

16 Q. Take a look at that. Does that look familiar?

17 A. Yes, sir.

18 Q. Okay, was that your work product or was that one of the
19 other investigators?

20 A. That would have been one of the other officers.

21 Q. Okay. But can you tell us generally - - -

22 MR. GIPSON: And if I could, Your Honor, just to mark
23 it for ID purposes?

24 THE COURT: I think so.

25 COURT REPORTER: Defendant's Number One for ID.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 (Defendant's Exhibit One,
2 crime scene entry log,
3 marked for identification.)

4 MR. GIPSON: Thank you.

5 Q. I'm just going to hand back to you this Defendant's
6 Exhibit Number One for ID purposes, - - -

7 A. Yes, sir.

8 Q. --- for purpose of clearing the record. Now, just tell
9 us generally what the purpose of a crime scene entry log
10 is?

11 A. It's just a document of who might have been on the crime
12 scene or reported to the crime scene.

13 Q. And again, that's one of those things you want to do
14 because it helps you just kind of keep a detailed report on
15 everybody who was around?

16 A. Yes, sir.

17 Q. Alright, so you can know who was there, when they were
18 there, and more importantly, who wasn't there, right?

19 A. That's correct.

20 Q. Okay. And that's done once you initiate the protocol;
21 right?

22 A. Yes, sir.

23 Q. Okay. Can you tell us about what time, you said you
24 arrived about Eight:fifty-nine, is that correct?

25 A. That's correct.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Okay. And when you got there you kind of started to
2 take some notes, just again, so you could make sure that
3 you were correct in what you saw and what you detailed,
4 right?

5 A. Correct.

6 Q. And actually, you wrote an incident report like Mr.
7 Sorenson referred to so you could remember exactly what you
8 did?

9 A. Correct.

10 Q. Alright. That particular night you specifically spoke
11 with Vandy Morgan, correct, or came in contact with Vandy
12 Morgan?

13 A. Yes, sir.

14 Q. And Joe Thomas, correct?

15 A. Yes, sir.

16 Q. Isaac Morgan?

17 A. Yes, sir.

18 Q. And Brandy Mack, correct?

19 A. Yes, sir.

20 Q. And those are the people who were at least around when
21 you arrived?

22 A. That's correct.

23 Q. Okay. And you took, you had an opportunity to speak
24 with them at some point, right?

25 A. Yes.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Now, isn't it true that as you spoke with them -- well,
2 who don't we do this, tell us what the description is of the
3 person who did this, based on what you learned when you got
4 there?

5 A. Once I got there the information I obtained from the
6 witnesses available were, the subject was described as a
7 black male standing between six foot, six foot two, and
8 weighing between two hundred and two hundred and twenty
9 pounds.

10 Q. Okay. No name, right?

11 A. No, sir.

12 Q. And this was within minutes of the shooting taking
13 place, right?

14 A. Yes, sir.

15 Q. Alright. And quite frankly, in your report you even
16 referred to it as an unknown black male, right?

17 A. Yes, sir.

18 Q. So, that's the description, an unknown black male
19 between six feet and six, two, between two hundred and two
20 hundred and twenty pounds?

21 A. That's correct.

22 Q. And after the time that you spent with Vandy Morgan, Joe
23 Thomas, Isaac Morgan and Brandy Mack, that's the best that
24 you could get from them, right?

25 A. That's correct.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Okay. How long had they been together before you
2 arrived?

3 A. I'm not sure, I don't know if I went back and asked that
4 question at that time.

5 Q. Okay. But when you got there it was clear that they,
6 somebody had been having a good time for some period of time
7 before this incident took place?

8 A. Yes, yes.

9 Q. And you said there was some drinking going on?

10 A. Yes, sir.

11 Q. How did you determine that?

12 A. By some bottles or cans that were on the table.

13 Q. Okay.

14 A. And about the table.

15 Q. Alright. By any chance did you get any pictures of the
16 bottles and cans all over the table?

17 A. I did not, I didn't take the photographs.

18 Q. Okay. But do you remember if there was liquor bottles
19 and beer bottles, if you remember?

20 A. I just remember about there being some alcoholic
21 beverages.

22 Q. Okay. And did you see anything else out there other the
23 alcohol?

24 A. I really did not. Again, my focus was on the deceased
25 at that time, and securing that scene.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. Okay. But you, but it was clear there was a lot of
2 alcohol being used out there that night?

3 A. I couldn't be certain how much.

4 Q. Okay, but some was?

5 A. Some was.

6 Q. Okay. Now, did you have an opportunity to speak with
7 Ulysses Daniels?

8 A. The name's not familiar.

9 Q. Okay. Or Monique Shawn Guinyard?

10 A. Not familiar.

11 Q. Okay. But the ones that you spoke to were clear that it
12 was an unknown black male between six feet and six, two?

13 A. That's correct.

14 Q. And between two hundred and two hundred and twenty
15 pounds?

16 A. That's what I was advised.

17 Q. And at no point in time did you ever hear the name,
18 Romeo Brown mentioned as the person who did this?

19 A. No, sir.

20 Q. Okay. And if you had heard that from the people who
21 were at the scene when you arrived what is it that you would
22 have done based on your Nineteen years of training?

23 A. That would have been documented in my report.

24 Q. And why would you have documented it?

25 A. For a fact, that would be the information I was provided

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 by the witnesses, that would have been documented in the
2 report.

3 Q. And you documented what exactly you were told when you
4 got there, right?

5 A. Exactly.

6 Q. And you did that because you've been trained as an
7 investigator in New Jersey, right?

8 A. Yes, sir.

9 Q. And they trained you to do it in New Jersey, right?

10 A. Yes, sir.

11 Q. And when you came to the Criminal Justice Academy in
12 South Carolina down in Columbia, or excuse me, up in
13 Columbia, they taught you to do it there, too, right?

14 A. Yes, sir.

15 Q. So you followed protocol which was to do your job,
16 right?

17 A. Yes, sir.

18 Q. And your job was to write down what you learned, right?

19 A. Yes, sir.

20 Q. And you wrote down exactly what you learned?

21 A. Exactly what I learned.

22 Q. You didn't speculate, did you?

23 A. No, sir.

24 Q. You didn't guess?

25 A. No, sir.

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 Q. You put down what the witnesses told you right on the
2 spot, didn't you?

3 A. Yes, sir.

4 Q. And they told you it was an unknown black male?

5 A. Yes, sir.

6 Q. Alright. Let me ask you this question, whose job would
7 it have been to track down other people who were there that
8 night?

9 A. The investigators, again, I report all the information
10 that I obtain to the investigators and they conduct any
11 further investigation.

12 Q. Okay. Whose job would it have been to collect evidence
13 that night?

14 A. Crime scene technicians.

15 Q. As an investigator whose job would it have been, in your
16 experience as an investigator, excuse me, whose job would it
17 have been to determine what evidence needed to be tested?

18 A. The investigators.

19 Q. If there was additional evidence that needed to be
20 tested whose job would it have been?

21 A. The investigators.

22 Q. Whose job would it be to get search warrants, if search
23 warrants needed to be procured?

24 A. The investigators.

25 Q. Whose job would it be to go get a schmerber order so

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 that we could test for maybe mouth swabs, hair follicles,
2 nail scrapings?

3 A. The investigators.

4 Q. The investigators? And again, in this case you weren't
5 the investigator, correct?

6 A. That's correct.

7 Q. Alright. Whose job would it have been to have
8 determined whether or not there was an opportunity to call
9 the dogs out, the canine units to search?

10 A. Well, it depends on, you know, what kind of information
11 we obtained. If I received information that the subject
12 fled on foot or something along those lines, that can be a
13 call that I would have made as a shift supervisor.

14 Q. So, as a shift supervisor is it kind of elementary that
15 if a person flees on foot you just want to kind of check
16 that out and maybe call the dogs to see if they can trace
17 where they went?

18 A. Sure.

19 Q. And again, because that wasn't your position, you
20 weren't the investigator in charge, none of those things
21 that I mentioned were your call, right?

22 A. That's correct.

23 Q. Your only call was to accurately document what you found
24 when you got to the scene?

25 A. As the first responder in that capacity that would have

CRAIG DAVIS - CROSS BY MR. GIPSON

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1 been my only job at that time.

2 Q. And you've testified that that's what you did?

3 A. Yes, sir.

4 Q. Okay. And do you have any hesitation that you did
5 exactly what you were supposed to do out there that night?

6 A. Not at all.

7 Q. And that you put down exactly what you were told?

8 A. Yes, sir.

9 MR. GIPSON: That's all my questions.

10 THE COURT: Alright, redirect?

11 SOLICITOR SORENSON: A couple of things, Your Honor.

12 THE COURT: Okay.

13 (NOTE: Blank lines on this page do not indicate any part of
14 record has been omitted. Headers on testimony pages and
15 hard page breaks between testimony are now required by the
16 Court. See next ensuing page for sequential continuation of
17 record.)

CRAIG DAVIS - REDIRECT BY SOL. SORENSON

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1 CRAIG DAVIS, REDIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Lieutenant Davis, you have, you have testified that you
4 basically documented the names of the four individuals that
5 you had made contact with, is that correct?

6 A. That's correct.

7 Q. Those are the four names you had told us earlier, Vandy
8 Morgan, Isaac Morgan, Joe Thomas and Brandy Mack, is that
9 correct?

10 A. That's correct.

11 Q. Alright. And now do you recall what specifically each
12 of them individually told you?

13 A. I do not.

14 Q. Okay. So, kind of that summary of, you know, a black
15 male, six foot, six foot two, two hundred to two hundred
16 twenty pounds, and then being referenced to as an unknown
17 black male, do you know which of those four or whether
18 that's all four, or one of those witnesses actually provided
19 that specific information to you?

20 A. I can't recall which one in particular gave me that
21 information, but that was the general information I was
22 given about the suspect.

23 Q. Okay. And you had said earlier on direct that those
24 four individuals had come forward indicating that they had
25 some knowledge of the incident?

CRAIG DAVIS - REDIRECT BY SOL. SORENSON

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1 A. Right. Well, they were on the scene and at the time of
2 the alleged incident, so that's why those names are
3 indicated and documented for the investigators to interview
4 further.

5 Q. Okay. So, they were turned over to investigators?

6 A. That's correct.

7 Q. Okay. And looking at that crime scene log, are there
8 several investigators on that crime scene log that actually
9 came out there that night?

10 A. I see four investigators that responded to the scene.

11 Q. And that would be Investigator Eikhoff, - - -

12 A. Yes, sir.

13 Q. --- is that correct? What's the next one that's on
14 there, is Lieutenant Shumpert one of them?

15 A. Investigator Carrigg and Investigator Shumpert. If I
16 understand correctly, Investigator Stokes, or he was still
17 on the road at this time, but I see him on the list, but I
18 think he was still on the road at this time.

19 Q. Okay. I've got you. But Commander Williams, though,
20 would have been over investigations also, is that correct?

21 A. That's correct.

22 Q. Okay. But there were several investigators that
23 responded out there to that scene that evening?

24 A. Yes, sir.

25 Q. Okay. Let me ask you this, out of the information you

CRAIG DAVIS - REDIRECT BY SOL. SORENSON

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1 got from those individuals did anybody tell you where, which
2 direction or how the shooter had left the scene that night,
3 were you provided with that information from anybody that
4 you're aware of?

5 A. I believe I asked but no one could tell me which
6 direction he fled in.

7 SOLICITOR SORENSON: That would be all I have, thank
8 you, Lieutenant.

9 THE COURT: Recross?

10 MR. GIPSON: Just briefly.

11 (NOTE: Blank lines on this page do not indicate any part of
12 record has been omitted. Headers on testimony pages and
13 hard page breaks between testimony are now required by the
14 Court. See next ensuing page for sequential continuation of
15 record.)

CRAIG DAVIS - RECROSS BY MR. GIPSON

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1 CRAIG DAVIS, RECROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. You wrote down what these folks told you, right?

4 A. Yes, sir.

5 Q. And one of the things you asked is, who did this?

6 A. Correct.

7 Q. And again, what is it that you learned about who did
8 this when you asked that question within minutes of the
9 incident happening, which was minutes that you arrived?

10 A. What I was provided was, the subject was an unknown
11 black male standing between six feet and six feet two,
12 weighing between two hundred to two hundred and twenty
13 pounds.

14 MR. GIPSON: That's all my questions, Your Honor.
15 Thank you, sir.

16 THE COURT: Alright, very well, thank you. This, is
17 this witness free to leave? Any objection?

18 SOLICITOR SORENSON: If he has no objection.

19 MR. GIPSON: I have no objection.

20 THE COURT: No objections. Very well, you may go,
21 thank you. Just don't take our, don't take the exhibits.
22 I'll have to run you down, and I would not be doing that.

23 Alright, call your next witness, please.

24 SOLICITOR SORENSON: The State calls Randy Ryant.

25 THE COURT: Alright, Mr. Ryant, please, Mr. Randy

1 Ryant.

2 (Whereupon, the witness
3 enters the courtroom.)

4 THE COURT: Yes, sir, come on around and be sworn,
5 please.

6 CLERK: Will you please place your left hand on the
7 Bible and raise your right hand.
8 (Whereupon, Randolph Ryant
9 is duly sworn.)

10 CLERK: Thank you. You may have a seat, and please
11 state your name again for the records.

12 WITNESS: Randolph Ryant.

13 THE COURT: And how do you spell your last name?

14 WITNESS: R-Y-A-N-T.

15 THE COURT: Alright. Can you pull that mike down just
16 a little closer to you. Thank you. Your witness.

17 SOLICITOR SORENSON: Thank you.

18 (NOTE: Blank lines on this page do not indicate any part of
19 record has been omitted. Headers on testimony pages and
20 hard page breaks between testimony are now required by the
21 Court. See next ensuing page for sequential continuation of
22 record.)

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 RANDOLPH RYANT, DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good afternoon, Mr. Ryant.

4 A. Good afternoon.

5 Q. If you would, tell the jury where it is that you live,
6 Mr. Ryant?

7 A. Wingfield.

8 Q. And that's Wingfield Street, that's here in Orangeburg?

9 A. Yes, sir.

10 Q. Okay. And State's Exhibits Numbers One and Three, is
11 that your residence that's in those two photographs?

12 A. Yes, sir.

13 Q. And back in October of Two thousand ten were you living
14 at that address at that time?

15 A. Yes, sir.

16 Q. How long have you lived there?

17 A. Like Twenty-two or Twenty-three years.

18 Q. Could I get you to speak up a little louder?

19 A. About Twenty-two or Twenty-three years.

20 Q. Okay. And who do you live there with, Mr. Ryant?

21 A. My wife and my son, Jordon.

22 Q. Okay. And how old is your son?

23 A. Seven.

24 Q. Seven?

25 A. Uh-huh.

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 Q. Okay. And let me ask you this, Mr. Ryant, do you know
2 the defendant in this case, Romeo Brown?

3 A. Yes, I do.

4 Q. And tell the jury how it is that you know Mr. Brown?

5 A. He's my brother-in-law.

6 Q. Okay. That's your sister's brother?

7 A. Sister's brother?

8 Q. I'm sorry, your wife's brother?

9 A. Right.

10 Q. Okay. And how long have you known Mr. Brown then?

11 A. About Thirty-seven years.

12 Q. Basically as long as you've known your wife?

13 A. Uh-huh.

14 THE COURT: That's a yes?

15 A. Yes, ma'am.

16 Q. Okay. You need to answer yes or no so the court
17 reporter can pick it up, okay? Now, let me ask you this, if
18 there ever was a time when Mr. Brown lived with you over
19 there, with you and your wife on Wingfield Street?

20 A. Yes, he did.

21 Q. Okay. And about how long, do you remember how long ago
22 that was?

23 A. How long it was? About two years ago.

24 Q. About two years ago. And how long, about how long did
25 he live there?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 A. A couple of months.

2 Q. A couple of months?

3 MR. GIPSON: Your Honor, may we approach for a quick,
4 quick moment, Your Honor?

5 THE COURT: Sure.

6 (Whereupon, a bench conference
7 is had out of the hearing of
8 the jury and court reporter.)

9 Q. Alright, let me ask you this, Mr. Ryant, back at the end
10 of October of Two thousand ten, was he living with you at
11 that point in time when this incident happened?

12 A. No, he wasn't.

13 Q. Do you know where he was living at that time?

14 A. Around the street from me, not too far from the house.

15 Q. Okay. Was he living in a house or a trailer or ...

16 A. A trailer.

17 Q. A trailer? Alright. Let me ask you this, was that
18 within walking distance of your home on Wingfield?

19 A. Yes, it is.

20 Q. And now, Mr. Ryant, if you would, kind of describe for
21 the jury, they've seen some photographs kind of in the front
22 yard, but if you would, describe for the jury how your front
23 is kind of set up, especially back in October of Two
24 thousand ten, kind of what was, what was out in your front
yard?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 A. There's two picnic tables and a cedar tree that we sit
2 at under the tree.

3 Q. Okay. And kind of what would typically go on underneath
4 that cedar tree at those picnic tables at your house in the
5 evening time?

6 A. We sat out and drank, have fun, play cards and play
7 dominos.

8 Q. Okay. Is that pretty much kind of an every day thing?

9 A. Yes, it is.

10 Q. Okay. And tell the jury, out in your front yard there
11 what -- now, is that activity that happened during the day
12 time hours?

13 A. No, it was dark.

14 Q. It was dark? Okay. Now, tell the jury, then, what's
15 the lighting out there in your front yard where you would
16 sit and drink and play cards and dominos and such?

17 A. We had a light on the front porch but one of the bulbs
18 was out, one is showing on the side we play at, and then my
19 neighbor got a porch light on the outside on the other side
20 over there.

21 Q. Okay. So, is there some street lights out in front of
22 your house?

23 A. Street lights out - - -

24 Q. Oh, the street lights in front of your house?

25 A. Yeah, uh-huh, not quite in the front but it's on the

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 side kind of.

2 Q. Okay. Let me ask you, when you were sitting out there
3 in the evening time playing cards, playing dominos,
4 drinking, socializing, were you able to see who was out
5 there with you?

6 A. Yeah, pretty much.

7 Q. And that's something that you said that y'all would
8 pretty much do on a - - -

9 A. Daily basis.

10 Q. --- daily basis? Alright. And now, let me ask you
11 this, the victim in this case, Alex Harrison, did you know
12 Alex?

13 A. Yeah, I know Alex.

14 Q. Okay. And did Alex have occasion to hang out in your
15 front yard also?

16 A. Yeah, he be there sometime.

17 Q. Okay. Was he out there all the time or sometime?

18 A. Not all the time, but most of the time he be out there
19 with us.

20 Q. Okay. How about your brother-in-law, Mr. Brown, was he,
21 did he hang out in your front yard?

22 A. No, the only time I see him when he come visit, but most
23 of time he go in the house and visit his sister.

24 Q. Okay. But he did not typically hang out in your front
25 yard?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 A. Not with a crowd out there like that.

2 Q. Okay.

3 MR. GIPSON: I'm sorry, Your Honor, I just couldn't
4 hear.

5 THE COURT: I know, his voice keeps dropping down.
6 You're soft spoken by nature, and we hate to keep bugging
7 you, but we need lots of volume.

8 A. Alright.

9 COURT REPORTER: Can you pull your chair forward? That
10 mike does not amplify, so, -- no, it records. Keep your
11 voice up, please, sir.

12 Q. Alright, go back to that last -- let me see what my last
13 question was. I got to ask you about whether Mr. Brown hung
14 out in the yard, was that the last question?

15 A. That was the last question.

16 Q. Whether your brother-in-law, Mr. Brown, hung out, out in
17 the yard?

18 A. No, he don't hang out in the yard, with my crew like
19 that, my crowd.

20 Q. Okay. I think you had said, and part of your answer was
21 that he typically, if he came over to visit he'd go see your
22 wife?

23 A. Yeah.

24 Q. Okay. Alright, and let me ask you this, the victim in
25 this case, Alex Harrison, how long do you think you had

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 known Mr. Harrison for?

2 A. I'd say about six or seven years.

3 Q. Six or seven years? Alright. Now, I want to turn your
4 attention, Mr. Ryant, back to the night that Alex got shot.
5 What were you doing that evening out at your house?

6 A. Having a little cookout.

7 Q. Okay. And were there people out there that night, then?

8 A. Yes, there was.

9 Q. Okay. And do you remember kind of who was hanging out
10 there that evening?

11 A. Pretty much, yeah, most of them.

12 Q. Tell the jury who you kind of remember being out there
13 that night?

14 A. It was Joe, - - -

15 COURT REPORTER: Who?

16 A. Joe.

17 COURT REPORTER: Joe?

18 A. Yes, ma'am, Bernie, Vandy, Ricco -- it's been a while --
19 I think a girl named Brandy, or whatever, I think Eric been
20 out there.

21 COURT REPORTER: Who?

22 A. Eric.

23 Q. How about Alex, was he out there?

24 A. Yeah, Alex was out there, Shawn.

25 Q. Okay. A guy named Shawn, how about a guy named Ulysses?

1 MR. GIPSON: Object to the leading, Your Honor.

2 THE COURT: Sustained.

3 Q. Okay. Do you remember anybody else that was, I mean,
4 there were a handful of people out there that night?

5 A. A good many people been out there that night.

6 Q. Okay. Alright. Let me ask you, did there come a time
7 that night, Mr. Ryant, where you left, left your house and
8 left your front yard?

9 A. Yes, I did.

10 Q. Okay. And who, do you remember about what time that
11 was?

12 A. I couldn't tell you what time it was.

13 Q. Okay. Had it gotten dark out at that point in time?

14 A. Yeah, it was kind of getting dark then.

15 Q. And tell the jury where it is that you were going when
16 you left your house that night?

17 A. I was going to the Hot Spot to get some more beer.

18 Q. Okay. And was anybody with you when you left your house
19 to go to the Hot Spot?

20 A. Yes, it was, Jerry Jamison.

21 Q. Okay. Jerry Jamison?

22 A. Uh-huh.

23 Q. Alright. And let me ask you this, when you left your
24 house that night was Alex Harrison in your yard when you
25 left to go to the Hot Spot?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 A. Yes, he was.

2 Q. Okay. How about the defendant, Romeo Brown, was he out
3 there?

4 A. No, sir, I didn't see him.

5 Q. Okay. Had you seen him at all that evening that you
6 recall?

7 A. No, I didn't.

8 Q. Now, did you make it to the Hot Spot?

9 A. When we got in the yard and I got a phone call.

10 Q. Okay. You got in the yard?

11 A. In the store yard.

12 Q. In the store yard.

13 A. I was getting ready to go in the store.

14 Q. Okay. And you said you got a phone call?

15 A. Yeah.

16 Q. Okay. And did you at that point in time ultimately
17 learn that something had happened back at your house?

18 A. Yeah, after I answered the phone.

19 Q. Okay. And what, do you remember who it was that called
20 you?

21 A. Ricco called me the first time, and the second time my
22 wife called me and tell me I need to come home.

23 Q. Okay. And did you at that point in time head home?

24 A. Yeah.

Q. Okay. And when you got back to your house tell the jury

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 what was going on when you got back to your house on
2 Wingfield?

3 A. When I pulled, when I pulled back up, when Jerry pulled
4 me back up I got out and that's when I saw Alex laying on
5 the ground and Shawn standing beside him, and I asked them
6 what happened, and they said, somebody shot him.

7 MR. GIPSON: Object to the - - -

8 THE COURT: Leading?

9 MR. GIPSON: --- hearsay.

10 THE COURT: Sustained.

11 Q. You can't say what anybody told you, okay, Mr. Ryant?

12 A. Okay.

13 Q. Did it appear from your observing Alex, I mean,
14 something, that he had been shot, something had happened?

15 MR. GIPSON: Object to leading, Your Honor.

16 A. Some had happened to him.

17 THE COURT: You can't lead.

18 Q. Well, did it, what did it appear had happened to him
19 when you got there?

20 A. When I got there I just saw him laying on the ground.

21 Q. Okay. Alright. Was the sheriff's office there yet when
22 you got back?

23 A. Not yet.

24 Q. Okay. Was EMS there when you got there?

25 A. Not yet.

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 Q. Not yet? Okay. And do you remember who was still there
2 when you got back?

3 A. I know Shawn was still there, I think Bernie was still
4 there, and I can't remember who all was still there.

5 Q. You can't remember who else? Did the sheriff's office
6 ultimately arrive?

7 A. Soon, yeah, about five or ten minutes they came.

8 Q. After you?

9 A. Uh-huh.

10 Q. Okay. And did you, Mr. Ryant, give a statement to the
11 sheriff's office that night?

12 A. Yes, I did.

13 Q. And let me ask you this, when you got back to the house,
14 when you got back from the Hot Spot was Romeo Brown at your
15 house?

16 A. No, sir.

17 Q. Okay. Did you see him at all that night anymore?

18 A. No, sir.

19 Q. And the days after that did you see him?

20 A. No.

21 SOLICITOR SORENSON: I beg the Court's indulgence just
22 one second.

23 THE COURT: Alright.

24 SOLICITOR SORENSON: That would be all I would have,
25 Your Honor.

1 THE COURT: Alright. Cross-examination.

2 MR. GIPSON: Yes, ma'am.

3 (NOTE: Blank lines on this page do not indicate any part of
4 record has been omitted. Headers on testimony pages and
5 hard page breaks between testimony are now required by the
6 Court. See next ensuing page for sequential continuation of
7 record.)

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 RANDOLPH, CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good afternoon, Mr. Ryant.

4 A. How are you?

5 Q. And we've talked, we've met before, and I'll have to ask
6 you just a couple of things. One is, and I'm not being
7 nasty to you, but the court reporter can't take down huh-uh
8 or uh-huh, or if you shake your head she can't tell what
9 that means so you've got to say yes or no.

10 A. Alright.

11 Q. And then you have a chance to explain your answer. I'd
12 also ask you if you would to speak up just a little bit
13 more. I know it's a little uncomfortable to be up there but
14 I promise you, you can yell at me from here just to make
15 sure that the jury can hear, because it happens every day
16 when I get home. So it doesn't hurt my feelings, I promise
17 you. Okay? Alright, now, you weren't present when this
18 shooting occurred, correct?

19 A. No, I wasn't.

20 Q. Okay. And I'm just going to step back just to encourage
21 you to speak up just a little bit more. Alright. And so,
22 again, you had gone to Hot Spot, as you said, to go pick up
23 some beer and cigarettes, right?

24 A. Yes, I did.

25 Q. And that's because the folks there had already gone

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 through what you had there, right?

2 A. Right.

3 Q. What did they go through, just generally? Do you
4 remember what ...

5 A. A half a gallon of gin and maybe a case and a half of
6 beer.

7 Q. Okay.

8 A. Because at first we didn't, I didn't have that many
9 people coming.

10 Q. Okay. And when you say a half a gallon of gin, are we
11 talking about Seagram?

12 A. Seagram gin.

13 Q. Okay. And then you said a case and a half of beer.
14 What are we calling a case, is that a Twenty-four?

15 A. Yeah, Twenty-four and Twelve.

16 Q. Okay. So, so that would be about Forty-eight, if my
17 math is correct, serves me correct, about Forty-eight beers?

18 A. Something like that.

19 Q. Okay. And you were going to get some more because they
20 were going to stay around?

21 A. Uh-huh, yes, sir.

22 Q. Y'all are out in the yard, barbecuing and having a good
23 time, right?

24 A. Yes, sir.

25 Q. Folks playing dominos, playing cards, right?

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 A. Yes, sir.

2 Q. And there's nothing against the law about doing that?

3 A. No, it's not.

4 Q. You're on your property having a good time?

5 A. That's it.

6 Q. Right. And so, you went back to get some more, and you
7 said when you left you knew that Alex was there, Shawn was
8 there, and Bernard and Vandy, right? You knew that they
9 were there and maybe a couple of others?

10 A. Yes, sir.

11 Q. Did you -- and all of them were drinking?

12 A. When I left -- Alex and Shawn and Joe just pulled up
13 when I'm getting ready to leave.

14 Q. Okay. Alright. So, did you witness them drinking while
15 you were there?

16 A. No.

17 Q. Do you know if they had had anything to drink before
18 they arrived?

19 A. I don't know because I wasn't with them.

20 Q. Okay. Alright, fair enough. And let me ask you this
21 question, did they at least pitch in to help you pay for the
22 beer?

23 A. No, I was having the cookout so I decided to buy it on
24 my own.

25 Q. Okay. Now, as you got to the Hot Spot there came a time

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 when you had actually got a call, and once you received the
2 call you knew it was time to come home because there was
3 something going on?

4 A. Right.

5 Q. Alright. And when you got back that's when you realized
6 there had been an issue and somebody had been injured?

7 A. Yes, sir.

8 Q. Alright. And again, you did not see Romeo that day,
9 correct?

10 A. No, I didn't.

11 Q. Alright. You said you, he normally doesn't come around
12 at night, right?

13 A. No, he don't.

14 Q. Alright. And tell us about that, he comes around,
15 normally when would he come around?

16 A. Normally he comes around in the afternoon, sit around
17 and talk to his sister for a little while, then he leave.

18 Q. Okay. And, I mean, how would he normally come?

19 A. He come walk, whatever, or sometime a friend would drop
20 him off and come back and pick him up later.

21 Q. Now, how was he walking those days?

22 A. At the last couple of days he was walking with a cane.

23 Q. Okay. Again, you did not see him that day, correct?

24 A. No, I didn't.

25 Q. And he had been walking with a cane?

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 A. Yeah.

2 Q. Alright. Now, in terms of that lighting out there, you
3 said there -- well, isn't it true that with the light that
4 you have -- let me look at these and see if you can - - -

5 MR. GIPSON: I beg the Court's indulgence for a moment,
6 Your Honor.

7 THE COURT: Alright.

8 Q. I'm just going to show you something just for a quick
9 moment.

10 A. Uh-huh.

11 Q. Can you tell us what that's a picture of?

12 A. A picture of my house.

13 Q. Is that a fair and accurate representation of how it
14 looked back in October of Two thousand and ten?

15 A. The front yard and everything is the same, but the roof
16 been done this year.

17 Q. Okay. Well, aside from the roof?

18 A. Yeah, everything looks the same.

19 Q. Alright. If I can have those back, - - -

20 MR. GIPSON: Just for ID purposes at this point, Your
21 Honor.

22 THE COURT: Yes, sir.

23 MR. GIPSON: I just want to mark these.

24 THE COURT: Yes.

25 MR. GIPSON: So, that will be Two and Three, in

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 whatever order you'd like.

2 COURT REPORTER: Just one moment.

3 MR. GIPSON: Yes, ma'am.

4 COURT REPORTER: Defendant's Two, ID, and Three, ID.

5 (Defendant's Exhibits Two and Three,

6 photographs,

7 marked for identification.)

8 MR. GIPSON: Thank you.

9 Q. Alright, now, Mr. Ryant, I'm just going to hand you --
10 we put these stickers on so we can keep up with which
11 pictures we're showing. I'm going to show you what's been
12 marked as Defense Exhibit Number Two for identification
13 purpose. Can you just explain -- we were talking about the
14 lighting. Can you explain just the lighting situation in
15 front of your house?

16 A. The light that I'm looking at now, the one that's
17 pointing this way, that one is burning, but the one pointing
18 back this way is not working.

19 Q. So, when you say -- so there's a light that is fixed
20 right outside on your porch, correct?

21 A. Right.

22 Q. And isn't that a motion sensor light?

23 A. Yes, it is.

24 Q. Okay. And so, if you say, I guess, let's hold it,
25 coming out, the right - - -

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 SOLICITOR SORENSON: Your Honor, is he offering these
2 into evidence? I mean, he's showing them to the jury and, I
3 mean, going through them with the witness, you know.

4 THE COURT: He can go through them with the witness if
5 he likes, he cannot show them, he cannot publish them until

6 - - -

7 SOLICITOR SORENSON: That's what I mean he's in the
8 process of doing right now, I mean, he's - - -

9 MR. GIPSON: I'm sorry. I'll fix my questions a little
10 better then.

11 Q. You have lights on the right and the left hand side,
12 correct?

13 A. Yes, sir.

14 Q. The light on which side works?

15 A. As you're standing in front of the house, the one on the
16 left side works, the one on the right side don't work.

17 Q. Okay. And what does it take to make those lights come
18 on?

19 A. Anybody can walk by it or whatever, I can turn it a
20 certain way it will stay on most of the time.

21 Q. Okay. You say most of the time?

22 A. Most of the time I don't have them turned on like that.

23 Q. Okay. So is it one if you walk on the porch the comes
24 on?

25 A. If you walk on the porch or around the side of the porch

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 it will come on.

2 Q. Okay. But if you're out in front of the porch, say by
3 the tables, will it come on?

4 A. If somebody walk a little closer, according to how far
5 the table away from it.

6 Q. Okay. But the way the table was fixed the night this
7 incident took place, would it have come on if you were
8 walking around by the table?

9 A. One of them is setting just a little farther, closer to
10 the road, if you been walking on that side by the road, just
11 about by the road, no, it won't come on. The one under the
12 cedar tree, if you walk a little closer it will come on.

13 Q. Alright. And then you also had lights that are farther
14 down the street that are kind of county lights, right?

15 A. Right.

16 Q. Okay. Were all of those lights working?

17 A. To my knowledge it should, it was I reckon, I don't
18 know, I don't remember.

19 Q. Okay. Alright. Now, as it relates to the guys that
20 were out there, did you, did you personally witness any
21 arguments going on that night?

22 A. Not that night, no.

23 Q. Alright. And did you see any kind of weapons that
night?

No, I did not.

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 Q. Okay. Did you see Romeo Brown at all that night?

2 A. No, I did not.

3 MR. GIPSON: The Court's indulgence?

4 THE COURT: Yes.

5 Q. Can you tell me about when Alex and Joe arrived at the
6 house?

7 A. I couldn't tell you what time it was, if that's what
8 you're asking me.

9 Q. Okay. About how long before you left, do you remember
10 that?

11 A. I been gone about maybe ten minutes or fifteen minutes.

12 Q. Okay. And they came while you were gone or they came as
13 you were leaving?

14 A. No, before I left I spoke to them and told them I'd be
15 back.

16 Q. Okay. Alright. And ...

17 MR. GIPSON: I think that's all my questions at this
18 time, Your Honor.

19 THE COURT: Alright, very well.

20 Yes, sir, redirect?

21 SOLICITOR SORENSON: Just a couple just real brief
22 things, Your Honor.

23 THE COURT: Alright.

24 (NOTE: Blank lines on this page do not indicate any part of
25 record has been omitted.)

RANDOLPH RYANT - REDIRECT BY SOL. SORENSON

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1 RANDOLPH RYANT, REDIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Alright, Mr. Ryant, Mr. Gipson had asked you about the
4 half a gallon of gin and a case and a half of beer, is that
5 correct?

6 A. Yes, he did.

7 Q. And I believe he had asked you, that was Forty-eight
8 beers, is that right?

9 A. Yes, it is.

10 Q. A case and a half of beers is Thirty-six, right?

11 A. Right, no - - -

12 Q. Not Forty-eight?

13 A. Right.

14 Q. I just want to make sure we've got our numbers right.
15 Is that more like Thirty-six beers -- it would be Thirty-six
16 beers would be a case and a half?

17 A. Right, Twelve, I mean, Twenty-four and Twelve.

18 Q. I've got you, I just wanted to make sure I've got my
19 math right. And just so I understand, he was asking you
20 about these lights and you testified that the lights are on,
21 if you're facing your house, which side of the house?

22 A. If I'm facing the house, on the left hand side.

23 Q. Okay, so right ...

24 A. Where the cedar tree is at.

25 Q. Okay. So, near the cedar tree?

RANDOLPH RYANT - REDIRECT BY SOL. SORENSON

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1 A. Yeah, yes, exactly.

2 Q. Alright. And that's where the picnic tables are, is
3 that correct?

4 A. Right.

5 SOLICITOR SORENSON: Thank you.

6 THE COURT: Alright, recross?

7 MR. GIPSON: No further questions.

8 THE COURT: Alright, is this witness free to leave?

9 SOLICITOR SORENSON: No objection from the State.

10 MR. GIPSON: No objection.

11 THE COURT: Very well, you're free to go.

12 Call your next witness, please.

13 SOLICITOR SORENSON: The State calls Joe Thomas.

14 (Whereupon, the witness
15 enters the courtroom.)

16 CLERK: Your Honor, may I approach?

17 THE COURT: Sure.

18 (Whereupon, a bench conference
19 is had out of the hearing of
20 the jury and court reporter.)

21 CLERK: Please place your left hand on the Bible and
22 raise your left hand.

23 (Whereupon, Joe Lawrence Thomas, Sr.,
24 is duly sworn.)

25 CLERK: Thank you. Have a seat and state your name

1 again for the record.

2 WITNESS: Joe Lawrence Thomas, Senior.

3 THE COURT: Your Witness.

4 SOLICITOR SORENSON: Thank you, Your Honor.

5 (NOTE: Blank lines on this page do not indicate any part of
6 record has been omitted. Headers on testimony pages and
7 hard page breaks between testimony are now required by the
8 Court. See next ensuing page for sequential continuation of
9 record.)

JOE LAWRENCE THOMAS, SR., - DIRECT BY SOL. SORENSON

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JOE LAWRENCE THOMAS, SR., DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Mr. Thomas, if you would, tell the jury how old you are?

A. I'm Fifty-four.

Q. Alright. And what do you do for a living?

A. I'm a mechanic.

Q. Mechanic? And you live here in Orangeburg?

A. Yes, sir.

Q. How long have you lived in Orangeburg?

A. All my life.

Q. All your life?

A. Yes.

Q. Alright. And I wanted to go through some of the other witnesses that the jury is going to be hearing about and kind of ask you how you either know or maybe are related to some of them. Okay?

A. Okay.

Q. How about Vandy Morgan?

A. Vandy, my son is related to him.

Q. Okay. Alright, and how about Isaac Morgan?

A. That's my son.

Q. That's your son?

A. Right.

Q. How about a young man by the name of Shawn Guinyard, do you know Mr. Guinyard?

JOE LAWRENCE THOMAS, SR., - DIRECT BY SOL. SORENSON

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1 A. I just know him as a friend.

2 Q. As a friend?

3 A. Right.

4 Q. Okay. And do you do any work with any of these people
5 or ...

6 A. Yes, I had him helping me do some mechanic work.

7 Q. Okay. Who is it that you did mechanic work with?

8 A. Well, that's me, I do mechanic work on my own.

9 Q. Okay. But who was it that you help do mechanic work,
10 you said?

11 A. Well, I had Shawn.

12 Q. Shawn. Okay, that's what I was getting at, I didn't
13 want to kind of leave you there. Alright. How about the
14 victim in this case, Alex Harrison, did you know Mr.
15 Harrison?

16 A. Yes.

17 Q. Okay. And how long have you known Mr. Harrison, or did
18 you know Mr. Harrison?

19 A. I have known him personally for, oh, approximately seven
20 or eight years, somewhere around there.

21 Q. Okay. And how about the defendant, Romeo Brown, did you
22 know Mr. Brown?

23 A. I don't know him, I just seen him, seeing him come
24 around where we usually be at, congregating a little bit.

25 Q. Okay. And how often do you think -- and where is that

JOE LAWRENCE THOMAS, SR., - DIRECT BY SOL. SORENSON

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1 that you congregate that you would see him?

2 A. It's at Whitaker School Road, turn back to the left,
3 it's at Randy, Randy's house.

4 Q. Okay, Mr. Ryant that just testified, at his house?

5 A. Yes, sir.

6 Q. Okay. And how often would you see the defendant, Romeo
7 Brown, kind of around that house?

8 A. I probably seen him several times.

9 Q. Several times?

10 A. Yes.

11 Q. And let me ask you this, back in October of Two
12 thousand ten did you know, did you know his name at that
13 point in time?

14 A. No, I didn't.

15 Q. Okay. Did you know him by face when you saw him,
16 though?

17 A. Yes.

18 MR. GIPSON: Objection to leading.

19 SOLICITOR SORENSON: That's a yes or no answer, did you
20 know him by face when you see him?

21 THE COURT: That would be a yes or no, did you know him
22 by his face when you saw him. That would be leading.

23 A. Yes.

24 COURT REPORTER: Are you saying yes or no?

25 THE COURT: Hold on.

1 (Whereupon, a bench conference
2 is held out of the hearing of
3 the jury and court reporter.)

4 Q. Let me ask you this, how did Mr. Brown back in October
5 of Two thousand and ten, describe for the jury how you knew
6 him, I mean, just ...

7 A. Just coming around, by his face. I didn't know his
8 name.

9 Q. Okay. Alright. And that was over at Mr. Ryant's house,
10 you testified?

11 A. That's correct.

12 Q. Okay. And how long a time frame do you think we're
13 talking about there, back in October of Two thousand ten?

14 A. Probably around seven -- five, six, seven months,
15 somewhere around there.

16 Q. Okay. Alright, and obviously, by the fact that you hung
17 out over at Mr. Ryant's house, did you know Randy Ryant?

18 A. Yes.

19 Q. Okay. And tell the jury kind of how long and how well
20 you knew Mr. Ryant?

21 A. I know Randy about two years.

22 Q. Okay.

23 A. Yeah.

24 Q. Okay. And how long, how often do you think you would go
25 over to his house there on -- off of Whitaker Parkway?

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1 A. Well, at one point in time we used to go over there
2 every day after work, after we done worked and play cards.

3 Q. Okay. And back in October of Two thousand ten how often
4 did you go over there back in October of Two thousand ten?

5 A. Two thousand and ten possibly around six months or
6 something in there.

7 Q. Okay. But how often were you going, in October of Two
8 thousand ten how often were you going over there back then?

9 A. Oh, okay. We would probably be there every day or every
10 other day, I would say about, out of that month, Two
11 thousand ten, about eight months, yeah, we used to go over
12 there all the time.

13 Q. All the time?

14 A. Yes.

15 Q. Okay. Alright. And why typically -- when you went over
16 to Mr. Ryant's house what typically would y'all be doing in
17 his front yard?

18 A. We would play cards, I go over there and drink beer, we
19 would go over there and he'll cook, a lot of time he'll cook
20 like, coon, deer meat, you know, just cook on the grill
21 basically, hot dogs and everything like that.

22 Q. Y'all typically just kind of socializing?

23 A. That's correct.

24 Q. Okay. And what time of day would you usually be out
25 there when that would be going on?

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1 A. We usually get out there always a few hours before dark.

2 Q. Okay. And how long then typically, on a typical day
3 back in Two thousand ten how long would y'all typically be
4 out there then?

5 A. We'd be out there until sometimes Ten, Eleven, Eleven
6 o'clock.

7 Q. Okay. So, obviously, after the sun went down?

8 A. That's correct.

9 Q. Okay. And just kind of describe for the jury out there,
10 I mean, what's the kind of lighting like out in Randy's
11 front yard?

12 A. Well, he had light on his front porch but he has, across
13 the street there is a street light there, and then there's a
14 street light at the next house there. So, the lighting is
15 pretty good.

16 Q. Okay.

17 A. We'd play cards and everything out there.

18 Q. You'd be able to see enough to play cards?

19 A. That's correct.

20 Q. Okay. And I want to turn your attention if I could,
21 Joe, back to the kind of late afternoon of Wednesday,
22 October Twenty-seventh of Two thousand ten. What were you
23 doing kind of late in that afternoon?

24 A. I was working in the yard, Shawn and I was working in
25 the yard.

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1 Q. Who was?

2 A. Shawn.

3 Q. Shawn?

4 A. Yes. I had him helping me doing some mechanic work.

5 Q. Okay.

6 A. And Alex called me, he asked me what was I doing, and I
7 said, well, I'm out in the yard some doing mechanic work.

8 He said, well, - - -

9 MR. GIPSON: I just object to the hearsay, Your Honor.

10 THE COURT: Yes.

11 Q. Okay. Did, so he contacted you?

12 A. That's correct.

13 Q. Okay. Did he ultimately end up coming over?

14 A. That's correct.

15 Q. And tell the jury kind of how, how Alex showed up at
16 your -- and where was it that you were at doing this?

17 A. I was at One Thirty-nine Sterling Avenue.

18 Q. Okay, is that where you worked at or your house or

19 A. That's where I worked at.

20 Q. You worked at?

21 A. Yeah.

22 Q. Okay. And how, how did Alex show up that day?

23 A. He came over on his motorcycle.

24 Q. Okay. And was there anything going on with the
25 motorcycle when he got to your business?

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1 A. We kind of joked around with him because I was supposed
2 to have my motorcycle running, and he said, let's go for a
3 ride, something like that. I said, you know I can't go for
4 a ride because you got yours fixed and mine not fixed. So,
5 I said, well, it's getting to the point now, we done worked
6 all day, and I said, let's put the hood down, Shawn, because
7 I'm tired. And I said, I'm going to go ahead and take you
8 home. So, and then Alex, he said, Man, he said, - - -

9 MR. GIPSON: I object to the hearsay, Your Honor.

10 SOLICITOR SORENSON: This isn't offered for the truth
11 of the matter, I mean, at this point in time, but I mean,
12 I'll kind of try to move it on here.

13 THE COURT: Okay.

14 Q. Alright. Did ultimately, did y'all end up leaving your
15 shop that day?

16 A. Yes, but before we left, when I got ready to leave to
17 take Shawn, he was pulling out first, but his motorcycle
18 gave out of gas.

19 Q. Okay. Alright, and did you end up, were you able to
20 help him out with that as far as his gas situation?

21 A. Yes, I had some gas.

22 Q. Okay. You had some gas, you said?

23 A. Yes, I had a little bit of gas in a jug.

24 Q. And then, ultimately when you left your business did
25 y'all end up going somewhere at that point in time when you

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1 left your business?

2 A. Yes, I followed him to the Happy J Store to make sure he
3 don't run out of gas again.

4 Q. Okay. And did he get gas in his motorcycle at the gas
5 station?

6 A. Yes, he did, he filled his tank and -- filled the tank
7 out there.

8 Q. Okay. And at that point in time did y'all make, did the
9 topic come up of where you were going to go or what you were
10 going to do?

11 A. Yes, he paid for the gas, came out of the store with
12 three beers. He asked me, please come and, you know, come
13 over and we'll drink one beer and then y'all can leave.

14 Q. Okay. And where was that then that y'all went to go
15 drink that beer?

16 A. Over at Randy's house.

17 Q. Okay. Alright. So did the three of you then, you,
18 Shawn and Alex then go over to Randy's house?

19 A. That's correct.

20 Q. Okay. And how -- was Alex still on his motorcycle?

21 A. Yes. He was on his motorcycle and Shawn and I was in
22 the car.

23 Q. Okay. And what car was it that you and Shawn were in,
24 do you remember?

25 A. It was a Ninety-five Maxima, burgundy Maxima.

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1 Q. Okay. Alright. And tell the jury if you can or if you
2 remember, Joe, when you got over to Randy's house do you
3 remember who was there when you got there?

4 A. Yes, it was several people out there. Isaac was out
5 there.

6 Q. That's your son?

7 A. That's correct. Vandy was out there, there was, let's
8 see, Ulysses was out there.

9 Q. Ulysses?

10 A. That's correct. Let's see how many more people was out
11 there. It was a car parked in the front and that was, what
12 was his name, he has a white looking car, I can't -- what's
13 his name, I can remember his name. I talk to him all the
14 time.

15 Q. That's alright. You can't recall? Let me ask you, was
16 Randy there when you got there?

17 A. Yes, he was there.

18 Q. Okay. And did he stay there long after you got there or
19 ...

20 A. No, he left along with a fellow by the name of Jerry,
21 took him to the store.

22 Q. Okay. Alright. And tell the jury then, kind of when
23 you got there what, what were you doing when you were there?

A. Well, I talked to everyone that was there, and I sat
down on the, on one of the benches. And Alex sat down with

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1 me, and - - -

2 COURT REPORTER: Who did?

3 A. Alex.

4 Q. Let me show you State's Exhibit Number Two. Do you see
5 the benches that you sat down on when you were there, Joe,
6 in that photograph?

7 A. Where is the road at, I can't see the road. I was
8 facing the road.

9 COURT REPORTER: I didn't hear you.

10 A. Oh, I was asking where the road at, because I was facing
11 the road.

12 Q. Alright. That one's kind of facing the house there,
13 kind of off to the side.

14 A. Let's see, that's the front of the house, right, that's
15 the front of the house, and I was - - -

16 Q. So, where are the tables located at in relation to the
17 front of the house if you're facing the house in the
18 picture?

19 A. Over here where those chairs are at.

20 Q. Okay. And do you see the tables, do you remember which
21 table it was that you sat down at?

22 A. It wasn't the iron table it was another one there, like,
23 ...

24 Q. Well, let me ask you, this table right there, is that
25 the iron one or the other?

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1 A. No, that's the other one. The iron one has all kind of,
2 it's like a piece of metal.

3 Q. So one is the iron one, it was the other one you were
4 sitting at?

5 A. That's correct.

6 Q. And what were you doing while you were sitting there?

7 A. Well, I started drinking my beer and Alex got up from
8 the table and he walked around because he knowed the next
9 door neighbor, so he just went there and start talking to
10 him, and you know, and everything, and I was talking to the
11 fellows on the table behind me, looking behind me.

12 Q. Okay.

13 A. And so eventually ...

14 Q. Well, let me ask you this, Joe, so you said you got
15 there and obviously started drinking a beer when you got
16 there?

17 A. That's correct.

18 Q. Had you been drinking earlier in the evening at all back
19 at your job?

20 A. No, I was working.

21 Q. Okay. How about Shawn, had he been drinking while he
22 was with you earlier that afternoon?

23 A. No, no, he was working also.

24 Q. Okay. Now, do you know if Alex had been drinking
25 earlier or not when he showed up?

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1 A. No, no, I don't know. Most of the time he ride that
2 motorcycle he don't usually.

3 Q. Okay. But you don't know whether or not?

4 A. I don't know, no.

5 Q. Alright, now, did something ultimately kind of happen
6 out there that kind of caught your attention?

7 A. Yes. He came back to the - - -

8 Q. Who is he?

9 A. Alex. Alex came back the chair, I mean, the table that
10 I was sitting at and he sat on the other side right in front
11 of me. And I know he looked kind of, like, puzzled about
12 something, I don't know what it was. So, I asked him, I
13 said, are you alright? He said, Yeah.

14 MR. GIPSON: Objection to hearsay, Your Honor.

15 Q. You just can't say what he said.

16 A. Okay, okay. Alright.

17 Q. You asked him -- you can say what you asked him. You
18 asked him if he was alright?

19 A. Yeah, I asked him if he was alright. And I continued
20 talking to the fellows behind me on the other table. And
21 he, I heard a noise at the table when I was talking back
22 there, his two hands hit the table and he slide from out of
23 the table. And I thought it was a little joke type thing
anyway. And anyhow I heard a shot.

Q. You heard what?

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1 A. I heard a shot.

2 Q. A shot?

3 A. Yes. And everybody from the table back there ran, ran
4 towards the road. And I slide out from under the table, I
5 said, what is going on? So, when I turned and looked I saw,
6 I looked and I saw the hair, and I looked down, I said, is
7 that Alex? And I said, oh, man, that is Alex, who on top of
8 Alex? And I sat there and I said, that's Romeo, what he
9 doing? And so, I went to run towards him and everybody
10 start hollering, gun, gun, gun. And so, I fell on the
11 ground and rolled back to the table because I thought
12 somebody else had a gun. And when I finally got up I was
13 about to go towards him again and he was kneeling on top of
14 him with the gun pointed like this. And Alex said, please
15 don't shoot me again. And he shot him and got up and ran.

16 Q. Okay. And who was that that you saw then over Alex with
17 the gun?

18 A. Romeo.

19 Q. That's the defendant right there?

20 A. That's correct.

21 Q. Is there any doubt in your mind at all about that?

22 A. No doubt.

23 Q. How far away was all this from you when you saw it going
24 on?

25 A. About from here to that wall, or maybe a little bit

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1 closer, yeah, about where she's sitting, about to that wall,
2 that's how far I was from them.

3 Q. That was maybe Fifteen feet or so, somewhere in that
4 range?

5 A. Somewhere in that range, yes.

6 Q. Anything blocking his face, did he have anything
7 covering his face?

8 A. No, nothing wasn't covering his face.

9 Q. Nothing blocking your view of him?

10 A. No.

11 MR. GIPSON: Objection to leading.

12 THE COURT: Sustained.

13 Q. Was there anything blocking your view of his face?

14 A. No, it wasn't no trees or anything.

15 Q. Nothing?

16 A. Nothing.

17 Q. Now, Mr. Thomas, did -- you said you saw him take off, I
18 mean, leave. Do you know where he went, did you see where
19 he went?

20 A. He ran around the house and when he ran around the house
21 I didn't see exactly where he went but he did jump up and
22 ran around the house, the side of the house.

23 Q. Okay. And let me ask you this, from when your - your
24 testimony is that, you know, the first thing that kind of
25 called your attention was hearing Alex's hands slap the

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1 table?

2 A. Right, that's correct.

3 Q. Had you seen the defendant before that?

4 A. No.

5 Q. Or had you seen him come up anytime before that?

6 A. No.

7 Q. Okay. Now, did you, did you stay on the scene that
8 night and talk to the police?

9 A. Yes, I did.

10 Q. Okay. And did they take you anywhere from the scene?

11 A. Yes, after I gave my statement they took me to the
12 sheriff's office.

13 Q. To the sheriff's office?

14 A. That's correct.

15 Q. Okay. And you gave a statement that night?

16 A. That's correct.

17 Q. Okay. And do you remember who that was you gave the
18 written statement to?

19 A. It was a female officer.

20 Q. Okay. And that was, where was, was that out there at
21 Randy's house?

22 A. At the scene, that's correct.

23 Q. Okay. And you said that they took you somewhere from
24 there?

25 A. That's correct, to the sheriff's office.

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1 Q. Okay. And let me ask you - - -

2 SOLICITOR SORENSON: Can I get -- do we have a stapler?

3 Thank you, Ms. Harry Dot.

4 Q. Let me show you -- now, Mr. Thomas, back at the
5 sheriff's office did you have an opportunity to view a
6 series of photographs that you were shown?

7 A. That's correct.

8 Q. Okay. And I'm showing you State's Exhibit Number Seven
9 and let me ask you, is that the series of pictures that you
10 were shown?

11 A. Yes, that's the series of pictures.

12 Q. And were you able to identify anybody out of those
13 photographs?

14 A. Yes.

15 Q. Oh, and which photograph did you identify?

16 A. The first one.

17 Q. Okay. Let me ask you, did anybody tell you who to pick
18 out of these photographs?

19 A. No.

20 Q. Suggest to you in any way?

21 A. No.

22 Q. And did you have an opportunity then to fill out an
23 affidavit indicating, you know, who you were picking out,
24 and sign it and date it - - -

25 A. Yes.

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1 Q. --- have it witnessed by Lieutenant Shumpert?

2 A. Yes.

3 COURT REPORTER: Did you enter it?

4 SOLICITOR SORENSON: I have not, I have not yet.

5 Q. And circling that did you date that and sign that also,
6 Mr. Thomas?

7 A. Yes, I did.

8 Q. Okay.

9 SOLICITOR SORENSON: At this time, Your Honor, we'd
10 offer State's Number Seven into evidence.

11 MR. GIPSON: Without objection.

12 THE COURT: Very well, State's Exhibit Seven is into
13 evidence without objection.

14 (State's Exhibit Seven
15 marked and filed.)

16 Q. And so, that would be the picture you circled at that
17 time, Mr. Thomas?

18 A. Yes.

19 Q. And why is it that you picked out Photograph Number One
20 out of State's Exhibit Number Seven?

21 A. I recognized him when he shot Alex.

22 Q. Alright. And did you document that, then, in your
23 affidavit you did also?

24 A. Yes, I did.

25 Q. What did you put on that affidavit as to why you picked

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1 out Photograph Number One?

2 A. Yeah. He was sitting on top of Alex and I heard Alex
3 said, don't shoot me again. And he shot him.

4 Q. What time was that, what time was that that you picked
5 that out on October Twenty-seventh?

6 A. Eleven o'clock.

7 Q. Eleven o'clock?

8 SOLICITOR SORENSON: Permission to publish this to the
9 jury, Your Honor.

10 THE COURT: Very well.

11 (Whereupon, State's Exhibit Seven
12 is published to the jury.)

13 Q. Now, Mr. Thomas, let me ask you, that person that you
14 saw on top of Alex and that you saw shoot him, that second
15 gun shot you heard, do you see that person here in the
16 courtroom?

17 A. Yes, I do.

18 Q. Would you point him out for the jury?

19 A. He's sitting right there.

20 Q. Any doubt in your mind?

21 A. No doubt.

22 SOLICITOR SORENSON: Thank you, Mr. Thomas.

23 THE COURT: Alright, cross-examination.

24 MR. GIPSON: Thank you, Your Honor.

THE COURT: Yes.

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1 JOE LAWRENCE THOMAS, SR., CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good afternoon, Mr. Thomas.

4 A. Good afternoon.

5 Q. Now, you said that you don't ...

6 THE COURT: Mr. Gipson. Mr. Gipson, the jurors are
7 viewing the photographs, they need to listen to the cross-
8 examination rather than viewing the photographs.

9 Ladies and Gentlemen, you're going to have that with
10 you in your jury room. I don't want you to allow the
11 viewing of that document that's going to be with you to keep
12 you from being able to listen to the testimony.

13 Mr. Gipson, I'm sorry to interrupt you but I want them
14 to be able to listen to the testimony. So, just hold on to
15 that.

16 MR. GIPSON: Can I review this? I may need it for
17 cross.

18 THE COURT: Yeah, I think so.

19 COURT REPORTER: Okay, you can go ahead.

20 THE COURT: Go ahead.

21 MR. GIPSON: Alright.

22 Q. Now, you said you'd known Alex Harrison for some time,
23 right?

24 A. That's correct.

25 Q. Okay. At least seven years?

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1 A. That's correct.

2 Q. Had you known him to drink frequently?

3 A. Sometime he does, yes.

4 Q. Okay. Had you known him to drink to excess?

5 A. Most of the time no, but sometime he does.

6 Q. Alright. The particular night that we're talking about,
7 October Twenty-seventh of Two thousand ten, had he drunk to
8 excess that particular day?

9 A. I don't know.

10 Q. Okay. And our dealings with him, what was he like when
11 he drank to excess?

12 A. Well, he's tried to, he's the joking type, and you know,
13 he loved to just joke with people and everything when he
14 start drinking a little excess and everything, so ...

15 Q. Did he ever get violent?

16 A. No, never got violent around me.

17 Q. Okay. Around you?

18 A. That's correct.

19 Q. But this particular day, just having known him at least
20 seven or so years, did you feel like he had drunk to excess,
21 knowing him for seven years before when he came into
22 contact with you on that motorcycle?

23 A. No.

24 Q. Alright. And your testimony is you knew him to have
25 possibly that one beer that, that, of the three that were

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1 bought?

2 A. That's correct.

3 Q. So, but he seemed fine, just normal to you?

4 A. Yes.

5 Q. Not having any particular amount of alcohol in his
6 system?

7 A. No, when he came there on the motorcycle he was, he was
8 upright like he just came from work, you know.

9 Q. Okay. Now, and you said you hadn't had anything drink
10 that particular day?

11 A. No.

12 Q. And your first beer was going to be the one that you had
13 once you got to Mr. Ryant's house?

14 A. That's correct.

15 Q. Okay. And with you was Shawn?

16 A. That's correct.

17 Q. So, is that Shawn Guinyard?

18 A. That's correct.

19 Q. Okay. How long have you known Mr. Guinyard?

20 A. I haven't known him that long, possibly nine, ten
21 months, somewhere around there.

22 Q. Okay. And had he been drinking prior to Alex's arrival?

23 A. No.

24 Q. Okay. And to your knowledge his first beer would have
25 been one of those out there?

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1 A. That's correct.

2 Q. Okay. Once you got to Mr. Ryant's home, about -- you
3 had a chance to talk to Mr. Ryant before him leaving when
4 he pulled out?

5 A. No.

6 Q. Okay. Did he, did you see him before he left or was he
7 even there when you got there?

8 A. He was there when I got there.

9 Q. Okay.

10 A. And he went to the store.

11 Q. Okay. And after this incident, this shooting incident
12 took place he got back pretty quickly -- well, excuse me,
13 Mr. Ryant returned pretty quickly?

14 A. That's correct.

15 Q. Alright. Now, out there you said there were other
16 people who were around, correct?

17 A. Uh-huh, yes, sir.

18 Q. And you ...

19 THE COURT: Is that a yes?

20 A. Yes.

21 Q. Alright. And one thing we're going to do, and this is
22 not to be nasty, but we're going to have to ask you to say
23 yes or no.

24 A. Okay.

25 Q. And the main reason is because the court reporter has

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1 got to write down what you say.

2 A. Alright.

3 Q. So, she just needs to get, to know exactly what you
4 mean.

5 A. Okay.

6 Q. Now, having been going out to Mr. Ryant's house for
7 sometime, people would congregate there during, and just
8 kind of have a good time, right?

9 A. Right.

10 Q. And when you got there, there had been a lot of drinking
11 going on, right?

12 A. Yes, those fellows around there.

13 Q. Okay. And quite frankly, Mr. Ryant went to go get some
14 more beer, or do you, if you know?

15 A. I don't know.

16 Q. Okay. But again, he left soon after you got there,
17 right?

18 A. That's correct.

19 Q. Okay. And it's your testimony to your knowledge Alex
20 only had that one beer?

21 A. That's correct.

22 Q. Alright. And he seemed fine?

23 A. He seemed fine.

24 Q. Alright. Now, you said that you were there kind of
25 talking to the guys, and if it's just you and I, if -- tell

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1 me where I would need to be if I were in the place that Alex
2 was that night?

3 A. Okay.

4 Q. At the table.

5 A. At the table?

6 Q. Yes, sir.

7 A. You would have been about right there where you are
8 right now, because the table is kind of wide.

9 Q. Yes, sir. And where would Mr. Ryant's home have been?

10 A. Behind me.

11 Q. Alright. And the lights of the home would have been
12 behind you?

13 A. Well, some of the light back there, and a light - - -

14 Q. Street lights behind you?

15 A. That's correct -- in front of me. The street lights
16 were in front of me.

17 Q. Okay. So, I'm sorry, you would be here?

18 A. That's correct.

19 Q. Alright. I just want to make sure, I'm not trying to
20 mess this up. And you said you heard a kind of, Alex
21 slapped the table to get up from the table, kind of slid
22 from under the table?

A. That's correct.

And you heard something at that point in time?

A. That's correct.

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1 Q. Alright. And you said you kind of rolled to get under
2 the table?

3 A. Well, I slide out of the table, - - -

4 Q. Yes, sir.

5 A. --- because everybody else was running from around the
6 table. And that's when I turned and saw him on of him.

7 Q. Okay. And there was one shot before you saw anybody on
8 top of Alex?

9 A. I heard the shot, - - -

10 Q. Okay.

11 A. --- and yes, I heard that one shot.

12 Q. Okay. Did you know Alex to ever carry a gun?

13 A. I knew, I know he owned one, - - -

14 Q. Okay.

15 A. --- but he didn't have one with him.

16 Q. Okay. To your knowledge?

17 A. To my knowledge.

18 Q. Okay. What kind of gun did he have?

19 A. The kind, I'm not sure.

20 Q. Had you seen it?

21 A. No, I don't see it, he always say that he, you know, he
22 owned one but ...

23 Q. Okay. Now, - - -

24 MR. GIPSON: Can I have the witness step down for a
25 moment, Your Honor?

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1 THE COURT: You may.

2 MR. GIPSON: Alright, could you just step down for a
3 moment?

4 Q. Now, if, let's -- you're alleging that Romeo Brown did
5 the shooting, correct?

6 A. That's correct.

7 Q. Alright. Can you demonstrate on me what you saw
8 happening as you turned around and saw, after the first gun
9 shot took place? If I'm Alex where would I need to be?

10 A. Well, - - -

11 Q. And get on the floor, I don't mind.

12 A. Okay. I turned toward Alex.

13 Q. Okay. And we could just, I'm just saying generally on
14 the ground.

15 A. Generally on the ground?

16 Q. Just, you tell me just, point me where I need to be and
17 I'll get there.

18 A. Right here.

19 Q. Alright. So, on my back or my side?

20 A. On your back.

21 Q. Alright. But you're saying that he was here?

22 THE COURT: Ladies and Gentlemen, you can stand up if
23 you need to, no problem. I'm going to do it, too.

24 Q. Yes, sir.

25 A. And he was just laid out.

JOE LAWRENCE THOMAS, SR., - CROSS BY MR. GIPSON

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1 Q. Yes, sir.

2 A. And he was leaning over him.

3 Q. And when you say, he, are you saying Mr. Brown?

4 A. Mr. Brown.

5 Q. Alright.

6 A. And when he - - -

7 Q. On his knees?

8 A. Yeah. He was on his knees like this.

9 Q. Okay.

10 A. Just like this.

11 Q. Yes, sir.

12 A. And when I turned to see him, he had a gun like this.

13 Q. Yes, sir.

14 A. And that's when I -- somebody started yelling gun, gun,
15 gun. And I rolled over back to the table, because I
16 thought, I didn't know what was going on, I thought maybe
17 somebody else had a gun also. But when I got back up he had
18 the gun over like this, and Alex said, don't shoot me again.
19 And he shot him again and he ran.

20 MR. GIPSON: Alright. Please return to your seat.

21 Q. Now, so, and then at that point he got up and walked
22 away?

23 A. He got up and ran.

24 Q. Okay. He took off running?

A. That's correct.

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1 Q. Alright. And you said he ran behind the house?

2 A. That's correct.

3 Q. And just kind of disappeared from that point?

4 A. That's correct.

5 Q. Alright. Now, the police showed up pretty quickly after
6 that?

7 A. Yes, they did.

8 Q. Okay. And you told them everything that happened as
9 soon as they arrived?

10 A. Everything that I seen.

11 Q. Okay.

12 A. Everything.

13 Q. Everything. Now, I'm going to show you what's been
14 marked as State's Exhibit Number Seven.

15 A. Alright.

16 Q. Can you tell us who showed you this actual lineup, do
17 you remember? Was it Mr. Shumpert, who's here in the
18 courtroom today?

19 A. I'll tell you what, I was kind of upset that night, let
20 me see, it was ...

21 Q. Just to the best of your recollection, sir.

22 A. I don't know that detective's name. Shumpert -- do you
23 have his last name?

24 Q. Shumpert.

25 A. Last name Shumpert?

JOE LAWRENCE THOMAS, SR., - CROSS BY MR. GIPSON

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1 Q. Okay. And you believe -- if I said that's Mr. Shumpert,
2 does that look like the person that showed you that photo
3 lineup?

4 A. I'll tell you what, it's been a while, it's been a
5 while.

6 Q. So, you're not certain?

7 A. That's correct.

8 Q. Alright. Alright. And were there other people at --
9 the lineup was done at the sheriff's department?

10 A. That's correct.

11 Q. Okay. Were there other people at the sheriff's
12 department with you?

13 A. Yes, it was a lady there, too, a lady officer also.

14 Q. Okay. Would that have been Detective Eikhoff?

15 A. No, it was someone else there.

16 Q. A black female?

17 A. Yes, a black female.

18 Q. Okay. Did you give any recorded statements at that
19 point in time?

20 A. No.

21 Q. Okay. And let me ask you, when the lineup was shown to
22 you, were you shown pictures individually or there was just
23 one black lineup?

24 A. It was that lineup.

25 Q. Okay. And were you ever shown a lineup and said, well,

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1 Romeo Brown may not be in that lineup, but here's a lineup,
2 take a look at this, is he in here? Or is that the only one
3 you saw?

4 A. That's the only one I saw.

5 Q. Okay. And again, as soon as the police arrived you told
6 them everything that you told us here today?

7 A. Yes.

8 Q. Okay. You didn't hold anything back?

9 A. No, sir.

10 Q. Okay. You told them the truth, the whole truth and
11 nothing but the truth at that point in time?

12 A. Yes, yes.

13 MR. GIPSON: Alright. The Court's indulgence very
14 briefly?

15 THE COURT: Yes.

16 MR. GIPSON: Nothing else, Your Honor.

17 THE COURT: Very well. Redirect?

18 SOLICITOR SORENSON: Nothing, nothing more from this
19 witness, Your Honor.

20 THE COURT: Very well. Is this witness free to leave?

21 SOLICITOR SORENSON: No objection from the State.

22 MR. GIPSON: No objection.

23 THE COURT: Very well, you are free to go.

24 Alright, Ladies and Gentlemen, that's going to conclude
25 the work that we are going to do today. I do need to go

1 over with you, though, some instructions. First of all,
2 Ladies and Gentlemen, you must not discuss this matter or
3 allow anyone to discuss it with you. Let me tell you why,
4 it is absolutely critical as you do your work that you are
5 able to listen open-mindedly to all the evidence that is
6 presented to you. Evidence is presented bit by bit and you
7 must keep an open mind, and you must be able to listen open-
8 mindedly to all of the evidence. Now, in over two hundred
9 plus years of trying cases in the United States this is what
10 we have learned about ourselves, when we begin to talk about
11 something we begin to form opinions about it. We can't help
12 it, it's the way we're made. That's the reason for the
13 instruction not to discuss this matter or allow anyone to
14 discuss it with you. It is simply to support your ability
15 to listen open-mindedly to all of the evidence. Now, who am
16 I talking about? I'm talking about everyone. I'm talking
17 about your fellow jurors, I'm talking about anyone that you
18 would see when you leave the courthouse, your spouse, your
19 boyfriend or girlfriend, your friends, your family, anyone.
20 You must not discuss this matter or allow anyone to discuss
21 it with you.

22 Now, you're going to go home and there's going to be
23 somebody curious about what you have been up to. It is
24 perfectly fine to say, I showed up on my jury summons and I
25 was picked, and it is a criminal matter as opposed to a

1 civil matter, if anybody wants to know that next, but beyond
2 that you just not discuss this matter or allow anyone to
3 discuss it with you. They might not like that. You put on
4 the judge, don't take any upset, you say, that judge told me
5 I can't talk about it. Put it on the judge, blame it on me,
6 I'm fine with that. But you must not talk about this matter
7 or allow anyone to discuss it with you.

8 Now, when you have been discharged from your service on
9 this jury, and I promise you there will be no question in
10 your mind when that time has come because we'll talk about
11 it, you will be at liberty to discuss this case. But we
12 will speak about that specifically. But for now you must
13 not discuss this matter or allow anyone to discuss it with
14 you.

15 Now, don't read anything, don't listen to anything
16 about this matter. I don't know whether or not there will be
17 any publicity of about this matter, I don't have any way of
18 knowing that at all. I did notice Anderson Cooper wasn't
19 here, so I don't know whether there will be or not, but you
20 must not listen to anything, you must not read anything
21 about this matter. Now, we used to just say when I started,
22 the television, on the radio or the newspaper. You can't
23 just say that anymore, you've got to say the internet.
24 Don't read or listen to anything on the internet. And I
25 have to tell you not to blog, not to facebook, not to

1 linkup, not to google. Wait a minute now, there's some
2 more, don't tweet, we will have no tweeting. In other
3 words, no social media, I think now is the term, no social
4 media with regard to this matter at all.

5 Now, back to my old rut, no Columbo, and one of the
6 people that I work with all the time said, you know, I was
7 kind of glad Columbo passed because you can't use that
8 anymore. So, oh yes, I can for a while. No investigation,
9 no Columbo. Remember Columbo? I'm looking at you, you're
10 too young. Remember Columbo? Alright, don't do any
11 investigation. You must receive all of the information from
12 which you will make up your mind here in Court while Court
13 is in session.

14 Now, cell phones, we're all tethered to those things,
15 aren't we? You must leave your cell phone away from the
16 courthouse, in your car is fine, just don't bring it with
17 you in the courthouse. You know why? Because several years
18 ago in Charleston we had a jury and they were deliberating,
19 and they sort of reached a little bump in the road, and
20 somebody said, oh, I can get that, I've got a buddy, I'll
21 call him up on the phone. Well, a trial that had been going
22 on for like a week had to be completely redone because Mr.
23 I'm on my cell phone getting Four One One, then injected
24 information in the jury that didn't come from Court while
25 Court was in session, and the whole thing had to be

1 scrapped. So, now we have another rule, don't come to Court
2 with your cell phone. Guess what? We all forget, we're
3 tethered to these things, we can't help it. If you forget
4 please let Ms. Jamison know, and just give her your cell
5 phone and she will take great care of it until the lunch
6 break or the morning break, and then you can return it to
7 your car. I don't think she has more than four or five
8 people in Europe, so you're real safe. I'm just teasing,
9 she's take good care of it until you can take it to your
10 car. But do not keep your cell phone with you while you're
11 serving on the jury. And guess what happens? If you think
12 you can put it in your pocket or your pocketbook, even
13 though you know you've turned it off, you know it will turn
14 itself back on and ring, you know it will. So, just
15 remember not to have your cell phone with you while you're
16 serving on the jury, and if you forget it just give it to
17 Ms. Jamison.

18 Now, anybody work at night? Anybody go in? Anybody
19 think they're going to go in at night? Come on now.
20 Alright, where do you work at night?

21 JUROR: Out at the travel center.

22 THE COURT: And what time do you usually go in?

23 JUROR: Well, I'm supposed to be there now,
24 four:thirty. I'll be getting off at twelve.

25 THE COURT: Not tonight.

1 JUROR: Not tonight?

2 THE COURT: You've got to rest.

3 JUROR: Okay.

4 THE COURT: Now, let me tell you, sometime -- let me
5 tell you what happens sometimes with management. Sometimes
6 when folk call in they say, well, how come you can't serve
7 on the jury all night -- all day and then work all night? I
8 mean how come you can't do that? What was that, you want to
9 hear my roar? No, you can't. But again, don't you let them
10 get upset with you, blame it on the judge. And it's
11 Goodstein. And if they are not just happy as a little duck
12 when you have the conversation with them, you give me a name
13 and phone number and we'll be talking in the morning. Tell
14 them, Judge Goodstein has got a phone call for them in the
15 morning. Okay? I cannot have my jurors be tired. Okay? I
16 need my jurors rested. It's the same as if you were
17 working. Most folks obviously during the day. Well,
18 they're here missing work, and you're going to rest. I
19 can't have you working all night, being on the jury all day.
20 I can't have that. You'll be exhausted. But again, put it
21 on the judge, absolutely. And if they aren't happy about it
22 you just get a name and a phone number and I'll make a phone
23 call in the morning happily.

24 Now, I had me a note, let me check my note. No media,
25 no phones, no social media, don't work, don't talk to your

1 family, no research.

2 Now, Ladies and Gentlemen, is it okay with y'all to try
3 to start in the morning at nine o'clock or do I need to say
4 nine:thirty? Can everybody be here at nine? Alright, very
5 well, we'll be here at nine. We'll be here at nine in the
6 morning. I know Ms. Jamison will have some coffee, and
7 we'll have some coffee. But I will see you in the morning
8 at nine o'clock. For planning purposes, for your planning
9 purposes only, we will adjourn Court on Thursday, we will
10 not have Court on Thursday, but we will reconvene on Friday.
11 So, we will not have Court on Thursday, but I still want you
12 to rest, but for your planning purposes we will adjourn
13 Court on Thursday but we will be back on Friday.

14 Ladies and Gentlemen, you know what? You have given me
15 so many ticks of the clock this day, I'm grateful for each
16 and every one of them. Have a wonderful evening, and I'll
17 see you in the morning. Although, let me say one more thing
18 to you. You know, Orangeburg is kind of like Summerville,
19 it's not enormous, and we come and go from the courthouse.
20 Lawyer who are gregarious by their very nature, they always
21 want me to tell jurors if they see you and they don't even
22 say hello, it's because they're scared of me because they
23 know they're not supposed to be interacting with you because
24 you're on the jury. If you see on of the lawyers or anybody
25 involved in the case and they don't even say hello, please

1 understand they're not being rude, they just know they are
2 not supposed to interact with you at all. And so -- in
3 fact, should anybody try to interact with you about this
4 case or have a conversation, please get their name. If not,
5 get their description and just report it to me upon your
6 return and I'll promptly deal with that situation. But
7 lawyers always want me to tell you that just because, so if
8 they do like this they're not being ugly, they just want you
9 to know they're scared of me.

10 So, without further ado, have a wonderful evening and
11 I'll see you in the morning at nine o'clock. Thank you so
12 much.

13 (Whereupon, the jury leaves
14 the courtroom for the day,
15 and the following takes place
16 out of the presence of the jury.)

17 THE COURT: Anything further this evening from the
18 State?

19 SOLICITOR SORENSON: No, Your Honor.

20 THE COURT: Okay. From the defense?

21 MR. GIPSON: No, ma'am.

22 THE COURT: Very well. We're going to, we'll keep the
23 restraints and they're confirmed, see if you can please get
24 Mr. Brown up here and seated before the jury comes in.

25 SOLICITOR SORENSON: And if I can just put this on the

1 record what I had pointed out to you earlier?

2 THE COURT: Right, yes, right.

3 SOLICITOR SORENSON: And I know Mr. Gipson, I know he
4 wouldn't intentionally do this, I'm just afraid that some of
5 the jurors had the opportunity to observe Mr. Brown walk in,
6 and it was pretty obvious that there was something going on
7 with his legs. I mean, it's clanking and he's walking like
8 the tin man. And my concern is that, you know, part of his
9 defense I think is going to be that he had something wrong
10 with his leg and couldn't have done this, and now we've got
11 a bunch of jurors that have seen him, which obviously is not
12 the condition that he is in. I mean, that bothers me a
13 little bit now, I mean, you know, if he ultimately does
14 start putting in stuff about his legs and, you know, having
15 an issue with the leg and couldn't have done this, that or
16 the other, that these jurors are going to have seen him
17 walking and said, yeah, he does have something wrong with
18 his legs, he's got braces on them or something. And I don't
19 know how to address that at this point in time, but I mean,
20 just kind of when I saw him walking in I was, like, I mean
21 ...

22 THE COURT: Well, I can assure you that Mr. Gipson will
23 not argue to the jury, you all saw him walk in over there,
24 you saw him, he's got braces on his legs.

25 MR. GIPSON: I will not say that.

1 THE COURT: I promise you he will not argue that. But
2 he has made a point that he was walking with a cane at the
3 time and, you know, he's going to ask for the medical
4 records, so that you will deal with, but I'm quite confident
5 that Mr. Gipson's not going to argue to this jury, you saw
6 how he limped in here, Ladies and Gentlemen. He's not going
7 to do that.

8 MR. GIPSON: I'm not going to do that, Your Honor.

9 THE COURT: So, again, we have one or two ways to deal
10 with that. One of them you have not addressed, and the
11 other is to just be sure he's in and seated when the jury
12 comes in. So, I just, I look for you guys to help me with
13 that.

14 Very well, anything from the defense?

15 MR. GIPSON: No, ma'am.

16 THE COURT: Thank you all.

17 (Recess for the day)

18 DATE:

19 MARCH 23, 2012

20 THE COURT: Good morning, anything before we bring our
21 jury out, from the State?

22 SOLICITOR SORENSON: No, Your Honor.

23 THE COURT: From the defense?

24 MR. GIPSON: No, ma'am.

25 THE COURT: Very well, let's have the jury, please.

1 (Whereupon, the jury enters
2 the courtroom.)

3 THE COURT: Good morning, Ladies and Gentlemen. I hope
4 you had a very pleasant evening. At this time we will
5 continue with the State's case.

6 Please call your next witness, Mr. Sorenson.

7 SOLICITOR SORENSON: Thank you, Your Honor, may it
8 please the Court.

9 THE COURT: Yes.

10 SOLICITOR SORENSON: The State calls Vandy Morgan.

11 THE COURT: Alright, Mr. Morgan.

12 SOLICITOR SORENSON: Just come right around over to
13 that chair up there.

14 CLERK: If you would please place your left hand on the
15 Bible and raise your right hand.

16 (Whereupon, Vandy Morgan
17 is duly sworn.)

18 CLERK: Thank you. You may have a seat, and please
19 state your name again for the record.

20 WITNESS: Vandy Morgan.

21 (NOTE: Blank lines on this page do not indicate any part of
22 record has been omitted. Headers on testimony pages and
23 and page breaks between testimony are now required by the
Court. See next ensuing page for sequential continuation of
record.)

VANDY MORGAN - DIRECT BY SOL. SORENSON

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VANDY MORGAN - DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Will you spell your first name for the court reporter?

A. V-A-N-D-Y.

Q. Okay, Vandy, I need to make sure you keep your voice up nice and loud for me, okay?

A. Alright.

Q. Alright. If you would, tell the jury, Vandy, how old you are?

A. Thirty-nine.

Q. Thirty-nine. And do you live here in Orangeburg?

A. Orangeburg, yes, sir.

Q. Alright. And how long have you lived here in Orangeburg, Mr. Morgan?

A. All my life.

Q. All your life. Where did you go to high school?

A. Orangeburg-Wilkerson.

Q. Okay. Did you graduate?

A. Yeah.

Q. Okay. What year was that?

A. That was in Ninety-three.

Q. Ninety-three. Now, let me ask you, do you know the defendant, Romeo Brown?

A. Yes.

Q. Okay. And how long, how long and how well do you know

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 Mr. Brown?

2 A. Well, we had worked together in a program at the Board
3 Rehab in, like, in the early Nineties.

4 Q. Okay. So, I mean, so how long do you think it is that
5 you've known him?

6 A. Know of him?

7 Q. Uh-huh.

8 A. Let's see, ten, maybe Fifteen years, something like
9 that.

10 Q. Okay. Alright. And back in October of Two thousand
11 ten, was he somebody that you saw around occasionally back
12 in October of Two thousand ten, and around that time period?

13 A. Yeah, every now and then, yeah.

14 Q. Okay. How about the victim in this case, Alex Harrison,
15 did you know Mr. Harrison?

16 A. Yeah, I know Mr. Harrison.

17 Q. Okay. How long have you known Mr. Harrison, or did you
18 know Mr. Harrison?

19 A. Way over Twenty years.

20 Q. Okay. So, since your late teens or so?

21 A. Yeah, uh-huh.

22 Q. Alright. And would you consider Mr. Harrison a friend
23 of yours?

24 A. Yes.

25 Q. Alright. And tell the jury how often you would see Mr.

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 Harrison?

2 A. Well, I live in St. Paul Apartments and he had live in
3 Orangeburg Manor. So, we always, like, ride the bike or
4 walk around to each other's house. Alex was always a person
5 that always hook up radio systems, so I was very interested
6 in that, so we always used to hang out and go shoot some
7 ball, just talk, you know.

8 Q. Okay. Alright, and how about Randy Ryant, do you know
9 Mr. Ryant?

10 A. Yeah.

11 Q. Okay. And it's a couple of other people I'm going to
12 ask you. The jury heard yesterday a Joe Thomas, do you know
13 Mr. Thomas?

14 A. Yes, I know Mr. Thomas.

15 Q. How do you know Mr. Thomas?

16 A. Well, I know Mr. Thomas, my family, my cousin married
17 his sister.

18 Q. Okay. Alright. So, he's kind of related to you through
19 marriage, I guess?

20 A. Through marriage, yes.

21 Q. And how about a gentleman by the name of Isaac Bernard
22 Morgan?

23 A. That's my cousin.

24 Q. That's your cousin?

25 A. Yeah.

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 Q. Okay. Now, I asked you a moment ago about Randy Ryant.
2 Are you aware of where Mr. Ryant lives at?

3 A. Right.

4 Q. And where is that?

5 A. I forgot the name of the street but it's over there on
6 Whitaker, off Whitaker.

7 Q. Off of Whitaker?

8 A. Yeah.

9 Q. Okay. And back in October of Two thousand ten, was he
10 living at that same place back in October of Two thousand
11 ten?

12 A. Yes.

13 Q. Alright. And I'm showing you State's One through Three,
14 whose house is in that, those photographs?

15 A. Randy's.

16 Q. It's Randy's?

17 A. Yeah.

18 Q. Okay. Now, tell the jury back in October of Two
19 thousand ten, during that time frame, did you used to go
20 over to Mr. Ryant's?

21 A. Yeah.

22 Q. Okay. And tell the jury, you know, how often and what
23 you'd go over to Mr. Ryant's for?

24 A. Alright. We always get together and hang out over
25 there, and maybe tell, like you always say, this isn't bad,

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 telling a lie, having a drink, you know, shooting the
2 breeze. And basically, that's all we'd do, under the tree
3 just hang out.

4 Q. Okay. Where was it that y'all would hang out at his
5 house?

6 A. Right there in his yard under the tree.

7 Q. Okay. And that's in his yard, front yard, side yard?

8 A. Front yard, side yard, it could be the back yard, I
9 mean, wherever anybody is at at that point in time. Where
10 we would put a picnic table at, that's where everybody sit
11 at.

12 Q. Okay. Alright. And I want to turn your attention
13 specifically now, Mr. Morgan, back to the night October
14 Twenty-seventh of Two thousand ten. Do you recall what you
15 were doing that night?

16 A. Yeah.

17 Q. Tell the jury.

18 A. Alright. We was sitting under the tree, we was just
19 talking and I was telling the guys, I said, hey, man, I'm
20 trying to get back with my old lady, and what not, so I'm
21 cutting everything short, I'm going to be going to the house
22 with my kids. So, I talked to my cousin, and he was, like,
23 man, come on, hang out a little more, hang out a little
24 longer. And at that time I was, like, man, I don't want to
25 do it, let's just, you know, I just had want to go home.

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 But Eric asked me to take him to the store.

2 MR. GIPSON: I object to the hearsay portion.

3 SOLICITOR SORENSON: You can't say what anybody
4 specifically asked you or said.

5 A. Alright. So I decided, went to the store, got
6 something, some chips, a couple of beers, came back. On the
7 way back that's when I seen Alex and Joe. Alex was on his
8 bike and we had yelled at him, and he said, where you going?
9 I said, well, we're going back under the tree. So, we went
10 back under the tree, hang out for a little bit. And at that
11 time I was telling everybody I was getting ready to go.

12 Q. Okay. So, you had been over there a little bit prior?

13 A. Yeah.

14 Q. Okay. Let me ask you this, had you been drinking while
15 you were over there prior?

16 A. Yeah.

17 Q. Okay. And who was with you, was somebody specifically
18 riding with you?

19 A. At that time it was Eric Brown with me at that time.

20 Q. Okay. Alright. Let me ask you this, Vandy, how much do
21 you think you had had to drink out there that night?

22 A. I didn't drink much, I only drank three beers.

23 Q. Three beers?

24 A. Yeah.

25 Q. Alright.

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 A. Sixteen ounce.

2 Q. Three Sixteen ounce beers?

3 A. Yeah.

4 Q. It was a tall beer?

5 A. No, a little Sixteen ounce.

6 Q. I've got you. Alright, now did there come a time then
7 from what you told the jury that you ultimately decided that
8 you needed to head out that night?

9 A. Yeah.

10 Q. Do you remember about what time that was?

11 A. Man, I can't remember the time, it was maybe been like,
12 I want to say close to nine or a little after nine,
13 something like that.

14 Q. Okay. So, not, I mean, you weren't looking at your
15 watch, I guess, right?

16 A. No, I wasn't looking at my time at all.

17 Q. Had it gotten dark out by that time?

18 A. Yeah, about that time it already had gotten dark.

19 Q. Okay. Now, when you got ready to leave then, kind of
20 that second time to go for the night, I guess, - - -

21 A. Go for the night.

22 Q. --- was anybody going to leave with you, or in the
23 process of leaving with you?

24 A. Yeah, Isaac.

25 Q. Isaac?

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 A. Yeah.

2 Q. And that's your cousin?

3 A. That's my cousin.

4 Q. Alright. And do you remember what kind of vehicle you
5 were driving that night?

6 A. Yeah, a Ninety-three Suzuki Sidekick.

7 Q. Okay. And let me ask you, do you remember where you had
8 parked that night?

9 A. Right. I do.

10 Q. Alright. And I'm going to show you State's Exhibit
11 Number Six, have you had a chance to kind of look at that
12 diagram?

13 A. Right.

14 Q. And does that kind of accurately, kind of reflect the
15 layout of Mr. Ryant's yard and the road, Wingfield Street?

16 A. Yeah.

17 SOLICITOR SORENSON: Your Honor, at this time I'd
18 offer State's Six into evidence.

19 MR. GIPSON: Without objection.

20 THE COURT: Very well, State's Six is in evidence
21 without objection. It is a - - -

22 SOLICITOR SORENSON: Diagram.

23 THE COURT: --- diagram.

24 (State's Exhibit Six
25 marked and filed.)

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1 Q. And let me ask you this, have you had a chance to look
2 at this?

3 A. Right.

4 Q. There's several vehicles that are kind of depicted in
5 this diagram?

6 A. Right.

7 Q. Is your vehicle depicted in this diagram?

8 A. No.

9 Q. Okay. Tell the jury kind of where, or show the jury in
10 relation to this diagram where your Suzuki Sidekick would
11 have been parked?

12 A. It was parked on this side, in the back, over here.

13 Q. Okay. So, kind of off the right hand side of the
14 diagram?

15 A. Right side, yeah.

16 Q. And this is Wingfield Street out here, the street?

17 A. Right.

18 Q. So, it's facing, whose house is that?

19 A. Randy's.

20 Q. Randy's house. Okay. Just kind of show the jury where,
21 kind of where the picnic tables that y'all were hanging that
22 night were located that night?

23 A. That night we was right here, where the picnic tables
24 was at, and Alex's bike was right here.

Q. That was actually a motorcycle pulled in there?

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1 A. Yeah.

2 Q. Okay. So, he was parked out front on the street?

3 A. On the street, yeah. Well, sort, other cars was there,
4 too, at that time.

5 Q. I've got you, I've got you.

6 A. And, that's about right.

7 Q. Alright. So, let me ask you this, when you had started
8 -- alright, so you, did you go to attempt to leave that
9 night?

10 A. Yeah. I did attempt to leave, and - - -

11 Q. Okay. And ...

12 A. --- my cousin kept on telling me, well, hang around,
13 hang around.

14 MR. GIPSON: Object to hearsay, Your Honor.

15 THE COURT: Yes. Sustained.

16 A. Well, I decided to leave, and when I got ready to leave
17 I told him I was ready to go, and I start walking towards my
18 car right here.

19 Q. Okay. And as you were walking towards your car kind of
20 over in this area, - - -

21 A. Right.

22 Q. --- as you have indicated, did you see anybody as you
23 were walking over to that area?

24 A. Yes, I did.

Q. Alright. Who was it that you saw as you got kind of

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1 over close to your vehicle?

2 A. Romeo.

3 Q. Romeo?

4 A. Yeah.

5 Q. That's the defendant?

6 A. Right.

7 Q. And how, how far away was he when you saw him at that
8 point in time?

9 A. Maybe like Fifteen, Twenty feet away from me.

10 Q. Okay. And were you in the road?

11 A. Yeah, I walking in the road at that time.

12 Q. Okay. And where was he at?

13 A. He was coming up the road.

14 Q. Up the Road?

15 A. Yeah, I was going down.

16 Q. Okay. Now, did you, did you say anything to him at that
17 point in time?

18 A. No, I didn't say anything, I just had a mission to get
19 home.

20 Q. Okay. Alright, any doubt in your mind that's who you
21 saw?

22 A. Right.

23 Q. I mean, any doubt?

24 A. No doubt.

25 Q. And anything covering his face or obstructing your view

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1 of his face?

2 A. No.

3 Q. Okay. Let me ask you, out in the street in that area
4 are there any street lights out there in the street?

5 A. Mr. Berry, I think, well, the man across the street, he
6 had lights in his yard, and they were shining, and Mr. John
7 got lights I think further back on the side of the street,
8 yeah.

9 Q. Alright, so is that ...

10 A. Yeah, it was lighted.

11 Q. Okay. You were able to see him without any problems?

12 A. Yeah, I was able to see him.

13 Q. Alright. What, after you saw him what did you then,
14 then do?

15 A. I was just walking to my car, and I got to my car and I
16 open -- I reached for my car to open the door and that's
17 when I heard a gun shot.

18 Q. You heard a gun shot?

19 A. Yeah.

20 Q. What did you do when you heard the gun shot?

21 A. I ran into Mr. Berry's yard.

22 Q. Okay. Did you at any point in time look back and see
23 who was shooting?

24 A. I looked back, I couldn't see nobody, I mean, I just
25 heard everybody, so ...

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1 Q. Okay. And you said you ran into Mr. Berry's yard, is
2 that -- where is he located in relation to ...

3 A. Who, Mr. Berry? Mr. Berry lives across the street.

4 Q. Okay.

5 A. Right over, across the street.

6 Q. Okay. Alright, let me ask you this, you had told the
7 jury a few moments ago that, that your cousin was in the
8 process of leaving with you also?

9 A. Yeah.

10 Q. Do you know where he was at that point in time?

11 A. At that time he was walking behind me a little slower,
12 whatever.

13 Q. Okay. Alright. Now, at any point in time -- let me
14 ask you, you heard a gun shot, did you hear anything else
15 after that?

16 A. I heard somebody say, well, ...

17 MR. GIPSON: Object to the hearsay.

18 THE COURT: Sustained at this point.

19 Q. Okay.

20 A. I heard some people say ...

21 MR. GIPSON: Object to hearsay.

22 Q. Alright, you can't -- what, I mean, what was -- let me
23 ask you this, what was, at that point in time when you heard
24 the gun shot what was kind of the environment out there, I
25 mean, did you ...

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1 A. It was chaos. I mean, nobody knew where the gun --
2 well, I didn't know where the shooting was coming from, so I
3 just stand my ground and look to see beside me, and I yell
4 out to my cousin, and I say, where you at? And I seen him,
5 he was across the street and he was yelling where his dad
6 was at.

7 Q. Okay. And did you at that point in time, know where --
8 then that would be Mr. Thomas, did you know where Mr. Thomas
9 was?

10 A. No, not at the time.

11 Q. Okay. Now, did you hear any yelling coming from, - - -

12 A. Yeah.

13 Q. --- or anybody specifically yelling anything coming from
14 over back in the direction of the yard?

15 A. Yeah.

16 Q. Okay. And what, - - -

17 SOLICITOR SORENSON: Now, I think that would basically
18 qualify as an excited utterance at that point in time, I
19 mean.

20 THE COURT: Well, who?

21 Q. Okay. Well, who was it that you heard?

22 MR. GIPSON: Objection.

23 THE COURT: Come here.

24 (Whereupon, a bench conference
25 is had out of the hearing of the

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1 jury and court reporter.)

2 THE COURT: Alright.

3 Q. Mr. Morgan, so you heard, as you testified that you
4 heard the initial gun shot, is that correct?

5 A. Right.

6 Q. And now, I believe your description was it was kind of
7 chaos at that point in time?

8 A. Right.

9 Q. Alright, did you hear somebody -- not what they said at
10 this point, but did you hear somebody yelling at that point
11 in time?

12 A. Everybody was yelling.

13 Q. Okay. Did you hear -- let me ask you this, did you hear
14 Mr. Harrison?

15 MR. GIPSON: Object to the leading, Your Honor.

16 Q. Okay. Define everybody?

17 A. I heard Alex say, you shot me one time.

18 MR. GIPSON: Object, Your Honor.

19 THE COURT: Ladies and Gentlemen, let me ask you to
20 please step to your jury room. There's a matter I must take
21 up outside your presence. Do not discuss this matter or
22 allow anyone to discuss it with you, and we will be with you
23 shortly. We won't be long.

24 (Whereupon, the jury retires
25 to the jury room and the following

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1 takes place out of the hearing
2 of the jury.)

3 THE COURT: Let me get to the rule, please. If you are
4 establishing an excited utterance as an exception to the
5 hearsay rule, you've established that this gentleman was
6 there and there was a gun shot fired, but what you have to
7 do is that you have to establish the individual, where the
8 individual was, and the, and you've got to establish that
9 the statement is made relating to a startling event or
10 condition while the declarant is under the distress of the
11 excitement caused by the event or condition. You've got to
12 lay that foundation with regards to the declarant. And you
13 can't do that by leading. So, I sustain the objection but I
14 wanted to go over the foundational part of it.

15 SOLICITOR SORENSON: I understand, but I mean, it's --
16 part of it is, I have to be able to kind of, to get him so
17 he knows who I'm talking about. I mean, because he said, I
18 don't care what anybody else was saying, I only care about
19 what the victim was saying. I'm not trying to get into what
20 everybody else was yelling out there, but I mean, so when I
21 try to get him focused in on that I get objected to for
22 leading. Otherwise, if I ask him he's going to start saying
23 what everybody is saying, and so that's why ...

24 THE COURT: Mr. Sorenson, you know, I don't -- I think
25 you know the difference between what is leading and what

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 isn't leading, - - -

2 SOLICITOR SORENSON: Yeah, I - - -

3 THE COURT: --- and you don't get to lead just because
4 you choose to lead and it's helpful to you. That's not the
5 rule. You've got to be able to direct -- let me give you an
6 example, could you see the victim? Where was he? What did
7 he look like? What was he doing? And how soon thereafter
8 did you see him? What, if anything, did he say? I don't
9 know, this is Evidence One O One, I mean, I know that -- and
10 you have led, and it puts the defense in a position to have
11 to object and object and object and object. I'm going to
12 ask you to please try to watch the leading. I mean, yeah,
13 it makes the trial go faster, and yeah, it puts you in
14 control, but he's entitled to object to the leading, and
15 it's been, it's been a problem.

16 Yes, sir?

17 MR. GIPSON: And Judge, just for the record, I just
18 want to make sure that I'm clear. My position is that, you
19 know, at this juncture this is crucial testimony that I'm
20 hearing for the first time after, you know, Eighteen months
21 involved in the case. So, I'd like to make sure that what's
22 being said is coming from his mouth and not what, what, you
23 know, the State wants him to be able to testify to. And
again, we can't unring the bell. When you start saying,
these things happened and these things happened that, you

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 know nobody's ever heard, well, I've never heard before
2 today it's extremely prejudicial especially when it's
3 hearsay and it may not be something that's able to come in,
4 and we can't unring that. And even if you have to strike
5 it, the jury still hears that kind of stuff and it puts me
6 in a precarious position.

7 THE COURT: I'm with you, I understand, I understand.
8 And I understand the objections with regards to leading.
9 You know a great trial lawyer, it takes more than one
10 objection on leading that causes them to stop. So, in any
11 event ...

12 SOLICITOR SORENSON: Well, just, I mean, my, you know,
13 yes, ma'am.

14 THE COURT: Okay. Let me have my jury.
15 (Whereupon, the jury enters
16 the courtroom and the following
17 takes place in the presence
18 of the jury.)

19 THE COURT: You may proceed.

20 SOLICITOR SORENSON: Thank you, Your Honor.

21 Q. Let's back up here, if I could, Mr. Morgan. When you
22 heard the first gun shot, heard the first gun shot, tell the
23 jury or show the jury where you were when you heard that
24 first gun shot?

25 A. Alright. I was at my car when I heard the first shot.

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1 Q. Okay.

2 A. Well, I was at the car, my car when I heard the first
3 shot.

4 Q. Okay. When you heard that shot, kind of show the jury
5 kind of what the direction when you said that you kind of
6 took off running?

7 A. I take off running like that, right across in Mr.
8 Berry's yard.

9 Q. Okay. And you testified that it was chaotic at that
10 point in time?

11 A. Yeah.

12 Q. Do you know where, or where was Alex Harrison at that
13 point in time when all that was going on, do you know?

14 A. He was in the yard.

15 Q. Okay. In whose yard was that?

16 A. That was Randy's yard.

17 Q. Okay. And what direction was the gun shot that you
18 heard, what direction did that gun shot appear to come
19 from?

20 A. It was in the yard.

21 Q. In the yard. Now, do you have -- and not what anybody
22 said, did you have an opportunity at that point in time, did
23 you hear the victim, Mr. Harrison ...

24 MR. GIPSON: Objection.

25 SOLICITOR SORENSON: How is that ...

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 THE COURT: Say it again, let me hear it again.

2 Q. Did you at that point in time have the opportunity to
3 hear the victim say anything, Mr. Harrison say anything?
4 Not what it was.

5 A. Yes, I did.

6 THE COURT: That is permissible.

7 MR. GIPSON: Yes, ma'am.

8 Q. Alright. And could you tell anything about the
9 condition that Mr. Harrison seemed to be in at that point in
10 time?

11 MR. GIPSON: Objection to speculation, Your Honor, he
12 was across the street.

13 THE COURT: Well, if he didn't see it he can say he
14 didn't say he didn't see it. He can say what he saw and
15 what he heard, what he saw.

16 SOLICITOR SORENSON: In hearing his voice could you
17 tell anything about, I mean, that, I mean, what I need to
18 establish to get this in.

19 THE COURT: I know. Go ahead.

20 A. I didn't see him. I didn't see Alex.

21 Q. You didn't see him?

22 A. I didn't see him, I heard him.

23 Q. Okay. And describe to the jury, not what he said, but
24 describe for the jury how his voice seemed to you, this man
25 that you'd known for Twenty some odd years?

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 A. He was hurt.

2 Q. He was hurt?

3 A. Yeah.

4 Q. Okay. And how -- in relation to the gun shot you heard
5 how much time had gone by before you heard this, before he
6 sounded hurt to you?

7 A. Repeat the question?

8 Q. Okay. I'm just kind looking at time frame here. From
9 the time you heard the gun shot - - -

10 A. Right.

11 Q. --- until you heard how you described Mr. Harrison as
12 sounding hurt, how much time had gone by?

13 A. A couple of seconds.

14 Q. Had you made it across the street yet when you were
15 hearing that?

16 A. No.

17 Q. Okay.

18 SOLICITOR SORENSON: At this time, Your Honor, I think
19 we'd offer, I mean, what he heard him say.

20 THE COURT: Yes.

21 SOLICITOR SORENSON: Thank you.

22 Q. What did you hear Mr. Harrison saying at that point in
23 time in that hurt voice?

24 A. I realized when I heard his voice, he said, you shot me
25 one time, please don't shoot me no more.

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 Q. Now, did you hear anything else after that, after you
2 heard him say that?

3 A. The gun shot went off.

4 Q. A gun shot?

5 THE COURT: His voice is so low I can't hear.

6 A. The gun shot went off.

7 Q. Okay. Now, how many gun shots would that have been that
8 you heard?

9 A. I heard two gun shots.

10 Q. Okay. So, you heard the initial one, Alex's, the
11 comment you just said, and then another gun shot?

12 A. Yeah, another one.

13 Q. And where were you at, Mr. Morgan, when you heard that
14 second gun shot?

15 A. I was across the street.

16 Q. Across the street? Alright.. Now yet again, and I'd
17 asked you about that initial gun shot, if you saw who was
18 shooting, did you see who was shooting the second gun shot?

19 A. No.

20 Q. Okay. Did you ever see anybody out there with a gun?

21 A. No.

22 Q. What, after, after that second gun shot tell the jury
23 what you then did, Mr. Morgan?

24 A. I ran in the yard and I seen my friend laying on the
25 ground, and he really wasn't, he wasn't saying nothing at

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 the time.

2 Q. Where was he at in the yard, do you remember?

3 A. He was laying right there not too far from the porch,
4 not -- right there closer to the tree.

5 Q. Let me show you, Mr. Morgan, State's Exhibit Number Two,
6 and see if that accurately depicts where he was when you got
7 over there?

8 A. Yeah.

9 Q. Did y'all move him at all, did anybody move him while
10 you were there?

11 A. At one time, yeah, because they was trying to get me to
12 put him in the car and rush him to the hospital, and I said,
13 no. I said, I didn't see him bleeding out. I said, ...

14 COURT REPORTER: I didn't see him what?

15 A. I didn't see him bleeding out, so I said, he's got some
16 internal bleeding going on. And I said, if we move him we
17 might be giving him the fatal position to kill him. So, I
18 didn't see him breathing anymore, I put my hand on his wrist
19 and I didn't felt no pulse. And I called Nine One One, and
20 me and the lady got into it, I was cussing her out or what
21 not. After that, that was it.

22 Q. Okay. Were you still there - - -

23 A. Yeah.

24 Q. --- did the police show up?

25 A. When the police showed up, yeah.

VANDY MORGAN - DIRECT BY SOL. SORENSON

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1 Q. Did EMS show up?

2 A. Yeah.

3 Q. Were you there when all the happened still?

4 A. Yeah.

5 Q. Let me ask you this, when you go over to the yard, so
6 you said after the second gun shot you went over to Mr.
7 Harrison, is that correct?

8 A. Right.

9 Q. Did you see, was Mr. Brown out there anywhere in the
10 yard at that point in time?

11 A. No.

12 Q. Did you see him anymore that night - - -

13 A. No.

14 Q. --- after you testified about testified about seeing him
15 in the street?

16 A. Right. I didn't see him anymore.

17 Q. Mr. Morgan, did you ultimately give a statement that
18 night to the sheriff's office?

19 A. Yes, I did. It wasn't the right statement, I was
20 scared, I was hurt, I didn't want to talk about it at the
21 time. But what I give her was not true.

22 Q. Okay. Let's see, I think that's just about it, Mr.
23 Morgan. Let me just ask you, I think the last thing I've
24 got, Mr. Morgan, was that you had talked earlier about
25 passing somebody out on the street, out on Wingfield Street.

1 Can you, is that person here in the courtroom that you
2 passed out on the street?

3 A. Yes.

4 Q. Could you point him out for the Court and the jury?

5 A. Right there.

6 Q. Mr. Brown?

7 A. Right.

8 SOLICITOR SORENSON: Thank you, Mr. Morgan, if you'd
9 answer any questions that Mr. Gipson has.

10 THE COURT: Very well. Cross-examination.

11 MR. GIPSON: Thank you, Your Honor.

12 (NOTE: Blank lines on this page do not indicate any part of
13 record has been omitted. Headers on testimony pages and
14 hard page breaks between testimony are now required by the
15 Court. See next ensuing page for sequential continuation of
16 record.)

VANDY MORGAN - CROSS BY MR. GIPSON

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VANDY MORGAN - CROSS-EXAMINATION

BY MR. GIPSON:

Q. Are you a little nervous today?

A. We live in this moment, yeah.

Q. Uncomfortable about it?

A. Yeah.

Q. Alright. Now, let me ask you this question, since you just mentioned this part last, - - -

A. Right.

Q. --- how is the jury supposed to know you're telling the truth today as opposed to back then?

A. What I told them? Like I tell you, I was mad, I was hurt.

Q. So, that gives you license to lie when you're mad and hurt?

A. Well, truthfully, me and the officer got into it.

Q. Which officer?

A. The female officer that take the statement, I forgot her name.

Q. Uh-huh.

A. And I didn't want to give it right then and there.

Q. Uh-huh. Well, did you go back and correct it after you gave it?

A. When I talked to the lawyer I corrected it.

Q. I'm sorry?

VANDY MORGAN - CROSS BY MR. GIPSON

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1 A. When I talked to the lawyer.

2 Q. What lawyer?

3 A. Right there.

4 Q. Mr. Sorenson?

5 A. Yeah.

6 Q. Okay. When did you talk to him?

7 A. When he had contact me about I might be going to the
8 trial.

9 Q. About how long ago was that?

10 A. A couple of months ago.

11 Q. Okay. And this incident happened October Twenty-
12 seventh, Two thousand ten, correct?

13 A. Right.

14 MR. GIPSON: Your Honor, I'd like to have this marked
15 as Defense Exhibit, I think that may be Number Four, for ID
16 purposes.

17 COURT REPORTER: Four and Five?

18 MR. GIPSON: This is just one, it's four.

19 COURT REPORTER: It's just one?

20 MR. GIPSON: Yes, ma'am.

21 COURT REPORTER: Okay. Defendant's Four for ID.

MR. GIPSON: Thank you, ma'am.

(Defendant's Exhibit Four,
Written Statement of Vandy Morgan,
marked for identification.)

VANDY MORGAN - CROSS BY MR. GIPSON

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1 Q. Now, Mr. Morgan, I'm going to hand you what's been
2 marked Defendant's Exhibit Four for identification purposes.
3 Take a look at that if you will, please?

4 A. Okay.

5 Q. Are you familiar with that?

6 A. Yeah, I'm familiar with it.

7 Q. Tell us what that is?

8 A. That was the statement that I gave.

9 Q. Okay. The statement that you gave to whom?

10 A. The officer.

11 Q. Alright. And this was given the night of the incident,
12 correct?

13 A. Right.

14 Q. I'm sorry, that's correct?

15 A. I said, right.

16 Q. And that was given at Eleven:sixteen p.m., correct?

17 A. Right.

18 Q. Alright. And you told the officer what happened,
19 correct?

20 A. Yes.

21 Q. Alright. And take a look at that. Tell us in that
22 statement, well, tell the jury in that statement where you
23 have Romeo Brown's name mentioned anywhere in that
24 statement?

25 A. No, I didn't.

VANDY MORGAN - CROSS BY MR. GIPSON

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1 Q. Okay. Nowhere in that statement?

2 A. No, I didn't.

3 Q. Okay. And any of the other things that you testified to
4 about what you heard said, tell them where that's in that
5 statement?

6 A. No.

7 Q. Not in there at all, is it?

8 A. Huh-uh.

9 Q. Don't you think that's important?

10 A. Sir, yes.

11 Q. Okay. And that's not the only officer you came in
12 contact with, Patricia Eikhoff, who was the investigator,
13 there were other officers out there as well, correct?

14 A. Yes.

15 Q. And tell the jury when you told those other officers
16 what you said here today?

17 A. The same thing I told them, I said, my friend got shot,
18 that was it.

19 Q. Alright. That was it?

20 A. Yeah.

21 Q. And you said you were a little nervous and scared. At
22 some point in time the nervousness went away, right?

23 A. No, it stayed with me.

24 Q. Okay. Until Mr. Sorenson called you and it went away?

25 A. No.

VANDY MORGAN - CROSS BY MR. GIPSON

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1 Q. Alright. So, tell us the night of the Twenty-seventh
2 you didn't want to give a statement correct?

3 A. Right.

4 Q. So, the Twenty-eighth, you didn't decide, you know what,
5 there's some extremely important information I left out that
6 I need to go see y'all and talk to about this, did you do
7 that on the Twenty-eighth?

8 A. The Twenty-eight of what?

9 Q. The day after the incident.

10 A. No.

11 Q. You didn't do it then?

12 A. Sir, I was, like I told you, I was hurt.

13 Q. I understand.

14 A. I also was scared.

15 Q. I understand.

16 A. And I was dealing with it. Alright, I didn't talk to
17 nobody too much about anything.

18 Q. Alright, the Twenty-ninth did you go talk to them?

19 A. No.

20 Q. After the funeral did you go talk to anybody?

21 A. No.

22 Q. Alright. Let's say, in December of Two thousand and
23 ten, a little over a month after that, did you call the
24 officers and say, I lied to y'all, I didn't tell y'all what
25 I needed to tell you, did you do that then?

VANDY MORGAN - CROSS BY MR. GIPSON

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1 A. No, I didn't.

2 Q. In January of Two thousand eleven?

3 A. No, I didn't.

4 Q. In February of Two thousand eleven?

5 A. Sir, I didn't talk to nobody at all until now.

6 Q. March, Two thousand eleven.

7 A. Alright.

8 Q. All through Two thousand eleven you didn't call the
9 police and say, hey, I left some stuff out of there, it
10 wasn't until you spoke with Mr. Sorenson about two months
11 ago that you remembered that you left some stuff out?

12 A. Truthfully, I don't even want to be here, alright, you
13 know, - - -

14 Q. I understand, but my question ...

15 A. --- I don't want to ...

16 Q. Sir, with all due respect, I, answer the question.

17 THE COURT: Yes, sir, if you'd be responsive to the
18 question. Thank you.

19 A. Yes, ma'am. I'm being truthful right now, but yeah,
20 like I said, I didn't talk to nobody about it at all.

21 Q. Alright. Now, you did not see who shot Alex that night,
22 correct?

23 A. No, I didn't.

24 Q. Okay. And that's what you, that's what you told them
25 that day?

VANDY MORGAN - CROSS BY MR. GIPSON

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1 A. That's the truth.

2 Q. Alright. Now, out there that particular day there was,
3 you said, of course, Alex was there, you said Shawn was
4 there as well?

5 A. Yes.

6 Q. Alright. And Joe and Isaac who's your cousin, correct?
7 And I said Joe, I'm sorry, Mr. Joe here, I guess a cousin by
8 marriage?

9 A. Right.

10 Q. Alright. And about what time did you get there that
11 day, if you remember?

12 A. Right after work.

13 Q. And that would be about what time?

14 A. After five, after five, maybe about six o'clock.

15 Q. And that's kind of, was it still daylight then?

16 A. Yes, yes.

17 Q. Alright. And y'all were out there just kind of playing
18 cards, dominos, just kind of whatever?

19 A. Yeah.

20 Q. And having a few drinks, right?

21 A. Right.

22 Q. Alright. And you said at that point you had, you know
23 you had three beers?

24 A. Yeah.

25 Q. Alright. Did you have any gin that was out there?

VANDY MORGAN - CROSS BY MR. GIPSON

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1 A. No, I ain't had no gin.

2 Q. Okay, well, just the beers?

3 A. Yeah.

4 Q. What about Alex, did you see, know about what time he
5 got there, roughly?

6 A. He had got there maybe like, I'm guessing here, it maybe
7 been ...

8 Q. And I don't want you to guess but just, was it right
9 after you got there?

10 A. It was dark when he got there. Okay?

11 Q. Okay. That's fair enough.

12 A. That's all I can tell you.

13 Q. Well, I don't want you to guess on anything.

14 A. Yeah.

15 Q. Alright. And did you see him drinking?

16 A. No. He ate out of my chips bag.

17 Q. Okay.

18 A. Out my chips I had that was there.

19 Q. Alright. But did you smell alcohol on him, do you
20 remember?

21 A. No.

22 Q. Okay. And what about Shawn, did you see him drinking
out there?

A. No.

Okay. And Mr. Joe?

VANDY MORGAN - CROSS BY MR. GIPSON

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1 A. No, but they just had got there.

2 Q. Okay. And your cousin, did you see him out there
3 drinking?

4 A. Yeah, me and him was together, we was, we had a couple
5 of beers.

6 Q. Okay. Now, in all, like you said, you've known Alex
7 probably Twenty years, y'all essentially kind of grew up
8 together in some way, shape or form, right?

9 A. Right.

10 Q. Alright. Now, have you ever seen him with a gun?

11 A. No.

12 Q. Okay. Ever known him to carry one?

13 A. If we going hunting.

14 Q. Okay.

15 A. Other than that, no.

16 Q. Okay. And you never had any words with him?

17 A. No.

18 Q. Okay.

19 MR. GIPSON: The Court's indulgence for a moment, Your
20 Honor.

21 THE COURT: Alright.

22 Q. Now, we started Court essentially yesterday. Have you
23 discussed your, any of the testimony that's been given yet
24 with anyone?

25 A. No.

1 Q. Okay. Has anyone talked to you about what was testified
2 to earlier?

3 A. No.

4 Q. Okay.

5 MR. GIPSON: The Court's indulgence, Your Honor.

6 THE COURT: Alright.

7 MR. GIPSON: That's all my questions, Your Honor.

8 THE COURT: Alright. Redirect?

9 SOLICITOR SORENSON: Yes, ma'am.

10 (NOTE: Blank lines on this page do not indicate any part of
11 record has been omitted. Headers on testimony pages and
12 hard page breaks between testimony are now required by the
13 Court. See next ensuing page for sequential continuation of
14 record.)

VANDY MORGAN - REDIRECT BY SOL. SORENSON

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1 VANDY MORGAN - REDIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Mr. Morgan, I want to ask you just a few questions about
4 the statement you gave to the police that night.

5 A. Yeah.

6 Q. Do you still have the copy that Mr. Gipson gave you?

7 MR. GIPSON: I'm sorry.

8 Q. Let me hand you that. That's Defendant's Four for ID,
9 I'll just give you that. Do you remember Mr. Gipson kind of
10 questioning you about that statement a little bit a few
11 moments ago?

12 A. Right.

13 Q. Alright. Do you remember him kind of referencing you
14 lying to the police?

15 A. Right.

16 Q. Okay. Have you had a chance to look through that this
17 morning?

18 A. No.

19 Q. Alright, if you would, Mr. Morgan, take a few minutes
20 and just kind of read through that statement that you gave
21 that night. Okay. Have you had a chance to look through
22 that?

23 A. Yeah.

24 Q. Okay. Is there anything that's a lie in that statement?

25 A. No, it's not a lie, it just, I didn't tell everything

VANDY MORGAN - REDIRECT BY SOL. SORENSON

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1 that happened.

2 Q. Okay. Well, let me ask you this, who wrote that
3 statement that night, is that your handwriting?

4 A. No, it wasn't.

5 Q. Whose handwriting is that?

6 A. It was the officer's handwriting.

7 Q. The officer's handwriting?

8 A. Right.

9 Q. Okay. So, is there anything in there that's a lie?

10 A. No.

11 SOLICITOR SORENSON: Your Honor, at this time I would
12 offer that into evidence as a State's exhibit.

13 MR. GIPSON: No objection.

14 THE COURT: Very well.

15 SOLICITOR SORENSON: And I -- do you want me to use
16 yours and just put a sticker over the top of it?

17 MR. GIPSON: Sure, that's fine.

18 SOLICITOR SORENSON: I mean, do it either way, I can
19 put in my copy and leave that as a defense exhibit.

20 THE COURT: I have an opinion from my court reporter,
21 and she's saying?

22 COURT REPORTER: I'm just trying to save it. He said,
23 Defense Exhibit, whatever the number is, for ID, but it's
24 in, he's already put it in.

25 SOLICITOR SORENSON: No, he didn't.

VANDY MORGAN - REDIRECT BY SOL. SORENSON

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1 COURT REPORTER: Let me see?

2 SOLICITOR SORENSON: I mean, that's not in evidence
3 right now, until I move it into evidence. The question is
4 whether I need to use another copy of it or whether we can
5 put a State Exhibit on that.

6 COURT REPORTER: Well, that's what he gave it to me and
7 I marked it, and he put it in.

8 THE COURT: Yes, ma'am, I'm with you completely. Here's
9 what we will do. Let's mark -- since you are moving it in
10 let's put another sticker on it, we'll leave the defense
11 sticker for ID just like Ms. Harry Dot has. Ms. Harry
12 Dot, let's put another sticker on it from the State's
13 perspective, making it the State's exhibit, but I do want
14 the record for it to remain an ID for the purposes of
15 defense.

16 SOLICITOR SORENSON: Defense, yes, ma'am.

17 COURT REPORTER: Well, I'll have to put ID on it
18 because I didn't earlier.

19 THE COURT: Yes, ma'am, that's great.

20 COURT REPORTER: Defense Exhibit is now ID.

21 THE COURT: ID for the defense.

22 COURT REPORTER: Yes, ma'am.

23 THE COURT: Perfect.

COURT REPORTER: And then, the State's exhibit is going
to be Number Twelve.

VANDY MORGAN - REDIRECT BY SOL. SORENSON

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1 THE COURT: Perfect. Thank you, Ms. Harry Dot, you
2 keep us straight.

3 COURT REPORTER: And that's going in.

4 THE COURT: Exactly.

5 COURT REPORTER: Where is it? Hand it to me.

6 SOLICITOR SORENSON: It's right behind you.

7 (State's Exhibit Twelve
8 marked and filed.)

9 THE COURT: Thank you so much. Alright, you may
10 proceed.

11 SOLICITOR SORENSON: Thank you, Your Honor. Can I get
12 Mr. Morgan to publish this to the jury?

13 THE COURT: Read it?

14 SOLICITOR SORENSON: Just to read it?

15 THE COURT: Sure. It might be best if that's his
16 handwriting.

17 Q. Do you think you'd be able to read that?

18 SOLICITOR SORENSON: Well, it's actually not his
19 handwriting, it's the detective's.

20 THE COURT: Oh, that's right, it's the police officer's
21 handwriting, I don't know that he can.

22 SOLICITOR SORENSON: Am I allowed to publish it at this
23 point in time to the jury?

24 THE COURT: To the jury? You know what I would prefer
25 is either, I think it's probably more appropriate to let

VANDY MORGAN - REDIRECT BY SOL. SORENSON

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1 them read it.

2 SOLICITOR SORENSON: It's only a paragraph so it's not
3 very long, so ...

4 (Whereupon, State's Exhibit Twelve
5 is published to the jury.)

6 THE COURT: Yeah, absolutely. Oh, and just while it's
7 on my mind and while they're doing that, counsel, let me
8 just see you very briefly.

9 (Whereupon, a bench conference
10 is had out of the hearing of
11 the jury and court reporter.)

12 SOLICITOR SORENSON: Do you have a copy of this that
13 maybe I can give to the back row? Is that fine?

14 THE COURT: Absolutely.

15 MR. GIPSON: I've got one, Judge, I have a third if you
16 want to see it.

17 THE COURT: Fantastic. This is like, oh, everybody is
18 going to feel like they're in high school again.

19 SOLICITOR SORENSON: Your Honor, that's all I have.

20 THE COURT: Very well. Recross?

21 MR. GIPSON: Just briefly, Your Honor.

22 THE COURT: Yes.

23 (NOTE: Blank lines on this page do not indicate any part of
24 record has been omitted.)

VANDY MORGAN - RECROSS BY MR. GIPSON

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1 VANDY MORGAN - RECROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Now, it is true that, you said that Detective Eikhoff
4 actually wrote this statement for you, correct?

5 A. Yes.

6 Q. Okay. And isn't it true, if you'll take a look at that,
7 that first -- you may need to take a look at that -- that
8 first line says, I am giving Investigator Eikhoff permission
9 to write this statement. Correct?

10 A. Right.

11 Q. And that's your handwriting?

12 A. Right.

13 Q. And that's your signature that says, Vandy Morgan,
14 correct?

15 A. Correct.

16 Q. Alright. And then, further down there's a line at the
17 bottom, correct?

18 A. Yeah, it's got my initials on it.

19 Q. And there's a VM, and the VM stands for Vandy Morgan?

20 A. Right.

21 Q. And you wrote that, correct?

22 A. Right.

23 Q. Okay. Nobody made you write that, right?

24 A. No.

25 Q. You did it of your own free will, correct?

VANDY MORGAN - RECROSS BY MR. GIPSON

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1 A. Correct.

2 Q. And you did it because that's your signature and you
3 gave her permission, right?

4 A. Yes.

5 Q. Okay. And at the end you also signed -- oh, I'm sorry,
6 there's another page, actually on page Two, there's a line
7 through it with a VM, whose initials are those?

8 A. Those are mine.

9 Q. Okay. And I've got a -- those are yours?

10 A. I've got it, yes.

11 Q. Okay. And again, because you gave her permission,
12 correct?

13 A. Correct.

14 Q. And you write that line through there because that shows
15 that nobody has added anything to the statement correct?

16 A. Right.

17 Q. Alright. And one the third page there's a VM back
18 there, right?

19 A. Yes.

20 Q. Okay. And that's your initials as well?

21 A. Right.

22 Q. And the cross through that meaning no one else wrote
23 anything in here that you didn't agree to, correct?

24 A. Right.

25 Q. And then at the end you signed it, right?

VANDY MORGAN - RECROSS BY MR. GIPSON

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1 A. Right.

2 Q. And that is your signature, right?

3 A. That's my signature.

4 Q. And nobody made you do that, right?

5 A. No.

6 Q. Okay. You did that of your own free will?

7 A. Yes.

8 Q. Alright. Now, you mentioned having children, correct?

9 A. Yes.

10 Q. Alright. And have you ever come home and something is
11 broken?

12 A. Yes.

13 Q. And then they say, well, what happened to it, and they
14 say, well, ...

15 SOLICITOR SORENSON: Your Honor, I'm going to object.

16 MR. GIPSON: It's an analogy, Your Honor.

17 SOLICITOR SORENSON: Well, how is, I'm not sure where
18 he's going, how this is in response to my redirect.

19 THE COURT: I don't know, but I'll give him a little
20 bit of latitude.

21 MR. GIPSON: And it will be very brief.

22 THE COURT: Okay.

23 Q. So, you come home and something is broken, right, and
24 you ask what happened, and they say, well, it just fell off
25 the counter, right?

VANDY MORGAN - RECROSS BY MR. GIPSON

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1 A. Right.

2 Q. And you kind of have an idea, do you ...

3 A. I was a child once, yes, I understand where you're going
4 with this.

5 Q. So, do you call that misleading or a lie?

6 A. I call that not telling the truth at that point, yeah.

7 Q. Okay. Alright, so you know what the difference is,
8 correct?

9 A. Yes, I know what you're talking about.

10 Q. Alright. And in this particular situation, for all
11 these months you said nothing about Romeo Brown even being
12 anywhere close, right, to this, you didn't even mention him
13 in your statement at any point in time?

14 A. No, to, not to none of the officers, no.

15 Q. Okay. And that's a little bit important, isn't it?

16 A. If you say so, yeah.

17 Q. Okay. So, did you mislead them or did you lie to them?

18 A. I didn't mislead them, like I told you, I didn't feel
19 like talking at the time as to that.

20 Q. At anytime until Mr. Sorenson called you, right?

21 A. After I done talked to a counselor and everything, yeah.

22 Q. Okay.

23 A. That's when I came forth and gave my statement over to
24 them.

25 Q. Okay.

1 MR. GIPSON: Okay. That's all I have, Your Honor.

2 THE COURT: Okay. Thank you. Is this witness free to
3 leave?

4 MR. GIPSON: Yes, ma'am.

5 THE COURT: Very well, you are free to go. Alright.

6 Call your next witness, please.

7 SOLICITOR SORENSON: The State calls Isaac Bernard
8 Morgan.

9 (Whereupon, the witness
10 enters the courtroom.)

11 SOLICITOR SORENSON: Mr. Morgan, come right around to
12 that chair right there and listen to the Clerk. Okay?

13 CLERK: Please place your left hand on the Bible and
14 raise your right hand.

15 (Whereupon, Isaac Bernard Morgan
16 is duly sworn.)

17 CLERK: Thank you. Please have a seat, and please
18 state your name again for the record.

19 WITNESS: Isaac Morgan.

20 CLERK: Thank you.

21 (NOTE: Blank lines on this page do not indicate any part of
22 record has been omitted. Headers on testimony pages and
23 hard page breaks between testimony are now required by the
24 Court. See next ensuing page for sequential continuation of
25 record.)

ISAAC B. MORGAN - DIRECT BY SOL. SORENSON

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1 ISAAC B. MORGAN - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good morning, Mr. Morgan.

4 A. Good morning.

5 Q. If you would, tell the jury how old you are?

6 A. Thirty-five years old.

7 Q. And what do you do for a living, Mr. Morgan?

8 A. I was working with a construction company in
9 Summerville, South Carolina.

10 Q. Alright. And do you live here in Orangeburg?

11 A. Yes.

12 Q. Okay. And how long have you lived in Orangeburg?

13 A. All my life.

14 Q. Did you go to high school here?

15 A. Yes.

16 Q. Okay. And let me ask you, you saw Mr. Vandy Morgan that
17 just left the courtroom?

18 A. Yes.

19 Q. Okay. How are you related to him?

20 A. That's my cousin.

21 Q. Alright. And how about Joe Thomas that testified
22 yesterday?

23 A. That's my father.

Q. Your father? Alright. Let me ask you, do you know the
defendant, Romeo Brown?

1 A. Yes.

2 Q. Okay. And how long, how long have you known Mr. Brown?

3 A. Since a couple of months.

4 Q. A couple of months from now or a couple of months prior
5 to the shooting that we're here about?

6 A. Yeah, it just been a couple of months. I met him, it
7 was earlier, maybe six, seven months, somewhere up in there,
8 it wasn't that long.

9 Q. Okay, prior to what?

10 A. Prior to the shooting.

11 Q. Okay. I've got you. Alright. And how about the victim
12 in this case, Alex Harrison, did you know Mr. Harrison?

13 A. Oh, yes.

14 Q. And how long have you known Mr. Harrison?

15 A. Over Twenty-five years, a best friend of mine.

16 Q. Best friend?

17 A. Best friend.

18 Q. Okay. So, you've known him, if you're Thirty-five, I
19 mean, since you were a teenager, or younger?

20 A. Younger than that, man.

21 Q. Alright. Now, Mr. Morgan, we're turning back to the
22 evening of October Twenty-seventh of Two thousand ten, were
23 you hanging out somewhere that night?

24 A. Yes, we was on Wingfield off of Whitaker Parkway.

25 Q. Okay. And whose house was that that you were at?

ISAAC B. MORGAN - DIRECT BY SOL. SORENSON

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1 A. Randy Ryant.

2 Q. Okay. And describe for the jury, I mean, is that a
3 place that you went frequently?

4 A. Yes.

5 Q. Okay. And about how often would you hang out over
6 there?

7 A. We used to go over there almost every day, we'd get off
8 of work and go over there and talk and everything, that's
9 all, chill out.

10 Q. Okay. Did y'all drink?

11 A. Yeah, take a beer or two.

12 Q. Okay. Alright, and so that night who were you with over
13 at Mr. Ryant's house that night of October Twenty-seventh?

14 A. It was me, Randy, another friend of mine, Donnell Ryant,
15 another friend of mine, Ulysses Daniels, a guy, Mr. Jerry,
16 and a couple of other people that was out there.

17 Q. Okay. And y'all were doing what you typically do out
18 there?

19 A. Yeah, drinking a beer, shooting the stuff, that's all.

20 Q. Alright. And how about the victim in this case, Alex
21 Harrison, was Alex out there that night?

22 A. Yes, but not right at that moment. He gave me a call and
23 told me that he was on his way.

24 Q. Okay. Alright, and did he ultimately come by out there?

25 A. Yes.

ISAAC B. MORGAN - DIRECT BY SOL. SORENSON

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1 Q. Okay. Was there something that he wanted to show you
2 when he came out there?

3 A. Yeah. He gave me a call and I haven't seen ...

4 Q. Was there something that he wanted to show you?

5 A. Yes.

6 Q. Okay. And what was that that he wanted to show you?

7 A. His motorcycle.

8 Q. Okay. And is that how he got there, on the motorcycle?

9 A. Yes.

10 Q. Alright. And had you spoken with him throughout the
11 day?

12 A. When he gave me a call that's when I spoke with him.

13 Q. Okay. Alright. Now, do you know about what time it was
14 that Mr. Harrison got out to Mr. Ryant's house?

15 A. Anywhere between, it was between seven and eight o'clock
16 somewhere, I know it was getting to be nightfall.

17 Q. Okay. Alright. Now, ultimately, Mr. Morgan, did there
18 come a time that night when you got ready to leave Mr.
19 Ryant's house?

20 A. Yes.

21 Q. Okay. And how, were you driving?

22 A. No, sir, I was riding with my cousin, Vandy.

23 Q. Okay. So, he was your ride?

24 A. Yes.

25 Q. Okay. And who was it that was ready to leave, you or

ISAAC B. MORGAN - DIRECT BY SOL. SORENSON

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1 him?

2 A. Well, he had to go to work, and he was, like, Ike, you
3 about ready to go? And I said, yeah. So, I stood up and we
4 was all sitting around the table, me and my father, Vandy,
5 and Alex was on the opposite side of me, him and my father.
6 So, I got up and I gave everybody a hug, and when I turned
7 around and walking back to the car it happened so fast, I
8 heard a pop, pop, and I jumped behind Vandy's, he had a
9 little Sidekick, I jumped behind the Sidekick, Vandy ran
10 across the street, and I'm looking at Vandy, and I'm, like,
11 Vandy, tell me where the shots come from, what's going on?
12 I looked and I saw my dad, he was about to run. And I said,
13 man, where are you going? And right when I was turning
14 around I heard Shawn, I heard Shawn say ...

15 Q. Okay. You can't say what anybody else said. Okay?

16 A. Okay.

17 Q. Alright. But you hear, how many gun shots did you
18 ultimately end up hearing?

19 A. Two.

20 Q. Two? Alright. And where -- when all this was going on
21 now, where were you at?

22 A. I was behind Vandy's truck.

23 Q. Okay. And I think he had testified it was a Suzuki
24 Sidekick?

25 A. It was a Suzuki Sidekick, yes.

ISAAC B. MORGAN - DIRECT BY SOL. SORENSON

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1 Q. Alright. Now, let me ask you this, did you at any point
2 in time see who was shooting?

3 A. No, I couldn't because I was behind the truck and I
4 couldn't see, but as I was turning, when I heard somebody
5 say ...

6 MR. GIPSON: Objection.

7 Q. You can't say what anybody said. Okay? My question
8 was, did you at any point in time see who was shooting?

9 A. No, I couldn't.

10 Q. Okay. Alright. Let me ask you this, did you at any
11 point in time see Romeo Brown out there that night?

12 A. Not right at that moment, no.

13 Q. Now ultimately, Mr. Morgan, did you at any point in time
14 go back over into Mr. Ryant's yard?

15 A. Yes, after, I went over there and I saw him on the
16 ground, I ran to him.

17 Q. Who is him?

18 A. Alex.

19 Q. Okay.

20 A. And I said, man, are you alright, man? I said, somebody
21 call Nine One One. So, I took my phone out and I'm on the
22 phone with Nine One One, I'm, like, we need some assistance,
23 my friend just got shot. And so, I'm asking everybody, I'm,
24 like, ...

25 Q. You can't say what other people said, okay, Mr. Morgan?

ISAAC B. MORGAN - DIRECT BY SOL. SORENSON

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1 A. Okay.

2 Q. Alright. Were you there when law enforcement and EMS
3 arrived out there?

4 A. Yes.

5 Q. Okay. And let me ask you, when they got there what was,
6 what was Mr. Harrison's condition, Alex's condition?

7 A. He was already gone.

8 Q. Okay. And what, had y'all been doing anything with him
9 up until them getting there?

10 A. Performing CPR.

11 Q. Okay. And do you remember who was attempting to do
12 that?

13 A. Yes.

14 Q. Who was that?

15 A. Shawn.

16 Q. Shawn? Alright. Now, did you ultimately, Mr. Morgan,
17 give a statement to the police that night, did you stick
18 around and give a statement to them that night?

19 A. Yes, I did.

20 SOLICITOR SORENSON: I think that's all I'd have for
21 this witness, Your Honor.

22 THE COURT: Alright. Cross-examination.

23 MR. GIPSON: The Court's indulgence, Your Honor.

THE COURT: Alright.

MR. GIPSON: I have no questions for Mr. Morgan.

1 THE COURT: Alright, very well. Is this witness free
2 to leave?

3 MR. GIPSON: Yes, ma'am.

4 SOLICITOR SORENSON: No objection.

5 THE COURT: Very well, you're free to go.

6 Call your next witness, please.

7 SOLICITOR SORENSON: Can I have one second just to see
8 who ...

9 THE COURT: Ladies and Gentlemen, we're going to take
10 our morning break. Our next witness will be with us in just
11 a few months but before then it comes at a great time,
12 perfect timing for our morning break. We're going to take
13 Fifteen minutes. As you step to your jury room please
14 remember, do not discuss this matter or allow anyone to
15 discuss it with you. And again, we'll take about Fifteen
16 minutes. If you'll go with Ms. Jamison.

17 (Whereupon, the jury retires
18 to the jury room.)

19 (Recess)

20 (Whereupon, the following
21 takes place out of the presence
22 of the jury.)

23 THE COURT: What I need to do, just tell the jury we're
24 going to be a little bit longer. There is a matter that has
25 arisen that I must take up outside their presence, and it

1 will be just a few more minutes.

2 Okay, Mr. Sorenson.

3 SOLICITOR SORENSON: This is Ulysses Daniels.

4 Obviously, he has not been sworn so probably we're going to
5 hear his testimony.

6 If you'll face the clerk right there.

7 CLERK: Please place your left hand on the Bible and
8 raise your right hand.

9 (Whereupon, Ulysses Daniels
10 is duly sworn.)

11 CLERK: Please state your name for the record.

12 WITNESS: Ulysses Daniels.

13 CLERK: Thank you.

14 SOLICITOR SORENSON: And I guess do we need to just
15 kind of, so we understand what we're doing? We had talked
16 in chambers I guess the other day about a prior incident
17 that had occurred about four months prior, and I wanted to
18 proffer some testimony from Mr. Daniels in regards to that
19 so Your Honor could move on it.

20 THE COURT: Okay.

21 SOLICITOR SORENSON: Okay. Alright.

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record has been omitted. Headers on testimony pages and
hard page breaks between testimony are now required by the
Court.)

ULYSSES DANIELS, DIRECT IN CAMERA BY SOL. SORENSON

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1 ULYSSES DANIELS - DIRECT EXAMINATION IN CAMERA

2 BY SOLICITOR SORENSON:

3 Q. Mr. Daniels, let me first of all ask you, do you know
4 the defendant, Romeo Brown?

5 A. Yes.

6 Q. Okay. And how long, how long have you known Mr. Brown?

7 A. I mean, I see him from the time he stayed at Mr. Randy
8 and Tammy's house, and then ...

9 THE COURT: I can't hear you.

10 Q. You need to speak up nice and loud, okay?

11 A. I knew him from the short period of time that he stayed
12 at Randy's and Tammy's house, and then I knew him from time
13 to time, from coming over there.

14 Q. Did you recognize him by face when you saw him?

15 A. Yeah.

16 Q. And did you know his name?

17 A. Romeo.

18 Q. Romeo?

19 A. Uh-huh.

20 Q. How about the victim, Alex Harrison, did you know Mr.
21 Harrison?

22 A. Yeah, I knew him for a while.

23 Q. For a while? How long is for a while? Make sure you
24 speak up nice and loud.

A. Maybe a year, two years at the most.

ULYSSES DANIELS, DIRECT IN CAMERA BY SOL. SORENSON

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1 Q. Okay. Alright. I want to turn your attention, I'm not
2 allowed to talk to you right now about the night of the
3 shooting, but several months prior to that were you present
4 for an incident between the two of them?

5 A. Yes, I was.

6 Q. Okay. And tell the Court about that incident.

7 A. Well, me and Alex was sitting at the table, you know,
8 just talking or whatever, and Romeo walked towards where we
9 was at at a kind of fast pace. So, you know, Alex sit up,
10 you know, to try to explain that the misunderstanding
11 between Romeo's nephew and him had done been ...

12 COURT REPORTER: Talk louder.

13 A. Had done been resolved, or whatever. And that's when
14 the two of them hooked up, and Romeo pushed Alex back
15 towards the car that was parked, an old car that was parked
16 not too far from them. And that's when he took the gun and
17 hit him across the head with it. So, I went to get Mr.
18 Randy to tell him what was going on. And when I looked
19 back, you know, the two of them was tussling with the gun.
20 Romeo was, like, behind Alex, you know, Alex had the gun,
21 you know, close to him, to where both of them had their hand
22 on the gun. And Alex had it curved up to where, you know, I
guess, Romeo couldn't pull the trigger or whatever. And
that's when Mr. Randy came and, you know, told the two of
them, you know, if they didn't cut it out he was going to

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1 call the police, or whatever. The two of them, you know,
2 fell to the ground with the gun or whatever. There was a
3 little guy that comes to the neighborhood every now and
4 then, you know, both of them let the guy got the gun or
5 whatever, and then, you know, the two of them had split
6 away. And Alex jumped in his truck and Romeo, you know, ran
7 off.

8 Q. Okay. And so, this was in Randy's yard, the same yard
9 that the shooting happened in October?

10 A. Yes.

11 Q. Okay. And are you aware of what this kind of argument
12 was over, this incident was about?

13 A. You know, it was just a little misunderstanding of, you
14 know, Alex was just joking one night and you know, took a
15 bag of weed from Romeo's nephew. You know, Alex brought it
16 back because, you know, he was, it wasn't nothing, you know,
17 for harm or whatever. You know, that's why the two of them
18 had the unresolved issue or whatever.

19 Q. Okay. And then fast forwarding to October of Two
20 thousand ten when Alex was shot, was that kind of animosity
21 between them still going on?

22 A. I mean, I would think so, because, you know, Alex
23 stopped coming over there and Romeo did, too, you know, but
24 that night, you know, Alex came back over there, you know,
25 because, you know, everything had done been, you know, well,

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1 I guess everybody thought that it was done resolved, you
2 know, gone away, or whatever.

3 SOLICITOR SORENSON: I think that would be basically
4 what we'd be seeking to get into, Your Honor.

5 THE COURT: Cross-examination on this issue?

6 MR. GIPSON: Alright, thank you.

7 (NOTE: Blank lines on this page do not indicate any part of
8 record has been omitted. Headers on testimony pages and
9 hard page breaks between testimony are now required by the
10 Court. See next ensuing page for sequential continuation of
11 record.)

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1 ULYSSES DANIELS - CROSS-EXAMINATION, IN CAMERA,

2 BY MR. GIPSON:

3 Q. You said all of this happened. Were the police called?

4 A. The first night?

5 Q. Yes.

6 A. Well, yeah.

7 Q. I'm talking about this incident that you're describing
8 that happened between he and Alex a few months before?

9 A. Yeah, the police was called.

10 Q. And you stuck around and told them everything, right?

11 A. I wasn't, I didn't, they didn't talk to me that night.

12 Q. Because they ...

13 A. They didn't talk to me that night.

14 Q. Why shouldn't they talk to you?

15 A. I don't know.

16 Q. Did you stay around for them to talk to you?

17 A. I was there when they came.

18 Q. You were there when they came?

19 A. Yeah.

20 Q. And you didn't offer the information to them?

21 A. No, I didn't say anything to them.

22 Q. Okay. And you said you thought everything was resolved,
23 right?

24 A. Uh-huh.

25 Q. Alright. And you thought there was no other animosity

ULYSSES DANIELS - CROSS, IN CAMERA, BY MR. GIPSON

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1 between anybody, right?

2 A. Right.

3 Q. Okay.

4 MR. GIPSON: That's all my questions, Your Honor.

5 THE COURT: Alright, Mr. Sorenson, what is the
6 connection between the events in October and these events
7 that I gather this gentleman cannot establish with any
8 certainty other than it was several months before?

9 SOLICITOR SORENSON: The connection? I mean, it's the
10 same yard, same parties involved, him coming up pulling a
11 gun on him. I think it would go to show identity. I assume
12 Byran, Mr. Gipson is going to argue, I guess, we've got the
13 wrong person. So, I think it would go to show identity. It
14 would go to show some sort of motive, that there was some
15 animosity. He had testified, well, he thought that maybe it
16 had been resolved, but that they both had stopped basically
17 coming around there also until that night then several
18 months later of the shooting.

19 THE COURT: Do you have any authority for ...

20 SOLICITOR SORENSON: I mean, I don't have anything
21 specifically that matches these facts on point. I mean, I
22 know there's case law that says that you can get into the
23 fact that there was animosity between the parties, so I
24 guess that would be in the alternative, is what I'd be
25 asking, is not to go into the details, but to be able to

1 ask, I mean, was there some animosity in the months before?

2 THE COURT: He just testified that he thought it was
3 over.

4 SOLICITOR SORENSON: But there was animosity in the
5 past between them. I mean, that doesn't specifically, that
6 says that you can't get into the specifics if you're just
7 dealing with that, but this I think would go more towards,
8 you know, proving identity, and almost kind of motive and
9 intent. And that would be under Four O Four, B, I guess, is
10 what we would be looking at.

11 THE COURT: Yeah, sure.

12 MR. GIPSON: And Your Honor, in terms of the identity
13 portion, I mean, he said he knew Mr. Brown because he lived
14 there, he came and went. So, that identity part, that's not
15 even necessary because there's a less prejudicial way to
16 prove identity just by virtue of the fact that he's already
17 testified that he'd seen him come through there and he knew
18 his name. But mostly, I think this incident is, you know,
19 if it's an incident, is far too remote. There was no
20 contact with the police. He said he was there and the
21 police came and didn't see it necessary to even speak to
22 him. So, and the fact that -- that's Number One. Two, the
fact that he said I thought it was resolved, and everybody
out there thought it was resolved, that isn't, it's over.
There's no animosity, and I think to try to link the two

1 together, again, you know, the prejudicial effect probably
2 outweighs the probative value. The question that we're here
3 today about is, and this week is about what happened on
4 October Twenty-seventh, and I think we're clouding and
5 muddying the water and putting a lot of things in out there
6 that are extremely prejudicial that don't need to be in this
7 case, especially after the testimony that it's, everything
8 was resolved.

9 THE COURT: Given where we are at this point in the
10 trial and the evidence that is before the jury, I don't
11 think that Rule Four O Four, B, applies in this sense, I
12 think that, I should say that the exceptions to Four O Four,
13 B, because when you're talking about identity, the classic
14 example of identity is that you have a mask wearing bandit
15 who has a penchant for breaking into McDonalds and wears
16 masks, and he has a particular modus operandi, and while you
17 can't see him on one occasion or two occasions the
18 individual using the same modus operandi and then on the
19 third occasion somebody sees the person without the mask.
20 And that goes to the identity, other wrongs and acts and
21 crimes to show identity. The fact that he was there several
22 months before and was in an altercation isn't evidence that
23 he, in and of itself that he was there several months later.
24 And you've got, you have witnesses who put him on the scene,
25 who identify him as being on the scene. So, I don't think

1 it goes to show identity.

2 The question is, does it go to show motive? Well,
3 obviously, motive is not an element, it's malice
4 aforethought, and as this gentleman just testified, he
5 thought all of that upset was resolved, which is why Alex
6 had come back around to this barbecue event. So, this
7 witness I don't think can establish that.

8 Let me say this, at this point in the trial, and I'm, I
9 don't want to take the evidence conditionally at this point
10 that it gets tied up. He may, if it becomes relevant at
11 some point he may have to be called perhaps in rebuttal or
12 something, but at this point I don't think it's, I don't
13 think it's admissible, and would exclude it even with the
14 proffer.

15 Now, having said that, I can't imagine that it may
16 become relevant at some other point, perhaps in rebuttal,
17 but not now.

18 SOLICITOR SORENSON: Yes, ma'am.

19 THE COURT: And that would be the ruling at this point.
20 Now, but this gentleman was down on the, in October?

21 SOLICITOR SORENSON: He's still a witness, yes, ma'am.

22 THE COURT: Very well. Let me do this on the record,
23 and then add to it on the record, I think you need to.

24 Mr. Daniels, you're going to be asked questions by Mr.
25 Sorenson. It's going to feel a little funny, because the

1 jury is going to come back in and you're going to have to be
2 sworn in again. And it's going to feel funny, it's like,
3 didn't we just do this. This is like De-je-vu all over
4 again. The reason is, is that in order to testify, which
5 you've been doing, you have to be sworn in, but the jury
6 needs to see you being sworn in also. So, that's why we
7 will do that again. Okay? First of all.

8 WITNESS: Yes, ma'am.

9 THE COURT: Secondly, what we have just been discussing
10 is that the evidence of what occurred months earlier at this
11 point in the trial I have excluded, at this point in the
12 trial. Okay?

13 WITNESS: Okay.

14 THE COURT: Now, you may get a call that they need you
15 back down in Orangeburg, and that's because your testimony
16 has become appropriate, it has become relevant. So, just
17 bear with us if you get a message like that in the next day
18 or so. Okay?

19 WITNESS: Okay.

20 THE COURT: Alright. But what Mr. Sorenson -- so, just
21 understand that Mr. Sorenson is not going to be asking you
22 about the earlier things, but you're still a witness and
23 he's still going to ask you about other things. Does that
24 make sense what I'm saying?

25 WITNESS: Yes, ma'am.

1 THE COURT: I just don't want you confused, I don't
2 think it's fair to you.

3 WITNESS: Okay.

4 THE COURT: In other words, certain things you won't be
5 testifying to at this point, maybe later, I don't know at
6 this point, but Mr. Sorenson still has many things that he
7 needs to ask of you. Okay?

8 WITNESS: Okay.

9 THE COURT: Alright. Anything you want to add to that?

10 SOLICITOR SORENSON: No, ma'am.

11 THE COURT: Okay.

12 SOLICITOR SORENSON: Is he okay just to leave him
13 sitting there?

14 THE COURT: I think so, I think so, absolutely.

15 Anything you want to add to that, Mr. Gipson?

16 MR. GIPSON: No, ma'am.

17 THE COURT: Very well, very well. And furthermore,
18 you've been talking now for a while. Do you want a cup of
19 water?

20 WITNESS: Yes, I do.

21 THE COURT: You've got some water?

22 WITNESS: Yes, ma'am, thank you.

23 THE COURT: Are you ready?

24 WITNESS: Yes, ma'am.

THE COURT: Anything before I bring the jury out from

1 the State?

2 SOLICITOR SORENSON: No, ma'am.

3 THE COURT: From the Defense?

4 MR. GIPSON: No, ma'am.

5 THE COURT: Very well. Let us have our jury.

6 (Whereupon, the jury enters
7 the courtroom and the following
8 takes place in the presence
9 of the jury.)

10 THE COURT: Thank you, Ladies and Gentlemen. At this
11 time we're going to continue with the State's case.

12 Call your next witness, please.

13 SOLICITOR SORENSON: Yes, ma'am, may it please the
14 Court, the State calls Ulysses Daniels. Just stand up.

15 CLERK: Place your left hand on the Bible and raise
16 your right hand.

17 (Whereupon, Ulysses Daniels
18 is duly sworn.)

19 CLERK: Thank you. Please have a seat and state your
20 name again for the record.

21 WITNESS: Ulysses Daniels.

22 CLERK: Thank you.

23 THE COURT: And would you do me a favor and spell
24 Ulysses?.

25 WITNESS: U-L-Y-S-S-E-S.

1 THE COURT: Thank you so much. I've been, I'm not even
2 going to tell you how I spelled it, but again, I'm from
3 Dillon, so I have an excuse.

4 Alright, Mr. Sorenson.

5 SOLICITOR SORENSON: Thank you, Your Honor.

6 (NOTE: Blank lines on this page do not indicate any part of
7 record has been omitted.)

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1 ULYSSES DANIELS - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good morning, Mr. Daniels.

4 A. Good morning.

5 Q. If you would, tell the jury how old you are?

6 A. Thirty-one.

7 Q. Thirty-one? And obviously, from your jump suit you're
8 wearing you're currently incarcerated?

9 A. Yes, sir.

10 Q. Okay. And let me kind of go through your prior record
11 with you. Back in Two thousand three you have a conviction
12 for, a drug conviction for possession with intent to
13 distribute?

14 A. Yes, sir.

15 Q. Okay. And then, I guess you are currently locked up now
16 from a Two thousand ten conviction for distribution of
17 cocaine?

18 A. Yes, sir.

19 Q. Is that correct?

20 A. Yes, sir.

21 Q. And what agency prosecuted you in that matter?

22 A. Federal.

23 Q. Federal? It was the U. S. Attorney's office?

24 A. Yes, sir.

25 Q. Okay. And, alright, and you're currently serving, I

1 think it's a Twenty year sentence, is that correct, for
2 distribution of cocaine?

3 A. Yes, sir.

4 Q. Okay. Alright. Now, I want to turn your attention back
5 to October of Two thousand ten, if I could, Mr. Daniels. Do
6 you know the defendant in this case, Romeo Brown?

7 A. Yes.

8 Q. Okay. And make sure you keep your voice up nice and
9 loud, I want all - - -

10 A. Okay.

11 Q. --- those Fourteen jurors to be able to hear you. How -
12 - tell the jury how you know Mr. Brown?

13 A. From the short period of time he stayed with Mr. Randy
14 and Tammy and from the time I seen him coming back and forth
15 over there.

16 Q. Okay. And that was Tammy and Randy Ryant?

17 A. Yes, sir.

18 Q. Okay. So obviously, you were friends with them?

19 A. Yes, sir.

20 Q. Okay. And so, he stayed with them for a period of time?

21 A. A short period of time.

22 Q. Okay. And let me ask you, back in October of Two
23 thousand ten did you know his name back then?

24 A. Yes.

25 Q. What did you know him by?

ULYSSES DANIELS - DIRECT BY SOL. SORENSON

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1 A. Just Romeo.

2 Q. Romeo?

3 A. Uh-huh.

4 Q. Okay. Did you know his last name or ...

5 A. Brown.

6 Q. Okay. Alright. And, alright, how about the victim in
7 this case, Alex Harrison, did you know Mr. Harrison back in
8 October of Two thousand ten?

9 A. Yes, sir.

10 Q. Okay. And how long and how well did you know Mr.
11 Harrison?

12 A. I knew him for about a year or two.

13 Q. Okay. Was he friends with you or just acquaintances?

14 A. Yeah, we was friends.

15 Q. Friends?

16 A. Just friends.

17 Q. Okay. Were you friends of Mr. Brown also back then?

18 A. No, sir.

19 Q. Okay.

20 A. We never even spoke.

21 Q. Okay, he was more of somebody you saw around?

22 A. Yeah.

23 Q. I want to turn your attention specifically, Mr. Daniels,
24 to the night of October Twenty-seventh of Two thousand ten.
25 Where were you hanging out that evening?

1 A. On, at Mr. Randy's and Ms. Tammy's house.

2 Q. Okay. And do you know what street that's on?

3 A. Wingfield Street.

4 Q. Wingfield Street? Alright. And do you remember how you
5 got there that night?

6 A. I drove.

7 Q. Okay. And was anybody else with you or show up at the
8 same time with you that you remember?

9 A. No, not that I recall.

10 Q. Okay. And so you basically were by yourself as far as
11 you recall?

12 A. Yes, uh-huh.

13 Q. Okay. And what, tell the jury just in general what you
14 did out there that evening?

15 A. We were just sitting there, you know, laughing and
16 talking, joking, whatever.

17 Q. Okay. Were y'all drinking?

18 A. Yeah.

19 Q. Okay. Did anybody do any drugs out there?

20 A. No.

21 Q. You specifically, were you drinking?

22 A. No, I just got there not too long before.

23 Q. Did you have anything to drink earlier in the evening
24 that you remember?

A. No.

ULYSSES DANIELS - DIRECT BY SOL. SORENSON

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1 Q. Okay. And where is that at Randy's and Tammy's that
2 you, that all that was going on that night?

3 A. Say that again?

4 Q. Where was all that going on at Randy's and Tammy's that
5 night, inside, outside?

6 A. Outside in the yard.

7 Q. Okay. And what part, if you could, tell the jury what
8 part of the yard all that was happening in that night?

9 A. We wasn't too far, you know, like between the house and
10 the road.

11 Q. Okay. Alright, and was there anything out there that
12 y'all were around?

13 A. Tables. It was like, you know, tables we was sitting
14 at.

15 Q. Okay. And how often did you kind of hang out over there
16 back in October of Two thousand ten, obviously before you
17 got incarcerated, how often would you kind of hang out over
18 there?

19 A. Almost every day.

20 Q. Okay. Alright. I want to turn your attention -- did
21 there come a time that night when you saw Mr. Brown out
22 there?

A. Yes.

Q. Okay. And tell the jury kind of, go through what
happened leading to your observing Mr. Brown that night?

1 A. You know, we was sitting all at the table laughing and
2 joking, and then that's when I seen, you know, Romeo
3 standing at a distance but not too far from us, you know.
4 You could see his gun, you know, boldly. You know, he
5 wasn't hiding it or nothing. And you know, that's when I
6 stood up at the table and was, like, you know, told
7 everybody to get on point, you know. That's when, you know,
8 I guess Alex spotted him and ran towards him, you know.
9 That's when I ran on the side of the car that was parked on
10 the side of the road, you know, to cover, for protection or
11 whatever. And that's when I heard the first shot. And then
12 when I looked through the window of the car that's when I
13 seen Romeo standing over Alex and fired the last shot.

14 Q. You said you had run to a car. Where, do you remember
15 where that car was parked at that you ran to?

16 A. On the side of the road.

17 Q. Okay. Let me show you State's Exhibit Number Six. Have
18 you seen that diagram before?

19 A. It was a gray Lincoln Town car.

20 Q. Okay. Could you point to the car that you ran to?

21 A. Yeah.

22 Q. So, that one right, that car right there?

23 A. Uh-huh, because we was sitting right at, it was a table
24 right up in there.

25 Q. Could you point to the table that you were sitting at?

ULYSSES DANIELS - DIRECT BY SOL. SORENSON

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1 A. We was sitting at this table right here.

2 Q. Okay. And you ran behind this Lincoln Town car?

3 A. Uh-huh.

4 Q. Okay. And you said you heard, you heard the gun shot?

5 A. Yeah, I heard the first shot and then that's when I
6 looked up through the window, and you know, that's when he
7 was standing over him and fired the last shot.

8 Q. Okay. So, the first gun shot that you heard, did you
9 physically see who fired that shot?

10 A. I didn't see it but, because I was on the other side of
11 the car.

12 Q. I've got you. But then so when you look through you see
13 the second gun shot?

14 A. Yeah, that's when I seen him standing over him, and he
15 fired the last shot.

16 Q. And who was that that you saw fire that second shot?

17 A. Romeo.

18 Q. The defendant?

19 A. Yes, sir.

20 Q. Let me ask you, when you initially saw Mr. Brown kind of
21 coming up did he say anything, Mr. Brown?

22 A. Yeah, he said something to Donell Ryant that was
23 standing at the table, not the -- it was another table that
24 was a little bit above us, and that's when you know, he was
25 asking, like, you know what was he doing over there.

1 Q. Okay. Talking about who?

2 A. Alex.

3 Q. Now, what, when the gun shots -- you know, did you see
4 what everybody did kind of when that first gun shot went
5 off? You testified you ran behind the car, did you see what
6 everybody else did?

7 A. Yeah, everybody, I mean, no, because I was really just,
8 I take off for myself.

9 Q. Okay. Now, how about when you looked back through and
10 saw the second gun shot, did you know what -- did you see
11 what everybody else was doing or where they were at that
12 point in time?

13 A. No.

14 Q. Okay. Alright. And let me ask you, kind of out in that
15 yard area around the tables that you were sitting around
16 and all, what's the lighting like out there in the evening
17 time?

18 A. It's pretty, I mean, it's pretty good, because Randy has
19 a big, he has a porch light that shines kind of bright.

20 Q. Okay. Are there any street lights on Wingfield Street?

21 A. Yeah.

22 Q. Did you have any difficulty seeing out there that night?

23 MR. GIPSON: Objection.

24 THE COURT: Sustained.

25 Q. Okay. So, just kind of describe what the lighting was

ULYSSES DANIELS - DIRECT BY SOL. SORENSON

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1 like out there?

2 A. It was good, it was very good.

3 Q. Let me ask you this, Mr. Daniels, what did you
4 ultimately end up doing then after, after the shooting, did
5 you stick around out there?

6 A. I mean, there was a few of us that went to check to make
7 sure that he was, you know, see his condition or whatever,
8 and shortly after that, you know, I left, and I went through
9 the little pad and went to the next street over and had my
10 girlfriend call me, and that's when I called Agent Barry
11 Wilson, you know, to inform him what had happened, to make
12 sure that it didn't violate my bond or whatever.

13 Q. Okay. And that's what I was going to ask you. So, were
14 you out on bond for what you now are in prison for?

15 A. Yes.

16 Q. You were out on bond at that point in time?

17 A. Yes.

18 Q. Okay. So you, when did you call Agent Wilson?

19 A. As soon as I got to my house.

20 Q. Okay. And as a result of that conversation with Agent
21 Wilson, did you, were you put in touch with somebody else?

22 A. He told me that he would have an officer contact me.

23 MR. GIPSON: Objection to hearsay.

THE COURT: Hearsay, yes.

2. You can't say what he said, but just listen to my

1 question. Alright, as a result of that conversation with
2 Agent Wilson were you put in contact with somebody else?

3 A. Yes.

4 Q. Okay. And who was that that you were put in contact
5 with?

6 A. A female sheriff's officer.

7 Q. A female?

8 A. Sheriff's officer, Eikhoff.

9 Q. Okay. And did you have an opportunity to speak to her
10 that evening, or that night?

11 A. No, she arranged for me to see her later and take a
12 statement and do, point out, point him out in a lineup.

13 Q. Okay. And in fact, a couple of days later did you, in
14 fact, come in and give a statement to the sheriff's office?

15 A. Yes, sir.

16 Q. And on that day that you gave that statement did they
17 show you a photo lineup?

18 A. Yes, sir.

19 Q. Okay. I'm showing you State's Exhibit Number Eight, do
20 you recognize that?

21 A. Yeah.

22 Q. And what is that?

23 A. The lineup I pointed him out of.

24 Q. Okay. And did you identify somebody in that lineup?

25 A. Yeah, Romeo.

ULYSSES DANIELS - DIRECT BY SOL. SORENSON

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1 Q. Okay. Did you initial it and date it?

2 A. Yes, sir.

3 Q. And let me show you the second page, did you fill out
4 this attached affidavit?

5 A. Yes, sir.

6 SOLICITOR SORENSON: Your Honor, at this time I would
7 offer State's Exhibit Number Eight into evidence.

8 MR. GIPSON: Without objection.

9 THE COURT: Very well, Defendant's Exhibit Eight.

10 SOLICITOR SORENSON: State's Eight.

11 THE COURT: State's Eight. I was more worried about
12 ID.

13 SOLICITOR SORENSON: Oh, no.

14 THE COURT: Don't say ID. It's in evidence without
15 objection.

16 SOLICITOR SORENSON: You've got it in evidence?

17 COURT REPORTER: Yes.

18 (State's Exhibit Eight
19 marked and filed.)

20 Q. And yet again, you indicated you circled somebody on
21 this?

22 A. Yes, sir.

23 Q. And that is Photograph Number Three up here?

24 A. Yes, sir.

25 Q. And who is that that you circled in Photograph Number

1 Three?

2 A. Romeo Brown.

3 Q. And why is it that you circled him and indicated him in
4 this lineup?

5 A. Because he was the one that did the shooting.

6 Q. And did you document that also in the second page of
7 this affidavit?

8 A. Yes, sir.

9 Q. Okay. And is there a date and time on that that you did
10 that?

11 A. Yes, sir.

12 Q. What is the date and time?

13 A. Eleven/one/Two thousand ten, at two:twenty-four.

14 Q. That was about four or five days later, does that sound
15 about right?

16 A. Yes, uh-huh.

17 Q. Mr. Daniels, do you see that person that you've
18 indicated to the jury that you saw shoot Alex, that second
19 gun shot at least that you saw, do you see him here in the
20 courtroom?

21 A. Yes, sir.

22 Q. Would you point him out for the jury?

23 A. He's right there.

24 Q. In the middle sitting at the defense table?

25 A. Yes, sir.

ULYSSES DANIELS - DIRECT BY SOL. SORENSON

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1 SOLICITOR SORENSON: Alright, thank you, Mr. Daniels,
2 please answer any questions that Mr. Gipson has for you.

3 THE COURT: Cross-examination.

4 MR. GIPSON: Thank you, Your Honor.

5 (NOTE: Blank lines on this page do not indicate any part of
6 record has been omitted. Headers on testimony pages and
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ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 ULYSSES DANIELS - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good morning.

4 A. How you doing?

5 Q. Alright. And I'm just going to step back just to
6 encourage you to speak up a little bit more. Now as you
7 mentioned, you had seen Romeo going back and forth to the
8 Ryant's house because he lived there, correct?

9 A. Yes, sir.

10 Q. Alright. So, quite frankly, when you talked about
11 State's Exhibit Number Eight, which is a photo lineup, you
12 know Romeo, so that's not like this was a surprise to you to
13 see that and know who Romeo Brown is, right?

14 A. Yeah, I mean, no, because I seen him before, you know,
15 from the times he was over there.

16 Q. Right. Okay. Now, you knew Alex as well, correct?

17 A. Yes, sir.

18 Q. And you said y'all were friends, right?

19 A. Uh-huh.

20 Q. So y'all hung out from time -- and just one quick thing,
21 if you say uh-huh, or huh-uh, it's hard for the court to
22 take it down.

23 A. Okay.

24 Q. So, you've got to say yes or no. And you'll have plenty
25 of time to explain your answer.

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 A. Okay.

2 Q. Okay? Alright, so y'all were friends, you hung out from
3 time to time, right?

4 A. Yes, sir.

5 Q. And you had an opportunity to sometimes drink together,
6 just hang out, y'all were friends?

7 A. Yes.

8 Q. And so, for a couple of years you had known him, right?

9 A. Yes.

10 Q. Alright. Now, looking at October Twenty-seventh, the
11 date that we're here about, there were a lot of people out
12 there that day, right?

13 A. Yes, sir.

14 Q. And a lot of people out there drinking, right?

15 A. Yeah.

16 Q. So, what kind of alcohol did you see out there that day?

17 A. It was gin.

18 Q. Okay, gin?

19 A. Yes, sir.

20 Q. Okay. And was there some beer out there, too?

21 A. Yes.

22 Q. Sixteen ounce cans, the big ones?

23 A. Twelve ounce cans, some sixteen ounces.

24 Q. Okay. And you said out of all that beer that you didn't
25 have any?

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 A. I had just got there.

2 Q. Okay. How long had you been there before the incident?

3 A. Maybe like Thirty minutes, Forty-five minutes at the
4 most.

5 Q. Okay. And during that period of time you didn't have
6 anything to drink?

7 A. No, not at that time.

8 Q. Okay. Did you have some later?

9 A. No, because that happened and I left.

10 Q. Did you have some before?

11 A. No.

12 Q. Okay. Did you see Alex having any?

13 A. Not at the time when I arrived there, because, you know,
14 we was sitting side by side.

15 Q. Okay. Could you smell alcohol on him?

16 A. I don't recall, but I mean, I wasn't trying to smell
17 him.

18 Q. Okay. Now, you said the incident occurred and it
19 happened pretty quickly, right?

20 A. Yeah.

21 Q. Okay. And how long between the time the incident took
22 place and the police got there?

23 A. I mean, it took a while for them to get there.

24 Q. Okay. What is a while?

25 A. Maybe like Thirty minutes, Forty-five minutes, something

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 like that, I'm not too sure.

2 Q. Okay. How long did it take you to leave there?

3 A. I got there, I left shortly after the police got there.

4 Q. Okay. So, you waited for the police?

5 A. When they was arriving I was, I left.

6 Q. Okay. So, it wasn't important enough for you to stick
7 around for your friend, to tell the officers what happened?

8 A. I mean, that's why I did, that's why I called, you know,
9 the agent, that's why I made the call that I made, you know
10 what I'm saying.

11 Q. You made the call to Mr. Wilson?

12 A. Yes, sir.

13 Q. Well, no, you said the call to Mr. Wilson was to make
14 sure that your bonding wasn't violated?

15 A. Yeah, and he told me that, and I also told him what
16 happened.

17 Q. Right. But you didn't stick around for the Orangeburg
18 County Police, to tell them what you witnessed that day, did
19 you?

20 A. No, because I figured I would let, you know, the federal
21 people handle that, you know.

22 Q. Because it was more important to make sure your bonding
23 didn't get violated than to tell them what you witnessed out
24 there that night, at that point, right?

25 A. I guess, if that's how you want to look at it.

1 Q. Okay. Now, and to be even more truthful about the
2 situation, you left, like you said, you left, and you road
3 out in your car, right?

4 A. No, I had my girlfriend pick me up.

5 Q. Okay. Well, so she picked you up?

6 A. On the next street over.

7 Q. Why did she have to pick you up on the next street over?

8 A. Because the police had done start blocking the street
9 off and not letting anybody in.

10 Q. Okay. And, but you didn't say, hey, I'm Ulysses
11 Daniels, I was out here, I'm going to come back, I just need
12 to go see my girlfriend, or I need to go check -- you didn't
13 do any of that?

14 A. No.

15 Q. Okay. So, you left your car there?

16 A. Yeah.

17 Q. When did you come back and get it?

18 A. The next morning.

19 Q. So, the next morning did you find it important enough
20 to get your car and ride over and tell them what was going
21 on?

22 A. I did, he had already done told me, the officer had done
23 called me that night, and that's when we had already set up
24 a time for me to come for her to take my statement or
25 whatever.

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 Q. But, I understand you set a time up, but you said your
2 friend who you had known two years who you hung out with had
3 just been killed?

4 A. Uh-huh.

5 Q. Right?

6 A. Uh-huh.

7 Q. And you witnessed it, right?

8 A. Uh-huh.

9 THE COURT: Is that a yes or a no?

10 A. Yes, sir.

11 Q. Okay. And you, and you witnessed that, right?

12 A. Yes, sir.

13 Q. So, alright, so, and this happened on the Twenty-
14 seventh, right?

15 MR. GIPSON: It happened on the Twenty-seventh of
16 October, if we can take judicial notice, I guess, it
17 happened on the Twenty-seventh of October. Alright.

18 A. Yes, sir.

19 Q. So the Twenty-eighth, the day that you went to retrieve
20 your car when the police weren't there, you didn't figure,
21 you know what, let me just get this, let me just go out
22 there and make sure that they understand what's going on,
23 you didn't do that on the Twenty-eighth, did you?

24 A. What would have been the purpose if I had already set up
25 a date with the officer for her to take my statement?

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 Q. Maybe the purpose, couldn't a purpose be to tell the
2 police what happened to your friend as opposed to just
3 waiting around a few more days?

4 A. If I had already set up a date with her I didn't see a
5 need, you know, because I already knew I was going to meet
6 with her at the later date.

7 Q. Okay. And you were comfortable with that?

8 A. Yes, sir.

9 Q. Okay. And you didn't do it on the Twenty-ninth, it
10 wasn't important on the Twenty-ninth because you just
11 figured, I'll just get around to it in a few days when I get
12 a chance to go see her?

13 A. I did it when she was, when it was convenient for her,
14 when she gave me the date to come to see her to fill out the
15 statement or whatever.

16 Q. Uh-huh. And where did you do that statement?

17 A. At, over there at the Sheriff's Department.

18 Q. Okay. And she wasn't going to be around any other time
19 to do that, right?

20 A. I mean, I did it when she asked me to come, when she
21 asked me to come do it.

22 Q. Okay. But, and you were comfortable, like I said, just
23 waiting until that time, right, five days later?

24 A. I mean, I'm not the police, I mean, I figured that, you
25 know, she would get to me when she had the time.

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 Q. Okay. And when you had an opportunity to -- but again,
2 it was important enough for you to leave the scene so that
3 you didn't have to speak to them on the spot, right?

4 A. Yeah.

5 Q. Now, let me ask you this, one of the conditions of bond,
6 because you were on bond at that point in time for your
7 federal charges, right?

8 A. Yes, sir.

9 Q. And you received, what, Two hundred forty months, right?

10 A. Yes, sir.

11 Q. And that equates to Twenty years?

12 A. Uh-huh.

13 Q. Alright.

14 A. Yes, sir.

15 Q. So, one of the conditions when you're out on bond is to
16 stay out of trouble, right?

17 A. Yes, sir.

18 Q. Not be around areas where trouble can break through,
19 right?

20 A. Yes, sir.

21 Q. Break, you know, where trouble can break out, right?

22 A. Yes, sir.

23 Q. And if you were found to be in violation of that then
24 you can be found to have violated your bond, and your bond
25 can be revoked, right?

1 A. Yes, sir.

2 Q. Which means that you've got to go to jail earlier than
3 you planned on going because you haven't complied or done
4 what the judge told you to do by kind of staying away from
5 areas and staying out of trouble?

6 A. Yes, sir.

7 Q. Was being around areas where alcohol was being consumed,
8 was that a part of your bond, staying away from those areas,
9 bars and places where excessive alcohol is being used?

10 A. I wasn't at a bar I was at a friend's house.

11 Q. Places where excessive alcohol is used, is that kind of
12 a part of your bond, to stay away from those areas?

13 A. I wouldn't say it's, I mean, it's casual drinking.

14 Q. But was that a part of your bond?

15 A. I mean, they didn't tell me anything about that.

16 Q. Okay. That's fair enough. I was just wondering if it
17 was part of your bond. And before you left the scene, when
18 the police came, can you kind of demonstrate what you saw
19 take place?

20 MR. GIPSON: And If I could have the witness step down
21 for just a moment?

22 THE COURT: Sure.

23 Q. Okay. If you'd step down and kind of demonstrate what
24 you saw in terms of what you're saying that Romeo did and
25 what Mr. Harrison did?

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 THE COURT: Yes, sir?

2 SOLICITOR SORENSON: My only concern is, he is
3 shackled, so just keep ...

4 THE COURT: He's going to have to be very very careful.
5 I was going to do that. I was going to Jewish mother him.
6 When you stand up and you start moving, you take it slow:
7 Okay? Because, you know what I mean, I know your feet are
8 shackled and I wouldn't want you hurting yourself. Okay?
9 Now, hold on right there. Look, he's not even holding on.
10 Alright. He's got it under control.

11 Q. If I were Mr. Harrison where would I need to be, so you
12 can kind of show -- if you pretend to be who you say Romeo
13 was that day, show me what I, what happened out there? I
14 would need to be on the ground?

15 A. Yeah, when I saw Romeo fire the last shot.

16 Q. Okay. So, where would I need to be?

17 A. On the floor -- if I was Romeo?

18 Q. Yes, yes, sir.

19 A. Alright, you would be on the ground.

20 Q. Okay. Facing either way, does it matter?

21 A. Alright. Like this area, this here is the road, you
22 would need to be laying this way.

23 Q. And would you say that Mr. Brown ...

24 THE COURT: Ladies and Gentlemen, -- hold on one
25 second, Mr. Daniels. Y'all stand up. There you go.

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 Alright.

2 Q. And what are you saying that Mr. Brown did that you
3 observed?

4 A. That's when he was standing, you know, this way, and he
5 fired the last shot.

6 Q. Alright. And you were able to observe that through the
7 car?

8 A. Yeah, because that car had clear windows, no tinted
9 windows.

10 Q. Okay. You can return to your seat.

11 THE COURT: Very well. I see you held on that time, so
12 I don't have to worry. Alright.

13 Q. And you said that you saw him run off and put a gun in
14 his right pocket, right?

15 A. I didn't, I didn't see him run off with the gun that
16 night.

17 Q. Okay.

18 A. I didn't even, even the first time, well, no, I didn't
19 see him run off with the gun, because after the second shot
20 was fired, your know, I ducked back down for a second, you
21 know, and when I looked up again, you know, that's when, you
22 know, me and a couple of other fellows ran up to check to
23 see what was his condition.

24 Q. I just wanted to show you something. Just take a look
25 at it and just let me know if you remember making the

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 statement.

2 THE COURT: Has that been marked for identification
3 purposes?

4 MR. GIPSON: It has not yet, Your Honor.

5 THE COURT: Very well..

6 MR. GIPSON: I will, I will. This is for ID purposes.

7 COURT REPORTER: ID?

8 MR. GIPSON: Yes, ma'am.

9 COURT REPORTER: That's Defendant's Five for ID only.

10 MR. GIPSON: Thank you, ma'am.

11 (Defendant's Exhibit Five,
12 Statement of Ulysses Daniels,
13 marked for identification only.)

14 Q. Now, you took a chance, I mean, you took the opportunity
15 to read over that?

16 A. Yes, sir.

17 Q. And now do you remember something about you saying that
18 you saw him run off with a gun in his pocket?

19 A. I didn't say that, I said, when I said I saw him with
20 the gray and black gun, that's when I was saying, like, when
21 I saw him standing, you know, at a distance to us before the
22 first shot was even fired. The gun was boldly to where you
23 could see the gun.

24 Q. In his right pocket?

25 A. It was on his right side.

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 Q. But what does your statement say that you gave to the
2 police, in his right pocket?

3 A. He had a gray and black Smith and Wesson gun on his
4 right pocket.

5 COURT REPORTER: I can't hear you, sir.

6 A. Huh?

7 Q. Slow down just little bit.

8 A. Oh. It says, he had a gray and black Smith and Wesson
9 on his right pocket.

10 Q. And you're clear about that?

11 A. Yeah.

12 Q. Okay. Now, how long have you been in federal custody?

13 A. Since September Sixth of last year.

14 Q. Okay. And that's the day you turned yourself in to
15 federal custody?

16 A. Yes, sir.

17 Q. September Sixth?

18 A. Uh-huh.

19 Q. Alright. And are you aware at this point that when
20 you're in federal custody -- well, first of all, let me
21 start back, you pled guilty to this thing, correct?

22 A. Yes, sir.

23 Q. And when I say, this thing, I'm talking about the actual
24 charge, for the distribution of cocaine, correct?

25 A. Yes, sir.

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 Q. And you pled guilty?

2 A. Yes, sir.

3 Q. Do you remember a plea agreement, do you remember
4 signing a plea agreement?

5 A. Uh-huh.

6 Q. Alright. Do you need to take a look at it?

7 A. Not actually, no.

8 Q. Okay. And in that plea agreement you made several
9 promises about what you would do and the government, the
10 United States Government made promises to you about what it
11 would do, correct?

12 A. Uh-huh.

13 THE COURT: Is that a yes?

14 A. Yes, sir.

15 Q. Okay. Do you remember Paragraph Twelve of that plea
16 agreement?

17 A. Not exactly.

18 Q. Okay. Well, let me let you take a look at it.

19 MR. GIPSON: And we need to mark this for ID purposes
20 so he can take a look at it.

21 THE COURT: Yes, very well, yes.

22 COURT REPORTER: Defendant's Six for ID.

23 (Defendant's Exhibit Six,
24 Plea Agreement of Ulysses Daniels,
25 marked for ID only.)

1 THE COURT: Thank you.

2 MR. GIPSON: Thank you.

3 Q. Now, if you'll look at Paragraph Twelve, just take your
4 time and look at that if you will, please. Okay, do you
5 remember signing that and initialing it?

6 A. Uh-huh.

7 THE COURT: You've got to say ...

8 A. Yes, sir. I'm sorry.

9 Q. And that paragraph essentially has language in it that
10 talks about downward departures, correct?

11 A. Yes, sir.

12 Q. And Rule Thirty-five, B, correct?

13 A. Yes, sir.

14 Q. Can you tell the jury what that is?

15 A. If I give essential information then I get a downward
16 department, I mean, a lesser, they might reduce my sentence
17 somehow.

18 Q. So, basically, what you're saying is that in this plea
19 agreement your agreement was that if you give information,
20 then the government can say, they can ask for your sentence
21 to be reduced, correct?

22 A. Yes, sir.

23 Q. And they may ask for you to get out earlier, right?

24 A. Yes, sir.

25 Q. So, and that's called a Rule Thirty-five, B, correct?

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 A. Yes, sir.

2 Q. Or a downward departure, right?

3 A. Yes, sir.

4 Q. So, by coming here today that's one of the things, one
5 of the benefits you can gain by being here today, right?

6 A. I mean, I'm guessing, I wasn't told, you know, that this
7 would even play a part in that.

8 Q. But you're aware of that, right?

9 A. Yes, sir.

10 Q. Okay. So, you don't have to be told because you signed
11 an agreement there?

12 A. Okay.

13 Q. And quite honestly, with Rule Thirty-five, if they do it
14 within a year of your sentencing then you can get time off,
15 right?

16 A. Yes, sir.

17 Q. Okay. So, that's one of those reasons why you want to
18 talk to your agent before you talk to the police, right?

19 A. No, it's, I didn't want to revoke my bond.

20 Q. Okay. Alright. So, and so essentially, after
21 witnessing, as you said, your friend get shot, you leave the
22 scene before you can talk to the police, the first call you
23 make is to your agent, you preserve your ability to maybe
24 get some time off your sentence later, don't you?

25 A. I mean, it wasn't that, it was just, I wanted to make

ULYSSES DANIELS - CROSS BY MR. GIPSON

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1 sure I talked to my agent, that way I didn't want to revoke
2 my bond, that was the main purpose of it. I didn't look for
3 a downward departure for telling the truth about what
4 happened to a friend of mine.

5 Q. But you wanted to make sure you covered yourself before
6 you covered anybody else?

7 A. I mean, I guess so.

8 Q. Okay. And you acknowledge that by testifying in here
9 today, the government may decide to ask for your sentence to
10 be reduced, you understand that, don't you?

11 A. Yes, sir.

12 Q. Okay. And you understand on the federal level that's
13 pretty much the only way you're going to get time off of
14 your sentence, correct?

15 A. Yes, sir.

16 Q. And you understand that you're facing Two hundred and
17 Forty months, Twenty years. How old are you now?

18 A. Thirty-one.

19 Q. So, essentially you would be getting out of jail in your
20 Fifties, correct?

21 A. Yes, sir.

22 Q. And in order to get out before you're Fifty, this is one
23 of those ways that can happen, correct?

24 A. Yes, sir.

25 MR. GIPSON: That's all my questions, Your Honor.

1 THE COURT: Alright, redirect?

2 SOLICITOR SORENSON: Just a couple of things, Your
3 Honor.

4 THE COURT: Alright.

5 SOLICITOR SORENSON: Do you still have that plead
6 agreement?

7 MR. GIPSON: Yeah, it's right here.

8 SOLICITOR SORENSON: That's fine.

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10 record has been omitted. Headers on testimony pages and
11 hard page breaks between testimony are now required by the
12 Court. See next ensuing page for sequential continuation of
13 record.)

ULYSSES DANIELS - REDIRECT BY SOL. SORENSON

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1 ULYSSES DANIELS - REDIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Just a couple of things, Mr. Daniels. That appointment
4 that you made when you went in, when you went in and viewed
5 the photo lineup on November First, who set the day and time
6 for that?

7 A. Officer Eikhoff called on the phone and that's when me
8 and her, you know, she called my phone and that's when she
9 told me what date she would be available.

10 MR. GIPSON: Objection to the hearsay portion, just the
11 hearsay portion, Your Honor.

12 THE COURT: Alright.

13 MR. GIPSON: That she told him.

14 SOLICITOR SORENSON: This is kind of, I mean, he kind
15 of went into this as implying that he was waiting, it was
16 his ...

17 THE COURT: I'm going to allow that. She set up the
18 appointment.

19 SOLICITOR SORENSON: And that's really what I wanted to
20 get at in that is, ---

21 THE COURT: I understand.

22 SOLICITOR SORENSON: --- is who ...

23 THE COURT: I think it is hearsay, to be sure that our
24 record is clear, if you could re-ask that question.

25 Q. Who set up the appointment for you to come in,

ULYSSES DANIELS - REDIRECT BY SOL. SORENSON

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1 ultimately on November First of Two thousand ten?

2 A. Officer Eikhoff.

3 Q. Okay.

4 SOLICITOR SORENSON: And that's basically what I wanted
5 out of that, Your Honor.

6 Q. Alright. And Mr. Gipson showed you Defendant's for ID
7 Number Six, this plea agreement, is that correct?

8 A. Yes, sir.

9 Q. And what date, if you could look at that, if that would
10 help refresh your memory at least, what date, Mr. Daniels,
11 did you sign that plea agreement?

12 A. The Thirtieth of December.

13 Q. Okay. If you would turn to the second to last page,
14 does that have your signature, and that is dated also? I
15 believe it's the second to last page.

16 A. Yes, sir.

17 Q. That's got your signature on it?

18 A. Yes, sir.

19 Q. And what's the date that you signed that?

20 A. December Thirtieth, Two thousand ten.

21 Q. Two thousand ten? Who else signed it at that point in
22 time?

23 A. My lawyer, Caesar McKnight.

24 Q. Okay. And that was your lawyer at that time?

25 COURT REPORTER: Who was the lawyer?

1 A. Caesar McKnight.

2 Q. And did somebody from the U. S. Attorney's office sign
3 that also?

4 A. Yeah, J. D.

5 Q. Okay. And that's the prosecutor - - -

6 A. Yes, sir.

7 Q. --- who prosecuted you?

8 A. Yes, sir.

9 Q. Okay. So, that was all done on December Thirtieth of
10 Two thousand ten?

11 A. Yes, sir.

12 Q. Okay. So, that would be how many months after you
13 signed this on November First of Two thousand ten?

14 A. Like a month and some, like a month later maybe, a
15 little bit more.

16 Q. Now, Mr. Daniels, have you at any point in time ever
17 asked me anything about giving a downward department?

18 MR. GIPSON: Objection to leading, Your Honor.

19 SOLICITOR SORENSON: Have you ever ask me, I mean, it's
20 a ...

21 THE COURT: It's a yes or no question. You can ask
22 that in a non-leading way.

23 Q. Have you asked -- let me ask you this, with regards to
24 your testimony here today, have you asked anybody about
25 whether you could have, about getting a downward departure?

ULYSSES DANIELS - REDIRECT BY SOL. SORENSON

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1 A. No, sir.

2 Q. Has that been any part of our conversation?

3 A. No, sir.

4 Q. And you remember Mr. Gipson asking you about your
5 statement you gave on November First? I think it's right
6 here, Defendant's Number Five, do you remember that?

7 A. Yeah.

8 Q. And let me make sure I get this right, do you remember
9 when Mr. Gipson asked you about, you know, looking at that
10 and did that help basically refresh your memory about that,
11 what you told the police, that Mr. Brown ran off with the
12 gun, do you remember that?

13 A. Uh-huh.

14 Q. And does that say that in there?

15 A. No.

16 Q. Does it say anywhere in there that Mr. Brown ran off
17 with the gun?

18 A. No. It just said he had a gun on his right pocket.

19 COURT REPORTER: It said what?

20 A. It just said, on the statement it said exactly, "He had
21 a gray and black Smith and Wesson on his right pocket."

22 Q. Okay. And, in fact, did you testify about that to the
23 jury on direct?

24 A. Yes, because I said, you know, when I spotted him before
25 the gun shots was even fired you could see the gun, and I

1 bolted.

2 Q. And when you, and yet again, Mr. Daniels, when you left
3 the scene that night and contacted Agent Wilson what were
4 you concerned about at that point in time?

5 A. I didn't want my bond to get revoked, and I wanted to go
6 ahead and tell him before me taking a statement and they
7 heard about it second hand.

8 Q. Okay. And, of course, you hadn't even signed this for
9 another almost two months?

10 A. Yes, sir.

11 SOLICITOR SORENSON: Alright, thank you, Mr. Daniels.
12 That's all I have.

13 THE COURT: Alright. Recross?

14 MR. GIPSON: Yes, just briefly.

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16 record has been omitted. Headers on testimony pages and
17 hard page breaks between testimony are now required by the
18 Court. See next ensuing page for sequential continuation of
19 record.)

ULYSSES DANIELS - RECROSS BY MR. GIPSON

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1 ULYSSES DANIELS - RECROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. And the bottom line is that you signed the plea
4 agreement, the document, correct?

5 A. Yes, sir.

6 Q. And part of that document allows you to get time off of
7 your sentence for testifying?

8 A. Yes, sir.

9 Q. And you understood that, and you understand that, right?

10 A. Yes, sir.

11 Q. And you know that?

12 A. Yes, sir.

13 Q. And a way to get out before you are Fifty years old is
14 being here testifying in a case like this, right?

15 A. Yes, sir.

16 MR. GIPSON: That's all my questions, Your Honor.

17 THE COURT: Alright, now, - - -

18 SOLICITOR SORENSON: Actually, we're not, I mean, - - -

19 THE COURT: Well, ...

20 SOLICITOR SORENSON: --- we're done with him for now,
21 obviously.

22 THE COURT: Let me, come here, come up here.

23 (Whereupon, a bench conference
is had out of the hearing of
the jury and court reporter.)

1 THE COURT: Alright. Call your next witness, please.

2 SOLICITOR SORENSON: The State calls Brandy Mack.

3 (Whereupon, the witness
4 enters the courtroom.)

5 SOLICITOR SORENSON: Ms. Mack, come right around to
6 that witness stand right there, put your left hand on the
7 Bible and raise your right hand, and face the Clerk. Stand
8 up, Ms. Mack, I'm sorry.

9 (Whereupon, Brandy Mack
10 is duly sworn.)

11 CLERK: Thank you, you may have a seat, and please
12 state your name again for the record.

13 WITNESS: Brandy Mack.

14 (NOTE: Blank lines on this page do not indicate any part of
15 record has been omitted. Headers on testimony pages and
16 hard page breaks between testimony are now required by the
17 Court. See next ensuing page for sequential continuation of
18 record.)

BRANDY MACK - DIRECT BY SOL. SORENSON

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BRANDY MACK - DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Okay, Ms. Mack, that was very good. Make sure you keep your voice up nice and loud, okay? Tell the jury, please, how old you are?

A. Twenty-six.

Q. Twenty-six? And you live here in Orangeburg?

A. Yes, sir.

Q. And how long have you lived in Orangeburg?

A. Like seven years.

Q. Okay. And where are you currently working?

A. KFC.

Q. KFC? That's here in Orangeburg?

A. Yes, sir.

Q. Okay. Let me just ask you, I hate to do this, but just a little bit about your prior record. Do you have from back in Two thousand seven a forgery conviction?

A. Yes, sir.

Q. And then from Two thousand nine, a shop lifting conviction?

A. Yes, sir.

Q. And how long have you worked at KFC?

A. Like Ten months.

Q. Okay. Alright, let me ask you this, the defendant, Romeo Brown, do you know who Mr. Brown is?

BRANDY MACK. - DIRECT BY SOL. SORENSON

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1 A. No, sir.

2 Q. Okay. Let me ask you this, have you ever seen Mr. Brown
3 before kind of out in the neighborhood?

4 A. Yeah, around.

5 Q. Okay. And how often do you think you had seen him
6 around?

7 A. Not often.

8 Q. Okay. Let me ask you this, back in October of Two
9 thousand ten did you know Mr. Brown's name?

10 A. No.

11 Q. Okay. If you saw his face would you recognize him back
12 in October of Two thousand ten?

13 A. Yes, sir.

14 Q. Okay. Now, I want to turn your attention back to the
15 night of October Twenty-seventh. Did you have -- well, let
16 me kind of back up a second. How often do you think you had
17 seen him around the neighborhood?

18 A. Not often, not in that neighborhood.

19 Q. Okay. How many times do you think you had seen him
20 prior to October Twenty-seventh?

21 A. Like two times.

22 Q. Okay. Alright. Now, I want to turn your attention now
23 to October Twenty-seventh of Two thousand ten. What were
24 you doing that evening, do you remember where you were kind
25 of hanging out or what you were doing?

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 A. On Wingfield under the tree.

2 Q. Under the tree?

3 A. Just sitting around, yeah.

4 Q. Okay. And whose house is that that you were at?

5 A. Mr. Randy.

6 Q. Mr. Randy? Alright. And what were you doing kind of
7 hanging out under the tree?

8 A. We was just drinking.

9 Q. Okay. And had you been drinking that night?

10 A. Yes, sir.

11 Q. Okay. And how much, do you remember kind of throughout
12 the course of that night how much you had had to drink?

13 A. Probably like three beers. I just had got there,
14 though. I wasn't even there that long.

15 Q. Okay. So, you had about three beers. Do you remember,
16 were you drinking anything else besides beer?

17 A. Yeah, I had a cup of liquor.

18 Q. A cup of liquor, do you remember what kind of liquor?

19 A. Gin.

20 Q. Gin? Alright. And let me ask you, do you know anybody
21 that lives kind of next, around where Randy and ...

22 A. Yeah, my cousin stays next door.

23 Q. Okay. And so, kind of what, so you had just been kind
24 of, what had you been doing that night?

25 A. Just sitting, just sitting there.

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 Q. Sitting and drinking?

2 A. Yeah, that's it.

3 Q. Alright. And let me ask you this, the victim in this
4 case, Alex Harrison, did you know Mr. Harrison?

5 A. Yeah, I know him, but -- I know of him but I didn't know
6 him like that, no.

7 Q. Okay. How often -- did you know his name back then?

8 A. Oh, yeah.

9 Q. Okay. Alright. And did you see Mr. Harrison out there
10 that night?

11 A. Yeah.

12 Q. Okay. And do you remember what he was doing out there?

13 A. He just had came up on his motorcycle, and he was
14 sitting there talking to the fellows under the tree.

15 Q. Okay. Alright, and did something end up happening that
16 night that kind of caught your attention?

17 A. Yeah, when I got up and walk off, yeah, and heard a gun
18 shot.

19 Q. Okay. So, you heard a gun shot. Tell the jury what you
20 did after you after you heard that gun shot?

21 A. When I heard the first gun shot I went down on the
22 ground, and then when I heard a second one that's when I
23 look up.

24 Q. Okay. And where was ...

25 A. I hit the ground.

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 Q. Okay. And where were you at when you hit the ground?

2 A. Where was I at? Beside a truck.

3 Q. Beside whose truck?

4 A. I don't know.

5 Q. Okay. Was that in whose yard, I guess?

6 A. It was still in Mr. Randy's yard.

7 Q. Okay. Alright, and if you're facing, if you're facing -
8 - let me show you this, State's Number Six, the diagram of
9 the ...

10 THE COURT: Hold on one second, let Mr. Gipson come
11 around.

12 Q. I'm showing you Exhibit Number Six, the diagram of
13 Randy's yard, kind of from Wingfield Street.

14 A. Okay. Which one Randy's yard?

15 Q. Alright. This is the yard, so that's the street out
16 there.

17 A. Okay, yeah.

18 Q. And the house up here, the yard, okay?

19 A. Okay.

20 THE COURT: Can y'all see back there?

21 SOLICITOR SORENSON: I'm sorry, I'll slide over in a
22 second.

23 THE COURT: Okay, go ahead.

24 Q. Can you point out, kind of, you talked about, kind of
25 which side of the yard was that truck that you were near?

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 A. Okay, you say this the house?

2 Q. No, that's the yard.

3 A. That's the yard?

4 Q. Yes, ma'am. This is the house and the street.

5 A. Who, that's the house across the street?

6 Q. No, that's Mr. Ryant's house.

7 A. Mr. Randy's house?

8 Q. Yes, Mr. Randy's house.

9 A. The truck was on this side.

10 Q. Okay. So, you were over on the -- if you're facing the
11 house, on the left hand side?

12 A. If I'm facing the house, on the left side, yeah, the
13 truck right here.

14 Q. Okay. So, over this way?

15 A. Uh-huh.

16 Q. Okay.

17 THE COURT: And that's a yes?

18 A. Yes.

19 Q. Yes. So, on the left hand side of the house, and I
20 guess I should have just asked you that to start with.
21 Alright, and so you said you heard the first gun shot/

22 A. Uh-huh.

23 Q. And that's where you ...

24 THE COURT: Is that a yes?

25 A. Yes.

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 Q. You've to say yes or no, Ms. Mack.

2 THE COURT: Well, let me just tell you, y'all are
3 having more of a conversation so it's, and I understand
4 that, but our court reporter needs to take down your
5 answers, and when you say uh-huh, huh-uh, that means she's
6 got to interpret, and I don't want anybody interpreting your
7 responses, I want it to be clear. Okay?

8 A. Okay.

9 THE COURT: And if you forget, I'm right here to remind
10 you.

11 A. Okay.

12 THE COURT: Alright.

13 Q. Alright, so after you heard -- to kind of go back, after
14 you heard that gun shot, what -- the first gun shot, what
15 did you do?

16 A. I fell on the ground.

17 Q. Okay. And then what did you do after that?

18 A. After I fell on the ground, I still was on the ground
19 and then I heard -- that's when I look up. When I heard the
20 next gun shot I look up.

21 Q. Okay. And did you see who, see anybody firing that
22 second gun shot?

23 A. Yes.

24 Q. Okay. And who did you see firing that second gun shot?

A. Romeo.

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 Q. Okay. And I know I had asked you this earlier, back in
2 October did you know his name back then?

3 A. Huh-uh, I didn't know his name until, like, the guys
4 told me, I didn't know.

5 MR. GIPSON: Object to that hearsay.

6 THE COURT: Oh, well, let me see you guys a second.
7 Okay? Hold on, just hold on for a second.

8 (Whereupon, a bench conference
9 is had out of the hearing of
10 the jury and court reporter.)

11 THE COURT: Okay. You may proceed. I'm going to
12 overrule that objection because of the way that statement
13 was made by her. Okay, you may proceed.

14 MR. GIPSON: Yes, ma'am, thank you.

15 Q. And just so I understood that, I mean, back in October
16 of Two thousand ten you didn't know his name, is that
17 correct, but since then you've kind of learned his name was
18 Romeo, is that correct?

19 A. Yes, sir.

20 Q. Okay. So, just, I want to make sure, so you are
21 referring to him as Romeo now, I mean, that's just because
22 you've learned his name since then?

23 A. Yes, sir.

24 Q. Okay. Alright. Now, Ms. Mack, did you -- and how far
25 away were you from him when you saw that second gun shot?

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 A. Probably like five feet, well, not even five feet --
2 probably like from here ...

3 Q. Okay, I'll tell you what, I'm going to start from here
4 and you - - -

5 A. Come up a little.

6 Q. --- you tell me to stop when I get about as far away as
7 y'all were.

8 A. Come up a little. Like right there, like right there.

9 SOLICITOR SORENSON: So let the record reflect, Your
10 Honor, I'm probably about Ten feet or so, Ten to Twelve
11 feet.

12 Q. Alright, now Ms. Mack, did you stick around that night
13 out there?

14 A. Yes, I stick around, yeah.

15 Q. Okay. And did you end up talking to the police that
16 night?

17 A. Uh-huh.

18 THE COURT: Is that yes or ...

19 A. Yes, ma'am.

20 Q. Did you give them a statement that night?

21 A. Yes, sir.

22 Q. Let me ask you, did there come a time when somebody at
23 the sheriff's office showed you that night some photographs?

24 A. Yes, sir.

25 Q. Okay. And I'm showing you State's Exhibit Number Nine,

1 do you recognize that document?

2 A. Number Nine? Ain't no Number nine.

3 Q. I mean, I'm sorry, it's kind of -- that's all I have is
4 a number, it's Number Nine. Okay?

5 A. Okay.

6 Q. Do you recognize that document?

7 A. Uh-huh.

8 Q. And what is that document?

9 A. Number Nine, I don't know what that means.

10 Q. What is this document?

11 A. Oh, that's a photo lineup, right.

12 Q. Okay. And have you seen that before?

13 A. Uh-huh.

14 THE COURT: And that is a ...

15 Q. Answer yes or no.

16 A. Yes, sir.

17 Q. Okay. And where have you seen this before?

18 A. He, Mr. Shumpert show it to me.

19 Q. Okay. And when was that?

20 A. On the Twenty-seventh.

21 Q. Okay. Was that that night?

22 A. Yeah, that night.

23 Q. Okay. And did you pick anybody out of this photographic
24 lineup?

25 A. Yes.

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 Q. Okay. And who did you pick out?

2 A. Number Three.

3 Q. Okay. And why did you pick out Number Three?

4 A. That's who I saw.

5 Q. Okay. Did you initial it?

6 A. Yes, sir.

7 Q. Date it?

8 A. Yes, sir.

9 Q. Time it?

10 A. Yes, sir.

11 Q. Did you fill out the attached affidavit?

12 A. Yes, sir.

13 Q. Sign that?

14 A. Yes, sir.

15 Q. Date it?

16 A. Yes, sir.

17 Q. Time it?

18 A. Yes, sir.

19 Q. Okay. And who was it that showed you that lineup?

20 A. Mr. Shumpert.

21 Q. That man sitting right there?

22 A. Yes, sir.

23 SOLICITOR SORENSON: Your Honor, at this time we'd
24 offer State's Nine into evidence.

MR. GIPSON: Without objection.

1 THE COURT: Very well, State's Exhibit Nine into
2 evidence without objection.

3 (State's Exhibit Nine
4 marked and filed.)

5 Q. And yet again, that's a picture -- who circled that
6 picture?

7 A. I did.

8 Q. Okay. Tell the jury, why is it that you picked Number
9 Three out of that photographic lineup?

10 A. Because that's who I saw shot Alex.

11 Q. Do you see that person here in the courtroom that you
12 saw shoot Alex?

13 A. Yes, sir.

14 Q. Would you point him out for the jury? Where is he
15 seated at?

16 A. Right there.

17 Q. In the middle?

18 A. Yes, sir.

19 SOLICITOR SORENSON: Let the record reflect that she
20 has identified Mr. Brown.

21 THE COURT: Alright.

22 SOLICITOR SORENSON: That would be all I would have,
23 Your Honor.

24 Thank you, Ms. Mack, please answer any questions --
25 you'll have to stay here, so you've got to answer any

BRANDY MACK - DIRECT BY SOL. SORENSON

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1 questions Mr. Gipson has. Okay?

2 THE COURT: Cross-examination.

3 MR. GIPSON: Thank you, Your Honor.

4 (NOTE: Blank lines on this page do not indicate any part of
5 record has been omitted. Headers on testimony pages and
6 hard page breaks between testimony are now required by the
7 Court. See next ensuing page for sequential continuation of
8 record.)

BRANDY MACK - CROSS BY MR. GIPSON

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BRANDY MACK - CROSS-EXAMINATION

BY MR. GIPSON:

Q. Good morning.

A. Good morning.

Q. I just wanted to try to be as clear as I can to make sure that we're not putting words into your mouth. I'm showing you what's marked as State's Exhibit Number Six, and

- - -

THE COURT: And can you all see it on the back?

MR. GIPSON: Can I have her step down?

THE COURT: You certainly may.

SOLICITOR SORENSON: And there's an easel right there behind you.

THE COURT: There's an easel.

MR. GIPSON: I'm clumsy, I'd probably knock it down.

THE COURT: Well, I don't see the holding things on it, so I don't know that it will - - -

SOLICITOR SORENSON: Yes, Your Honor.

THE COURT: --- oh, I see them now. It was the angle. Okay.

MR. GIPSON: I'll do my best.

Q. So, come on down, if you would, please.

THE COURT: And you know what I'm going to have to ask you to do is to just keep your voice up. And again, if you forget I'm right here. Now, let me -- and you both -- you

BRANDY MACK - CROSS BY MR. GIPSON

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1 know what, I need to hang witnesses from the ceiling when
2 they're looking at this diagram because I need the jury to
3 be able to see what you are pointing to, and I don't have my
4 laser pointer, I am so sorry.

5 MR. GIPSON: She can use my pen.

6 THE COURT: Huh?

7 MR. GIPSON: She can use my pen.

8 THE COURT: Okay. Very well. And y'all just -- that's
9 right. There you go.

10 Q. Alright, now, if you remember, as Mr. Sorenson, the
11 solicitor just mentioned to you a little while ago, if this
12 is the Ryant's house, Mr. Randy's house. Okay?

13 A. Right.

14 Q. And this is the street in front of him, where does your
15 cousin live?

16 A. If this is Mr. Randy house, right?

17 Q. Yes, ma'am.

18 A. My cousin lives there.

19 Q. Okay.

20 THE COURT: A little more volume.

21 A. If this is Mr. Randy house my cousin stays on the left
22 side -- on the right side.

23 Q. Well, let's say if you're standing facing Mr. Randy's
24 house?

25 A. I've got to think about where my cousin lives. If this,

BRANDY MACK - CROSS BY MR. GIPSON

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1 Mr. Randy's house is this way, my cousin lives on the next
2 house this way. This is the street in front, this is Mr.
3 Randy's house, this is my cousin's house.

4 Q. So, is that the house that has a porch and it faces Mr.
5 Randy's house?

6 A. Yes, from the side like this, that way.

7 Q. Yes, ma'am.

8 A. If my cousin's house this way, this is Mr. Randy's
9 house.

10 Q. Okay. So, in this diagram that house would be where you
11 are standing, if this is -- Whitaker Parkway would be where
12 Mr. Shumpert is, is that fair?

13 A. That's the street where Mr. Shumpert is?

14 Q. Yeah, if you were here, that would be Whitaker Parkway,
15 so your cousin's house would be actually past Mr. Ryant's
16 house, Mr. Randy's house?

17 A. Yeah. My cousin house right here.

18 Q. The next house would be your cousin's?

19 A. Yeah.

20 Q. I've got you. Alright. Yes, ma'am, you can have a
21 seat. And isn't it true that at some point in time you
22 mentioned that you were on the porch at your cousin's house?

23 A. Huh-uh.

24 Q. You didn't tell the police that at any point in time?

25 A. On the porch?

BRANDY MACK - CROSS BY MR. GIPSON

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1 Q. Yes, ma'am.

2 A. No.

3 Q. That you had gone to the porch to talk to your
4 cousin?

5 A. Not the porch. I went over there next door to talk
6 to my cousin, but not the porch, I never went near the
7 porch.

8 Q. Alright. So, you went into their yard?

9 A. Yeah, their yard.

10 Q. Alright.

11 A. Their yard and Mr. Randy's yard is joined together,
12 yeah.

13 Q. Right. They're joined together, but you stepped over
14 into that yard, which is separated sometimes by cars,
15 right?

16 A. Yes, yes.

17 Q. And that particular night - - -

18 A. That's on the other side of the truck.

19 Q. Yes, ma'am. And there were other cars out there that
20 were in that area, right?

21 A. Uh-huh.

22 THE COURT: And that's a ...?

23 A. Yes, sir.

24 Q. Okay. And the truth is, if you were at Mr. Randy's
25 house that porch that we're talking about is about where t

BRANDY MACK - CROSS BY MR. GIPSON

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1 that back wall is or a little bit farther, right, from where
2 your cousin's house is?

3 A. The porch? No, it's not that far. If Mr. Randy's house
4 is right here, the house is right, like, right here, like,
5 farther back from the jury, like an inch back from the jury,
6 that's where my cousin's house is at.

7 Q. Okay. And that's where Mr. Haynes lives?

8 A. Yeah -- oh, no, no, that's where Eric Robinson stay to.

9 Q. Okay. Now, where is Mr. Haynes, is Mr. Haynes your
10 cousin?

11 A. Yes, that's my cousin.

12 Q. Okay. Was he ...

13 A. He was out there, too, right with me.

14 Q. Okay. Alright. And he was right with you at the point
15 in time?

16 A. Uh-huh.

17 Q. So, Zack Haynes?

18 THE COURT: And that is a ...?

19 A. Yes, sir.

20 THE COURT: And you know what happens when you have a
21 conversation, and I hate to keep reminding you.

22 MR. GIPSON: And we're not being nasty to you, we do
23 that to everybody. And they do the same thing to me. So,
24 we're not trying to be nasty to you.

25 Q. Alright, so, Zack Haynes was your cousin?

BRANDY MACK - CROSS BY MR. GIPSON

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1 A. Yes, sir.

2 Q. And was he there when the police got there?

3 A. No, he had done left.

4 Q. Okay.

5 A. He left me there and left.

6 Q. And Ricco?

7 A. Yeah, Ricco done left, too.

8 Q. Okay. Now, and you stayed behind, correct?

9 A. Uh-huh, yes, sir.

10 Q. Okay. And you told the police everything that you have
11 told the Court here today, right?

12 A. Yes, sir.

13 Q. The minute the police got there you told them everything
14 that you knew?

15 A. Yes, sir.

16 Q. Alright. Now, you said that you had three beers and some
17 gin, right?

18 A. Yes, sir.

19 Q. Alright, so are we talking about Twelve ounce beers or
20 are we talking about Sixteen ounce?

21 A. Twelve ounce.

22 Q. Alright, so, so Twelve times three, and we aren't going
23 to trust my math because I messed up yesterday, but that to
24 me, that's about Thirty-six ounces of beer, right?

25 A. Yes, sir.

BRANDY MACK - CROSS BY MR. GIPSON

304

1 Q. Okay. And a little bit of gin as well? What is a
2 little bit of gin?

3 A. In a small cup, little cups about that size right there.

4 Q. So, a shot of gin basically?

5 A. Yes, sir.

6 Q. Alright. And you did that before all of this took
7 place?

8 A. Sir, say that again?

9 Q. You took care, I'm sorry, you took that shot of gin and
10 had those three beers - - -

11 A. Yes.

12 Q. --- before the shooting, right?

13 A. Yes.

14 Q. Okay. And did you ever tell the officer that you had
15 had something to drink that night?

16 A. Yes, sir.

17 Q. Okay. And what did -- well, I can't ask you what she
18 said, and I will not ask you what she said. Alright. Now,
19 and the others out there had been doing the same thing,
20 right?

21 A. Yes, sir.

22 Q. Okay. Did you see Mr. Joe out there drinking a little
23 bit?

24 A. Mr. Joe? Yes, sir.

25 Q. Okay. And what about Shawn?

BRANDY MACK - CROSS BY MR. GIPSON

305

1 A. Yes, sir.

2 Q. Okay. And he was out there doing the same thing, having
3 some beers and drinking?

4 A. Yes, sir.

5 Q. Beer and gin?

6 A. Yes, sir.

7 Q. The same with Mr. Joe?

8 A. Yes, sir.

9 Q. The same with Mr. Isaac?

10 A. Yes, sir.

11 Q. The same with, let's see, Shawn was doing it, Jerry, and
12 just everybody out there was drinking and having a good
13 time?

14 A. Yes, sir.

15 Q. Did you see Alex out there doing the same thing?

16 A. No, sir.

17 Q. Okay.

18 A. He just had pull up.

19 Q. Alright. And you didn't see him drinking anything?

20 A. No, sir.

21 Q. And he didn't have any alcohol, to your knowledge?

22 A. To my knowledge.

23 Q. He didn't have any alcohol?

24 A. No, sir.

25 Q. Okay. You never saw him take a drink when he was out

BRANDY MACK - CROSS BY MR. GIPSON

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1 there?

2 A. No, sir.

3 Q. Okay. And if you'd seen it you'd tell us that right
4 now, right?

5 A. Yes, sir.

6 Q. Okay. Now, you've already told us that you told the
7 police everything that you told us as soon as you met with
8 the police?

9 A. Yes, sir.

10 Q. At any point in time did you, you know, ask them to go
11 talk with Zack, Mr. Zack Haynes, or Ricco, or any of those
12 other people who you had seen out there?

13 A. Did I ask them to go talk with them?

14 Q. Yeah, did you let them know that they had been there?

15 A. Oh, yeah, I let them know that Zack was there, yeah,
16 Zack and Ricco, both of them, yeah.

17 Q. Okay. Alright. And you gave them that information so
18 they could speak to them as well, correct?

19 A. Yes, sir.

20 Q. Alright. And you're telling us you did not see the
21 first gun shot you just heard the first gun shot?

22 A. Yeah, I heard it, I didn't saw it, no, I heard it.

23 Q. Okay. And the second gun shot, where was, are you
24 alleging that Mr. Brown did the shooting, where was Mr.
Brown and where was Mr. Alex?

BRANDY MACK - CROSS BY MR. GIPSON

307

1 A. Over there standing by the picnic, by the picnic table.

2 Q. Okay. Were they on the ground or, I mean, tell me what
3 you saw?

4 A. They were standing up.

5 Q. Alright. And that's exactly what you told the police
6 when they first came?

7 A. Yes, sir.

8 Q. Alright. Now, at some point in time you were shown a
9 photo lineup by Mr. Shumpert, correct?

10 A. Yes, sir.

11 Q. And that's going to be State's Exhibit Number Nine. Let
12 me show you that. Alright, and you put your initials by --
13 well, let me just ask you this, were there, were the
14 pictures shown to you individually or were they just shown
15 to you in a group?

16 A. They were shown to me in a group.

17 Q. Okay. One group or more than one group?

18 A. More, it was more than one, like two.

19 Q. Okay. So, two different lineups?

20 A. Uh-huh.

21 THE COURT: And that is a ...?

22 Q. The uh-huh means yes?

23 A. Yes, sir.

24 Q. Okay. And the other second lineup, do you see a copy of
the second lineup that you were shown?

BRANDY MACK - CROSS BY MR. GIPSON

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1 A. Do I see a copy of it?

2 Q. Yes.

3 A. No, just this one right here.

4 Q. Well, let's see the one that you've got. Was there ever
5 a time when you said, well, Mr. Brown may not be in this
6 one?

7 A. In the other one. No, no, no, sir.

8 Q. Was it ...

9 A. I can't remember, this was a while ago, I can't
10 remember.

11 Q. Okay. And that's fair enough, if you don't remember,
12 you don't remember. Was it video taped, do you know?

13 A. No, no, sir.

14 Q. Okay. And did anybody ever suggest to you to pick a
15 certain photo or do a certain thing?

16 A. No, sir.

17 Q. Okay. Were there other people there picking out photos
18 when you were picking photos?

19 A. Yes, sir.

20 Q. Where were they?

21 A. They was in the other rooms.

22 Q. Okay. So, individually you all were shown these
23 photographs?

24 A. Yes, sir.

Q. And nobody was ever in the room together?

BRANDY MACK - CROSS BY MR. GIPSON

309

1 A. No, sir.

2 Q. After the shooting took place were y'all -- where was
3 everybody?

4 A. After it took place?

5 Q. Yes, ma'am.

6 A. Like in the yard?

7 Q. Yes, ma'am. Just generally, where, everybody was just
8 around?

9 A. Yeah, just around, yeah.

10 Q. Okay. About how long between the time the police came
11 and the shooting took place?

12 A. The police came right away.

13 Q. Okay.

14 A. About like five minutes, like after it happened they
15 came right away.

16 Q. Okay. And so, as soon as it happened the police
17 showed up, and that's when you told them exactly what took
18 place?

19 A. Yes, sir.

20 Q. Alright. Now, in looking back at that photo lineup,
21 once you picked the person you picked out of that lineup,
22 that's all that they asked you to do?

23 A. Yes, sir.

24 Q. Now have you had any contact with any of the witnesses
25 since that time?

BRANDY MACK - CROSS BY MR. GIPSON

310

1 A. No, sir.

2 Q. Alright. Now, you spoke with Mr. Guinyard this morning
3 in the hallway?

4 A. Mr., who is that?

5 Q. Shawn.

6 A. Oh, yeah.

7 Q. Okay. What did y'all -- did y'all discuss anything
8 about the case?

9 A. Oh, no, sir. I know Shawn, I mean, we wasn't discussing
10 anything about the case.

11 Q. Okay. But you've known him about how long?

12 A. For like two years.

13 Q. And, you mean two years prior to the shooting?

14 A. Uh-huh.

15 Q. So probably back in -- uh-huh meaning yes?

16 A. Yes, sir.

17 Q. Okay. And that would have been back in Two thousand
18 eight or so you met him?

19 A. Yes, sir.

20 Q. Okay.

21 MR. GIPSON: If I could just ask the Court's indulgence
22 for a brief moment.

23 THE COURT: Alright.

24 MR. GIPSON: And can I borrow that from you?

25 SOLICITOR SORENSON: Sure.

1 MR. GIPSON: No further questions.

2 THE COURT: Very well. Redirect?

3 SOLICITOR SORENSON: Nothing, Your Honor.

4 THE COURT: Alright. Is this witness free to leave?

5 MR. GIPSON: No objection.

6 SOLICITOR SORENSON: No objection.

7 THE COURT: Very well. You are free to go.

8 If you would please call your next witness.

9 SOLICITOR SORENSON: The State calls Shawn Guinyard.

10 (Whereupon, the witness
11 enters the courtroom.)

12 CLERK: Please place your left hand on the Bible and
13 raise your right hand.

14 (Whereupon, Monique Shawn Guinyard
15 is duly sworn.)

16 CLERK: Thank you, you may have a seat, and please
17 state your name for the record.

18 WITNESS: Monique Guinyard.

19 THE COURT: And would you spell your last name, Mr.
20 Guinyard, just to be sure we've got it right.

21 WITNESS: G-U-I-N-Y-A-R-D.

22 THE COURT: And Mr. Guinyard, I know you've got your
23 phone with you. Would you turn it off? Because if you're
24 answering and then it rings it might shock you.

25 WITNESS: Yes, ma'am, I turned it off.

1 THE COURT: Thank you. Alright.

2 COURT REPORTER: Did you call him Shawn?

3 SOLICITOR SORENSON: I'm going to ...

4 THE COURT: Shawn, this is Shawn, is it the W-N, or the
5 E-A?

6 WITNESS: W-N.

7 (NOTE: Blank lines on this page do not indicate any part of
8 record has been omitted. Headers on testimony pages and
9 hard page breaks between testimony are now required by the
10 Court. See next ensuing page for sequential continuation of
11 record.)

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

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MONIQUE SHAWN GUINYARD - DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Your first name is Monique?

A. Right.

Q. What do you go by?

A. Shawn.

Q. Shawn? That's S-H-A-W-N, just for the court reporter?

A. Yes.

Q. Alright, Shawn, if you would, tell us, tell us how old you are, please?

A. Thirty-eight.

Q. Thirty-eight? And where are you currently living?

A. Calhoun County.

Q. Okay. And where did you grow up?

A. Calhoun County.

Q. Okay. You lived there most of your life?

A. A great portion of it.

Q. Okay. And you spend some time over here in Orangeburg County?

A. Yes.

Q. Okay. Let me ask you, the defendant, Romeo Brown, do you know Mr. Brown?

A. Yes.

Q. Okay. And tell the jury, how long have you known Mr. Brown?

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

314

1 A. About five or six years.

2 Q. Okay. And how is it that you became acquainted with Mr.
3 Brown?

4 A. I used to be to his sister and brother-in-law house all
5 the time when he used to be there.

6 Q. Okay. And that's over on Wingfield?

7 A. Yes.

8 Q. Okay. And did you know him back in October of two
9 thousand ten, did you know his name at that point in time?

10 A. Yes.

11 Q. Okay. And how often do you think you kind of associated
12 with him, or saw him around?

13 A. Well, prior to that I had moved back to Calhoun County
14 and I really haven't seen him too often.

15 Q. Okay. And how about the victim in this case, Alex
16 Harrison, did you know Mr. Harrison?

17 A. Yes.

18 Q. Okay. And how, how long had you known Mr. Harrison, or
19 did you know Mr. Harrison?

20 A. Eight or nine years.

21 Q. Okay. And -- alright, and I want to turn your
22 attention, if I could, Shawn, back to October Twenty-seventh
23 of Two thousand ten, that day. Do you remember what you
24 were doing that afternoon?

25 A. Yes.

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

315

1 Q. Okay. And tell the jury what you were doing that
2 afternoon?

3 A. I was over at Keisha Butler's house with Joe Thomas
4 working on vehicles.

5 Q. Okay. And what do you kind of do for a living?

6 A. Well, I'm a construction worker by trade, but ...

7 Q. Okay. And you tinker with some other things?

8 A. Yeah, I tinker with other things in my off season.

9 Q. Okay. And what were you tinkering with that day?

10 A. Some struts on a Maxima.

11 Q. Some what?

12 A. Struts on a Maxima.

13 Q. Okay. So doing some mechanic work?

14 A. Yes.

15 Q. Okay. And that was with Joe Thomas, you said?

16 A. Yes.

17 Q. Okay. And did there come a time that day when you saw
18 Alex Harrison?

19 A. Yes.

20 Q. Okay. And tell the jury how that came about?

21 A. Well, Alex called Joe and Joe told him I was over there.
22 I had just got out of jail for child support, so Alex said
23 he wanted to see me. So, he came over on his motorcycle,
24 and he ran out of gas.

25 Q. What did y'all do, did y'all end up helping him out with

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

316

1 the gas situation?

2 A. Yeah, we had a little bit of gas in a soda bottle right
3 that we was pouring in a carburetor, so we poured the rest
4 of that into the motorcycle and it cranked up, and we
5 followed him to the gas station.

6 Q. Now, at the gas station, did any of y'all buy anything
7 besides gas at the gas station?

8 A. Yes.

9 Q. And who was that that bought something at the gas
10 station?

11 A. I bought two bowling ball pin budweisers.

12 Q. Okay. Alright, and where, where did, where were you
13 intending on going at that point in time when y'all left the
14 gas station?

15 A. Well, I was going back to St. Matthews, and Alex said,
16 no, let's - - -

17 MR. GIPSON: Object to the hearsay portion.

18 THE COURT: That's sustained.

19 Q. Did y'all ultimately agree to go somewhere else?

20 A. Yes.

21 Q. Where was that that y'all ended up, then?

22 A. Over to Randy's house?

23 Q. Over at Randy's house?

24 A. Yeah.

25 Q. And do you know where that is, I mean, what ...

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

317

1 A. Wingfield Street.

2 Q. Okay. And that's here in Orangeburg?

3 A. Yes.

4 Q. Alright. So, who, who were you with, then, when you
5 went over to Randy's house that night?

6 A. I was with Joe.

7 Q. Okay. And anybody else show up at the same time as you
8 then?

9 A. No.

10 Q. Let me ask you, did Alex come over that night then?

11 A. Oh, Alex was right in front of us.

12 Q. Okay. So, he got there right before you, I guess?

13 A. Right.

14 Q. Okay. And do you remember about what time this would
15 have been by any chance or ...

16 A. Not really.

17 Q. Okay. Alright. What, when y'all got to Randy's house
18 then, tell the jury kind of just what you were doing out
19 there, Shawn?

20 A. Shucking and jiving, as usual, you know, having a good
21 time.

22 Q. Okay. Were you drinking?

23 A. Yeah, I -- well, I bought one bowling ball for me and
24 one for Joe.

25 Q. Okay. And let me ask you, had you been drinking any

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

318

1 earlier that afternoon or evening, before y'all went over to
2 Randy's?

3 A. No, I hadn't.

4 Q. Okay. Had Joe been drinking any in your presence - - -

5 A. No, not - - -

6 Q. --- before you went over?

7 A. --- not in my presence.

8 Q. Okay. So, when y'all were working on the struts, - - -

9 A. Right.

10 Q. --- were either one of y'all drinking?

11 A. No.

12 Q. Okay. Alright, now what -- alright, tell the jury then,
13 so y'all are over there, and did ultimately, you know,
14 something, you know, happen out there that night?

15 A. Yes.

16 Q. Okay. And about how long do you think you had been
17 there before, before the shooting occurred?

18 A. Maybe Ten or Fifteen minutes.

19 Q. Okay. And if you would, tell, tell the jury kind of
20 what, what you observed that led up, leading up to that?

21 A. I was sitting, sitting at the picnic table, and you just
22 sense when someone is walking up behind you. So, I turned
23 around, and I looked, and I spoke. And Romeo said, what is
24 he doing over here? He said, ain't I told you? That's
25 when Alex stood up. When Alex stood up he shot him. Alex

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

319

1 looked, Alex said, Romeo, you shot me. He ran around the
2 table and grabbed him. And they was over there tussling,
3 tussling, tussling, and they ended up on the ground. I
4 heard a gun shot went off, I think once or twice more, and
5 that's all, that was it.

6 Q. Where were you at when all of this was taking place?

7 A. Trying to get up under a car.

8 Q. How far away were you from all of this when it was
9 taking place?

10 A. The first shot I maybe was about from here, halfway
11 between that table right there and where I'm sitting right
12 now.

13 Q. Okay. So, kind of this - - -

14 A. Right.

15 Q. --- four or five feet?

16 A. Four or five feet.

17 Q. Okay. And how about the second shot, where were you
18 when you heard, saw the second shot?

19 A. I was on the other side, on the right hand side of the,
20 I think that's an Oldsmobile Ninety-eight.

21 Q. Okay. And where was that vehicle at?

A. That's, if you're standing in front of the house it's on
the right hand side.

Q. Okay. Standing in front of the house facing the house
or ...

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

320

1 A. If you're facing the house it's on the right hand side.

2 Q. Okay. Let me show you State's Exhibit Number Six, this
3 diagram, if you'll come around here, so this is the house up
4 here?

5 A. Right.

6 Q. Facing the house which side did you -- is that the
7 vehicle right there that's noted on the ...

8 A. That's the vehicle right there.

9 Q. Okay. Now, what did -- so, kind of tell the jury, kind
10 of the sequence there. So, you saw the first gun shot, and
11 then what did you do?

12 A. Well, I ...

13 Q. How did you get from the table over to the car?

14 A. I ran. You know, when they was tussling, I mean, the
15 gun was waving all over the place, I mean, a bullet can hit
16 anyone, and I didn't want to get hit.

17 Q. Tell the jury then, when you get around to that white
18 Oldsmobile, what do you do?

19 A. I got down beside it.

20 Q. Okay. And what do you see then after you get down
21 beside that white Oldsmobile?

22 A. Well, basically, I went blank for a second, I went blank
for a second, and then when I got up they say, call the
ambulance, call the ambulance, that's what they was yelling.
So, I ran on, I ran over to Alex.

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

321

1 Q. Alright, now, did you see Mr. Brown anymore at that
2 point in time, was he still out there - - -

3 A. No, I didn't see him.

4 Q. --- when you went back over there?

5 A. I didn't see him no more.

6 Q. Now, where were you at, when you had testified earlier
7 about seeing the second gun shot, where were you at when you
8 saw the second gun shot?

9 A. On my way running over to the car.

10 Q. Okay. But before you got to the Oldsmobile?

11 A. Right.

12 Q. Let me ask you, you testified when you kind of told them
13 you were this far away the first time you saw them?

14 A. Right.

15 Q. Alright. Is there -- who did you ID as being the person
16 that ...

17 A. Romeo Brown.

18 Q. Any doubt?

19 A. No doubt.

20 Q. Anything covering his face?

21 A. Nothing.

22 Q. Anything obstructing your view of seeing him?

23 A. Nothing.

24 Q. Describe for the jury what the lighting was like in that
25 area where you were sitting and saw that?

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

322

1 A. Well, it was not dark, but the street lights had come
2 on, so, I mean, the lighting was very well.

3 Q. Alright. Alright, now, I think we were at where you --
4 well, what did you do then, I think you had said, well, you
5 had left off, that you had gone back over to where Alex
6 was?

7 A. Right.

8 Q. Alright, tell the jury what you did when you got over
9 there?

10 A. Well, I took my shirt off, I took my shirt off and I
11 applied pressure to the wounds while we tried to administer
12 CPR on him.

13 Q. Okay. And your shirt, did you end up getting your shirt
14 back or was it ...

15 A. No, I didn't.

16 Q. Okay. And how about, let me just show you State's
17 Exhibit Number Four, let me ask you, I notice when you came
18 in today you had a hat on?

19 A. Right.

20 Q. You had a hat with you. Were you wearing a hat that
21 night?

22 A. Yes, I was.

23 Q. Okay. I'm showing you State's Exhibit Number Four, that
24 Marker Number Two, what is that Marker Number Two showing?

25 A. My hat.

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

323

1 Q. Okay.

2 COURT REPORTER: What is it showing?

3 A. My hat.

4 Q. Okay. So, was your hat left out there that night also?

5 A. Yes.

6 Q. So, tell the jury what you were trying to do with Alex
7 when you went over there?

8 A. We was trying to perform CPR, we was trying to save him.

9 Q. And ultimately, what ended up happening to him?

10 A. He died.

11 Q. Were you there when that happened?

12 A. I took my hands and closed his eyes.

13 Q. Now, let me ask you - - -

14 THE COURT: Hold on, Mr. Sorenson. I cannot have
15 outbursts like that. I cannot have any outbursts in this
16 courtroom, and if you cannot contain yourself you will need
17 to exit the courtroom, please.

18 You may proceed.

19 Q. Let me ask you this, you knew Alex pretty well?

20 A. Yes.

21 Q. Okay. Did Alex have anything in his mouth back in
22 October of Two thousand ten?

23 A. He had his gold grill in.

24 Q. Okay. And did you see that grill anywhere out there
25 that night?

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

324

1 A. Not -- in his mouth earlier.

2 Q. Okay. Was it in his mouth when you were doing CPR on
3 him, or attempting to, do you remember?

4 A. I can't, I can't quite remember.

5 Q. Okay. And Mr. Guinyard, were you still out there when
6 the police showed up that night?

7 A. Yes.

8 Q. Did you give them a statement that night?

9 A. I most certainly did.

10 Q. I'm showing you State's Exhibit Number Ten, do you
11 remember, did they show you some photographs?

12 A. Yes.

13 Q. And where did that occur at, do you remember?

14 A. Over on Chestnut Street, at an office building right
15 there by the Mexican restaurant.

16 Q. Do they have a kind of investigative division over
17 there?

18 A. Yes.

19 Q. Okay. And did you pick somebody out of State's Exhibit
20 Number Ten?

21 A. Yes.

22 Q. Who did you pick out?

23 A. Romeo Brown.

24 Q. And did you circle, initial, date, time on that?

25 A. Yes.

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

325

1 Q. I'm showing you kind of the accompanying affidavit, did
2 you fill that out also and sign it?

3 A. Yes.

4 Q. Did Alex have a nick name?

5 A. Yes.

6 Q. What was his nick name?

7 A. Show Time.

8 Q. Okay. Did you actually kind of reference that in there,
9 is that right?

10 A. Right.

11 SOLICITOR SORENSON: Your Honor, at this time we'd
12 offer State's Number Ten.

13 MR. GIPSON: Without objection.

14 THE COURT: Very well.

15 (Whereupon, State's Exhibit Ten
16 marked and filed.)

17 Q. And that would be Photograph Number Six that you picked
18 out?

19 A. Yes.

20 Q. Okay. Did anybody tell you who to pick out of this
21 lineup?

22 A. No.

Q. Tell the jury why it is that you picked Number Six out
of the lineup?

A. Because I know it was him.

MONIQUE SHAWN GUINYARD - DIRECT BY SOL. SORENSON

326

1 Q. Any doubt in your mind about that?

2 A. No doubt.

3 Q. The person that you saw shoot Mr. Harrison back on
4 October Twenty-seventh, do you see him in the courtroom
5 today?

6 A. Yes, I do.

7 Q. Would you point him out for the jury?

8 A. Right there, Romeo Brown.

9 SOLICITOR SORENSON: Thank you. That would be all I
10 would have, Your Honor.

11 THE COURT: Alright. Cross-examination.

12 MR. GIPSON: Thank you, Your Honor.

13 THE COURT: Yes.

14 (NOTE: Blank lines on this page do not indicate any part of
15 record has been omitted. Headers on testimony pages and
16 hard page breaks between testimony are now required by the
17 Court. See next ensuing page for sequential continuation of
18 record.)

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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MONIQUE SHAWN GUINYARD - CROSS-EXAMINATION

BY MR. GIPSON:

Q. Now, Mr. Guinyard, you said -- I'm sorry, good afternoon.

A. How you doing?

Q. You mentioned that you and Alex were friends, correct?

A. Yes.

Q. And y'all had known him for some period, you had known him for some period of time, right?

A. Right.

Q. Okay. And you hung out together from time to time and you knew who he was, right?

A. Yes.

Q. And by the same token, you knew who Romeo was because you had seen him going to Ryant's house from time to time?

A. Right.

Q. Okay. Now, you also mentioned -- well, you may not have, but there was some drinking -- well, let's just move to the incident date, and we'll talk about some other stuff later. But you had an opportunity to get out to that house after you said you worked on some struts and did some things over at Mr. Joe's house, right?

A. Right.

Q. Okay. And you all went out to the house, and when I say, you all, Mr. Joe, Shawn and the three essentially

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

328

1 arrived at Wingate Street around the same time?

2 A. Correct.

3 Q. Okay. What was going on when you got there?

4 A. Just some guys sitting out there, I believe they were
5 playing dominos when we got there, if I'm not mistaken.

6 Q. Okay. And you had an opportunity to kind of be out
7 there and talk to some people while you were there, right?

8 A. Yes.

9 Q. And just kind of socialize and relaxing?

10 A. Right.

11 Q. And it's your testimony that you had the one beer, I
12 think you said a Bowling Pin Bud?

13 A. Right.

14 Q. Okay. And that was the only alcohol you had that
15 evening?

16 A. Yes.

17 Q. Okay. And that's the only alcohol that you are aware
18 that Mr. Joe had that evening, too, right?

19 A. Correct.

20 Q. And is that the only alcohol you're aware that Shawn, or
21 excuse me, that Alex had?

22 A. Well, I don't know, I mean, I can't speak for him, - - -

23 Q. Right.

24 A. --- because like I said, he came up on a motorcycle.

25 Q. Okay.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

329

1 A. So, I mean, ...

2 Q. And having been around him a little bit, did he seem
3 like he was under the influence to you?

4 A. No, he seemed like his normal self.

5 Q. Okay. And, but did you see him drink anything while he
6 was on the scene, excuse me, or at Wingate Street?

7 A. No.

8 Q. Okay. Now, at some point in time you said you had an
9 opportunity to speak to the police, right?

10 A. Correct.

11 Q. And after the shooting took place, as soon as the police
12 arrived you told them everything that took place, right?

13 A. No, not right at the present point in time.

14 Q. Okay. But you told them what happened, right?

15 A. Yes.

16 Q. Okay. And as you told them, you also at some point in
17 time had an opportunity to write a statement, right?

18 A. Correct.

19 Q. Okay.

20 MR. GIPSON: I'd like to just mark this for ID
21 purposes.

22 COURT REPORTER: Defendant's Seven for ID only.
23 (Defendant's Exhibit Seven,
24 Statement of Monique Shawn Guinyard,
25 marked for ID only.)

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

330

1 MR. GIPSON: Thank you.

2 Q. And just take a look at that if you will. Do you
3 remember writing that?

4 A. Yes.

5 Q. And is that your signature at the bottom?

6 A. Yes.

7 Q. Okay. And that's the statement that you wrote after
8 speaking to the police, correct?

9 A. Correct.

10 Q. Alright. Now, you said, you were asked during that
11 statement who else was at the table and in the yard?

12 SOLICITOR SORENSON: Your Honor, I'm going to object
13 because I think that would be hearsay. I mean, he can ask
14 him, I mean, who else was at the table, and obviously, if he
15 gives a different answer, I mean, he can impeach him on
16 that, but I mean, just have him read his statement. I mean,
17 it's hearsay.

18 THE COURT: Okay. Very well. At this point it's been
19 marked for identification purposes. He can certainly have
20 him review it to refresh his recollection but it can't be
21 published to the jury at this point.

22 Q. Who was at the table?

23 A. Me, Alex, Isaac, Uley, Ricco.

24 Q. And when you say, Uley, you mean Ulysses?

25 A. Ulysses, - - -

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

331

1 Q. Yes, sir.

2 A. --- Ricco, Delo, Randy and Jerry.

3 Q. Was Brandy there?

4 A. Brandy was in the yard.

5 Q. Okay.

6 A. She wasn't at the table.

7 Q. Okay. Did you ever say she was some place other than in
8 the yard?

9 A. Not to my knowledge.

10 Q. Okay. I just want you to look at that last couple of
11 sentences and see if that refreshes your recollection?

12 A. Which one?

13 Q. These last questions and answers, the last two in the
14 statement that you gave.

15 A. Oh, okay.

16 Q. And what did you tell the police where she was?

17 A. They didn't ask. Oh, on that?

18 Q. Yes, sir.

19 A. At the table. But she wasn't sitting, she was standing
20 in the yard by the table.

21 Q. Can you read it over?

22 A. Joe, Berney, Brandy -- oh, Brandy was on the porch.

23 Q. Okay. That's what I'm getting at. So, she was on the
24 porch?

25 A. On the porch or in the yard, one out the two.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

332

1 Q. Okay. Alright. Now, where exactly were you when you
2 said that Romeo walked up?

3 A. I was sitting at the picnic table.

4 Q. Okay. And you said he walked up and started a
5 conversation of some sort?

6 A. Yes.

7 Q. Okay. Can you show us, kind of just demonstrate what
8 you saw once the altercation began?

9 MR. GIPSON: If he could come down from the witness
10 chair, Your Honor?

11 THE COURT: He may.

12 MR. GIPSON: Okay. Come on down.

13 Q. If I were Alex where would I need to be if you were
14 Romeo Brown?

15 A. Sitting directly in front of me.

16 Q. Okay. And so if you were Romeo, explain kind of what,
17 tell the jury what happened, and tell me where I need to be
18 if I'm Alex? Tell me where I need to be, I'll move around
19 you.

20 A. Alex was sitting right there directly in front.

21 Q. Yes, sir.

22 A. Right. I was sitting on the side of the picnic table.

23 Q. Yes, sir.

24 A. Romeo came up.

25 Q. So, if you are Romeo, so you would ...

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

333

1 A. Come up behind you.

2 Q. Yes, sir.

3 A. From ...

4 Q. From behind you?

5 A. From my blind side, you know.

6 Q. Yes, sir.

7 A. You know what I'm saying?

8 Q. Yes, sir.

9 A. I turned around and I spoke to him. And he said to me,
10 he said, what is he doing over here?

11 Q. Yes, sir.

12 A. He said, ain't I told you?

13 Q. Uh-huh.

14 A. And Alex, stood up, you know, put his hands on the
15 picnic table and - - -

16 Q. And stood up?

17 A. --- and stood up.

18 Q. Yes, sir.

19 A. He said, I'm going to show you.

20 Q. Uh-huh.

21 A. And that's when he pulled the gun out and shot him.

22 Q. Alright. And then a struggle took place after that?

23 A. Yeah, Alex came around the picnic table - - -

24 Q. Okay.

A. --- and grabbed him.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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1 Q. Okay.

2 A. And they was tussling, tussling, tussling.

3 Q. Okay. And tussling, and then went to the ground at some
4 point?

5 A. They went to the ground.

6 Q. Okay. And as they went to the ground tell us what
7 happened?

8 A. Well, I can't actually say what happened per se because
9 ...

10 Q. Right. But what did you observe, just tell me what you
11 observed?

12 A. Well, I observed them two around on the ground, rolling
13 with the gun, and that's when I ...

14 Q. And let's talk this way just so the jury can see you.

15 A. Alright.

16 Q. Okay. So, you see them tussling and rolling around on
17 the ground?

18 A. Right.

19 Q. Okay.

20 A. So, you know what I'm saying, while they were on the
21 ground rolling with the gun I - - -

22 Q. You took off?

23 A. --- took off, - - -

24 Q. Right.

25 A. --- and I went and got behind a car.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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1 Q. Okay. And you can return to your witness stand. Okay,
2 thank you, sir. And at that point you hear a second gun
3 shot?

4 A. Yes.

5 Q. Alright. Now, isn't it true you said you may have
6 heard, well, a total of four gun shots?

7 A. I can't recall right at this present point in time.

8 Q. Okay.

9 A. But I know it was more than one.

10 Q. Okay. And what kind of gun did Romeo have according to
11 you?

12 A. It looked like a revolver, - - -

13 Q. Uh-huh.

14 A. --- but it may not have been.

15 Q. Okay. And tell us what you said in your statement as to
16 what kind of gun it was?

17 A. I've got on there, a revolver.

18 Q. Okay. Have you seen a revolver before?

19 A. Yes, I have.

20 Q. Okay. And you told the police it was a revolver, right?

21 A. Well, I put it in the statement.

22 Q. Yes, sir, it was a revolver. Now, let me ask you this,
23 you at some point in time were given an opportunity to use
24 a, see a photo lineup, right?

25 A. Correct.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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1 Q. Okay. And who showed that lineup to you?

2 A. I can't remember the officer's name.

3 Q. Okay. Was it Mr. Shumpert, the gentleman sitting here
4 today?

5 A. It could have been.

6 Q. Okay. And when you were shown that lineup, did anybody
7 tell you who to pick?

8 A. No, no one.

9 Q. Okay. Did they come to you and just show you picture by
10 picture, one by one, or did they just show you one photo
11 lineup?

12 A. They showed me a group of pictures with six people on
13 it.

14 Q. Okay. And nothing improper happened, nobody told you
15 who to pick, they just did it according to protocol and you
16 just looked at it and did exactly what they asked you to do?

17 A. Yes.

18 Q. Okay. And afterwards you signed a statement, correct?

19 A. Correct.

20 Q. And that is in Defendant's, excuse me, in State's
21 Exhibit Number Ten, you signed the statement after you
22 looked at the actual photo lineup, right?

23 A. I believe so.

24 Q. Okay. And on State's Exhibit Number Ten, which is the
25 photo lineup that Mr. Sorenson showed you, that's Mr.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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1 Sorenson, that he showed you earlier, can you just read what
2 you put on there? Just start, I, Monique Guinyard?

3 A. "I, Monique Guinyard, after careful consideration of all
4 the photographs shown to me in the lineup presented to me by
5 Lieutenant Shumpert have identified the subject in
6 Photograph Number Six as being the person who shot Alex
7 Harrison, AKA, Show Time, on October Twenty-seventh, Twenty
8 ten. Time, Ten:twenty-seven -- no, date, Ten twenty-seven
9 ten; time, ten:forty-five."

10 Q. Okay. And this is Photo Number Six that he showed you,
11 right?

12 A. Yes.

13 Q. Alright. If nobody did anything improper and suggested
14 to you who to pick out of a lineup, can you explain to the
15 jury why you were actually putting the time right here?
16 What time do you have there?

17 A. Ten, it looks like Ten:fifty-seven.

18 Q. Okay. How is it, if nobody did anything improper, how
19 is it that you can sign an affidavit that says that you
20 picked Mr. Brown out of a lineup at Ten:forty-five, but you
21 weren't shown this lineup until Ten:fifty-seven? Can you
22 explain that?

23 A. Well, it might have been a little -- I was
24 discombobulated right at that present point in time.

25 COURT REPORTER: You were what?

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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1 A. Discombobulated, I mean, I was in disarray.

2 Q. Okay. But does time go forward or backwards most of the
3 time?

4 A. Time goes forward.

5 Q. Okay. But I'm just trying -- because it looks like,
6 according to your signature the document is listed, you said
7 at ten:forty-five you were shown a photo lineup, right?

8 A. Right.

9 Q. And at ten:fifty-seven, this is when you were actually
10 shown the pictures. So, how is it that you can sign
11 something saying that you saw somebody before you ever saw
12 it? Can you explain that?

13 A. No, but I might have had my times mixed up.

14 MR. GIPSON: May I publish this to the jury, Your
15 Honor?

16 THE COURT: You may.

17 Q. Anything else mixed up?

18 A. No.

19 Q. And so, what happened in that Thirteen minute period of
20 time, between the time that -- before you saw, and when you
21 filled the affidavit out and when you actually were shown
22 the pictures? Did somebody say, make sure you pick Romeo
23 out of the lineup, or did somebody say, I think -- I'm just
24 trying to figure out how that happened?

25 MR. GIPSON: The Court's indulgence, Your Honor.

MONIQUE SHAWN GUINYARD - CROSS BY MR. GIPSON

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1 THE COURT: Alright.

2 Q. That is your signature on that document?

3 A. Yes; it is.

4 Q. Okay. And you attested that everything that you were
5 shown, that it was true, correct?

6 A. Yes.

7 MR. GIPSON: That's all my questions, Your Honor.

8 THE COURT: Very well. Redirect?

9 SOLICITOR SORENSON: Just very briefly, Your Honor.

10 THE COURT: Okay.

11 (NOTE: Blank lines on this page do not indicate any part of
12 record has been omitted. Headers on testimony pages and
13 hard page breaks between testimony are now required by the
14 Court. See next ensuing page for sequential continuation of
15 record.)

MONIQUE SHAWN GUINYARD - REDIRECT BY SOL. SORENSON

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MONIQUE SHAWN GUINYARD - REDIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Mr. Guinyard, in dealing with this photo lineup, let me ask you, do you remember -- obviously, when did all this take place, what date?

A. I can't actually remember the date.

Q. Okay. Will it refresh your memory if I show you, -- what date did you sign that and date that?

A. The Twenty-seventh.

Q. Of when?

A. That's Ten Twenty-seven Ten.

Q. So, we're talking a year and half ago?

A. Yes.

Q. Let me ask you, do you remember, Mr. Guinyard, kind of what order you signed stuff and circled stuff - - -

A. Not really.

Q. --- and dated stuff, and timed stuff Eighteen months ago?

A. No, I don't.

Q. Let me ask you this, though, -- let me wait until I get that back. Shawn, when you filled out this affidavit here, when you filled that out had you seen and looked at this photo lineup at that point in time?

A. Yes..

Q. Okay.

1 SOLICITOR SORENSON: No more questions.

2 THE COURT: Recross?

3 MR. GIPSON: One moment, Your Honor.

4 THE COURT: Sure.

5 MR. GIPSON: I apologize.

6 (NOTE: Blank lines on this page do not indicate any part of
7 record has been omitted. Headers on testimony pages and
8 hard page breaks between testimony are now required by the
9 Court. See next ensuing page for sequential continuation of
10 record.)

MONIQUE SHAWN GUINYARD - RECROSS BY MR. GIPSON

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MONIQUE SHAWN GUINYARD - RECROSS-EXAMINATION

BY MR. GIPSON:

Q. These are your signatures, MG, correct?

A. Correct.

Q. You wrote that, correct? And then the date, correct?

This is all your handwriting up here, right?

SOLICITOR SORENSON: That's asked and answered, Your Honor, I mean, he's going, he's asked him all this, and he's said yes to all this.

THE COURT: On recross, in the event that it's going somewhere else I'll allow him to preface it with those questions. Thank you.

Q. That's all your handwriting, right?

A. It looks like it.

Q. Okay. You're not suggesting that Mr. Shumpert or somebody else jumped in and changed something, right?

A. No.

Q. And that's all your handwriting right there, correct?

A. Correct.

Q. And your handwriting says, Ten:fifty-seven p.m., correct?

A. Correct.

Q. And your handwriting on the affidavit that says, Ten:forty-five, correct?

A. Correct.

1 MR. GIPSON: That's all my questions, Your Honor.

2 THE COURT: Alright, very well. Is this witness free
3 to leave?

4 SOLICITOR SORENSON: No objection.

5 THE COURT: Any objection?

6 MR. GIPSON: No objection.

7 THE COURT: You are free to go.

8 Alright, call your next witness, please.

9 SOLICITOR SORENSON: The State calls Agent Sabrina
10 Fellers.

11 (Whereupon the witness
12 enters the courtroom.)

13 BAILIFF: Your Honor, may I approach?

14 THE COURT: Sure.

15 (Whereupon, a bench conference
16 is had between the Court and
17 the bailiff.)

18 THE COURT: Oh, absolutely, absolutely. The jurors are
19 needing to take a comfort break. I'll tell you what, Ladies
20 and Gentlemen, if you will step to your jury room, do not
21 discuss this matter or allow anyone to discuss it with you.
22 You all take the comfort break you all need to take, and
23 when you are finished if you will knock on the door and
24 return. If we can, I'd like to complete this, one
25 additional witness before lunch. Would you all step to your

1 jury room. Do not discuss this matter or allow anyone to
2 discuss it with you. And again, when y'all have had your
3 comfort break knock on the door and let us know.

4 (Whereupon, the jury retires
5 to the jury room.)

6 THE COURT: You, too, Ms. Harry Dot, now you take your
7 comfort break, too, now.

8 COURT REPORTER: Thank you.

9 (Recess)

10 THE COURT: Alright, bring out our jury.
11 (Whereupon, the jury
12 enters the courtroom.)

13 THE COURT: Alright, we'll continue with the State's
14 case, call your next witness.

15 SOLICITOR SORENSON: Thank you. The State calls
16 Sabrina Fellers.

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

19 (Whereupon, Sabrina Ann Fellers
20 is duly sworn.)

21 CLERK: Thank you. You may have a seat and please
22 state your name again for the record.

23 WITNESS: Sabrina Ann Fellers.

(NOTE: Blank lines on this page do not indicate any part of
record has been omitted.)

SABRINA ANN FELLERS - DIRECT BY SOL. SORENSON

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1 SABRINA ANN FELLERS - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good afternoon, Agent Fellers. Would you tell the jury
4 where it is that you are employed?

5 A. I'm employed by the South Carolina Law Enforcement
6 Division, commonly referred to as SLED, and I work in the
7 crime scene latent print unit.

8 Q. Okay. And how long have you been employed at SLED?

9 A. Approximately three and a half years.

10 Q. Okay. And that whole time have you been in the crime
11 scene latent print division?

12 A. I've been in the crime scene unit that entire time.

13 Q. Okay. If you would, just kind of briefly tell the jury
14 what your current duties and responsibilities are for that
15 unit?

16 A. Currently I work crime scene for the state. We assist
17 local, state and federal agencies throughout the state,
18 responding to the scenes. We do everything from the
19 photography, collection of evidence, documentation, with
20 sketches and notes, and I also process evidence either that
21 I collect on scene or that comes in through the door for
22 local agencies that collect it themselves on their crime
23 scenes.

24 Q. Okay. And turning back to October Twenty-seventh of Two
thousand ten did you have an opportunity that night to

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1 assist the Orangeburg County Sheriff's Office with a crime
2 scene?

3 A. Yes.

4 Q. Okay. And let me just ask you this so we've got, Mr.
5 Gipson doesn't have any confusion, back in October of Two
6 thousand ten was your last name Fellers at that point in
7 time?

8 A. No, my last name was Vahniser at that time.

9 Q. Okay. And would you spell that for the court reporter?

10 A. V-A-H-N-I-S-E-R.

11 Q. Thank you. Alright, now, where was this crime scene
12 that you assisted the county with on the night of October
13 Twenty-seventh, Two thousand ten?

14 A. Wingfield Street in Orangeburg.

15 Q. Okay. And how, let me just ask you, how are y'all
16 typically notified to respond to a crime scene?

17 A. Generally the agency that's requesting will call our
18 fusion center in Columbia and they will call the on call
19 crime scene agents, and we will respond from our residences
20 or their office, wherever we are at the time.

21 Q. Okay. And is that how you were notified about this,
22 this scene?

23 A. Yes, our fusion center called us.

24 Q. Okay. And what time was it approximately that you were
25 notified?

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1 A. It was approximately Ten:fifty-seven at night.

2 Q. Okay. And where, were you at the office at that time or
3 ...

4 A. No, I was at my residence.

5 Q. Okay. And what time then did you ultimately arrive here
6 in Orangeburg at the crime scene?

7 A. I arrived at ...

8 Q. Let me ask you, you're referring to, you've got some
9 notes that's kind of helping refresh your memory?

10 A. Pardon me. Yes.

11 Q. Okay. I see you looking down, so ...

12 A. It wasn't Ten:fifty-seven, it was Eight:fifty-seven. I
13 arrived at the scene at a little bit after Eleven, about
14 Eleven:0-seven.

15 Q. Okay. And what, tell the jury what, what the weather
16 was like when you arrived that night?

17 A. It was clear, but it was dark, but it was clear, there
18 was no rain or anything.

19 Q. Okay. And if you would, when you arrived at that crime
20 scene, if you would just kind of describe what you came upon
21 when you arrived that night?

22 A. When I arrived at the crime scene I was advised that the
23 scene had taken place in the front yard of a residence.

24 There was yellow crime scene tape up, the scene was secured
25 with officers standing by. There were street lights in the

1 vicinity.

2 Q. Okay. And how did you then go about kind of assessing
3 and ultimately processing that scene that night?

4 A. They gave us some idea of what they had, that there was
5 a victim and his body was still on the scene. We spoke
6 with the resident at the house who gave us verbal consent to
7 go ahead and process. Everything had taken place in the
8 front yard, so we just went from there.

9 Q. Okay. And did you have an opportunity to photograph the
10 scene that night?

11 A. Yes. My partner and I photographed the scene.

12 Q. Okay. I'm showing you this, a few of these here,
13 State's Exhibits One through Four, are those photographs
14 that you took that night?

15 A. Yes, they appear to be photographs that either myself or
16 my partner took that night.

17 Q. Okay. And let me ask you, as part of your duties out
18 there, did you ultimately kind of do a crime scene diagram
19 also?

20 A. Yes.

21 Q. And I'm showing you State's Number Six, do you recognize
22 State's Number Six?

23 A. Yes.

24 Q. And what is that?

25 A. That is the diagram that I did.

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1 Q. Alright, would you describe for the jury kind of as you
2 went about, kind of assessing, you had indicated that the
3 victim's body was still on the scene?

4 A. Yes.

5 Q. Alright. And he is actually depicted in some of the
6 photographs covered with a sheet?

7 A. Yes.

8 Q. Describe for the jury then as you kind of assessed the
9 scene around Mr. Harrison, kind of what, if any, items you
10 located?

11 A. When we started working, he was covered with a sheet.
12 That was removed. There were two cartridge cases
13 recovered in the vicinity of him, I think one was on the
14 left and the right side of him. There was also a gold grill
15 tooth mouth insert piece that was laying on the ground in
16 that area. There was a baseball cap and some clothing was
17 near him.

18 Q. And those items were collected?

19 A. Yes.

20 Q. Okay. Specifically, let me show you State's Exhibit
21 Numbers Thirteen and Fourteen, do you recognize those two
22 items?

23 A. Yes.

24 Q. Okay. And what are those, what are State's Thirteen and
25 Fourteen?

SABRINA ANN FELLERS - DIRECT BY SOL. SORENSON

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1 A. These are cartridge cases.

2 Q. Okay. And where did they come from?

3 A. They were in the grass near the body.

4 Q. Did you collect them that night?

5 A. Yes.

6 SOLICITOR SORENSON: At this time, Your Honor, we'd
7 offer State's Thirteen and Fourteen into evidence.

8 MR. GIPSON: Without objection.

9 THE COURT: Very well.

10 SOLICITOR SORENSON: You want me just to scribble,
11 erase the ID off of here?

12 COURT REPORTER: Yes, sir.

13 (State's Exhibits Thirteen and Fourteen
14 marked and filed.)

15 Q. And Agent Fellers, describe for the jury what a
16 cartridge casing, what those are?

17 A. The cartridge case is ejected from a firearm when the --
18 ejected from the firearm or in the cylinder of a revolver
19 after a shot has been fired and the bullet has been
20 expelled.

21 Q. Now, Agent Fellers, did you have an opportunity then to
22 collect any items specifically with regards to the victim,
23 Alex Harrison, from him?

24 A. From the victim we collected a gun shot residue kit and
25 we also collect finger prints, known palm prints.

SABRINA ANN FELLERS - DIRECT BY SOL. SORENSON

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1 Q. Okay. And explain to the jury what a gun shot residue
2 kit is?

3 A. A gun shot residue kit is a kit that is collected to
4 determine if a gun has been fired near or by that person in
5 a certain amount of time prior to the incident.

6 Q. Okay. And what, what exactly does the kit consist of?

7 A. The kit has adhesive tabs, and we do the front and the
8 back of both hands with those, and then there's also a
9 solution and cotton swabs. We moisten the cotton swabs and
10 then we swab the hand on each side after we do those
11 adhesive tabs.

12 Q. And you did that on Mr. Harrison out at the scene that
13 night?

14 A. Yes.

15 Q. I'm showing you State's Exhibit Number Fifteen, and
16 what's contained in that?

17 A. That would be the gun shot residue kit.

18 SOLICITOR SORENSON: Do you have any objection to
19 this?

20 MR. GIPSON: No objection.

21 SOLICITOR SORENSON: We'd offer State's Fifteen into
22 evidence.

23 THE COURT: And there's no objection, it's into
24 evidence.

25 COURT REPORTER: State's Fifteen.

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1 (State's Exhibit Fifteen

2 marked and filed.)

3 Q. Now, ultimately, as far as this gun shot residue kit, do
4 you, in the crime scene and latent print division, do you do
5 anything with that gun shot residue kit?

6 A. I fill out the paperwork that's included with it, I seal
7 it, and I submit it to my lab and it then goes on to be
8 analyzed by the trace department.

9 Q. Okay. And that's another department at SLED - - -

10 A. Yes.

11 Q. --- that would analyze that?

12 A. Yes.

13 Q. Okay. Alright. Now, let me ask you, that area that Mr.
14 Harrison's body was found, can you kind of describe that
15 area?

16 A. It was a grassy area in the yard of the residence.
17 There was a large tree in front of the residence, it was
18 kind of between the tree and the front entrance to the
19 residence.

20 Q. And is he documented on your diagram, Number Six?

21 A. Yes, he is Marker A.

22 Q. Marker A? Okay. So, he's kind of in the middle of the
23 yard?

24 A. Yes.

25 Q. Looking at Photographs Two and Four, does that kind of

SABRINA ANN FELLERS - DIRECT BY SOL. SORENSON

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1 show the area around Mr. Harrison, how it was when you got
2 out there that night?

3 A. Yes.

4 Q. Let me ask you this, Agent Fellers, from that area
5 around Mr. Harrison were you able to collect any footwear
6 impressions?

7 A. No.

8 Q. Okay. And explain to the jury why not?

9 A. It was grassy, we didn't see any, and there had also
10 been people attending to him prior to our arrival.

11 Q. Did you observe in that grassy area around him any blood
12 spatter or anything of that nature?

13 A. No.

14 Q. How about any hairs or anything of that nature?

15 A. No.

16 Q. Now ultimately, was there anything else then collected
17 or done out at that crime scene that night?

18 A. The items from his pockets were taken out and they were
19 collected by the coroner's office on scene. I photographed
20 those.

21 Q. Okay. Alright.

22 A. And there was a set of keys that were collected and
23 signed over to the sheriff's office.

24 Q. Okay. Alright, now, let me ask you about the two shell
25 casings, State's Thirteen and Fourteen.

SABRINA ANN FELLERS - DIRECT BY SOL. SORENSON

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1 A. Yes, sir.

2 Q. Did you do any further analysis on State's Thirteen and
3 Fourteen?

4 A. Yes, I processed those for latent print impressions.

5 Q. And explain to the jury what that means, processed them
6 for latent print impressions?

7 A. I start with looking at it to see if I can see
8 anything prior to processing. I visually examine the
9 cartridge cases. I then put them -- I process them with
10 syanacralate, which is a fancy term for super glue, that's
11 fumed in a tank that just pretty much hardens the print so
12 that it's more stable for further processing. I looked at
13 it again visually, and then I process it with black powder,
14 and that's using the brush, and there were negative results,
15 I didn't find any ridge details visible.

16 Q. So, in other words, no fingerprints that you could find
17 on those, either one of those shell casings?

18 A. No, sir.

19 Q. Alright, and when dealing with shell casings, is that
20 common or uncommon?

21 A. It's common - - -

22 MR. GIPSON: Object to the leading, Your Honor.

23 A. --- it's common to not find any fingerprints on a shell
24 casing.

25 THE COURT: Watch the leading, please.

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1 SOLICITOR SORENSON: Alright. I believe that's all I'd
2 have for Agent Fellers.

3 THE COURT: Alright, cross-examination.

4 MR. GIPSON: Thank you, Your Honor.

5 (NOTE: Blank lines on this page do not indicate any part of
6 record has been omitted. Headers on testimony pages and
7 hard page breaks between testimony are now required by the
8 Court. See next ensuing page for sequential continuation of
9 record.)

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 SABRINA ANN FELLERS - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good afternoon, Agent Fellers.

4 A. Good afternoon.

5 Q. Now, did you have an opportunity to hear the last
6 witness testify?

7 A. No.

8 Q. Alright. Now, I just want to go through just a few of
9 your answers and just to clarify a little bit of what you
10 did before. Now, you're not here, you don't know who did
11 the shooting in this case, do you?

12 A. No.

13 Q. Okay. Your job is to come in and do what we call
14 processing the crime scene, correct?

15 A. Yes.

16 Q. And you do that after you receive a phone call from
17 whoever the lead agent is in this case, correct?

18 A. Yes.

19 Q. And in this particular case your notes reflect that that
20 person was Detective Eikhoff, is that correct?

21 A. Yes.

22 Q. Alright, do you see her in the courtroom today?

23 A. I honestly couldn't tell you.

24 Q. That's alright. We know that's not her. Alright. And
25 you came out to the scene. Essentially, you got a phone

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 call, you were in Columbia?

2 A. I was in the Charleston area.

3 Q. You were in the Charleston area?

4 A. Yes.

5 Q. So, was Mr. Kinley in Charleston or he was in the
6 Columbia area?

7 A. He was in the Columbia area.

8 Q. Alright. So, the two of y'all essentially met up at, in
9 Orangeburg County on Wingate Street where this situation
10 took place, correct?

11 A. Yes.

12 Q. Alright. And at that point it's your job to kind of
13 look around and see what you can find that you can process,
14 right?

15 A. Yes.

16 Q. And as you started to do those things one of the things
17 that you are constrained by is whatever the preceding
18 officers who got there before you did, right? Meaning if
19 they -- they have to rope the area off, right?

20 A. Yes.

21 Q. And if they properly kind of move people away and have
22 done certain things, that may help your crime scene be a
23 little bit better accessible, right?

24 A. Yes, but it is not always limited to that area.

25 Q. Right, exactly. And how is -- and so the crime scene

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1 can go, it can be right in one particular area, say, in
2 front of the house, or it can even span behind the house,
3 too, right?

4 A. Yes.

5 Q. Okay. And to the sides of the house, right?

6 A. Yes.

7 Q. Alright. So, in doing your investigation did you go all
8 around the house and look for things?

9 A. Yes.

10 Q. Okay. And there were grassy areas in front of the
11 house, but there are also dirt areas there, too, correct?

12 A. Yes.

13 Q. Alright. How was the lighting in the back of the house?

14 A. It was dark.

15 Q. Okay. Were you able to go back there and try to do any
16 processing behind the house?

17 A. We didn't see anything to process back there.

18 Q. Okay. I mean, what, the dirt back there, were you able
19 to look back there for shoe prints, casings -- not casings,
20 but shoe prints and anything like that that you talked
21 about?

22 We walked back there, but we did not go in depth back
there. We were told, from based on the story that it was
all concentrated in the front. But we did photograph and go
through the back yard, yes.

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 Q. Okay. And did you ever learn that there was an
2 allegation that the shooter fled the scene on foot?

3 A. Yes.

4 Q. Alright. And did you learn that the shooter, there may
5 have been an allegation that the shooter fled the scene and
6 ran through the back yard?

7 A. No.

8 Q. Alright. That information would have had to have come
9 from the officers, correct?

10 A. Yes.

11 Q. And the officer puts you on notice as to what to look
12 for, correct?

13 A. To some extent, yes.

14 Q. To some extent. And if they don't tell you certain
15 details like that, then sometimes you're not going to look
16 because you just don't know?

17 A. Yes.

18 Q. Alright. And it's very dark back there, correct?

19 A. Yes.

20 Q. Alright. Now, how would you characterize the lighting
21 in the front, without all of the headlights and other stuff
22 out there, how would you characterize that lighting?

23 A. There were two street lights in the vicinity across the
24 street. One of them was flickering, it was coming off and
25 on while I was on the scene.

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 Q. Okay.

2 A. It was fairly well lit but it was still dark, yes.

3 Q. Okay. And were there still a lot of people around when
4 you arrived?

5 A. Yes.

6 Q. Okay. And did you have an opportunity at some point to
7 -- did you have to keep a crime scene log, or was that
8 somebody else's job to do at that point?

9 A. That would have been done by the Orangeburg County
10 Sheriff's Office.

11 Q. Alright. So, essentially, that's not your, that's not
12 your baby, so to speak?

13 A. No, because generally if they keep a crime scene log
14 they want to document the people that come and go prior to
15 my arrival.

16 Q. Okay. And were you aware there may have been Thirteen
17 or so officers who were there?

18 A. That is possible.

19 Q. Okay. And again, you just came in and kind of did the
20 processing and once you were clear to leave, you left,
21 correct?

22 A. Yes.

A. Alright. Now, it's clear that you found, once you got
there, shell casings, correct?

A. Yes.

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 Q. And State's Thirteen and Fourteen are the ones that you
2 found, correct?

3 A. Yes.

4 Q. Alright. Now, having been trained at SLED you had to go
5 through the Criminal Justice Academy at some point in time?

6 A. Yes.

7 Q. And you have some working knowledge of firearms,
8 correct?

9 A. Yes.

10 Q. Alright. Are you certified to carry a firearm?

11 A. Yes.

12 Q. Alright. Do you know the difference between a revolver
13 and an automatic?

14 A. Yes.

15 Q. Can you just explain that to the jury generally?

16 A. The cartridge case is ejected from an automatic, and in
17 a revolver the cartridge case stays in the cylinder until
18 you manually take it out.

19 Q. So, in laymen's terms, an automatic, or excuse me, a
20 revolver spins around?

21 A. Yes.

22 Q. So, that's the kind of old western gun that you see, and
23 people play Russian Roulette with, and that kind of stuff?

24 A. Yes.

25 Q. Alright. So, that's a revolver. And if you shoot the

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 chamber revolves around until you're out of bullets?

2 A. Yes.

3 Q. And the only way to reload that is to open up the, open
4 up the cylinder, - - -

5 A. Uh-huh.

6 Q. --- empty them out and put new bullets in, correct?

7 A. Yes.

8 Q. Okay. And that's what a revolver does, correct?

9 A. Yes.

10 Q. So, when you shoot it doesn't flip out, meaning it,
11 meaning, the cartridge casing doesn't just pop out?

12 A. No.

13 Q. Alright. You have to manually do that?

14 A. Yes.

15 Q. Now, with an automatic, one of the reasons it's called
16 an automatic is because once you pull that trigger the shell
17 casing pops out, correct?

18 A. Yes.

19 Q. Alright. And it automatically reloads until it's out of
20 ammunition?

21 A. Correct.

22 Q. Okay. Now, and these are the only two that you found,
23 right?

24 A. Yes.

25 Q. Okay. Did you learn anything from the officers about

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 what type of gun they suspected was used in this case?

2 A. No.

3 Q. Okay. Finding shell casings leads you to believe that
4 it is what?

5 A. Most likely an automatic.

6 Q. Okay. And most likely an automatic because it pops
7 those shell casings out, correct?

8 A. Yes.

9 Q. Alright. Now, you talked about using, you're
10 essentially looking for fingerprints, and how do you use,
11 essentially super glue and using the black powder, that kind
12 of thing?

13 A. Yes.

14 Q. There are other ways to sometimes determine if somebody
15 has actually touched one of these, isn't it?

16 A. Yes.

17 Q. Is that called, what, skip tracing, or what do you call
18 that, what do you guys call it?

19 A. Are you going for fingerprints or another type of
20 evidence?

21 Q. Well, if you're looking at any other types of evidence.

22 A. There's other methods, I mean, you could look for DNA,
23 it depends what you're looking for, what other method you
24 would use.

25 Q. Okay. How would you look for DNA?

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1 A. You would swab it with a moistened swab.

2 Q. Okay. Almost like with a gun shot residue -- excuse me
3 -- yes, gun shot residue?

4 A. Somewhat, yes, but you would just use DNA swab for that.

5 Q. Okay. And just explain to the jury how you would look
6 for DNA?

7 A. DNA, you would, you can't see the DNA so you don't know
8 if it's there or not, so you would just swab the area, and
9 let those swabs dry, package them, and then submit to DNA,
10 and they would test to see if you had recovered any DNA from
11 that object.

12 Q. And one of the reasons for doing something like that is
13 because sometimes a print may not be visible, but if you're
14 asked to do a DNA sample then you can do that, and that may
15 tell who loaded the gun, correct?

16 A. Possibly.

17 Q. Alright, and if you can tell who loaded the gun, then
18 chances are you may be able to narrow down the field of
19 people who used it?

20 A. Possibly, yes.

21 Q. Alright. Now, do you generally have to get the officer,
22 or the detective, the lead detective, is that somebody who
23 normally says, well, I want you to do this and this, and
24 tell you, well, test it for DNA, check for this, is that
25 normally how it works?

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 A. It can go that way, or it's something, it's a decision
2 that I can make as the processing agent.

3 Q. Did the officer ask you to do DNA testing on this?

4 A. No.

5 Q. Okay.

6 MR. GIPSON: The Court's indulgence for a brief moment,
7 Your Honor.

8 THE COURT: Yes.

9 MR. GIPSON: I'd just like to go ahead and premark
10 these for Defendant's actual exhibits.

11 COURT REPORTER: For ID?

12 MR. GIPSON: No ID, the real thing.

13 Q. I'm going to hand those to you in just a moment.

14 A. Okay.

15 (Defendant's Exhibits Eight through Thirteen,
16 Photographs, premarked.)

17 Q. So, you have the ability to put a little bit more effort
18 into things and you can look a little bit deeper than some
19 places can because you just have the resources and the labs
20 to test things, right?

21 A. Well, it's the state lab, so the local agencies are able
22 to collect evidence and submit it if they collect it also,
23 so they have the same resources available to them.

24 Q. Okay. But in this case you collected it and took it
25 directly to Columbia for the testing?

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1. A. Yes.

2. Q. Alright. And again, you took a series of pictures as
3. well, correct?

4. A. Yes.

5. Q. Alright. I'm just going to show you Defendant's
6. Exhibits Numbers Eight through -- well, I'm going to show
7. you some pictures. You tell me if you recognize those
8. first.

9. A. Yes.

10. Q. Okay. Does that look like your handiwork generally?

11. A. Yes.

12. Q. Okay.

13. MR. GIPSON: Alright, Your Honor, at this point I'm
14. going to enter these into evidence.

15. THE COURT: Any objection?

16. SOLICITOR SORENSON: No objection.

17. THE COURT: Very well.

18. (Defendant's Exhibits Eight through Thirteen
19. filed.)

20. Q. Alright, now we can talk about them. Now, can you tell
21. the jury what you felt was important about Defendant's
22. Exhibit Number Ten?

23. A. Defendant's Exhibit Number Ten, it shows the location of
24. the ball cap, it shows the location of the victim, and
25. there's a set of keys.

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1 Q. Would you look at the same about Defendant's Exhibit
2 Number Eleven?

3 A. That is just a close up of the victim's hand.

4 Q. Okay. And why do you think that was important?

5 A. It just shows if there's any, any wounds, any defensive
6 wounds, anything like that on his hands.

7 Q. Okay. I'm going to show you Defendant's Exhibit Number
8 Thirteen -- now is that a right hand or a left hand?

9 A. That one is his left hand.

10 Q. Okay.

11 A. Wait -- yeah.

12 Q. So, when you say that one, you just referred to
13 Defendant's Exhibit Number ...

14 A. I would need to see the overall of his hands, but it
15 looks like that would be his left and this would be his
16 right, left and right.

17 Q. Okay. And anything specific about Defendant's Exhibit
18 Number Thirteen that brings anything to your attention?

19 A. There's some blood visible.

20 Q. Alright. Did you swab that blood?

21 A. No, we did not.

22 Q. Okay. Those pictures, Numbers Thirteen and Eleven,
23 those two that I showed you also show fingernails, correct?

24 A. Yes, they do.

25 Q. Did you do anything particular to the fingernails?

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1 A. That's not something routinely done by crime scene.

2 Q. Alright. Were you informed that there was a struggle
3 that took place between the shooter and the victim in this
4 case?

5 A. No, I was not.

6 Q. Alright. In a struggle, when someone has nails
7 oftentimes people get scratched, right?

8 A. It's possible, yes.

9 Q. And when you get scratched that means there's sometimes
10 DNA under those fingernails?

11 A. Yes.

12 Q. That can lead someone back to who they were actually in
13 a struggle with, correct?

14 A. Yes.

15 Q. Okay. So, in the case that, the scrapings weren't done
16 and submitted to be tested, right?

17 A. That is not something I can answer, that is something
18 that would have been done at autopsy.

19 Q. Okay.

20 MR. GIPSON: May I publish these to the jury, Your
21 Honor?

THE COURT: Yes, you may.

MR. GIPSON: Okay, thank you. So Numbers Thirteen and
Eleven are going to the jury at this point, Your Honor.

THE COURT: Alright.

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1 (Whereupon, Defendant's Exhibits
2 Eleven and Thirteen are published
3 to the jury.)

4 Q. Now, I also want to show you what's been shown as,
5 excuse me, Defendant's Exhibit Number Nine. That's a
6 picture you took as well, correct?

7 A. Myself or my partner from SLED, yes.

8 Q. Okay. And that looks like a cell phone, some money and
9 a set of keys, correct?

10 A. Yes.

11 Q. And also the victim's body in this situation, correct?

12 A. Yes.

13 Q. Alright. Now, I'm going to show you Number Twelve, can
14 you tell us what that is?

15 A. That is another set of keys.

16 Q. Okay. It's not the same set of keys?

17 A. No.

18 Q. Okay. Have we determined who that other set of keys
19 belonged to?

20 A. No.

21 Q. Okay. And were those ever tested for prints or anything
22 along those lines, or DNA, or anything like that?

23 A. The first set of keys that are in the picture with the
24 cell phone were collected by the coroner's office on the
25 scene. This set of keys I collected on the scene and I

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 transferred them to a member of the Orangeburg County
2 Sheriff's Office.

3 Q. Okay. So, it would be up to the Orangeburg County
4 Sheriff's Department to determine if this needed to be
5 tested to see whose these belonged to, or whatever?

6 A. Yes.

7 MR. GIPSON: And I'm going to publish these to the jury
8 as well, Your Honor, if I may.

9 THE COURT: Alright.

10 (Whereupon, Defendant's Exhibits
11 Nine and Twelve are published to
12 the jury.)

13 Q. Now, I'm also going to show you what's been marked as
14 Exhibit Number Eight, excuse me, Defense Exhibit Number
15 Eight, and Defense Exhibit Number Ten. And again, those are
16 pictures that either you or someone from your agency took?

17 A. Yes.

18 Q. Alright. And do you see a cigarette in those pictures?

19 A. Yes, I see a cigarette and I see a cigarette butt.

20 Q. Okay. What is the significance of cigarettes when it
21 comes to evidence?

22 A. They can hold possible DNA.

23 Q. And that's because generally people smoke cigarettes by
24 putting them to their mouth, and I'm not trying to be silly
25 with you, but they put it to their mouth, correct?

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 A. Yes.

2 Q. And if you put it to your mouth, then there's DNA that's
3 left behind on that butt, correct?

4 A. There could be.

5 Q. There could be. So, in collecting those butts you can
6 oftentimes determine who smoked that cigarette?

7 A. Yes.

8 Q. And that can be a way also of determine who was out
9 there, who may have been the shooter, if that is an issue in
10 the case, correct?

11 A. Yes.

12 Q. Alright. Or if somebody is named as a shooter, that's a
13 way of sometimes determining if that's the truth, correct,
14 possibly?

15 A. Possibly.

16 Q. Okay. And it's just another tool that you have to just
17 determine who was around at that point in time, or at some
18 point in time?

19 A. It doesn't tell you everybody that was around but it can
20 pinpoint that one person was there.

21 Q. Okay.

22 A. But there could have been other people there that didn't
23 have a cigarette butt.

24 Q. Correct. And it can also, it can be what some people
25 call a smoking gun sometimes, too?

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 A. Yes.

2 Q. And you've seen that happen in cases, too, where someone
3 says, no, I wasn't there, but you test the butt and it's
4 clear that they were there?

5 A. With DNA, yes.

6 Q. Yes. Okay. And again, you only collect but it's up to
7 the sheriff's department to determine, or to send things to
8 you that they, additional things that they want tested,
9 correct?

10 A. Yes.

11 Q. Okay. Now, just because you collected this evidence on
12 October Twenty-seventh and took it back for testing, or
13 submitted it for testing, that doesn't mean that's all that
14 you can test, correct?

15 A. No.

16 Q. Alright. Agencies can always continue their
17 investigation and send you other items to test if they feel
18 like -- well, they can always do that, correct?

19 A. Yes.

20 Q. And was there ever an occasion where this agency sent
21 you additional things to test after they went back and
22 looked at the scene the next day?

23 A. I did not receive any additional evidence in the latent
24 print unit, but I am not aware of anything that might have
25 been submitted through our evidence log in to other units

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1 in the building.

2 Q. And again, to your knowledge who was in charge of the
3 investigation from the Orangeburg County Sheriff's
4 Department, who was noted on your information?

5 A. On my information?

6 Q. Yes, ma'am.

7 A. It Investigator Eikhoff, that's the information I
8 received at the time I arrived on the scene.

9 Q. Okay. And again, the photographs that you're holding
10 show a blue hat as well, and you collected that because you
11 felt there could be some significance to that hat?

12 A. Yes.

13 Q. Okay. And you submitted that for testing as well,
14 correct?

15 A. Yes.

16 Q. And you mentioned the gold grill, a black shirt and a
17 blue hat, correct?

18 A. Yes.

19 Q. Okay.

20 MR. GIPSON: And if I could submit those to the jury.
21 (Whereupon, Defendant's Exhibits
22 Eight and Ten are published
23 to the jury.)
24 Q. And again, just to be clear, there are actually two
25 different sets of keys, correct?

SABRINA ANN FELLERS - CROSS BY MR. GIPSON

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1 A. Yes.

2 MR. GIPSON: The Court's indulgence.

3 THE COURT: Alright.

4 MR. GIPSON: That's all my questions, Your Honor.

5 THE COURT: Very well. Redirect?

6 SOLICITOR SORENSON: Just real briefly, Your Honor.

7 THE COURT: Alright!

8 (NOTE: Blank lines on this page do not indicate any part of
9 record has been omitted. Headers on testimony pages and
10 hard page breaks between testimony are now required by the
11 Court. See next ensuing page for sequential continuation of
12 record.)

SABRINA ANN FELLERS - REDIRECT BY SOL. SORENSON

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1 SABRINA ANN FELLERS, REDIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Agent Fellers, Mr. Gipson kind of at the beginning of
4 his cross-examination was asking you about different tests
5 that can be performed on shell casings?

6 A. Yes, sir.

7 Q. And I believe you had referenced testing for
8 fingerprints like you did in this case?

9 A. Yes.

10 Q. And then he was going through also about testing for
11 DNA?

12 A. Yes.

13 Q. Okay. And I believe you said you did not do that in
14 this case, is that correct?

15 A. Yes.

16 Q. Explain to the jury why you didn't do that in this case?

17 A. A cartridge case is a small surface to start with. If
18 we swab it for DNA we'll probably destroy any of the prints
19 that are there. So we generally choose one or the other.
20 After we fume it with the syanacralate there's a coating of
21 super glue on there so you're unable to retrieve the DNA
22 after that. So, it's a decision that has to be made in the
23 beginning.

24 Q. Okay. Who made that decision in this case?

25 A. I did.

SABRINA ANN FELLERS - REDIRECT BY SOL. SORENSON

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1 Q. Okay. So, if you had swabbed it for DNA, would you then
2 have been able to also process them for latent prints?

3 A. I could have still processed it but I would have
4 probably swabbed most of the surfaces, so anything would
5 have been damaged.

6 SOLICITOR SORENSON: That's all I have.

7 THE COURT: Alright. Recross?

8 MR. GIPSON: Just briefly.

9 (NOTE: Blank lines on this page do not indicate any part of
10 record has been omitted. Headers on testimony pages and
11 hard page breaks between testimony are now required by the
12 Court. See next ensuing page for sequential continuation of
13 record.)

SABRINA ANN FELLERS - RECROSS BY MR. GIPSON

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1 SABRINA ANN FELLERS - RECROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. And in this case you had two, correct?

4 A. Two?

5 Q. Two shell casings?

6 A. Two cartridge cases, yes.

7 Q. I'm sorry, cartridges casings, so conceivably you could
8 swab one and glue the other, or test the other for prints,
9 right?

10 A. Yes.

11 Q. Okay.

12 MR. GIPSON: That's all my questions.

13 THE COURT: Very well. Is this witness free to leave?

14 MR. GIPSON: Yes, ma'am.

15 SOLICITOR SORENSON: Yes.

16 THE COURT: Very well, you are free to go.

17 Alright, lunch time. Ladies and Gentlemen, I'm going
18 to ask you to be back in your jury room at Two:thirty.
19 That's going to be right at an hour and Fifteen minutes,
20 isn't that right? Yeah, an hour and Fifteen minutes for
21 lunch. Please be mindful, do not discuss this matter or
22 allow anyone to discuss it with you. Don't listen to
23 anything, don't read anything regarding this matter. Of
24 course, that means on the internet, radio, television,
25 newspapers and the like. Be mindful that you must receive

1 all of the information for which you will make up your mind
2 here in Court while Court is in session. Remember to leave
3 your cell phone away from the courthouse. If you forget,
4 that's fine, just let Ms. Jamison know when you return and
5 she will safe keep your phone until our break and you can
6 return it to your car at that point. Ladies and Gentlemen,
7 have a good lunch, and I look forward to seeing you at
8 Two:thirty.

9 (Whereupon, the jury leaves
10 the courtroom and the following
11 takes place out of the presence
12 of the jury.)

13 THE COURT: Alright, anything from the State before we
14 take our break for lunch?

15 SOLICITOR SORENSON: Nothing from the State.

16 THE COURT: Anything from the defense?

17 MR. GIPSON: Could I just briefly, Your Honor?

18 THE COURT: Uh-huh.

19 MR. GIPSON: Mr. Sorenson and I discussed this. I know
20 we're not at this juncture yet but I always just like to
21 begin to advise my client of his rights to testify and have
22 the Court, if you would, conduct an independent inquiry.
23 And that decision has not been made at this point in time,
24 but I'd just like for him to understand that he's got a
right, and he doesn't have to do that. And I'll request,

1 maybe not at this time but maybe later today, or even when
2 we come back from lunch, if the Court would just advise him
3 of his rights so he can start to mull that over as we get
4 further.

5 THE COURT: I don't mind doing that now, it won't take
6 very long. And that way you will have the benefit of the
7 lunch and the time during lunch so that you can do that.
8 Alright?

9 MR. GIPSON: Yes, ma'am.

10 THE COURT: Very well. If you'd just ask your client
11 to stand. Mr. Brown, if you would just stand for me.

12 And if you'd swear him in for me, please, ma'am.

13 CLERK: Please raise your right hand.

14 (Whereupon, Romeo Brown
15 is duly sworn.)

16 CLERK: Thank you.

17 THE COURT: Now -- thank you so much.

18 (NOTE: Blank lines on this page do not indicate any part of
19 record has been omitted. Headers on testimony pages and
20 hard page breaks between testimony are now required by the
21 Court. See next ensuing page for sequential continuation of
22 record.)

ROMEO BROWN - EXAM, IN CAMERA, BY THE COURT

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1 ROMEO BROWN - EXAMINATION, IN CAMERA,

2 BY THE COURT:

3 Q. Mr. Brown, I have certain matters that I'm going to be
4 discussing with you and explaining to you, and I'm going to
5 ask, if at any point in time you do not understand what I'm
6 discussing with you, that you let me know. Okay?

7 A. Okay.

8 Q. Can you answer?

9 A. Yes, ma'am.

10 Q. Thank you so much. And the reason that I wanted you to
11 let me know, Mr. Brown, is because, you know, there are many
12 ways to explain any one thing. And so, if how I explain a
13 matter to you, if it doesn't make any sense you let know and
14 I will do my very best to explain it perhaps in a different
15 way, because it's so important that you understand what we
16 are about to discuss.

17 Now -- what I have done, and I'm looking for my notes,
18 so y'all just bear with me, please, for just a minute.

19 Now, we are reaching the point of the trial, we have
20 not reached that point yet, but I know that your lawyer
21 wants you to be thinking and have adequate time to be
22 thinking about whether or not you wish to testify. And
23 that's what we're going to be talking about. I am informed
24 by Mr. Sorenson that he has numerous witnesses that he
25 intends to call, so you've got some time, but I know that

ROMEO BROWN - EXAM, IN CAMERA, BY THE COURT

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1 Mr. Gipson wants you to be thinking about these matters,
2 talking to him about these matters, perhaps talking to
3 family or friends or folks that you have confidence in their
4 judgement as you make the decision whether or not you wish
5 to testify.

6 Now, it is completely up to you whether or not you wish
7 to testify in your own case, in this case. As you know, you
8 have the right to invoke the Fifth Amendment, and the Fifth
9 Amendment, both the State and Federal Constitution say that
10 you have a right to remain silent and that no one can cause
11 you, can force you to testify against yourself. And in the
12 event that you choose to testify you make that decision, and
13 that decision lies with you. You, of course, can ask for
14 advice from your attorney, and again, family or friends or
15 people whose judgement you value. However, the decision
16 whether or not to testify is one that lies with you.

17 Now, a couple of things that I want to talk to you
18 about is in the event that you choose not to testify I want
19 you to understand that I will charge, meaning, instruct the
20 jury that they cannot consider your decision not to testify
21 on the issue of whether you are guilty or not guilty. In
22 fact, I will tell the jury that they cannot even discuss
23 your decision not to testify in the jury room. The reason
24 for that, Mr. Brown, is that that is the exercise of your
25 Fifth Amendment right under our Constitution, and you don't

ROMEO BROWN - EXAM, IN CAMERA, BY THE COURT

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1 have to prove anything, the burden is and remains on the
2 State. You don't have the burden to prove anything, and it
3 is your right to remain silent, and I would so instruct the
4 jury.

5 Now, in the event that you choose to testify, then it's
6 important also that you understand that you will be cross-
7 examined and in the event that you have convictions which
8 are less than ten years old or -- less than ten years old
9 and I make a determination that the probative value
10 outweighs the prejudicial effect to you, or you have on your
11 record in the last ten years crimes involving dishonesty,
12 then you can be cross-examined with regards to those
13 offenses. In the event that you are cross-examined on those
14 offenses I do want you to understand that there's a limiting
15 instruction that's given in that event, and what that
16 limiting instruction says to the jury is that they can only
17 consider those offenses as it relates to the issue of
18 credibility, or truthfulness or lack of truthfulness. In
19 other words, that evidence cannot be used as any propensity
20 evidence meaning because you had this conviction then you
21 are more likely to have committed another offense. In other
22 words, there's a limiting instruction that's given even in
23 the instance that you testify and even in the instance that
24 I would determine that there were offenses that you could be
25 cross-examined on. It only goes as to credibility.

ROMEO BROWN - EXAM, IN CAMERA, BY THE COURT

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1 Now, having said that, you know there's another issue
2 with regards to the indictment of possession of a weapon by
3 someone who has been convicted of a violent, and that's a
4 separate issue. We're talking now about your exercise of
5 your Fifth Amendment right or your decision to testify in
6 your own case.

7 Now, I would ask at this point, Mr. Brown, if you have
8 any questions about what we have been over?

9 A. No, ma'am.

10 Q. Alright. And do you understand that the decision to
11 testify or not testify is a decision that ultimately you
12 will make?

13 A. Yes, ma'am.

14 Q. Very well. I'm not going to ask you at this point what
15 your decision is. I would expect that you would continue to
16 consider, continue to consult with your lawyer, and again,
17 as I say, others with whom you value their judgement.
18 However, please know that the ultimate decision to testify
19 or not to testify must be made by you. Do you understand
20 that?

21 A. Yes, ma'am.

22 THE COURT: Very well. Anything further, Mr. Gipson,
23 that you would like me to instruct your client?

24 MR. GIPSON: No, ma'am, not at this time.

25 THE COURT: Very well. Y'all will continue your

1 discussions. Thank you so much, Mr. Brown.

2 And now we'll go get some lunch.

3 (Recess)

4 SOLICITOR SORENSON: Your Honor, may it please the
5 Court.

6 THE COURT: Yes.

7 SOLICITOR SORENSON: Just real briefly, one of our
8 potential witnesses that is on our witness list is Corporal
9 Leonard Cain with the sheriff's office. He was coming up
10 here basically just to kind of see if, when and if we were
11 going to need him - - -

12 THE COURT: Right.

13 SOLICITOR SORENSON: --- at the lunch break. And he
14 informed me that as he was coming in the courtroom, the
15 jury, I guess, was leaving, and one of the jurors, it turns
16 out he knows, I mean, it is a kind of a distant cousin that
17 he hadn't seen. So, he got to talking to her. He didn't
18 know who she -- I mean, he didn't know why she was up here.
19 And apparently, from what she had told him, she didn't
20 realize he worked for the sheriff's office either, and all
21 of a sudden it was kind of, I think everybody put two and
22 two together, that they're probably here on the same matter.
23 So, I brought that to Mr. Gipson's attention. I don't know
24 what you want to do with that or if you want to inquire any
25 further from Corporal Cain about that conversation - - -

1 THE COURT: Yes, yes, I do, and then I want to speak
2 with ...

3 SOLICITOR SORENSON: I believe it is Juror One Fifty-
4 seven, Cynthia Ritter. He actually wasn't sure -- because
5 he knew her by a different last name back when he would have
6 last seen her, what, five years ago or so. But we're pretty
7 sure that's who it is, I'm pretty sure it's Cynthia Ritter.

8 THE COURT: Alright. Alright, come on up here and
9 let's see what we've got. Raise your right hand.

10 (Whereupon, Leonard Ritter
11 is duly sworn.)

12 THE COURT: Please be seated.

13 COURT REPORTER: Leonard, L-E-O-N-A-r-d, last name, C-
14 A-I-N.

15 (NOTE: Blank lines on this page do not indicate any part of
16 record has been omitted. Headers on testimony pages and
17 hard page breaks between testimony are now required by the
18 Court. See next ensuing page for sequential continuation of
19 record.)

LEONARD CAIN - DIRECT, IN CAMERA, BY SOL. SORENSON

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1 LEONARD CAIN - DIRECT EXAMINATION, IN CAMERA,

2 BY SOLICITOR SORENSON:

3 Q. Corporal, is that right?

4 A. Corporal, yes, sir.

5 Q. Corporal Cain, if you would, tell the Court what you
6 related to me happened as you were arriving for Court this,
7 around lunch today?

8 A. As I was coming in the front door the young lady was
9 coming out the front door. And she was, like, hey, I
10 haven't seen you in a log time. I said, yeah, I've got
11 Court today. And she said, I have Court also. And I was,
12 like, oh, okay. And I came on upstairs and that's when I
13 was looking for you and told you about that.

14 Q. Okay. Did you have any other conversation, other than
15 that, with her?

16 A. No.

17 Q. Okay. And tell the Court, if you would, what, what, how
18 you know this young lady?

19 A. The young lady is my mother's first cousin, she's my
20 second cousin, but she's, we don't have a lot of contact. I
21 only see her at maybe funerals every now and then. I think
22 the last time I saw her, it's been a few years now, I
23 couldn't tell you the last time I saw her.

24 Q. Okay. And do you know whether she's aware of where you
25 are employed before running into you today?

LEONARD CAIN - DIRECT, IN CAMERA, BY SOL. SORENSON

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1 A. No, no.

2 THE COURT: Mr. Gipson, do you have any questions?

3 MR. GIPSON: I don't have any questions.

4 THE COURT: Okay. Very well. Alright, what I'm going
5 to do, Corporal Cain, is, I'm just going to ask the juror to
6 come in and let me ask her some questions, and then I will
7 take it from there. You can just come on out and have a
8 seat, or would you be the next witness? Would he be the
9 next witness?

10 SOLICITOR SORENSON: He's, it's probably about a forty
11 per cent chance I'm even calling him. He's definitely not
12 the next witness, and there's a, I mean, slightly better
13 than Fifty per cent chance he's not going to be called.

14 THE COURT: Okay.

15 SOLICITOR SORENSON: I mean, he's not somebody that is
16 definitely going to testify but, I mean, - - -

17 THE COURT: I understand.

18 SOLICITOR SORENSON: --- but it's a possibility.

19 THE COURT: Okay. Very well.

20 MR. GIPSON: May I ask a quick question, Your Honor?

21 THE COURT: Sure.

22 MR. GIPSON: And now that we've spoken about it, and I
23 mean, there's a chance he may not be called and, you know,
24 in terms of what they've discussed at this point in time, I
25 mean, I'm okay with it at this point, and I guess if it's

LEONARD CAIN - DIRECT, IN CAMERA, BY SOL. SORENSON

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1 necessary to call him, can we do an inquiry at that point?

2 THE COURT: Sure.

3 MR. GIPSON: And then that may -- because we may not
4 need to, and sometimes, you know, if you, if we bring her in
5 and make her feel like there's something that she did wrong
6 if you just spoke to her. I mean, it's Orangeburg,
7 sometimes you know people, it happens everywhere.

8 THE COURT: It happens everywhere.

9 MR. GIPSON: And it was that kind of innocuous kind of
10 meeting between the two, - - -

11 THE COURT: Sure.

12 MR. GIPSON: --- I don't know that that's an issue,
13 especially if he's not going to testify.

14 THE COURT: Well, what we'll do then, if we need to
15 call Corporal Cain, then we'll do an inquiry then.

16 SOLICITOR SORENSON: Okay.

17 THE COURT: I think what we're going to ...

18 SOLICITOR SORENSON: I mean, that's fine, Your Honor, I
19 mean, I suspect it's not going to be something that's going
20 to end up having her be disqualified, but obviously, it's
21 something that maybe she didn't realize, and recognized his
22 name, and he even said that he kind of had a nick name when
23 he was younger that he went by that is probably what she
24 would have known him by anyway. So, she probably wouldn't
25 even have recognized his name when she heard it. And

1 obviously, if she knew who he was, I'm sure that would have
2 prompted her to potentially have stood during one of the
3 questions, and I don't know, I mean, ...

4 THE COURT: And I'm sure that nick name was, like,
5 Genius, or something like that, too.

6 MR. GIPSON: I'd just like to know that nick name for
7 the record.

8 THE COURT: Well, let me just commend you, too,
9 Corporal Cain. That was the absolutely appropriate thing to
10 do, when you realized that, to immediately come and find Mr.
11 Sorenson. I want to thank you for doing that. I'm
12 impressed, and I appreciate that very much, I really do.
13 That was absolutely One hundred per cent appropriate.

14 So, bye.

15 MR. GIPSON: Thank you, Your Honor.

16 THE COURT: And thank you, Mr. Sorenson, for bringing
17 that so promptly to the Court's attention.

18 Anything further before we bring our jury out?

19 SOLICITOR SORENSON: No, ma'am.

20 THE COURT: How about from the Defense?

MR. GIPSON: No, ma'am.

THE COURT: Very well. Let's have the jury.

(Whereupon, the jury enters
the courtroom.)

THE COURT: Ladies and Gentlemen, you may have noticed

1 that when you walked in that we have a camera person in the
2 courtroom, and if you didn't, we need to talk. Ladies and
3 Gentlemen, this, of course, is a public forum, and it is
4 normal and customary that oftentimes members of the press
5 request and do, and should receive permission to be present,
6 and that's why this gentleman is here with the camera. I'd
7 love to be able to tell you he is my Poparotcy, but he is
8 not. But he is here with the Court's permission. Again,
9 that really does illustrate why each time you left, well,
10 we've left each other I have given you the instruction to be
11 mindful not to read anything or listen to anything about
12 this matter, and we've talked about that. And I will give
13 you that instruction again when we leave each other, both
14 when we have our afternoon break and when we leave each
15 other this evening. The reason that he is positioned, just
16 for your informational purposes, where he is and so he will
17 not take any pictures of you. The rule is, is that jurors
18 are not to be photographed. So, if you were expecting this
19 to launch your modeling career, please accept my apologies
20 because that is not allowed. But in any event, these folks
21 are very professional, they will not interfere, you won't
even know that they are present. So, but I did want you to
know that the press is here taking photographs, and they are
certainly here with the Court's presence, this is a public
body and a public place, and they, of course, are always

1 welcome.

2 Alright, are we ready to proceed?

3 SOLICITOR SORENSON: Yes, ma'am.

4 THE COURT: And on behalf of the Defense?

5 MR. GIPSON: We're ready, Your Honor.

6 THE COURT: Very well.

7 SOLICITOR SORENSON: The State calls Dr. Janice Ross.

8 CLERK: Please place your left hand on the Bible and
9 raise your right hand.

10 (Whereupon, Dr. Janice Edwards Ross
11 is duly sworn.)

12 CLERK: Thank you, ma'am. Will you please have a seat
13 and state your name for the record.

14 WITNESS: Janice Edwards Ross.

15 (NOTE: Blank lines on this page do not indicate any part of
16 record has been omitted. Headers on testimony pages and
17 hard page breaks between testimony are now required by the
18 Court. See next ensuing page for sequential continuation of
19 record.)

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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DR. JANICE EDWARDS ROSS - DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Good afternoon, Dr. Ross.

A. Good afternoon.

Q. If you would, tell the jury what you do for a living?

A. I'm a forensic pathologist and a hospital pathologist in Newberry, South Carolina.

Q. Okay. And where is it that you work in Newberry?

A. At the hospital, in Newberry County Memorial Hospital.

Q. Thank you. And do you have actually a pathology firm that you own?

A. Yes.

Q. And what is the name of that?

A. Newberry Pathology Associates.

Q. Okay. And currently, are there any other pathologists that are working with you there?

A. Not right now.

Q. Okay. And if you would, Dr. Ross, could you tell the jury a little bit about your educational background?

A. Yes, I received a Bachelors Degree from University of South Carolina. I got my MD from Upstate Medical Center in Syracuse, New York, where I finished my, I did further training in pathology. And pathology is the study of disease. We learned how to do autopsies, we learned how to identify and diagnose tumors and anything that comes from

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 you from surgery under the microscope, cancers, that kind of
2 thing. I'm further trained in the world of forensics. The
3 word, forensic, means legal, so we use our medical knowledge
4 on legal matters and learn how to do a forensic autopsy,
5 which, where we identify patterns of injury and are able to
6 take certain specimens at autopsies for documentation of
7 cause of death.

8 Q. Okay. And Dr. Ross, how many autopsies do you think
9 you've performed in your career?

10 A. Over six thousand.

11 Q. Okay. And have you had an opportunity on occasion to
12 come into Court and testify as an expert witness as to your
13 findings in some of those autopsies?

14 A. Yes.

15 Q. And approximately how many times have you been qualified
16 as an expert in Court?

17 A. In South Carolina over Sixty.

18 Q. Okay. And have you testified here in Orangeburg County
19 before?

20 A. Yes.

21 SOLICITOR SORENSON: And Your Honor, at this time we'd
22 offer Dr. Ross as an expert in the field of forensic
23 pathology.

24 THE COURT: Is there any voir dire?

25 MR. GIPSON: No, ma'am, there's no voir dire.

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 THE COURT: Is there any objection?

2 MR. GIPSON: I don't think I'm qualified to object,
3 Your Honor. She's an expert.

4 THE COURT: Very well, thank you. I will explain to
5 the jury what an expert is.

6 Ladies and Gentlemen, Dr. Ross is qualified as an
7 expert in the field of forensic pathology, and the reason
8 that we go through that process is because normally and
9 typically witnesses are not allowed to testify regarding
10 their opinions or their reasons for their opinions. But as
11 it seems to be oft times in the law there is an exception,
12 and that is when, by the reason of someone's knowledge,
13 education, training or experience they have become an expert
14 in their field, and typically it is in the order science.
15 And those individuals, once they've been qualified as an
16 expert, are allowed to testify regarding their opinions in
17 that field and the reasons for those opinions.

18 Now, when I give you the concluding instructions we
19 will talk more about expert opinion testimony, but I would
20 in short tell you that expert opinion testimony is given for
21 the purpose of helping you understand the evidence and not
22 for the purpose of controlling your judgement. And we will
23 talk about that more when I give you the concluding
24 instructions.

25 Thank you very much.

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 SOLICITOR SORENSON: Thank you, Your Honor.

2 THE COURT: Yes.

3 Q. Dr. Ross, if you could, just kind of briefly describe
4 for the jury what a forensic autopsy consists of?

5 A. Forensic autopsies, as I said a little bit earlier, we
6 look for patterns of injury, and I try to identify,
7 obviously, why the person died, excuse me, and the manner of
8 death, how that cause of death came about being. In other
9 words, was it an accident, a homicide, a suicide, or was it
10 indeed a natural death? Occasionally, we have to say it's
11 undetermined, but we are trained to look at the external and
12 the internal body for patterns of injury and to, to take
13 specimens for the purpose of toxicology or other
14 identification, DNA for instance, to assist the law
15 enforcement in pursuing the crime if there is a crime.

16 Q. Okay. And Dr. Ross, I turn you specifically now to this
17 case. Did you perform a forensic autopsy on a young man by
18 the name of Alex Harrison?

19 A. Yes.

20 Q. And when, when was that autopsy performed, Dr. Ross?

21 A. It was October Twenty-eighth, Two thousand ten.

22 Q. Okay. And are you aware, from the history you were
23 provided, when Mr. Harrison had died?

24 A. Yes.

25 Q. And when was that that he had died?

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 A. He died on October Twenty-seventh, Two thousand ten.

2 Q. So the night before?

3 A. The night before.

4 Q. Okay. And how old, are you aware of how old Mr.
5 Harrison was at the time of his death?

6 A. Thirty-six.

7 Q. Okay. Now, if you would, would you describe for the
8 jury kind of what condition Mr. Harrison presented to you in
9 Newberry?

10 A. When we received him he was clothed, so we inventoried
11 the clothing and took the clothing off and then did an
12 external examination.

13 Q. Okay. And could you describe for the jury that external
14 examination that you performed?

15 A. Yes. We saw evidence of two gun shot wounds, and so we
16 went ahead and did x-rays to look for bullets still in him.

17 Q. Okay. And as a result of those x-rays, were you able to
18 determine whether any of those bullets from those two gun
19 shot wounds were still in Mr. Harrison?

20 A. Yes.

21 Q. Okay. And how many of them were in him?

22 A. Two were still in him.

Q. Two of them were still in? And if you would, describe
for the jury where - - -

SOLICITOR SORENSON: Actually, Your Honor, could I have

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 her step down?

2 THE COURT: You may.

3 Q. If I could get you, Dr. Ross, to step down and kind of
4 illustrate on me for the jury kind of where those two gun
5 shot wounds were located on Mr. Harrison?

6 A. Okay. One bullet wound went in the right back toward
7 the side. It continued to the left and a little bit
8 forward, it was found in the, underneath the skin on the
9 left side of the chest. It went through both lungs and
10 caused a lot of hemorrhage inside the chest cavities.

11 Q. You said it was located?

12 A. I said, on the left side.

13 Q. And that bullet was recovered?

14 A. Yes.

15 Q. Okay. How about the other wound, where was it?

16 A. The other one went into the right abdomen, and it was
17 what we call a contact wound, there was evidence of the
18 barrel of the gun being against the skin. This bullet
19 passed, went from right to left, backwards, and it was
20 lodged in the backbone.

21 Q. And was that bullet recovered also?

22 A. Yes.

23 Q. Okay. I'm showing -- you can sit back down, Dr. Ross.
24 I'm showing you State's Exhibit Number Sixteen, do you
25 recognize those items?

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 A. Yes. And the second bullet went through the liver and
2 caused a lot of hemorrhage inside the abdominal cavity.
3 These are bullets from, retrieved from that autopsy, one
4 from the spine and one from the left back. These are the
5 way we sealed them and after we photograph them.

6 SOLICITOR SORENSON: Your Honor, at this time I'd offer
7 State's Sixteen into evidence.

8 MR. GIPSON: Without objection.

9 THE COURT: Very well.

10 (State's Exhibit Sixteen
11 marked and filed.)

12 Q. Alright, now, Dr. Ross, you had -- well, let me ask you
13 this, in looking at these two gun shot wounds, is there any
14 way for you to tell which one of them came first?

15 A. No.

16 Q. So, I mean, you referred to gun shot would Number One
17 and Number Two, is that just numbers you assigned them?

18 A. That's just our own organization, yes.

19 Q. Okay. Alright, so the first one you described for the
20 jury was the one to the back?

21 A. Yes.

22 Q. And what damage did it cause as it went through Mr.
23 Harrison?

24 A. It went through both lungs so it caused the lung tissue,
25 a lot of bleeding from the lung tissue, into the chest

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 cavity.

2 Q. And in your medical opinion, Dr. Ross, would that gun
3 shot wound to the back have been fatal?

4 A. Yes.

5 Q. And then, gun shot wound Number Two was the one to the
6 abdomen, and I think you indicated that lodged in his
7 vertebrae or his backbone?

8 A. Backbone, yes, sir, vertebrae.

9 Q. And what damage did that do as it went through him?

10 A. It went through the liver and that caused a lot of
11 hemorrhage also, bleeding.

12 Q. And as to that gun shot wound Number Two, in your
13 medical opinion would that have been a fatal gun shot wound?

14 A. Yes.

15 Q. Now, were there any other injuries that you noted to Mr.
16 Harrison?

17 A. There was a bruise on the left side of the back that
18 was, there was no patten to it so it was either -- bruises,
19 when you hit soft tissue and you damage little blood
20 vessels, blood seeps out of the blood vessels into the
21 surrounding tissue and causes a bruise. Everybody's had a
22 bruise before. This bruise was, there was no pattern to it
23 to tell me what caused it, but it was either caused by his
24 falling on something or by being hit by something.

25 Q. Alright. Now, go back to, you had mentioned, when I

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 had you down in front of the jury, the gun shot wound to the
2 abdomen that appeared to be a contact injury?

3 A. Yes.

4 Q. Explain a little more, what do you mean by that?

5 A. There was actually, it looked like the barrel of the gun
6 was right against the skin, it left an abrasion to show
7 that pattern.

8 Q. Okay. Any other evidence around that wound that would
9 suggest that also?

10 A. Soot, yes, there was soot around the wound.

11 Q. Where does that come from, or what does that tell you?

12 A. When a bullet comes out of a gun there's also soot and
13 burning powder and non burning powder. So, you look for
14 evidence of those entities. The soot and the powder only go
15 a certain distance, whereas the bullet, of course, will
16 continue on. So, if you have soot or tattooing on the skin
17 you know, you get an idea of how far the gun was from the
18 skin.

19 Q. Okay. And in your opinion as to that abdominal wound,
20 how close was the gun to his abdomen when that shot was
21 fired?

22 A. The barrel of the gun was touching the skin.

23 Q. Okay. Now, how about the other gun shot wound to Mr.
24 Harrison's back, did you see any of those, I mean, muzzle
25 imprint or any soot or anything of that nature on that

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 wound?

2 A. Not on the skin.

3 Q. Okay. And what would that tell you as far as the
4 distance on that wound?

5 A. It depends on the gun and the type of ammunition,
6 etcetera, but probably the gun barrel was at least two feet
7 away.

8 Q. It could have been two feet up to, as far as the gun
9 would fire, basically, or ...

10 A. Yes.

11 Q. Alright. Now, did you have an opportunity to, as part
12 of the autopsy to do kind of an internal exam also?

13 A. Yes.

14 Q. Okay. And is that where, you had talked earlier about
15 the damage to Mr. Harrison's lungs and his liver, is that
16 kind of through your internal examination?

17 A. Yes.

18 Q. Any other injury you noted while doing the internal
19 examination of Mr. Harrison?

20 A. No.

21 Q. Now how about, was there internal bleeding to Mr.
22 Harrison?

23 A. Yes, there was Five hundred CCs in one chest cavity,
24 Five hundred fifty in another. That's equivalent to almost,
25 in total, almost three units of blood. And in the abdomen

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 there was Eight hundred and fifty CCs, so that's another two
2 units of blood.

3 Q. Okay. And how many, how many units of blood do you have
4 in your body?

5 A. Depending on size, with his size maybe about Twelve.

6 Q. So five of it was, had bled out into his abdominal and
7 chest cavities?

8 A. Yes.

9 Q. Now, you have mentioned earlier, as part of your, or
10 part of a forensic autopsy that you would take toxicological
11 samples and things of that nature?

12 A. Yes.

13 Q. And was that done in this case?

14 A. Yes.

15 Q. And as part of that did you, have you gotten back a
16 blood alcohol level or an alcohol concentration level on Mr.
17 Harrison?

18 A. I never got a SLED report, that went to the coroner. I
19 didn't get a copy of it. But we did do a local alcohol
20 level on the vitreous fluid from the eye.

21 Q. Okay. And do you know what the results of that were?

22 A. Yes, that was point one -- let me make sure -- point one
23 six, I believe. I'm sorry, point one eight per cent.

Q. Point one eight?

A. Yes.

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 Q. Okay. And that, I know, you know, we've all heard kind
2 of, your blood alcohol level before. Is that number the
3 same type of number we're talking about?

4 A. Yes.

5 Q. Okay. So, what would be the legal limit in South
6 Carolina?

7 A. Point zero eight.

8 Q. So it was a little over twice the legal limit?

9 A. Correct.

10 Q. Okay. And that would have been at the time of his
11 death. Is that going to change at all after Mr. Harrison
12 died?

13 A. No.

14 SOLICITOR SORENSON: I beg the Court's indulgence one
15 minute.

16 THE COURT: Alright.

17 Q. Alright, Dr. Ross, I think the last thing I have -- let
18 me ask you, when his -- when he arrived, when Mr. Harrison
19 arrived for the autopsy, did you have to do a gun shot
20 residue kit on him?

21 A. No, there was evidence there was fingerprint ink on his,
22 the palms of his hands, and his hands were not bagged, so
23 they had obviously processed his hands at the scene.

Q. Okay. So, did you do anything then further with his
hands at that point in time?

DR. JANICE EDWARDS ROSS - DIRECT BY SOL. SORENSON

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1 A. No.

2 Q. Okay. And lastly, I think the last thing I have, Dr.
3 Ross, is just, within a reasonable degree of medical
4 certainty, do you have an opinion as to the cause of death
5 of Mr. Harrison?

6 A. Yes.

7 Q. And if you would, tell the jury what that opinion is?

8 A. It's exanguination, which means to bleed out, due to the
9 laceration of the liver and lungs, due to the gun shot
10 wounds of the back and the abdomen.

11 SOLICITOR SORENSON: Okay. Thank you, Dr. Ross, please
12 answer any questions that Mr. Gipson has for you.

13 THE COURT: Cross-examination.

14 MR. GIPSON: Thank you, Your Honor.

15 (NOTE: Blank lines on this page do not indicate any part of
16 record has been omitted. Headers on testimony pages and
17 hard page breaks between testimony are now required by the
18 Court. See next ensuing page for sequential continuation of
19 record.)

DR. JANICE EDWARDS ROSS - CROSS BY MR. GIPSON

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DR. JANICE EDWARDS ROSS - CROSS-EXAMINATION

BY MR. GIPSON:

Q. Good afternoon, Dr. Ross.

A. Good afternoon.

Q. Now, as you perform the autopsies on different, I guess, well, how do you phrase it if the autopsy is, if you're requested to do an autopsy, do you call that a case, or how do you refer to it?

A. Yes, a case.

Q. Okay. So, in this -- I'm sorry, this particular case, as you were asked to perform an autopsy, of course, you're looking for, as you mentioned, the manner of death, if you're able to determine that, and there are different ways to classify that, correct?

A. Correct.

Q. Okay. And you mentioned before that one of the ways of classifying it is a homicide, correct?

A. Correct.

Q. And just by way of -- homicide is really a term of art, isn't it?

A. Yes, by Black's Law Dictionary, it's the taking of, death at the hands of or neglect of another person.

Q. Okay. And as you look at a homicide, that simply means it's not a natural death, correct?

A. Yes.

DR. JANICE EDWARDS ROSS - CROSS BY MR. GIPSON

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1 Q. Alright. And in this case you're not pointing the
2 finger, saying, this particular person, or this particular
3 person caused the death, correct?

4 A. Correct.

5 Q. You're just here testifying that as a result of the
6 bullets puncturing certain internal organs, that there's
7 exangination, or essentially, he bled out, correct?

8 A. Yes.

9 Q. Alright. Now, Mr. Sorenson asked you briefly about his
10 blood alcohol level, and you mentioned that you took, I
11 guess, ocular fluid?

12 A. Yes.

13 Q. Okay. And that's what you were able to test?

14 A. That's what we tested locally at our hospital.

15 Q. And that would be, between the ocular fluid and the
16 blood alcohol, is it going to be pretty similar?

17 A. It's very similar. The ocular fluid lags behind the
18 blood slightly.

19 Q. Okay, so ...

20 A. But it's very stable.

21 Q. It's possible that the blood could actually read higher
22 than the ocular, is that what you're suggesting?

23 A. Yes.

24 Q. Alright. So, just based on your testing, understanding
25 that it could be a little bit lower than what the actual

DR. JANICE EDWARDS ROSS - CROSS BY MR. GIPSON

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1 content was, you're telling this jury that it was Eighteen,
2 or it was point one eight?

3 A. Point one eight, yes.

4 Q. Is it fair to say that means that about Eighteen per
5 cent of his blood was alcohol?

6 A. No, but it's, it doesn't relate to the percentage of
7 alcohol to blood.

8 Q. Okay. How does, what does it relate to?

9 A. Yeah, it does, but -- yeah, I guess you could say that,
10 but of the plasma of the blood, blood is made up of blood
11 cells and fluid.

12 Q. Yes, ma'am.

13 A. So basically, close to point, close to Eighteen percent,
14 yes.

15 Q. Okay, so close to Eighteen percent of his actual blood
16 was alcohol, and just, you're not going to get a point
17 Eighteen reading from one beer, are you?

18 A. No.

19 Q. Okay. And the legal limit in South Carolina is point
20 zero eight?

21 A. Correct.

22 Q. And so, as Mr. Sorenson aptly noted, that's at least
23 twice the legal limit and then plus a little bit more,
24 correct?

25 A. Correct.

DR. JANICE EDWARDS ROSS - CROSS BY MR. GIPSON

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1 Q. Alright. And again, that's not coming from one beer or
2 one drink, is it?

3 A. No, it's not.

4 Q. Okay.

5 MR. GIPSON: I beg the Court's indulgence one moment.

6 THE COURT: Alright.

7 MR. GIPSON: That's all my questions.

8 THE COURT: Very well. Redirect?

9 SOLICITOR SORENSON: No, Your Honor.

10 THE COURT: And is this witness free to leave?

11 SOLICITOR SORENSON: No objection from the State.

12 THE COURT: Any objection?

13 MR. GIPSON: No objection.

14 THE COURT: Thank you.

15 Call your next witness, please.

16 SOLICITOR SORENSON: The State calls Suzanne Cromer.

17 (Whereupon, the witness

18 enters the courtroom.)

19 CLERK: Please place your left hand on the Bible and
20 raise your right hand.

21 (Whereupon, Suzanne Cromer
22 is duly sworn.)

23 CLERK: You may have a seat, and please state your name
24 again for the record.

25 WITNESS: Okay.

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 SUZANNE CROMER - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. State your name for the record, please?

4 A. My name is Suzanne Cromer.

5 Q. And Agent Cromer, if you would, tell the jury where it
6 is that you're employed?

7 A. I'm employed by the South Carolina Law Enforcement
8 Division commonly referred to as SLED, in the firearm and
9 tool mark department.

10 Q. Okay. And how long have you been employed, first of
11 all, at SLED?

12 A. I've been with SLED for over Thirteen and a half years.

13 Q. Okay. And how long have you been in the firearm and
14 tool mark identification department?

15 A. All Thirteen and a half years have been in the firearms
16 department. I have been in my current position a little
17 over Twelve years.

18 Q. Okay. And if you would, just give the jury a little bit
19 of your educational background and your kind of training out
20 at SLED and specifically in the field of firearms
21 identification?

22 A. I have Bachelors Degree from Clemson University. I did
23 some graduate work at the University of South Carolina in
24 Criminal Justice. During that time I did an internship in
25 the SLED firearms department. I was hired on at SLED, I

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 have completed their in house training program for firearm
2 and tool mark examiners, which is a three to five year
3 intense study program. It's more of an apprenticeship, if
4 you will. We take written tests, oral tests, practical
5 exercises, and upon the end of our course of instruction we
6 have to take a comprehensive final exam. I have taken
7 classes with the Association of Firearm and Tool Mark
8 Examiners, which is an international organization for our
9 profession. I have attended some yearly conferences with
10 them. I've taken ethics, barrel making, gun shot residue
11 work shops, I've also taken classes through the South
12 Carolina chapter of the International Association of
13 Identification, the most pertinent being a shooting scenery
14 construction work shop. I have taken classes with the
15 Bureau of Alcohol Tobacco Firearms and Explosives, common
16 referred to as the AT, on the integrated ballistics
17 identification system, which is a digital data base for
18 bullets and cartridge cases. I've also taken serial number
19 restoration classes through them.

20 Q. Okay. Have you had an opportunity, Agent Cromer, to be
21 qualified as an expert and testify in Court before here in
22 South Carolina?

23 A. Yes, sir, I have.

Q. And approximately how many times have you been qualified
as an expert here in South Carolina?

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 A. Approximately Fifty-seven to Fifty-eight times.

2 COURT REPORTER: Fifty-seven or?

3 A. Fifty-seven or Fifty-eight.

4 SOLICITOR SORENSON: Your Honor, we'd offer Agent
5 Cromer at this time as an expert in the field of firearms
6 analysis.

7 MR. GIPSON: Without objection, Your Honor.

8 THE COURT: Very well. So qualified as an expert.

9 Q. Thank you, Agent. Agent Cromer, if you would, tell the
10 jury, and specifically dealing with firearms, not tool marks
11 at this point in time, but as far as firearms analysis out
12 at SLED, what are your, kind of your capabilities, what are
13 you able to do out there as far as comparing things to each
14 other?

15 A. What we do is called firearms identification. We look
16 at ammunition components, bullets, cartridge cases, shot
17 shells, unfired ammunition, to determine whether they were
18 fired by or loaded into and ejected out of a specific
19 firearm. If we have, like a bullet and no firearm we can
20 give an investigator a list of potential firearms that could
21 have fired that gun. We can also tell them what caliber of
22 firearm they're looking for. If we have a scene with a lot
23 of fired evidence, bullets, cartridge cases, shot shells, we
24 can potentially tell investigators how many firearms they're
25 looking for.

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 Q. Okay. What if you have a case where you have multiple
2 shell casings, or cartridge casings submitted but not
3 firearm. Can you do anything with those multiple cartridge
4 casings?

5 A. First I would look at those cartridge cases to see if
6 they were all fired by one firearm. And potentially, if I
7 had just bullets I would also do the same thing, I would
8 look to see how many firearms the investigators are looking
9 for.

10 Q. Okay. And that was going to be my next question, would
11 you do the same thing with bullets? Alright, so
12 specifically, Agent Cromer, I want to turn to this case that
13 we're here for today. What items were you given to, to
14 examine in this case?

15 A. I was given two fired bullets and two fired cartridge
16 cases.

17 Q. I'm showing you State's Exhibit Number Sixteen first, do
18 you recognize what's contained in that package?

19 A. Yes. This was my Item Nine, and Item Eight, fired
20 bullets. This is State's Exhibit Sixteen, and they are
21 still in the sealed container, my initial seal date, and
22 they are in here, still in their sealed container with my
23 initials and seal date.

24 Q. We'll come back to those in a second. Now I'm showing
25 you State's Exhibits Thirteen and Fourteen. Do you

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 recognize those items?

2 A. Yes, sir. State's Exhibit Fourteen was my Item Eleven,
3 it's a fired Forty-five auto caliber cartridge case. Again,
4 the actual cartridge case is scribed with my lab number and
5 my item number and my initials and it's still in a sealed
6 container with my initials and seal date. State's Exhibit
7 Thirteen is my Item Fourteen. Again, it's a Forty-five auto
8 caliber cartridge case scribed with my lab number, my item
9 number ad initials and still in the sealed container with my
10 initials and seal date.

11 Q. Okay. And in this case did you ever have any firearm
12 submitted for your analysis in this case?

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

14 Q. Alright. And tell the jury, if you would, just before I
15 get to your results as to those items, can you explain to
16 the jury the difference between a revolver and a semi-
17 automatic hand gun?

18 A. A revolver is what you would see in a cowboy movie, if
19 anybody has ever watched a John Wayne movie where they hit a
20 hammer and you have a cylinder. It is a round piece that
21 has a bunch of different chambers in it or holes for
22 ammunition. And that cylinder will rotate around one firing
23 mechanism. That's a revolver. You pull the trigger or you
24 cock the hammer and pull the trigger, fire the gun, the
25 cylinder will rotate to the next chamber. A semi-automatic

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1 firearm, commonly what you see in most movies nowadays, will
2 have a slide, it has a magazine fed firearm. You put the
3 magazine in, as long as you have ammunition in the magazine
4 or in the firearm, one pull of the trigger, it will shoot
5 the firearm, the slide will come back, push out the
6 cartridge case, push another one into the chamber, and you
7 can pull the trigger again, it will kick out that cartridge
8 case, push another one into the chamber. So, as long as you
9 have ammunition in it, it will fire semi-automatic, one pull
10 of the trigger, one fire.

11 Q. Now, let me just kind of go with Item Sixteen first,
12 that would be the two bullets. Tell the jury what, what
13 were you able to do as far as examining those two bullets
14 contained in State's Exhibit Number Sixteen?

15 A. The first thing I do with a fired bullet is, I
16 microscopically look at it, I clean it, then I lay it and
17 measure it to get an idea of the caliber of the firearm that
18 fired the bullet. Once I determine what caliber it
19 approximately is, then I will look at the general rifling
20 characteristics. General rifling characteristics are
21 calibers and the rifling, the twist and the dimensions of
22 that rifling. Rifling is what's put in the gun barrel by a
23 manufacturer to put rotary motion on a bullet. It's a
24 series of lands and grooves, raised and depressed areas, and
25 it wants to put the rotary motion on the bullet because it

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 will go more accurately to a target. Very similar to a
2 quarterback throwing a football, he wants it to go into a
3 tight spiral so it will go more accurately to its target.
4 That's the premise behind rifling. You can have numbers of
5 different lands and grooves. You can have five, six, four,
6 eighteen, nine, these had six lands and grooves, and it was
7 going to spin or twist to the right. So then I'll go, you
8 know, take the bullet itself and I will measure those lands
9 and grooves, and I can put that into a computer program
10 sponsored by the FBI, and that will give me a list of
11 manufacturers that could have fired these bullets. Then
12 what I'll do is, I will microscopically compare them to each
13 other to determine if there's individual imperfections that
14 were in the rifling barrel or in the firearm barrel when
15 these were fired that could have been passed on to these
16 bullets. And from that I determined that, in my opinion,
17 these two bullets were fired by one barrel.

18 Q. And what was the caliber that you determined those two
19 bullets to be?

20 A. They were most consistent with Forty-five auto.

21 Q. Okay. And what does Forty-five auto mean, what is that?

22 A. They are approximately point four five one inches in
23 diameter, and their weight. The caliber is exactly, or the
24 size of that gun barrel, the dimension of the gun barrel,
25 because you want to have tight fit between your bullet and

SUZANNE CROMER - DIRECT BY SOL. SORENSON

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1 that gun barrel so it will go, you know, accurately and
2 engage the rifling. Now, if that bullet is even a
3 thousandths of an inch off it's not going to engage in that
4 rifling very well and it's not going to be an accurate shot.
5 So, they were consistent with being fired through a Forty-
6 five auto caliber firearm.

7 Q. And a Forty-five, is that a large bullet or a small
8 bullet?

9 A. That is a large bullet.

10 Q. A large bullet? And you indicated that you were able to
11 also come up with a list of potential, I guess, makes or
12 models of guns that could have fired that?

13 A. Yes, I came up with a list of approximately Forty, or
14 I'm sorry, Twenty-four manufacturers that use these rifling
15 specifications and Forty-five auto.

16 Q. Okay. Now, I'm showing you State's Exhibits Numbers
17 Thirteen and Fourteen, and what were you able to do with
18 those two items?

19 A. Cartridge cases are a little different from bullets
20 because they don't go down the rifling. We look at five
21 different areas on a fired cartridge case. We look first at
22 the breach face, which is kind of the head of the cartridge
23 case. We look at the firing pin, which is the part of the
24 firearm that actually hits the primer in the cartridge case,
25 cartridge, causes that spark, the spark goes through the

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1 flash hole, starts the gun powder burning, building up gas
2 pressure, pushing the bullet down the barrel and the
3 cartridge case back into the slide of the gun. So, breach
4 face firing pin, we also look at extractor, which is the
5 little claw in the slide of the firearm that holds the
6 cartridge kind of in this groove here, so that way when that
7 slide is coming backwards under that gas pressure it's
8 holding that cartridge case in the slide. We look at the
9 ejector. The ejector is the part of a firearm that when
10 it's coming back under that, holder of the extractor, it
11 hits that ejector and turns and comes out the gun. Then we
12 can also look at chamber marks. I did that on these, I
13 determined that these were most likely fired, or these were
14 fired by one firearm based on the firing pin impressions and
15 extractor marks.

16 Q. Okay. And what are the caliber of those casings again?

17 A. These are fired Forty-five auto caliber cartridge cases.

18 Q. Okay. So, in your opinion they were fired by the same
19 gun?

20 A. Yes, sir.

21 Q. Okay. And in your opinion these two were fired by the
22 same gun?

23 A. Yes, sir.

24 Q. Alright. Is there any way to tell whether all of these
25 four came from the same gun?

1 A. No, sir, there's not.

2 Q. Let me ask you this, are those, these bullets contained
3 in State's Exhibit Number Sixteen, could they have come from
4 these two shell casings?

5 A. Yes, they could have.

6 Q. Okay. Explain that, I mean, how can you say they could
7 have?

8 A. Well, first off, these are Forty-five auto, these are
9 Forty-five auto. Winchester does have ammunition that is
10 jacketed hollow point, which is one of these, and full metal
11 jacketed bullets that's consistent with these, and these
12 were both Winchester brand Forty-five auto caliber cartridge
13 cases.

14 Q. Let me just ask you, now, a Forty-five auto caliber hand
15 gun, can that be a semi automatic or a revolver?

16 A. I've personally never seen a Forty-five auto revolver.
17 Usually it's in Forty-five semi automatics, Forty-five auto
18 semi automatic pistols.

19 Q. Alright. Well, let me ask you, had you had a firearm
20 submitted would you have been able to compare those two
21 bullets and those two cartridge casings to a firearm if one
22 had been recovered?

23 A. Yes, sir, I determined that they both had sufficient
24 individual identifying characteristics that I could have
25 compared them to a specific barrel.

1 SOLICITOR SORENSON: Thank you, Agent Cromer, please
2 answer any questions that Mr. Gipson has.

3 THE COURT: Cross-examination.

4 MR. GIPSON: Thank you, Your Honor.

5 (NOTE: Blank lines on this page do not indicate any part of
6 record has been omitted. Headers on testimony pages and
7 hard page breaks between testimony are now required by the
8 Court. See next ensuing page for sequential continuation of
9 record.)

SUZANNE CROMER - CROSS BY MR. GIPSON

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1 SUZANNE CROMER - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Do you know who fired this, who fired the bullets?

4 A. No, sir, I don't.

5 Q. Okay. And you said based on your -- and I'm sorry,
6 Thirteen years you've been with SLED?

7 A. Yes, sir.

8 Q. And you've been declared as an expert for about Fifty-
9 seven or Fifty-eight times?

10 A. Yes, sir.

11 Q. Alright. And you just mentioned that these particular
12 bullets and casings, that you had an opportunity to actually
13 analyze. In your time during this you've not, never seen a
14 revolver, it's not come across your desk, a revolver. These
15 are most likely from an automatic?

16 A. Yes, sir, semi-automatic.

17 Q. Semi-automatic.

18 A. Yes, sir.

19 Q. So, it's your professional opinion based on the
20 certainty that your expertise requires that these came from
21 an automatic?

22 A. That is my opinion.

23 Q. Are you the only expert in firearms in this room?

24 A. Yes, sir. Another reason why is because I said that
25 there was extractor marks.

SUZANNE CROMER - CROSS BY MR. GIPSON

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1 Q. Alright, tool marks?

2 A. Usually revolvers don't have extractors.

3 Q. And extractors kind of help pop the casing out once it's
4 fired?

5 A. It's going to hold it into the slide - - -

6 Q. Yes, ma'am.

7 A. --- during the rearward motion of the slide so it can be
8 ejected.

9 Q. Okay. Alright, and again, just based on your opinion,
10 on your expertise and the tool marks that you are seeing and
11 the extractor, that suggest to you that it's an automatic?

12 A. A semi-automatic.

13 Q. A semi-automatic?

14 A. Yes, sir.

15 Q. And not a revolver?

16 A. That does suggest that to me.

17 MR. GIPSON: Okay. Thank you, that's all my questions.

18 THE COURT: Very well. Redirect?

19 SOLICITOR SORENSON: No, Your Honor.

20 THE COURT: And is this witness free to leave?

21 MR. GIPSON: Yes, ma'am.

22 SOLICITOR SORENSON: No objection.

23 THE COURT: Very well, you are free to go.

24 MR. GIPSON: Thank you

25 THE COURT: Very well. Call your next witness.

1 SOLICITOR SORENSON: The State calls John Roberts.

2 (Whereupon, the witness

3 enters the courtroom.)

4 CLERK: Please place your left hand on the Bible and
5 raise your right hand.

6 (Whereupon, John Roberts
7 is duly sworn.)

8 CLERK: Thank you. You may have a seat. State your
9 name for the record, please.

10 WITNESS: John Roberts, R-O-B-E-R-T-S.

11 CLERK: Thank you.

12 (NOTE: Blank lines on this page do not indicate any part of
13 record has been omitted. Headers on testimony pages and
14 hard page breaks between testimony are now required by the
15 Court. See next ensuing page for sequential continuation of
16 record.)

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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JOHN ROBERTS - DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Good afternoon, Agent Roberts, how are you today?

A. I was doing alright until I knocked the microphone over.

Q. If you would, Agent Roberts, please tell the jury where it is that you're employed?

A. I work for the South Carolina Law Enforcement Division, more commonly called SLED, in the forensic services building, in the trace evidence department.

Q. Okay. And how long have you been with SLED?

A. Just over seven years.

Q. Okay. And how long have you been in the trace evidence department?

A. Just over seven years.

Q. Okay. If you would, just briefly kind of give the jury your educational background and then your training out at SLED in that department, if you would, please?

A. I've got a Bachelor's of Science degree in chemistry from Texas A & M, Corpus Christy. I've been through SLED's in house training program and gun shot residue, in flammables analysis, in explosives analysis, and in bank dye pack analysis. The training consists of studying under a court qualified examiner, basically doing all their work for them so that they can take a break, doing their work, learning how to work the instruments, leaning how to

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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1 interpret data from the instruments, and then helping them
2 write up reports. After I did this for about six months
3 they gave me a test which was a case of my own, and gave me
4 a court, a mock court, and grilled me and made sure that I
5 knew what I was talking about, and then I was qualified to
6 do my own gun shot residue examinations, which I've been
7 doing ever since.

8 Q. Okay. And have you had an opportunity, Agent Roberts,
9 to come testify in court before about the results that
10 you've gotten in analyzing gun shot residue kits?

11 A. Yes, sir, I have.

12 Q. And have you been qualified as an expert on those
13 occasions?

14 A. Yes, sir.

15 Q. And approximately how many times has that occurred?

16 A. Fifty-one times.

17 SOLICITOR SORENSON: Your Honor, at this time we'd
18 offer Agent Roberts as an expert in the field of trace
19 analysis.

20 MR. GIPSON: Without objection.

21 THE COURT: Very well, so qualified.

22 SOLICITOR SORENSON: Thank you, Your Honor.

23 Q. Now, Agent Roberts, you've testified that as a part of
24 your duties out in the trace evidence department is to
25 analyze gun shot residue kits?

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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

2 Q. If you would, describe for the jury what a gun shot
3 residue kit is, if you would?

4 A. A gun shot residue kit, as we give them out, is a two
5 part kit. There are particle lifts which are aluminum discs
6 with carbon sticky tape on them that are marked, right palm,
7 right back, left palm and left back. And when I say right
8 back and left back I mean the back of the hand. There are
9 also corresponding swabs with tubes that are marked in the
10 same manner, right palm, right back, left palm, left back.
11 When the kit is administered it is administered particle
12 lifts first. They dab them on the hands or on the area of
13 the hands that's marked on the tube like you would a Bingo
14 dabber, just kind of stamp it. You do it until the sticky
15 tabs are not sticky anymore. You close it up, repeat it
16 with the next sample. The swabs are applied like you would
17 mop up something with a cotton swab, you drip a little
18 dilute nitric acid on it and then you wipe up the area of
19 the hand that is marked on the tube. Those kits are sealed
20 up and they are sent to us at SLED for us to examine for the
21 presence of gun shot residue.

22 Q. Okay. The next question would be, can you tell the jury
23 what is gun shot residue?

24 A. Gun shot residue is the collection, or is the term that
25 we give to the particles that are ejected from a firearm

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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1 when it's fired. You don't get it from shooting a BB gun,
2 most BB guns use compressed air, or they will use a
3 cannister of air to shoot out of. But guns use primer, and
4 it's, primer is the little silver disc on the back end of a
5 bullet that contains an explosive mixture that sets off the
6 powder in the cartridge case, projects the bullet down the
7 muzzle towards the target. The primer has metals in it that
8 we look for when we analyze for gun shot residue, and those
9 metals are lead, barium and antimony.

10 Q. Alright. Now, let me ask you this, when you have a gun
11 shot residue kit and you, I believe you've indicated you're
12 going to have samples from four different places typically?

13 A. Yes, sir.

14 Q. Two palms, two backs of the hands?

15 A. Yes, sir.

16 Q. Alright. Tell the jury, how, how gun shot residue can
17 get on a person's hands?

18 A. There's three general ways you get gun shot residue on
19 your hands. You shoot a gun, it ejects particles in the air
20 and it lands on things that are near the gun when it goes
21 off. The other way is to be near a gun when it goes off.
22 If I shoot at somebody and they're close enough to me
23 they're going to get gun shot residue on them. Depending on
24 where their hands are they could get gun shot residue on
25 their hands. They may just get it on their clothes. If I'm

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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1 standing next to somebody who's shooting and I'm on the
2 right side and the wind is the right way I could get gun
3 shot residue on me just by being near that gun when it goes
4 off. The other way is to handle a gun that's been recently
5 fired. If I go to the range and I shoot and I don't clean
6 my gun for a couple of days and I just leave it sitting out
7 and somebody picks up my gun they're going to get gun shot
8 residue on their hands simply because I fired that gun and I
9 didn't clean it.

10 Q. Okay. And now, once you get gun shot residue on your
11 hands how do you get it off?

12 A. It's pretty easy to get off. It comes off basically
13 with a consistency of flour. If you've ever baked and
14 you've dusted your hands with flour to keep things from
15 sticking to them you know that if you stick your hands under
16 the water that flour comes off pretty quick. Gun shot
17 residue is a lot like that. If you get it on your hands and
18 you stick your hands in your pocket now it's not on your
19 hands anymore it's in your pockets. Or if you drive home
20 it's on the steering wheel. Or if you wipe your hands off
21 on a towel now it's on that towel and it may not be on your
22 hands. So, it comes off fairly easy.

23 Q. Okay. Will it come off just by just, if over the course
24 of time, even if you're not rubbing your hands on something?

25 A. Yes, sir. The body absorbs these materials the same way

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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1 it absorbs anything that lands on your skin. Our protocol
2 at SLED is six hours between the time of the shooting and
3 the time of collection. After six hours we can detect the
4 metals but they're not in quantities that we would consider
5 associated with gun shot residue.

6 Q. Okay. Now how about if the person is deceased, would
7 that affect, you know, their body's absorbing that residue?

8 A. If a person is deceased they've stopped breathing, their
9 body has stopped working and they're not absorbing these
10 materials anymore so it's going to stay on any area that
11 it's landed on until it's physically removed.

12 Q. Okay. Now, I turn you specifically in this case, Agent
13 Roberts, did you ever have occasion to receive a gun shot
14 residue kit that was collected by Agent Fellers from the
15 victim in this case, Alex Harrison?

16 A. Yes, sir, I did.

17 Q. I'm showing you State's Exhibit Number Fifteen, and what
18 is that item? And if you need to open it you're welcome to,
19 I mean ...

20 A. Well, this is a package that contains the gun shot
21 residue kit. It has my item number, it has my initials on
22 it, it has our lab number that we give everything that comes
23 into the lab gets its own number, and if it's a piece of
24 evidence it gets its own evidence number. It's got a seal on
25 the back with my initials and the date that I sealed it.

JOHN ROBERTS - DIRECT BY SOL. SORENSON

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1 Q. Okay. So what would be in that, I mean ...

2 A. The gun shot residue kit or the remnants of a gun shot
3 residue kit.

4 Q. Okay. So that's going to be the sticky tabs and the
5 swabs?

6 A. It should be just the sticky tabs. I can open it and
7 make sure but ...

8 Q. Well, that's, I mean, that's something I'm not really
9 too concerned about that. More so, did you have an
10 opportunity to test that gun shot residue kit that's
11 contained in that out at SLED?

12 A. I did, I tested the swabs from the gun shot residue
13 kit.

14 Q. Okay. And if you would, tell the jury what the results
15 of testing the swabs were from that gun shot residue kit on
16 Mr. Harrison?

17 A. When we report on a gun shot residue kit we, especially
18 from a person we report on the four areas, so the right
19 palm, the right back, the left palm, the left back. In this
20 case the right palm, quantities of metals found may be
21 associated with gun shot residue. He had lead, barium and
22 antimony on the right palm. On the right back and left palm
23 and left back the quantities of metals found did not
24 indicate the presence of gun shot residue. So basically, a
25 negative on the right back, the left palm and the left back

JOHN ROBERTS - DIRECT BY SOL. SORENSON

430

1 of the hand.

2 Q. And what would that then tell you about Mr. Harrison
3 shortly before his death?

4 A. That basically he was in the presence of a firearm when
5 it was fired, or that's one of the ways.

6 Q. Okay.

7 SOLICITOR SORENSON: Alright. That's all I have, Agent
8 Roberts, thank you.

9 A. Thank you.

10 THE COURT: Cross-examination.

11 MR. GIPSON: Just briefly, Your Honor.

12 THE COURT: Alright.

13 (NOTE: Blank lines on this page do not indicate any part of
14 record has been omitted. Headers on testimony pages and
15 hard page breaks between testimony are now required by the
16 Court. See next ensuing page for sequential continuation of
17 record.)

JOHN ROBERTS - CROSS BY MR. GIPSON

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JOHN ROBERTS - CROSS-EXAMINATION

BY MR. GIPSON:

Q. You listed three ways in that last, that a person can come in contact with gun shot residue?

A. Yes, sir.

Q. And so, he could have been in the presence of a gun, or he could have fired a gun or touched something that the residue had touched, those are the three?

A. Yes, sir, those are three ways.

Q. Okay. So, he could have been in the presence or he could have fired one?

A. Yes, sir, and I can't, generally I cannot tell the difference between the two, I can just see that there are metals that we associate with it on the area that it was.

MR. GIPSON: Okay. That's all my questions.

A. Yes, sir.

MR. GIPSON: Thank you.

THE COURT: Redirect?

SOLICITOR SORENSON: Nothing, Your Honor.

THE COURT: Very well, is this witness free to leave?

MR. GIPSON: Yes, ma'am, no objection.

SOLICITOR SORENSON: No objection.

THE COURT: Very well, you are free to go.

WITNESS: I'll try not to knock the microphone over this time.

1 THE COURT: Well, if you do, there's two songs you can
2 always ...

3 WITNESS: Nobody wants to hear me sing, I can promise
4 you that.

5 THE COURT: I don't know.

6 Alright, call your next witness, please.

7 SOLICITOR SORENSON: May we approach real quick?

8 THE COURT: Sure.

9 (Whereupon, a bench conference
10 is had out of the hearing of
11 the jury and court reporter.)

12 SOLICITOR SORENSON: The State calls Vernetha Gadson-
13 Glenn.

14 THE COURT: Madam Clerk, if you would please place your
15 left hand on the Bible and raise your right hand.
16 (Whereupon, Vernetha Glenn
17 is duly sworn.)

18 THE COURT: Very well, please be seated.

19 WITNESS: I've got to state my name for the Court?

20 THE COURT: I was going to say you've got to breathe
21 and then state your name for the record.

22 WITNESS: Vernetha Glenn.

23 THE COURT: Your witness.

24 (NOTE: Blank lines on this page do not indicate any part of
25 record has been omitted.)

VERNETHA GLENN - DIRECT BY SOL. SORENSON

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1 VERNETHA GLEN - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Thank you Ms. Glenn. Where are you employed?

4 A. Orangeburg County Clerk of Court's office.

5 Q. Okay. And what is, what are your duties with the Clerk
6 of Court?

7 A. I'm actually one of the records custodians.

8 Q. Okay. And the Orangeburg County Clerk of Court, is part
9 of their duties keeping records of prior convictions here in
10 Orangeburg County?

11 A. Yes, yes.

12 Q. And I'm showing you State's Exhibit Number Eleven, do
13 you recognize that document?

14 A. Yes, I do.

15 Q. And is that a document that is kept in the regular
16 course of business in the Orangeburg County Clerk's office?

17 A. Yes, it is.

18 Q. Did you provide that to me at my request?

19 A. Yes, I did.

20 SOLICITOR SORENSON: Your Honor, at this time we'd
21 offer this into evidence.

22 May we approach real quickly?

23 THE COURT: Sure.

24 (Whereupon, a bench conference
25 is had out of the hearing of the

VERNETHA GLENN - DIRECT BY SOL. SORENSON

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1 jury and court reporter.)

2 THE COURT: Very well.

3 MR. GIPSON: But subject to those objections.

4 THE COURT: Yes.

5 COURT REPORTER: Are you putting that in now?

6 SOLICITOR SORENSON: Yes, ma'am.

7 COURT REPORTER: I need to mark it. State's Eleven.

8 (State's Exhibit Eleven

9 marked and filed.)

10 SOLICITOR SORENSON: Thank you. That's all I'd have
11 from this witness, Your Honor.

12 THE COURT: Very well. Cross-examination.

13 MR. GIPSON: The Court's indulgence very briefly.

14 THE COURT: Sure.

15 MR. GIPSON: I don't have any questions, Your Honor.

16 THE COURT: Very well. Now you can come back around
17 here and go to the other job.

18 Alright, call your next witness, please.

19 SOLICITOR SORENSON: Your Honor, could we take about a
20 five minute break, and I should be in a position to know. I
21 think I have two more witnesses but I'll have that squared
22 away shortly.

23 THE COURT: Certainly. We'll take our afternoon break,
24 Ladies and Gentlemen, is what we will do. We will take
25 Fifteen minutes. Please step to your jury room, do not

1 discuss the case or allow anyone to discuss it with you,
2 about Fifteen.

3 (Whereupon, the jury retires
4 to the jury room and the
5 following takes place out of
6 the presence of the jury.)

7 THE COURT: Alright, anything before we -- you're going
8 to redact?

9 SOLICITOR SORENSON: Yeah, I guess what we talked about
10 what, what we addressed just briefly, redacting off of the
11 sentencing sheet would be Mr. Brown's, I guess, Social
12 Security number and date of birth. I think that's what Mr.
13 Gipson ...

14 MR. GIPSON: That's correct, just the identifying
15 characteristics, other than the obvious.

16 SOLICITOR SORENSON: Okay. And I mean I don't have, I
17 mean, as long as he's not going to suddenly argue it's not
18 him.

19 MR. GIPSON: No, I won't argue that.

20 THE COURT: I understand. I think that's appropriate
21 actually, yes, most assuredly.

22 SOLICITOR SORENSON: I would agree with that.

23 THE COURT: And I'll leave it to you all to please do
24 that. But best do it now or we are liable to forget.

25 SOLICITOR SORENSON: Yeah. And I guess if I get some

1 white out we can try that initially and see.

2 COURT REPORTER: You know, white out will flake off,
3 and you need a black felt pen. I've got one if I can find
4 it. A black felt pen.

5 THE COURT: I've got one, I have a black -- look, in my
6 pen bag, my trusty pen bag.

7 (Whereupon, portions of State's Exhibit
8 Eleven are redacted.)

9 THE COURT: Anything else before we take a break?

10 MR. GIPSON: No, ma'am.

11 (Recess)

12 THE COURT: Alright, anything from the State before we
13 bring our jury out?

14 SOLICITOR SORENSON: No, ma'am.

15 MR. GIPSON: No, ma'am, not from the Defense.

16 THE COURT: And how many witnesses do you believe you
17 have, two?

18 SOLICITOR SORENSON: Yes, ma'am, I think so.

19 THE COURT: Alright, let's have the jury.

20 (Whereupon, the jury enters
21 the courtroom.)

22 THE COURT: Alright, Ladies and Gentlemen, we will now
23 continue the State's case.

24 Mr. Sorenson, call your next witness.

25 SOLICITOR SORENSON: Thank you, the State calls Dennis

1 Jones.

2 (Whereupon, the witness
3 enters the courtroom.)

4 THE COURT: Yes, sir, Hi, Mr. Jones, if you'd come
5 along, please, and be sworn.

6 CLERK: Will you please place your left hand on the
7 Bible and raise your right hand.
8 (Whereupon, Dennis Jones
9 is duly sworn.)

10 CLERK: Thank you, please have a seat and state your
11 name for the record.

12 WITNESS: Dennis Jones.

13 THE COURT: Your witness.

14 SOLICITOR SORENSON: Thank you, Your Honor.

15 (NOTE: Blank lines on this page do not indicate any part of
16 record has been omitted. Headers on testimony pages and
17 hard page breaks between testimony are now required by the
18 Court.)

DENNIS JONES - DIRECT BY SOL. SORENSON

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DENNIS JONES - DIRECT EXAMINATION

BY SOLICITOR SORENSON:

Q. Mr. Jones, please keep your voice nice and loud for me, okay?

A. Okay, I've got you.

Q. Okay. I need to make sure you also audibly answer my questions. Okay? Because Madam Court Reporter can't take down shaking your head, you need to answer yes or no, if it's a yes or no question. Okay?

A. Alright.

Q. Alright. If you would, tell the jury, Mr. Jones, how old you are?

A. I'm Forty-one.

Q. Okay. And do you know the defendant, Romeo Brown?

A. Yes, I do.

Q. Okay. And how long have you known Mr. Brown?

A. About Twenty, Thirty years, something like that.

Q. Okay. How about the victim in this case, Alex Harrison, did you know Mr. Harrison?

A. About Fifteen, Twenty years, something like that.

Q. So, you've known both of them for a decent amount of time?

A. Yes.

Q. Okay. Now, back in October of Two thousand ten, Mr. Jones, what were you doing for a living back in October of

DENNIS JONES - DIRECT BY SOL. SORENSON

439

1 Two thousand ten?

2 A. I was cleaning offices and delivering newspapers.

3 Q. Okay. So two kind of, sort of part time jobs?

4 A. Pretty much.

5 Q. Okay. And who did you clean offices with?

6 A. I got an office Acceptance, and on the Cannon Bridge
7 Road at Triumph.

8 Q. Okay. And did anybody, was there anybody that helped
9 you do that office cleaning?

10 A. Yes, my girlfriend, she helped.

11 Q. Okay. And I'm going to turn your attention to the
12 night of Wednesday, October Twenty-seventh of Two thousand
13 ten, were you working that night, sir?

14 A. Yes, I was.

15 Q. Okay. And where was it that you were working that
16 night?

17 A. The one on Cannon Bridge Road, Triumph.

18 Q. Okay. And do you know approximately what time it was
19 you got there that night?

20 A. It might have been like nine, eight, nine, nine o'clock
21 at night.

22 Q. Okay. Do yo know when you got there, was it dark out
23 when you got there?

24 A. Yes, it was completely dark.

25 Q. Okay. And at any point in time that night did you

DENNIS JONES - DIRECT BY SOL. SORENSON

440

1 receive any phone calls?

2 A. Yes.

3 Q. And who was it that contacted you that night while you
4 were working?

5 A. My cousin, Romeo.

6 Q. That's the defendant?

7 A. Yes.

8 Q. Okay. And do you know about what time that was that he
9 contacted you that night?

10 A. It might have been like nine:thirty, something like
11 that.

12 Q. So, you had been working for a little while?

13 A. Yeah.

14 Q. Okay. And what did Mr. Brown want when he called you
15 that night?

16 A. He just asked if I can give him a ride.

17 Q. Okay. Now, at that point in time did he tell you
18 where?

19 A. He told he would tell me, he would let me know, just
20 meet him over there at the Four Way.

21 Q. Okay. And did you ultimately go meet him at the Four
22 Way?

23 A. Yes.

24 Q. Okay. And when did you go do that?

25 A. It might have been like ten:thirty, something like that,

DENNIS JONES - DIRECT BY SOL. SORENSON

441

1 ten, ten:thirty, it was kind of a little late.

2 Q. Okay. Did you finish doing your cleaning before you
3 went?

4 A. Yes.

5 Q. Okay. And tell the jury what the Four Way is, what is
6 that that you're talking about?

7 A. Oh, the Four Way is over there by the CVS.

8 Q. Is that here in Orangeburg?

9 A. Yes, over there at Six O One.

10 Q. Okay. Is that Six O One and Chestnut, that
11 intersection?

12 A. Yeah.

13 Q. Okay. And what is the Four Way, I mean, was that a ...

14 A. A gas station.

15 Q. Okay. So, did you meet him that night there?

16 A. Yes.

17 Q. And you said now it's probably getting closer to
18 ten:thirty maybe, is that correct?

19 A. Yeah.

20 Q. I think you said he had called initially about
21 nine:thirty, is that right?

22 A. Yeah.

23 Q. Okay. And at that point in time did he tell you where
24 he wanted a ride to?

25 A. When he came he just me, drop him off at the rest stop

DENNIS JONES - DIRECT BY SOL. SORENSON

442

1 on Twenty-six.

2 Q. On I-Twenty-six?

3 A. Yeah.

4 Q. Okay. And did he give you anything or do anything for
5 you in exchange for you giving him that ride?

6 A. Well, he put the gas in the car.

7 Q. Okay. How much gas did he put in the car?

8 A. About Thirty Dollars.

9 Q. Okay. Alright, and did you ultimately end up taking him
10 then to the rest stop on I-Twenty-six?

11 A. Yes.

12 Q. Okay. And which direction is that going, that rest stop
13 from Orangeburg?

14 A. Towards the Columbia exit.

15 Q. Okay.

16 A. I mean, towards Columbia.

17 Q. Towards Columbia? Okay. And did you ultimately end up
18 dropping him off there?

19 A. Yes.

20 Q. Are you aware, was there anybody meeting him there that
21 you saw when you dropped him off?

22 A. No, I ain't seen nobody drop, I mean, who picked him up.
23 He kind of jumped on the telephone and eased off. I asked
24 him was he alright, was he straight, and he said, yeah,
25 I'm alright. So, I was like, alright, I'll talk to you

DENNIS JONES - DIRECT BY SOL. SORENSON

443

1 later.

2 Q. Okay. Did you take off at that point in time?

3 A. Yeah, just backed on up, went up, turned around, came on
4 back home.

5 Q. Okay. Do you remember if he said anything to you on the
6 ride over there?

7 A. Not nothing in particular, I mean, I asked was his old
8 lady alright, you know, and she's good, everything's good.
9 He asked about my old lady, everything's good with her, you
10 know.

11 Q. Alright. And Mr. Jones, did you ultimately end up
12 talking to law enforcement several days after that?

13 A. Yeah.

14 Q. Told them about what you told the jury?

15 A. Yeah, basically.

16 Q. Alright. And just so the record's clear, Mr. Jones,
17 the person that you gave that ride to back on the night of
18 October Twenty-seventh, Two thousand ten, is he in the
19 courtroom here today?

20 A. Romeo.

21 Q. Okay. Sitting at the right hand side of the defense
22 table?

23 A. Yeah.

24 SOLICITOR SORENSON: Thank you, Mr. Jones, please
25 answer any questions Mr. Gipson has.

DENNIS JONES - DIRECT BY SOL. SORENSON

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1 MR. GIPSON: Thank you.

2 THE COURT: Cross-examination.

3 MR. GIPSON: Thank you, Your Honor.

4 (NOTE: Blank lines on this page do not indicate any part of
5 record has been omitted. Headers on testimony pages and
6 hard page breaks between testimony are now required by the
7 Court. See next ensuing page for sequential continuation of
8 record.)

DENNIS JONES - CROSS BY MR. GIPSON

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1 DENNIS JONES - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Now, Mr. Jones, what makes you so sure about the date of
4 October Twenty-seventh?

5 A. Well, I think it was Wednesday, I usually clean the
6 building around that time, Wednesdays and Sundays.

7 Q. Okay.

8 A. So, ...

9 Q. So, are you sure it was the Twenty-seventh, I mean, is
10 that something you, are you sure about that, that it was
11 that particular date?

12 A. Not like definite that that was on that day, but I
13 usually clean my buildings Wednesdays and Sundays and I know
14 it wasn't Sunday.

15 Q. Okay.

16 A. So, ...

17 Q. Alright, and let me ask you this, you said you met him -
18 - well, we'll talk about that in a second, but you keep
19 saying the incident date, did you hear, did Mr. Brown tell
20 you about an incident?

21 A. No.

22 Q. Okay. When you picked him up from Four Way was he
23 hiding in the dark or anything like that?

24 A. Not that I know of, by the time I pulled up, pulled up
25 to the gas station, looked back he was kind of like coming

DENNIS JONES - CROSS BY MR. GIPSON

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1 towards me so I just turned up the radio, listened to the
2 radio until he came over.

3 Q. And how was he coming towards you?

4 A. I mean, ...

5 Q. Walking?

6 A. Yeah.

7 Q. Okay. How was he walking?

8 A. He had a little cane, kind of like limping.

9 Q. Okay.

10 A. And he came to the car.

11 Q. Okay.

12 A. I ain't paid it no attention because I already knew what
13 was going on with him.

14 Q. Okay. But you said he was walking with a cane?

15 A. Yeah.

16 Q. Alright. And again, I mean, do you know if it was the
17 Twenty-eighth or the -- do you know that for a fact?

18 A. I mean, if I can kind of look at the date and go back to
19 it I can say definitely that that was the date, you know.

20 Q. Okay. But you're not aware of an incident, you just
21 know that you picked him up, and when they say incident
22 date, that's not what you're saying, that's what they're
23 calling it, is the incident date?

24 A. What was the question?

25 Q. Okay. Are you calling it the incident date or are they

DENNIS JONES - CROSS BY MR. GIPSON

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1 calling it the incident date?

2 A. I mean, I think that was the day when the incident, what
3 they called, happened.

4 Q. Okay.

5 A. I mean, I couldn't call it an incident because I ain't
6 know what was going on, and so, they kind of came to me and
7 said, okay, this is what happened.

8 Q. Okay.

9 A. And I was like, well, I ain't know this was going on.

10 Q. Did, did Mr. Brown ever tell you that he was running
11 from somebody?

12 A. No.

13 Q. That he was trying to escape from something?

14 A. No.

15 Q. Trying to hide from somebody?

16 A. I, it threw me for a loop when I found out what happened
17 because it wasn't like he jumped in the car and he was
18 scared or anything or hurry up and take me, you know, it
19 wasn't like, he was just as calm, you know, just give me a
20 ride.

Q. Okay.

A. And okay, I'll give you a ride, and I told him, I've got
to hurry up and get back in the bed because I've got to go
and deliver the newspapers. So, ...

Q. Right. And have you given him rides before?

DENNIS JONES - CROSS BY MR. GIPSON

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1 A. All the time.

2 Q. And he pays for your gas?

3 A. Yeah, he pays for the gas, probably gives me a couple of
4 dollars here and there so, you know, ...

5 Q. And that's just a normal occurrence?

6 A. All the time.

7 Q. And that's because he doesn't have a license, right?

8 A. Yeah, he didn't have a license and I always had a
9 license, and I always gave him a ride, tried to help him,
10 you know, make sure he was alright.

11 Q. Alright. So, to receive a call from him to take him
12 somewhere is nothing out of the ordinary, is it?

13 A. Never been.

14 Q. Okay. And so this particular time that you get a call
15 from him, you're not worried about anything particular
16 because that's what you always do if you have the time to do
17 it?

18 A. Yeah.

19 Q. And he compensates you for your gas, correct?

20 A. Basically.

21 Q. And he did at that date just as he did any other day?

22 A. Yeah.

Q. Okay. And where was he headed to?

A. I'm not sure, he just told me to give him a ride to the
rest stop.

DENNIS JONES - CROSS BY MR. GIPSON

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1 Q. Okay. And had you done that before?

2 A. I mean, I -- he went to Anderson, you know, a few times,
3 I guess, and I figured he was going in that direction. I
4 never really asked him.

5 Q. And why was he going to Anderson?

6 A. I think his people were up there.

7 Q. Okay. Alright, and his people meaning his wife?

8 A. Yeah.

9 Q. Okay.

10 MR. GIPSON: The Court's indulgence for a moment, Your
11 Honor?

12 THE COURT: Yes.

13 MR. GIPSON: That's all I have.

14 THE COURT: Alright, redirect?

15 SOLICITOR SORENSON: Just a couple of things, Your
16 Honor.

17 THE COURT: Alright.

18 (NOTE: Blank lines on this page do not indicate any part of
19 record has been omitted. Headers on testimony pages and
20 hard page breaks between testimony are now required by the
21 Court. See next ensuing page for sequential continuation of
22 record.)

DENNIS JONES - REDIRECT BY SOL. SORENSON

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1 DENNIS JONES - REDIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. And it's your testimony, Mr. Jones, that on this night
4 he gave you Thirty Dollars, or put Thirty Dollars worth of
5 gas in the car just to drive him up the Interstate and drop
6 him off at the rest stop?

7 A. Yes.

8 Q. Okay. And now I believe Mr. Gipson asked you, you were
9 saying that you clean the office on Wednesdays or Sundays,
10 and you knew it wasn't a Sunday, right?

11 A. Right.

12 Q. Is that correct?

13 A. Correct.

14 Q. And you talked to the police shortly after this and told
15 them what you've testified about, is that correct?

16 A. Yes.

17 SOLICITOR SORENSON: Thank you, Mr. Jones.

18 THE COURT: Recross?

19 MR. GIPSON: That's all I have, Your Honor.

20 THE COURT: Alright, very well. Is this witness free
21 to leave?

22 SOLICITOR SORENSON: No objection.

23 MR. GIPSON: No objection.

24 THE COURT: You are free to go.

25 Call your next witness, please.

1 SOLICITOR SORENSON: The State calls Lieutenant
2 Shumpert.

3 THE COURT: Okay.

4 (See beginning of Volume Two for sequential continuation of
5 record.)

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

I N D E X

(SEE VOLUME ONE FOR ENTIRE INDEX OF THIS TRANSCRIPT.)

1 DATE:

2 MAY 23, 2012

3 (Sequential continuation of record from Volume One.)

4 CLERK: Please place your left hand on the Bible and
5 raise your right hand.

6 (Whereupon, James Shumpert
7 is duly sworn.)

8 CLERK: Thank you. Please have a seat and state your
9 name for the record.

10 WITNESS: James Shumpert.

11 THE COURT: Your witness.

12 SOLICITOR SORENSON: Thank you, Your Honor.

13 (NOTE: Blank lines on this page do not indicate any part of
14 record has been omitted. Headers on testimony pages and
15 hard page breaks between testimony are now required by the
16 Court. See next ensuing page for sequential continuation of
17 record.)

JAMES SHUMPERT - DIRECT BY SOL. SORENSON

455

1 JAMES SHUMPERT - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Lieutenant Shumpert, if you would, tell the jury where
4 it is that you are employed?

5 A. At the Orangeburg County Sheriff's Office.

6 Q. And what are your current duties with the sheriff's
7 office?

8 A. I'm a lieutenant over criminal investigations.

9 Q. And how long have you worked for the sheriff's office?

10 A. Since Nineteen ninety-nine.

11 Q. Okay. And how long have you been a lieutenant over the
12 investigators?

13 A. I believe for the last two years.

14 Q. Okay. And I'm want to turn your attention if I could,
15 Lieutenant, back to the night of October Twenty-seventh of
16 Two thousand ten. Did you respond out that night to the
17 shooting on Wingfield Street?

18 A. I did.

19 Q. Okay. And tell the jury what other investigators that
20 you recall responding out there that night?

21 A. When I arrived out there Commander Williams,
22 Investigator Eikhoff, Investigator Carrigg, and I can't
23 remember who else, I do remember them - - -

24 Q. Okay.

25 A. --- when I arrived on the scene.

JAMES SHUMPERT - DIRECT BY SOL. SORENSON

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1 Q. Okay. And were there other patrol officers out there
2 also?

3 A. It was, yes.

4 Q. And explain to the jury why, why that night, I mean, up
5 to four investigators responded out to this crime scene,
6 what was the purpose of that?

7 A. From my understanding as the supervisor on call that
8 night the understanding I had that they had several people
9 that needed to be interviewed and statements needed to be
10 taken from the people that were out there. So that's why we
11 had so many investigators out there talking and trying to
12 get statements from individuals that was on the scene.

13 Q. And were all four of y'all involved in doing that then?

14 A. Yes.

15 Q. Okay. And tell the jury as far as dealing with those
16 witnesses that were on the scene what, if any, precautions
17 you were taking when interviewing them?

18 A. Basically on every scene that we respond to we try to
19 keep the witnesses and suspects separate from one another so
20 they can't get together and give the same story. So, by the
21 time that I had arrived on the scene they already had all
22 the witnesses separated.

23 Q. Okay. Now, out of those, in talking to those witnesses
24 that night did you learn if any of those witnesses had
25 actually seen who did the shooting?

JAMES SHUMPERT - DIRECT BY SOL. SORENSON

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1 A. Initially when I got on the scene it was very chaotic.
2 I did talk to one individual that was on the scene. I
3 believe, I forgot his name, but he was the first guy that I
4 showed the lineup to, but he gave a name at that time, and
5 then I took him back to the office where I took a statement
6 from him.

7 Q. Okay. Let me ask you this, back at the office were you
8 ultimately involved in showing some photographic lineups
9 back at the office?

10 A. Yes, I showed three.

11 Q. I'm showing you State's Exhibits Seven, Nine and Ten,
12 and let me ask you to take a look at those.

13 A. Yes, sir.

14 Q. Did you show all three of those lineups?

15 A. I did.

16 Q. Alright. And Obviously, were those lineups shown to
17 three different people?

18 A. They were.

19 Q. Okay. And explain to the jury how, how you went about
20 kind of showing those lineups to those three different
21 witnesses, how you had, where you had them, and kind of what
22 precautions you took in doing that?

23 A. Well, when I got back, I arrived back to the station,
24 like I said, I had, I believe it was Mr. -- let me get his
25 name correct here -- when we got back to the station it was

1 like, they were out on the scene, and the individual I had
2 with me, we got, we did develop a name. So, once we got
3 that name we start printing off pictures, the lineups. And
4 we had each person in like a different location of the
5 building so they couldn't get together and say, hey, let's
6 get together and pick this one person.

7 Q. Okay. And who was the target person, then, that you were
8 putting in those lineups, those three lineups that you
9 generated?

10 A. Mr. Brown.

11 Q. Okay. That's the defendant, Romeo Brown?

12 A. Yes, it is.

13 Q. Okay. Let me ask you, when you created those three
14 lineups, when you created them were they all identical?

15 A. No, they're not.

16 Q. And why is that, is there a reason why they're not all
17 identical?

18 A. Yes, if you look at all the lineups, we take the suspect
19 and we put him in various positions of the lineup so that
20 way if one person see a lineup and then they can't go back
21 and say, hey, I picked Number Three, you go and pick Number
22 Three as well. So, that's why we moved the person around in
23 the lineup so they can't just, you know, get together and
24 say, hey, let's pick Number Three.

25 Q. Okay. Now, let me kind of go through them, then. The

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1 first one I had kind of time-wise looks like, who was that,
2 kind of who -- can you tell by the time kind of how you went
3 about, what order you went about showing him to those three
4 witnesses?

5 A. Just the first one I showed to Mr., I think it's Monique
6 something, I can't figure out what he signed.

7 Q. Okay. Is that Mr. Guinyard that testified, Shawn
8 Guinyard?

9 A. It looks like Guinyard, yeah, it looks like Guinyard.

10 Q. Okay. And is that the one in looking at it that Mr.
11 Gipson had asked him about the time discrepancies on it?

12 A. Yes, it is.

13 Q. Okay. Alright. And explain if you would kind of how
14 that, how you go about showing that and what you say to
15 them, and then as far as getting them to fill all that
16 paperwork out, how will that take place?

17 A. Well, initially, once you get the lineups we show them
18 the lineup, and before we show them the lineup we tell them
19 we want them to look at a photo lineup, and if they
20 recognize any people or person in the lineup that may have
21 been involved in the incident. And if so, circle the
22 number, date it, circle the picture and date it, and initial
23 it.

24 Q. Okay. And then do you sit there, and kind of baby sit
25 them when they do that or do you kind of leave them and let

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1 them fill it out and ...

2 A. Well, once again I'd say, this was kind of, this night
3 was kind of chaotic because all the investigators was still
4 on the scene. I was up at the office, I had three
5 witnesses -- well, actually, they start sending them to
6 me, I think they had brung them in, so when I was dealing
7 with Mr. Monique Guinyard another one came in, so I had to
8 show them a lineup, so I left this photo lineup with Mr.
9 Monique, Mr. Guinyard if that's his name, and then I had to
10 go to the second person, and then I came back to Mr.
11 Guinyard.

12 Q. Okay. Alright, and ultimately, let me ask you this, as
13 far as Mr. Guinyard first, he had picked out Photo Number
14 Six?

15 A. He did.

16 Q. And did you at any point in time tell him who to pick
17 out?

18 A. No, I did not.

19 Q. Okay. And whose, whose initials, date and time was that
20 that, who wrote that on there?

21 A. Those are his.

22 Q. Okay. Now, how about the affidavit, the attached
23 affidavit, who filled out that affidavit?

24 A. Mr. Guinyard filled out the affidavit, but as far as the
25 name in there, that's my name.

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1 Q. Where, what is your writing on there?

2 A. Signature.

3 Q. Okay. So you, I mean, the witness, that you are
4 witnessing that?

5 A. Correct.

6 Q. Okay. What was that that you were witnessing?

7 A. Witnessing that he picked out the Number Six photo of
8 that photo array.

9 Q. Okay. And he had signed that indicating that?

10 A. He did.

11 Q. Okay. Now how about, what's the second you've got
12 there?

13 A. Mr. Joe Thomas.

14 Q. Okay. Mr. Thomas, what, yet again, with his, did he
15 pick out a picture?

16 A. Yes, he picked out Number One.

17 Q. Number One? And yet again, did you tell him in any way,
18 shape or form, who to pick out of this lineup?

19 A. No, I did not.

20 Q. And is that his initials, him dating it and him putting
21 the time on there?

22 A. Correct, it is.

23 Q. And it's Eleven o'clock?

24 A. If that's, yes, that's what he put.

25 Q. And did he subsequently also fill out the attached

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1 affidavit?

2 A. Right, he did.

3 Q. And did you witness that also?

4 A. Yes, I did.

5 Q. And yet again, the rest of that handwriting on there,
6 who would have filled that out?

7 A. Mr. Joe Thomas.

8 Q. Alright, now, would anybody have been present besides,
9 when you were in there with him when this was done?

10 A. No.

11 Q. Okay. How about with Mr. Guinyard?

12 A. No.

13 Q. And were they allowed to interact in between all this
14 happening?

15 A. No, no, sir.

16 Q. And lastly as to Ms. Mack, State's Exhibit Number Nine,
17 did she indicate who out of this lineup?

18 A. She did.

19 Q. Okay. And that's Number Three?

20 A. Correct.

21 Q. And yet again, did you in any way, shape or form
22 suggest to her who to pick out of State's Exhibit Number
23 Nine?

24 A. I did not.

25 Q. And she dated it?

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1 A. She did.

2 Q. Timed it and put her initials?

3 A. She did.

4 Q. And yet again, with the accompanying affidavit, who
5 filled out that affidavit?

6 A. She did.

7 Q. Okay. Now, did anybody witness her signature?

8 A. No.

9 Q. Okay.

10 A. I just totally forgot to sign that one because I was
11 running around from room to room to room, so ...

12 Q. And you were the person that had dealt with - - -

13 A. All three of them.

14 Q. --- all three of the lineups?

15 A. I was.

16 Q. So, by Eleven o'clock on the night of October Twenty-
17 seventh of Two thousand ten, who was the sheriff's office
18 looking for at that point in time?

19 A. Romeo Brown.

20 Q. And did you have any information at that point in time
21 about where he may be staying at?

22 A. Yes, I think the information we got that he lived the
23 next street over, I forgot the name of the road but it's
24 just like it sits adjacent to where the incident location
25 had take place at.

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1 Q. I'm showing you State's Exhibit Number Five, do you
2 recognize this map?

3 A. I do.

4 Q. Okay. And does that show the incident location and also
5 that other area you were talking about a second ago?

6 A. It does.

7 SOLICITOR SORENSON: Your Honor, at this time I'd offer
8 State's Five into evidence.

9 MR. GIPSON: Without objection.

10 THE COURT: Very well, State's Five into evidence
11 without objection.

12 COURT REPORTER: I don't have anything on that, do I?

13 SOLICITOR SORENSON: No.

14 COURT REPORTER: That's State's Five.

15 (State's Exhibit Five

16 marked and filed.)

17 SOLICITOR SORENSON: Thank you.

18 Q. Alright, Lieutenant Shumpert, can you point to the jury
19 where the incident location on Wingfield Street is? Is it
20 marked on here?

21 A. Yes, sir, right here.

22 Q. Okay. What's it marked on the map?

23 A. It's a blue rectangular spot.

24 Q. So, that's the Ryant's residence, Randy Ryant's
25 residence?

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1 A. Correct, that's the incident location.

2 Q. And where, where did you learn Mr. Brown may have been
3 staying back in October of Two thousand ten?

4 A. Right here in this trailer right here.

5 Q. Okay. And did you have an opportunity that night then
6 to go by that trailer?

7 A. We did.

8 Q. Alright. And what was the results of you going by that
9 trailer that night?

10 A. It was a negative contact, no one was at the residence.

11 Q. Okay. Let me ask you this, Lieutenant, are you aware of
12 what day Mr. Brown was ultimately arrested?

13 A. I was there, I think it was November Third or Fourth, I
14 believe it was the Fourth.

15 Q. So, a week -- of Two thousand ten?

16 A. Correct, yes.

17 Q. Okay. So about a week later, is that correct?

18 A. Yes, sir.

19 Q. Okay. Now, between October Twenty-seventh of Two
20 thousand ten, and November Fourth of Two thousand ten, was
21 your agency actively looking for Mr. Brown?

22 A. Yes. My agency along with the U. S. Marshals.

23 Q. Did y'all have an opportunity to make contact with
24 several of his family members during that period of time?

25 A. We did.

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1 Q. At any point in time during that week or so did Mr.
2 Brown turn himself in to the Orangeburg County Sheriff's
3 Office?

4 A. No, he did not.

5 Q. Now, are you aware of where it was that he was arrested
6 at?

7 A. Yes, he was arrested off of -- let me get the road right
8 -- off the Shillings Bridge Road, that's a road, you've got
9 to make a left, I believe, the last drive, I believe it's
10 the second house on the right, I forgot the address of the
11 house, but it was like a block house he was in.

12 Q. Are you aware of where he was when he was arrested in
13 that house?

14 A. Once you go through the front door, I was like the third
15 or fourth guy in, maybe the fifth, but once you go through
16 the front door it's like a room that sits off to your left,
17 and once they converged on the room I heard, like, get out
18 the closet, or get from under the clothes. And at that time
19 they brung Mr. Brown out.

20 Q. Okay. And during the course of that week did y'all ever
21 locate a weapon?

22 A. No, we did not.

23 Q. And are you aware of approximately how tall Mr. Brown
24 is?

25 A. About Six, one or Six, two.

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1 Q. A couple more things, Lieutenant, you had heard Mr.
2 Jones testify a few moments ago about the Four Way gas
3 station?

4 A. Yes, sir.

5 Q. Where is that located at in relation to the incident
6 where the shooting occurred?

7 A. Alright, if you come off the road from the incident,
8 come back to Whittaker Parkway and make a right, I would
9 say that it's probably about three to three and a half
10 miles from the incident location, right there, you'll see
11 the CVS on the left, and then you'll see a gas station
12 right there on your right. It sits on the corner of
13 Chestnut and Magnolia, and it's called the Four Way Stop.

14 Q. Alright. Let me ask you, Mr. Gipson has asked several
15 witnesses about the, one of the investigators at the
16 sheriff's office, Patricia Eikhoff?

17 A. Yes.

18 Q. Alright. And is she still employed by the sheriff's
19 office?

20 A. No, she's not.

21 Q. And what is her status at this point in time and when
22 did she leave, and do you know what reason she left?

23 A. Oh, what I was told, she retired, and it wasn't like a
24 two week notice or something, they just said, Investigator
25 Eikhoff will no longer be working for you. So, I can't give

JAMES SHUMPERT - DIRECT BY SOL. SORENSON

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1 you the date nor can I go into the details of why she
2 retired.

3 Q. I understand. Just one or two more things. Let me ask
4 you this, Lieutenant Shumpert, you heard Mr. Gipson earlier
5 asking, I believe it was Agent Fellers, the crime scene
6 person from the State Law Enforcement Division, and was, did
7 y'all call SLED out to come process the crime scene that
8 night?

9 A. We did.

10 Q. Okay. And was there a reason why SLED was called out as
11 opposed to the Orangeburg County doing it?

12 A. I believe that at that time we had one crime scene
13 person, and we had, I believe we had several homicides that,
14 during that course that we was investigating, and I think
15 that he had taken off or something like that, to that
16 effect. Once that one crime scene guy takes off then we
17 call SLED in to fill in for him.

18 Q. Okay. So that happens on occasion, - - -

19 A. Yeah, it happens, yes, sir.

20 Q. --- you have to call SLED to come?

21 A. Yes, sir.

22 Q. You heard, you remember Agent, I'm sorry, Mr. Gipson
23 asking Agent Fellers about some sets of keys that were
24 recovered out there at the crime, at the scene?

25 A. Oh, yes, yes.

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1 Q. Okay. What, did you end up ultimately taking possession
2 of both sets of those keys that were recovered?

3 A. I did.

4 Q. Alright. And what, tell the jury what you did with
5 those two sets of keys that were found out there?

6 A. Well, one set of keys, the deceased had a motorcycle
7 out there, and normal protocol was to just take the keys,
8 turn them in, and have them come get them out of
9 evidence. But due to the circumstances we didn't want to
10 leave the motorcycle out there and be responsible for it,
11 so I got a set of keys from the SLED agent and I gave them
12 to the wife of the deceased so they could move the
13 motorcycle.

14 Q. Okay. And then the other items that were presented by
15 the coroner at the, or retrieved by the coroner with regards
16 to the autopsy, did you come into possession of those items
17 that were actually on Mr. Harrison?

18 A. I did. Investigator Eikhoff gave them to me and I
19 turned them back over to the wife.

20 Q. Okay. And was there another, the other set of keys
21 contained in that?

22 A. There was another set of keys, yes, sir.

23 Q. And did they both end up going back to Mrs. Harrison?

24 A. Yes.

25 SOLICITOR SORENSON: I beg the Court's indulgence for

1 one second, Your Honor.

2 THE COURT: Alright.

3 SOLICITOR SORENSON: That would be all I would have at
4 this time from Lieutenant Shumpert, Your Honor.

5 THE COURT: Cross-examination.

6 MR. GIPSON: If it please the Court, Your Honor.

7 THE COURT: Yes, sir.

8 (NOTE: Blank lines on this page do not indicate any part of
9 record has been omitted. Headers on testimony pages and
10 hard page breaks between testimony are now required by the
11 Court. See next ensuing page for sequential continuation of
12 record.)

JAMES SHUMPERT - CROSS BY MR. GIPSON

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1 JAMES SHUMPERT - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Investigator Shumpert, you participated in the
4 investigation as well as the questioning of the witnesses in
5 this case, correct?

6 A. I questioned Mr. Thomas, and showed the lineup to the
7 rest of them, yes, sir.

8 Q. Okay. And you, at some point in time kind of held
9 Detective Eikhoff's hand through this thing, correct?

10 A. I don't know if you say, held her hand or not, but ...

11 Q. Just a figure of speech.

12 A. Yes.

13 Q. And you attended a preliminary hearing with her?

14 A. Now, that I can't remember, I can't remember.

15 Q. Okay. You're -- well, ...

16 A. I really can't remember right now.

17 Q. Alright. You're aware that -- you're aware that ...

18 MR. GIPSON: I just have a matter of law I'd like to
19 discuss with the Court for a quick moment?

20 THE COURT: Sure.

21 MR. GIPSON: Could we approach?

22 THE COURT: Sure, of course.

23 (Whereupon, a bench conference
24 is had out of the hearing of
25 the jury and court reporter.)

1 THE COURT: Ladies and Gentlemen, please go to your
2 jury room for a few minutes. Please do not discuss this
3 matter or allow anyone to discuss this matter with you.

4 (Whereupon, the jury retires
5 to the jury room and the following
6 takes place out of the presence
7 of the jury.)

8 THE COURT: Alright.

9 MR. GIPSON: If it please the Court, Your Honor, this,
10 I didn't want to say this in front of the jury but - - -

11 THE COURT: I understand.

12 MR. GIPSON: --- we subpoenaed Detective Eikhoff. We
13 were first told that she had moved or she was somewhere in
14 Texas for some particular reason. I received information
15 that she was in Orangeburg and that she had been seen in
16 Orangeburg and that she was local because she was seen as
17 late as last Thursday. We served the sheriff's department
18 and it's my understanding that they got in touch with her
19 after a lot of, I'm just going to use the word, hassle,
20 that's my word, and that she and the sheriff's department
21 members had been in contact. I think she's been directly in
22 contact with Mr. Shumpert, and they say that she is here in
23 Orangeburg, but she's not here in Court. And she's
24 unavailable at this point. And I think under Rule Eight O
25 Four, B, One, that puts me in a position where, we had a

1 prior Court proceeding, I've got a transcript of that Court
2 proceeding, and I should be able to get into the facts, some
3 of the information that I asked her that particular day
4 since she's not here.

5 THE COURT: Alright. And you served a subpoena on the
6 sheriff's department?

7 MR. GIPSON: The sheriff's department, yes, ma'am.

8 THE COURT: Okay. And do you have a copy of the
9 subpoena and the affidavit?

10 MR. GIPSON: The -- Your Honor, I may have it in here
11 if I can get my assistant over here with it, Your Honor.

12 THE COURT: Okay.

13 MR. GIPSON: And I may just have to reserve that
14 particular issue about those matters and get into it when I
15 can have her appear with that information.

16 THE COURT: Okay.

17 MR. GIPSON: But our investigator, Daniel McDaniel
18 served a subpoena on the sheriff's department and as a
19 result of that Commander Bamberg called him and there was a
20 discussion that, that I don't -- I'm going to have to call
21 my assistant and get her to bring that over here.

22 THE COURT: Okay.

23 MR. GIPSON: And I can, I'd ask if we can just get into
24 that colloquy at this point, since the jury is out, with Mr.
25 Shumpert.

1 THE COURT: Has he had any conversations with her and
2 does he know where she is?

3 MR. GIPSON: Absolutely.

4 THE COURT: Okay. Yeah.

5 MR. GIPSON: Alright.

6 (NOTE: Blank lines on this page do not indicate any part of
7 record has been omitted. Headers on testimony pages and
8 hard page breaks between testimony are now required by the
9 Court. See next ensuing page for sequential continuation of
10 record.)

JAMES SHUMPERT - CROSS, IN CAMERA, BY MR. GIPSON

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1 JAMES SHUMPERT - CROSS-EXAMINATION, IN CAMERA,

2 BY MR. GIPSON:

3 Q. Mr. Shumpert, you're aware that a subpoena was served on
4 the sheriff's department?

5 A. I was called, oh, what today is, Wednesday? I was
6 called Monday, late Monday afternoon and they said that Mr.
7 McDaniel left a subpoena at the sheriff's office, yes.

8 Q. Okay. And you were called by Commander Bamberg?

9 A. No.

10 Q. Who called you?

11 A. I was called by the lady at the front desk that works at
12 the sheriff's office.

13 Q. Okay. You've had conversations with Detective Eikhoff
14 since that point?

15 A. What happened was, once the subpoena came I called her
16 last place of residence and was trying to locate her. The
17 lady out there told me that she vacated the property and
18 moved back to Texas. So, at that time I called Commander
19 Bamberg, which, Commander Bamberg always kept in touch with
20 her, and as far as Commander Bamberg said that she knew she
21 was gone back to Texas as well. And I kept, I contact, I
22 kept looking for her then, I contact Mr. Brown, of the
23 Victim's Advocate, and I asked him have he talked to
24 Eikhoff, and he said that he would get her number and call
25 me back. Then I got a text and it was from her, and I

JAMES SHUMPERT - CROSS, IN CAMERA, BY MR. GIPSON

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1 texted her back and told her that the trial was starting,
2 and the she was needed. And she texted me back and I think
3 I instructed her on the phone I believe that she still ...

4 MR. GIPSON: And I'd ask if we could have him refer to
5 that, Your Honor.

6 A. Oh, let me get my phone, I'll get it myself.

7 Q. Yeah. I'm not going to go through your phone.

8 A. Oh, okay..

9 SOLICITOR SORENSON: Could I just hand this to him,
10 Your Honor?

11 THE COURT: Sure.

12 A. I was -- give me a minute, Your Honor, please.

13 THE COURT: Sure.

14 SOLICITOR SORENSON: Can I kind of kill two birds with
15 one stone.

16 THE COURT: Uh-huh, sure.

17 SOLICITOR SORENSON: One thing I would ask Your Honor
18 to do would be to take judicial notice that on October
19 Twenty-seventh of Two thousand and ten is a Wednesday night.
20 I mean, I think that is something the Court would be able to
21 do, and I had somebody go back and kind of double check, I
22 mean, that it is. I mean, obviously, if Your Honor needs to
23 do that also, or whatever, but ...

24 A. Alright. The first, I got a missed call from her at
25 Ten:0 five a.m., and then I text her, I said -- I didn't

JAMES SHUMPERT - CROSS, IN CAMERA, BY MR. GIPSON

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1 know who it was so I said, "In Court, how can I help you?"
2 And she text me back and said, "You back for me to call you.
3 Eikhoff." Then I text her back, I said, "Hey, how are you?
4 You have a murder trial this week starting today." That was
5 on the Twenty-second. And she said -- and then I text her
6 again, "Are you still in Orangeburg?" because at that time
7 I didn't know if she was still here or not. And she text me
8 back, "Still very sick." And I text her, "Okay, I will let
9 them know." And I think -- hold on one second. And that was
10 it. That was it.

11 THE COURT: Other questions? Go ahead.

12 Q. And again, you had that contact with her, those are her
13 responses to you?

14 A. Yes.

15 Q. She was aware of it but essentially, her position is,
16 I'm sick?

17 A. I didn't want to get into her personal business -- but
18 that was part of the reason why she retired, because of --

19 -
20 Q. For health reasons?

21 A. --- health reasons, yes, sir.

22 Q. And again, she's not here?

23 A. No.

24 Q. Okay. And has not reached out to your office to make an
25 attempt to be here?

JAMES SHUMPERT - CROSS, IN CAMERA, BY MR. GIPSON

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1 A. Well, like I explained it to the solicitor, I thought
2 that Mr. McDaniel would go and serve the subpoena on her,
3 that the fact that she no longer worked with us. So, I
4 didn't know why he brung it to the sheriff's office.

5 Q. And you all didn't know where she was, where she lived,
6 and her last known address she wasn't at, correct?

7 A. The last known address I knew she stayed out there at
8 that Banashay, and like I said, once -- Mr. Sorenson even
9 called me and asked me where she was at, and that's when I
10 start looking for her. I want to say that was even before
11 the subpoena came out. And I start calling around and
12 that's why I called Ms. Cokely that was the manager of that
13 apartment, that trailer park out there, and that's when she
14 said she vacated the place and moved back to Texas. So, at
15 that point I was just like, well, you know, I was told that
16 she was gone -- I call him and told him she was gone back to
17 Texas, and told my boss, and that was it.

18 MR. GIPSON: That's all my questions, Your Honor.

19 THE COURT: Alright. Yes, sir?

20 SOLICITOR SORENSON: I don't have any questions, Your
21 Honor.

22 THE COURT: Okay.

23 MR. GIPSON: And Judge, my position is, I didn't learn
24 until Friday that she was no longer with the department or
25 that she wasn't even going to -- that there was a very good

JAMES SHUMPERT - CROSS, IN CAMERA, BY MR. GIPSON

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1 chance she wasn't going to be here, and at the time that I
2 learned that, you know, unlike the solicitor's office I
3 don't have a bunch of, you know, folks at my beck and call,
4 where I can just call people and have them do stuff, we have
5 to actually pay for it out of our own pockets if the client
6 can afford it, and if not we have to foot the bill. We did
7 that Monday, sent someone out looking, and when we did our
8 due diligence we served the sheriff's department because we
9 could not get any other information. And they were aware,
10 it's become, it's clear that she's aware and has contacted
11 them, so Judge, what else are we supposed to do? I mean, if
12 we had known she wasn't here or wasn't going to be here, of
13 course, we would have done a lot more earlier, but I didn't
14 learn that until Friday.

15 THE COURT: I understand, I understand. And your
16 position is that she's unavailable and that you have her
17 testimony under oath - - -

18 MR. GIPSON: I do.

19 THE COURT: --- from a preliminary hearing, and you
20 would offer that as an exception to the hearsay rule?

21 MR. GIPSON: I do, Your Honor.

22 THE COURT: Based on her unavailability?

23 MR. GIPSON: That's right, and I have a sealed copy of
24 that that I can provide to the Court as well.

25 THE COURT: Alright.

JAMES SHUMPERT - CROSS, IN CAMERA, BY MR. GIPSON

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1 MR. GIPSON: The original.

2 SOLICITOR SORENSON: Could I have one second, Your
3 Honor?

4 THE COURT: Sure, of course.

5 SOLICITOR SORENSON: I guess my first concern, Your
6 Honor, is, I'm not entirely sure he's really proven that
7 she's unavailable. I mean, just because she's not here
8 right now, I mean, I don't know what steps, I mean, I'm a
9 little confused as to whether he served a subpoena on her or
10 not. I know he dropped a subpoena off at the sheriff's
11 office which he knew at the time he did that that she
12 doesn't work there anymore. So, I'm not, I think that's the
13 only subpoena we're talking about but I'm not positive about
14 that. So, I'm not sure she's been served, but I mean, I
15 don't know how that could be service. I mean, if you go to
16 somebody's former employer and serve a subpoena there and
17 have that qualify as service of a subpoena. So, that would
18 be my first concern.

19 And then the second, I mean, even if we assume that she
20 has been somehow served, I mean, what attempts has he made
21 today to get her, I mean, has anybody told her she needs to
22 be up here today? I mean, I don't know the answer to that
23 either.

24 THE COURT: He did, the witness did.

25 SOLICITOR SORENSON: He told her that she had to be

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1 here today?

2 THE COURT: Yes. He told her the trial was coming next
3 week. Let me tell you what my concern is. Let me just put
4 it out there. I happened to be present for the conversation
5 when you told Mr. Gipson that she was in Texas.

6 SOLICITOR SORENSON: And that was the information that
7 we had at that point in time.

8 THE COURT: Okay. But that was the information that
9 Mr. Gipson had. And it was at that moment that you told Mr.
10 Gipson that now that Detective Shumpert was going to be
11 acting as the case agent because she was gone.

12 SOLICITOR SORENSON: That he would be sitting with me,
13 yes.

14 THE COURT: Right, right. And I can't allow lawyers to
15 do that to one another. In other words, that would be the
16 worse set up in the whole world, if you him that and it
17 wasn't true. And you've got her somewhere and he's
18 responsible ...

19 SOLICITOR SORENSON: I hope you don't think that I'm,
20 that I'd do that.

21 THE COURT: No, sir. That's what I'm telling you,
22 that's the reason why I'm so comfortable that she's
23 unavailable because I want to tell you, I've known you for a
24 long time, and I don't care what he's done with his
25 subpoena, but Mr. Sorenson, if you tell, in my presence,

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1 that she's not available ...

2 SOLICITOR SORENSON: I mean, I don't, and I haven't
3 talked to her. I talked to her a month and a half ago, and
4 decided at that point in time I was not even intending on
5 calling her.

6 THE COURT: You see that, but let me tell you, but
7 here's where that happens with you, Mr. Sorenson, that just
8 underscores the fact that she's not available, because I
9 happen to know that nobody prepares a case more completely
10 than you do.

11 SOLICITOR SORENSON: And I guess my second concern is
12 that I don't know, I don't have what he's about to try so I
13 have no idea what's in it, I mean, I'm ...

14 THE COURT: Well, you're fixing to find out because I'm
15 certainly ...

16 SOLICITOR SORENSON: Okay. I don't know how many pages
17 it's going to be.

18 THE COURT: I know, I certainly want you to know that,
19 but here's what I want, here's what I want the record to
20 reflect. At the point -- and I really mean it as being One
21 hundred per cent respectful, you happen to be one of those
22 lawyers, Mr. Sorenson, if you told me what today was I know
23 that you would tell me today was Wednesday, I know you would
24 tell me today was Wednesday, I just know that.. You are not
25 one of those lawyers otherwise. So when, so two things have

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1 happened to you in this case, Number One, at the point in
2 time when you had a conversation which you had with Mr.
3 Gipson when I was present - - -

4 SOLICITOR SORENSON: Yes, ma'am.

5 THE COURT: --- you did that because, out of your duty
6 and obligation as a solicitor. You did that out of your
7 obligation and your duty as a lawyer of the utmost
8 integrity, - - -

9 SOLICITOR SORENSON: Yes, ma'am.

10 THE COURT: --- and the utmost ethics and I know that.
11 And my position about that is, at that point I know, I know
12 that you did that because you believed that was something
13 that Mr. Gipson needed to know and you needed to know that
14 this was now your case agent because of that.

15 SOLICITOR SORENSON: Yes, ma'am.

16 THE COURT: The other part of it is if you hadn't
17 talked to her in a month and a half, she's unavailable,
18 because I know how replete you are. So, you know, maybe
19 that's one of the negatives of me being here instead of some
20 strange judge, as I happen to know that's how you try your
21 cases, you are replete with being prepared. So I think what
22 he's telling us, I'm going to make him lay that foundation,
23 but I may do it conditionally, but I'm going to make him lay
24 the foundation because he's telling me that he sent an
25 investigator out last evening to see if he could find her

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1 and he couldn't find her. I gather that somebody went out
2 and did some background checking. And I am also confident
3 that Detective Shumpert -- see, here's the other part, I
4 know that you would have done, particularly knowing Mr.
5 Sorenson's involved in this case and you're in this case,
6 y'all are going to get her if you can.

7 SOLICITOR SORENSON: Well, I guess my concern is that
8 we haven't really made that effort to tell her, I mean, I
9 guess my position would be that, I mean, if now I know that,
10 you know, for us to have an opportunity to tell her, you
11 need to be here.

12 THE COURT: Sure. And if you want to do that, I'm
13 going to let you do that.

14 SOLICITOR SORENSON: And if she doesn't show up, - - -

15 THE COURT: I'm going to let you do that.

16 SOLICITOR SORENSON: --- but obviously, if she shows
17 up, I mean, he has the option to call her as a witness.

18 THE COURT: And you have the magical hours so you can
19 do that if you want to, absolutely. If you want that time
20 I'm going to give you that time, but I will -- here's what's
21 so important to me and for this record to reflect is that if
22 y'all can get her, fantastic, but I want you -- what I want
23 you to hear and this record to reflect is that I want you to
24 know that I believe that what both of you gentlemen have
25 made representations to this Court based on my experience

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1 that is One hundred per cent what you believe to be true at
2 this moment. Now, if that changes because you find out
3 other information overnight, so be it.

4 Now, I would also point out just as we go down this
5 road that one of the definitions of unavailability is that a
6 witness is absent from a hearing or unable to be present or
7 to testify because of death, well, that's not applicable, or
8 then existing physical or mental illness or infirmity. I'm
9 also hearing that she has an infirmity, a physical or mental
10 infirmity, I don't know what it is and don't need to pry,
11 but I think that that's what she was texting you back, "I'm
12 still too sick." So, I'm going to sort of leave that with
13 you gentlemen over the evening, and, but I want this record
14 to be One hundred per cent clear that I believe that both
15 the sheriff's department through you, Mr. Shumpert, - - -

16 A. Yes, ma'am.

17 THE COURT: --- and the solicitor's office through you,
18 Mr. Sorenson, have exhibited the utmost in appropriate and
19 ethical conduct and integrity which, you know, and so -- and
20 I think that you all have been incredibly candid with
21 sharing with Mr. Gipson the status of the person that
22 perhaps, perhaps was the investigating officer who now, for
23 whatever reason is in a different position that she
24 certainly was in October of Two thousand ten.

25 So, if you all wish to try to reach her and get her up

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1 here overnight, fantastic, we've got time.

2 SOLICITOR SORENSON: I appreciate it.

3 THE COURT: Actually, you've got longer than that,
4 you've got all day tomorrow. You've all day tomorrow.

5 SOLICITOR SORENSON: It would be first thing Friday
6 morning.

7 THE COURT: That's right. And he's concerned, but you
8 tell Mr. Sorenson that, what you're worried about, what
9 you're worried, you are worried about something.

10 A. No, I just wanted to make it known that I did give the
11 number to him as to, well, Mr. Gipson, so I didn't know I
12 was supposed to get her, so - - -

13 THE COURT: No.

14 A. --- I do apologize.

15 SOLICITOR SORENSON: Obviously, you didn't give it to
16 me.

17 A. I gave it to Mr. -- to the secretary.

18 SOLICITOR SORENSON: Okay.

19 A. Yeah, I'm sorry.

20 SOLICITOR SORENSON: That's right, I forgot. I mean, he
21 did actually give the phone number that we had, and I don't
22 know if Mr. Gipson has tried to call her. I mean, that ...

23 THE COURT: I'm with you. I just -- here's what I
24 think is appropriate, I mean, and we have the luxury of
25 tomorrow. I think you guys just try to reach her tomorrow.

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1 You can just have a joint effort to try to reach her and see
2 where we are. Meanwhile, back at the ranch, I want you to
3 get the transcript to Mr. Sorenson.

4 MR. GIPSON: Absolutely, absolutely. And may I put
5 something on the record as well, Your Honor?

6 THE COURT: Sure.

7 MR. GIPSON: And just, I just want to make sure it's
8 clear as well, just as Your Honor did, I'm not casting any
9 stones or throwing any stones because again, - - -

10 THE COURT: Oh, yeah.

11 MR. GIPSON: --- you know, their office has been
12 absolutely forthright and straightforward with me in every
13 way, shape or form, and - - -

14 THE COURT: And that's why you know it.

15 MR. GIPSON: Absolutely. And so if he says it I
16 believe, just like the Court does. So, I don't ever want to
17 even seem reflective that I'm suggesting that they withheld
18 or hid something, I'm not suggesting that because I know
19 differently, I've got too much experience with them.

20 THE COURT: Well, obviously, you rely, obviously you
21 know you can rely - - -

22 MR. GIPSON: Absolutely.

23 THE COURT: --- on what Mr. Sorenson tells you.

24 MR. GIPSON: Absolutely, there's no question, and the
25 same for Mr. Shumpert. So, in an effort to make sure I

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1 comply with the rules that's why we attempted service after
2 learning those things. But I can tell the Court my copy,
3 Your Honor, is, I'll give him my copy.

4 THE COURT: Okay.

5 MR. GIPSON: I have an original that's never been
6 opened, and you know, I did that purposely.

7 THE COURT: And you get the paper cut.

8 MR. GIPSON: Okay.

9 SOLICITOR SORENSON: I'll make a copy of this for you.

10 MR. GIPSON: Sure, that's fine. And I will not open
11 that open that original unless - - -

12 THE COURT: Okay.

13 MR. GIPSON: --- I'll have the Court do it as we would
14 in a civil case if necessary.

15 THE COURT: I'm not going to do it, you're going to do
16 it because I don't want a paper cut.

17 MR. GIPSON: It's plastic.

18 THE COURT: I don't want a paper cut, I'll get one.
19 Okay.

20 SOLICITOR SORENSON: Are we going to adjourn then for
21 the night?

22 THE COURT: I think, don't you think -- this has been -
23 - I know we've had this big break at this point, and
24 Detective Shumpert's just starting. I think -- what do you
25 think?

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1 A. Yes, ma'am.

2 THE COURT: Alright. I think we'll ...

3 SOLICITOR SORENSON: Because obviously, I wouldn't
4 normally be able to talk to him, but I guess we can talk as
5 long as it's just dealing with trying to find Eikhoff.

6 THE COURT: You've got to talk, right.

7 SOLICITOR SORENSON: But as far as anything else ...

8 MR. GIPSON: I trust, Judge, I trust he'll follow the
9 rules.

10 THE COURT: Wouldn't that be interesting, that I'm
11 giving you a task to do and y'all can't talk about it. That
12 would be unique, you know.

13 MR. GIPSON: Yes, ma'am. I trust that they will follow
14 the rules, I'm not worried about that, I'm personally not.

15 THE COURT: I know. See, Mr. Sorenson, see how much
16 faith we have in you?

17 SOLICITOR SORENSON: Alright.

18 THE COURT: And I've learned, and Mr. Sorenson, I hope
19 you understand that that goes to your credit, because let me
20 tell you something, boy, I bet, and thank goodness, in fact,
21 that's why I wanted this young aspiring lawyer to be able to
22 see the two of you, to see the way that the practice of law
23 is supposed to be done, that's why I wanted him to be
24 present to observe the two of you, and I want to compliment
25 both of you in that regard. And the older I get the more

1 precious I realize it is. Not that it's not prevalent, it's
2 just precious because it's, we've both been to where it
3 doesn't exist every once in a while and boy is that yucky.
4 You'd better come on back down here.

5 A. Go back down there?

6 THE COURT: Yeah. And I'm going to dismiss the jury.

7 SOLICITOR SORENSON: Can we address my request for a
8 judicial notice?

9 THE COURT: Yeah, I've got it right here.

10 SOLICITOR SORENSON: Can we do that before you, just so
11 I don't forget.

12 THE COURT: And so we won't drop the ball. Hold on to
13 the paper towel. Let me have the jury back.

14 (Whereupon, the jury enters
15 the courtroom.)

16 THE COURT: Ladies and Gentlemen, I apologize for
17 keeping you in your jury room a little bit longer than I
18 thought I would, and I thought we would be able to conclude
19 this witness this evening, but we are not so I have gone
20 ahead and paused. And I need to give you some additional
21 instructions before we leave each other in just a moment,
22 but I have been asked to take judicial notice of something
23 and I'm going to do that, and I'm going to share that with
24 you.

25 When you take judicial notice it's like something

1 that's indisputable. And the Court is asked to take
2 judicial notice of that, of the existence of that fact, and
3 then to share that with the jury. And I have been asked to
4 take judicial notice that October the Twenty-seventh of the
5 year Two thousand and ten fell on a Wednesday, and I am
6 taking judicial notice of that fact, that October the
7 Twenty-seventh of Two thousand and ten was on a Wednesday,
8 it was on Wednesday.

9 Now, Ladies and Gentlemen, you are going to be leaving
10 me, and we are going to gather back together at nine o'clock
11 on Friday morning. As I indicated to you, there was an
12 obligation that I had prior to this week that requires my
13 attendance; requires my attention for all of tomorrow. I
14 was kind of hoping maybe not all of tomorrow but I am
15 informed it will require all of tomorrow. I do apologize to
16 you for having to take a break in this trial, but this is
17 one of those very rare experiences, times when that in fact
18 must occur. So, I will not see you tomorrow.

19 Now, Ladies and Gentlemen, we will, though, reconvene
20 at nine o'clock Friday. The same admonitions do apply, you
21 must not discuss this matter or allow anyone to discuss it
22 with you. I am going to ask you please do not read
23 anything, do not listen to anything about this matter, and
24 that includes the radio, the television, the newspaper, or
25 the internet because you must receive all of your

1 information here in Court while Court is in session. Now,
2 don't blog, don't tweet, don't facebook, don't link in,
3 don't do any social networking, please, regarding this
4 matter. Don't do any sort of research. Again, you must
5 receive all of the information from which you will make up
6 your minds here in Court while Court is in session. You do
7 realize though when you go home this evening that the
8 curiosity is going to be heightened, but remember, you must
9 not discuss this matter or allow anyone to discuss it with
10 you, but remember, put it on the judge, don't let anybody be
11 upset with you.

12 Now, I am, we have triple contacted our folks, our
13 gentlemen, oh yeah, triple now contacted. I think he's
14 going to be fine. If you find otherwise I do expect you to
15 let me know, but I think he's now a happy camper. But if
16 you find it to be otherwise do let me know. But I think
17 that's set at this point.

18 When you return at nine o'clock Friday morning we, of
19 course, are going to get right into the trial of this
20 matter, and proceed just as you have done and as we have
21 done. Over the course of tomorrow I'd just simply ask that
22 you be mindful not to discuss this matter or allow anyone to
23 discuss it with you. It's a little more difficult when
24 we're not together. So -- yes?

25 MR. GIPSON: We just have a quick matter we need to

1 discuss with you.

2 THE COURT: Yes, sure.

3 (Whereupon, a bench conference is
4 had out of the hearing of the
5 jury and court reporter)

6 COURT REPORTER: Did you say, no newspapers?

7 THE COURT: No newspapers, did I say no newspapers? I
8 don't know, but no newspapers.

9 BAILIFF: Your Honor, when counsel is finished may I
10 approach?

11 THE COURT: Sure.

12 (Whereupon a bench conference
13 is had with Bailiff out of the
14 hearing of the jury and
15 court reporter.)

16 THE COURT: Oh, yeah, y'all are doing the tour, we're
17 going to the second floor. When you return -- does
18 everybody know where the courtroom is? Yeah. You were
19 there on Tuesday, so yes.

20 BAILIFF: Your Honor, may I approach?

21 THE COURT: Yes.

22 (Whereupon, a conference is had
23 with the bailiff out of the hearing
24 of the jury and court reporter.)

25 THE COURT: The question was, can you all work

1 tomorrow? Great question. Exactly, like in the day, nine
2 to five, love it. A woman after my own heart to contemplate
3 these things. Very well.

4 BAILIFF: Your Honor, she said she works from
5 eleven:thirty in the daytime until eight o'clock tomorrow
6 night. Is that okay?

7 THE COURT: Tomorrow evening. Well, I -- so, and then
8 you come home, and you do a quick supper. Very well. My
9 concern, and I don't, I think if you're going to be done by
10 eight, that's really kind of going to be iffy, that's going
11 to be kind of iffy, sort of, but if you think you can do
12 that and get home and get rest, you know, so be it. These
13 nine to fivers I think y'all are shot. But definitely not
14 the late nights, no, no, no, no, you'll be way too tired.
15 You're getting close, so I'm going to leave that up to your
16 good judgement. What we're talking about is, can we go to
17 work tomorrow, you know, my nine to fivers? If you choose
18 to and I think you're fine to do that, but if somebody wants
19 you to work a double shift, don't, because sometimes you get
20 there at nine and they say, oh, can you stay until, oh, I
21 don't know, nine o'clock the next day, and you cannot do
22 that. You must be rested, I need all of you to be rested
23 tomorrow evening and over the evening so that you are rested
24 and ready to begin at nine o'clock Friday morning. So, I'll
25 leave that up to you.

1 Now, anyone that needs anything from the clerk's office
2 we will certainly get that for you so they'll understand
3 that tomorrow we're off and you can work tomorrow but you
4 must be back on Friday. If you need something we can get
5 that for you.

6 BAILIFF: Can I approach?

7 (Whereupon, a conference is
8 had with bailiff and Court out
9 of the hearing of the jury
10 and court reporter.)

11 THE COURT: Oh yeah, I don't know the answer to that
12 but we will be, I'm hopeful, I am hopeful. We are working,
13 you know, as diligently and as efficiently and as
14 effectively as we possibly can. And I think I'm comfortable
15 leaving it at that at this moment. I think that is more
16 appropriate.

17 I will see all of you at nine o'clock Friday morning.
18 Do not discuss this matter or allow anyone to discuss it
19 with you, and thank you so much.

20 (Whereupon, the jury leaves
21 the courtroom for the day.)

22 THE COURT: Alright, anything from the State before we
23 recess?

24 SOLICITOR SORENSON: Nothing from the State.

25 THE COURT: From the Defense?

1 MR. GIPSON: Nothing, Your Honor.

2 THE COURT: Alright, we are in recess until nine
3 o'clock Friday morning.

4 (Recess for the day.)

5 DATE:

6 MAY 25, 2012

7 THE COURT: Alright, anything from the State before we
8 bring the jury out?

9 SOLICITOR SORENSON: No, ma'am.

10 THE COURT: Okay. From the defense?

11 MR. GIPSON: Not at this time, Your Honor.

12 THE COURT: Alright, very well, let's have the jury.

13 SOLICITOR SORENSON: Your Honor, do you want Lieutenant
14 Shumpert to retake the stand now or when the jury comes out?

15 THE COURT: I do, that would be great, because they
16 will expect him to be on the stand. That will be great.
17 (Whereupon, the jury
18 enters the courtroom.)

19 THE COURT: Good morning, Ladies and Gentlemen, we will
20 have just a very small, if you will, break in the action. I
21 had entered what's called a sequestration order, and you'll
22 notice it's been a little tiny bit of pause in between the
23 witnesses because the witnesses have been outside the
24 courtroom and then they come in and they testify. I messed
25 up, and Detective Eikhoff, I just had to ask her to leave

1 the courtroom. That's my fault, I messed up this morning
2 and I forgot to do that. So, that's what just occurred in
3 case you all noticed. And it's my little snafu, but we'll
4 now proceed. Thank you.

5 (NOTE: Blank lines on this page do not indicate any part of
6 record has been omitted. Headers on testimony pages and
7 hard page breaks between testimony are now required by the
8 Court. See next ensuing page for sequential continuation of
9 record.)

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1 JAMES SHUMPERT - CROSS-EXAMINATION

2 BY MR. GIPSON CONTINUES:

3 Q. Alright, and Detective Eikhoff just left the courtroom,
4 you mentioned?

5 A. Correct, yes, sir.

6 Q. Okay. So, in the pecking order in this particular case,
7 - - -

8 A. Yes, sir.

9 Q. --- the buck stops where?

10 A. With Investigator Eikhoff.

11 Q. Okay. And the buck would stop with Investigator Eikhoff
12 because she was the lead detective, correct?

13 A. Correct.

14 Q. So, whose job is it to make the call on how evidence is
15 handled?

16 A. Detective Eikhoff.

17 Q. Okay. So, even though you may outrank her with
18 experience, with it being her investigation she does what
19 she chooses to do, correct?

20 A. Correct.

21 Q. And if there's a piece of evidence that wasn't analyzed
22 then who is the person who's responsible for that?

23 A. Detective Eikhoff.

24 Q. If there is information that should have been requested
25 that wasn't, who was responsible for that?

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1 A. Detective Eikhoff.

2 Q. Alright. Now, you mentioned that at some point in time
3 on the Twenty-seventh you went to a residence that you
4 believed was Mr. Brown's residence?

5 A. Yes, sir.

6 Q. Okay. I'm going to show you what's been marked as
7 State's Exhibit Number Five. Can you come down for us for a
8 quick moment? I guess we can use the easel.

9 THE COURT: Mr. Sorenson, can you see from where you
10 are?

11 SOLICITOR SORENSON: I'll swing around.

12 THE COURT: Okay.

13 MR. GIPSON: And I'll stand on the other side.

14 A. Yes, sir.

15 Q. Alright. Will you point to the residence, the Ryant's
16 residence where the incident took place on Windgate?

17 A. Right here.

18 Q. Okay. Where are you suggesting that Mr. Romeo Brown
19 lived?

20 A. The information we received, that he lived in this
21 trailer right here.

22 Q. Okay. So across these woods?

23 A. Yes, sir.

24 Q. Okay. Alright, you can have a seat. Now, you're
25 suggesting that you went to that house?

JAMES SHUMPERT - CROSS BY MR. GIPSON

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1 A. Yes, sir.

2 Q. When?

3 A. I believe we went on, we went several occasions, I
4 believe we went - - -

5 Q. Well, the first time?

6 A. I believe that night.

7 Q. Okay. Do you have any records to reflect that was the
8 time that you went?

9 A. No, sir.

10 Q. Okay. Do you have any records to reflect the time and
11 who was present, all of those things?

12 A. No, sir.

13 Q. Alright. So, what you would have learned in the
14 Criminal Justice Academy as an investigator is you should
15 write all that stuff down so there's never a question about
16 it?

17 A. Correct, but I wasn't the, at that time I wasn't like
18 the lead guy that was tracking him down, I was assisting.

19 Q. Okay. But you had, but you have no note of exactly when
20 you went there?

21 A. No, sir.

22 Q. And when you say, I believe, basically that means you're
23 kind of speculating, right?

24 A. Correct.

25 Q. Okay. And if you had written it down we wouldn't have