

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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Certiorari to Orangeburg County
Honorable Benjamin H. Culbertson, Circuit Court Judge

S.C. SUPREME COURT

ROMEO BROWN,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2016-002401

APPENDIX

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JAMES SHUMPERT - CROSS BY MR. GIPSON

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1 to speculate, we would know for sure, right?

2 A. Correct.

3 Q. Okay.

4 MR. GIPSON: I'd ask the Court's indulgence for a brief
5 moment, Your Honor.

6 THE COURT: Certainly.

7 Q. Let me ask you a brief question as well about State's
8 Exhibit Number Six. And if you could just step down for a
9 brief moment, sir. There is a gray Lincoln Town car that
10 was spoken of, and can you point that out for us?

11 A. I believe it's here.

12 Q. Okay. And do you remember who that belonged to?

13 A. No, sir. When I responded out there I was there for
14 like a short period of time and I went back to the office.

15 Q. Okay. That's fair enough. If you're not aware of it I
16 won't ask you the question.

17 A. Yes, sir.

18 MR. GIPSON: The Court's indulgence, Your Honor?

19 THE COURT: Yes.

20 MR. GIPSON: That's all my questions, sir.

21 THE COURT: Very well. Redirect?

22 SOLICITOR SORENSON: Nothing, Your Honor.

23 THE COURT: Alright. If you'll come back down to the
24 counsel table.

25 Call your next witness, please.

1 SOLICITOR SORENSON: Your Honor, at this time the State
2 would rest.

3 THE COURT: Very well.

4 Ladies and Gentlemen, you have now heard all the
5 witnesses and received the evidence that you will from the
6 State in the State's case in chief. That signifies to me
7 that there are matters which I must take up outside your
8 presence. Therefore, I'm going to ask you to step to your
9 jury room. Do not discuss this matter or allow anyone to
10 discuss it with you. We will not be long. If you'll step
11 to your jury room.

12 (Whereupon, the jury retires
13 to the jury room and the following
14 takes place out of the presence
15 of the jury.)

16 THE COURT: Alright. Motions?

17 MR. GIPSON: If it please the Court, Your Honor. And
18 as the Court knows I'm aware of what the standard is and
19 what's required at this point in time, but I will make my
20 obligatory motions, Your Honor. We have two warrants that
21 have, or excuse me, two indictments that are at issue here.
22 The first of which is murder. And the short definition, as
23 the Court knows, is murder is the unlawful killing of a
24 person with malice aforethought. That's essentially what
25 we're talking about. And I would suggest to the Court that

1 the testimony that the Court has heard at this point is
2 suspect in the sense that you have polar opposites from what
3 the investigators are saying and the experts are saying
4 versus what the alleged eye witnesses are saying. And I
5 question whether or not that rises to the level of something
6 that can go to a jury when you have polar opposites.

7 The second indictment possession of a weapon by someone
8 convicted of a violent crime, Your Honor. And again, my
9 question, or the question that arises is whether or not Mr.
10 Brown was even there at that point in time. And again,
11 there's the questions about the validity of the testimony
12 that has been given.

13 So, I suggest on those basis, or bases, I'd ask that
14 the Court consider directed verdict motions on both
15 indictments.

16 THE COURT: Thank you so much. As you know, Mr.
17 Gipson, the Court is not charged with the responsibility of
18 weighing the evidence - - -

19 MR. GIPSON: Yes, ma'am.

20 THE COURT: --- or assigning any degree of credibility
21 to ascertain whether or not there is evidence on each and
22 every element of each of the two indictments from which the
23 jury could return a verdict of guilt. And given the
24 testimony of the individuals who have testified in this
25 matter there is evidence on each and every element from

1 which the jury could find guilt, and I would respectfully
2 deny your motion for directed verdict as to each indictment,
3 noting your exception thereto.

4 MR. GIPSON: Yes, ma'am.

5 THE COURT: Very well.

6 MR. GIPSON: Thank you, Your Honor.

7 THE COURT: Now, are you prepared to go forward at this
8 time?

9 MR. GIPSON: I'm prepared, Your Honor, if I could have
10 a moment to peek in the hallway and just check on my
11 witnesses?

12 THE COURT: Absolutely, absolutely, you certainly may.

13 MR. GIPSON: Alright. Thank you, thank you.

14 THE COURT: Very well.

15 MR. GIPSON: And we'll just address, Your Honor, I know
16 yesterday we -- well, Wednesday we spoke of the advisement
17 of rights and the Court advised Mr. Brown of his right to
18 testify, and maybe this would be an appropriate time if the
19 Court would like to inquire as to what he chooses to do.

20 THE COURT: Alright, sure.

21 Mr. Brown, first of all, good morning.

22 DEFENDANT BROWN: Good morning.

23 THE COURT: Mr. Brown, have you had an opportunity to
24 discuss fully with your lawyer and others whose judgement
25 that you value your, both your right to remain silent and

1 exercise your Fifth Amendment right as well as your right to
2 testify should you choose to do so?

3 DEFENDANT BROWN: Yes, ma'am.

4 THE COURT: Alright. And do you feel as though you've
5 had sufficient time to examine that issue?

6 DEFENDANT BROWN: Yes, ma'am.

7 THE COURT: Well, as you know, we're about to begin
8 your case, if you will, your defense, and at this time are
9 you prepared to make a decision whether you wish to testify
10 or not testify?

11 DEFENDANT BROWN: Yes, ma'am.

12 THE COURT: And which would be your preference?

13 DEFENDANT BROWN: To testify, Your Honor.

14 THE COURT: You wish to testify?

15 DEFENDANT BROWN: Yes, ma'am.

16 THE COURT: Very well. Alright, thank you.

17 Now are you going -- would Mr. Brown be your first
18 witness?

19 MR. GIPSON: No, ma'am, he will not be.

20 THE COURT: Okay.

21 MR. GIPSON: I believe my first would be Detective
22 Eikhoff.

23 THE COURT: Okay. Very well.

24 MR. GIPSON: And Your Honor, I would ask, just pursuant
25 to the rules, just when we talk about just the motive

1 interrogation, I believe that's Rule Six fourteen, it could
2 allow me to use leading questions towards her because she's
3 more of an adverse witness?

4 THE COURT: Most assuredly I would.

5 MR. GIPSON: Alright. Thank you, Your Honor.

6 THE COURT: And so we wait. And I'm still reading the
7 cases. Do you -- I hate to ask your order of battle at this
8 point but what we'll do is, I'm going to send the jury out
9 because I've not had a chance to read these cases, it's not
10 fair to you to give me cases and I not read them. So,
11 before Mr. Brown testifies Mr. Sorenson wants me to visit
12 the issue of the cross-examination.

13 MR. GIPSON: I suspect he would be the last of the
14 group, Your Honor, so if Investigator Eikhoff is first, I
15 suspect there will be two between.

16 THE COURT: You don't have to tell me your order of
17 battle, you do not, - - -

18 MR. GIPSON: Okay.

19 THE COURT: --- I'm not going to put you in that
20 position.

21 MR. GIPSON: Alright.

22 THE COURT: Just beforehand let me know and I'm going
23 to send the jury out just so I can rule.

24 MR. GIPSON: Yes, ma'am.

25 THE COURT: Meanwhile I'll sort of be listening.

1 SOLICITOR SORENSON: And this is with regards to that,
2 when you're reading that, to kind of assist you a little
3 bit, Your Honor, the prior conviction we're talking about is
4 a Nineteen ninety-nine conviction for armed robbery. The
5 sentence date on that conviction was December Fifteenth of
6 Nineteen ninety-nine. I'm not sure if he had been -- it
7 looks like he was arrested on January Twenty-ninth of
8 Nineteen ninety-nine. That's what he's got credit for time
9 served, and I believe that's basically looking at the
10 indictment, was the day after the incident. And he received
11 a ten year sentence, which on armed robbery back in Nineteen
12 ninety-nine would be an Eighty-five per cent of that. So, I
13 mean, it would be our position that's going to ultimately
14 put it, you know, well within the ten year period. So, ...

15 THE COURT: I'm with you, I've got it.

16 SOLICITOR SORENSON: Okay. I just wanted to make sure
17 you had the dates that we're talking about.

18 THE COURT: That's very helpful. Thank you for that,
19 and you're exactly correct, and thank you for that.

20 Alright, let's have the jury.

21 MR. GIPSON: Thank you, Your Honor.

22 THE COURT: And why don't we ask Detective Eikhoff to
23 come on in since she's going to be the first witness.

24 (Whereupon, the witness
25 enters the courtroom.)

1 (Whereupon, the jury
2 enters the courtroom.)

3 THE COURT: Ladies and Gentlemen, when we took our
4 little break I told you that you had heard from the State in
5 the State's case in chief, and we will now turn to the
6 Defense.

7 And Mr. Gipson, call your first witness.

8 MR. GIPSON: Yes, I'd like to call Detective Eikhoff.

9 THE COURT: Alright.

10 CLERK: Please place your left hand on the Bible and
11 raise your right.

12 (Whereupon, Patricia Eikhoff
13 is duly sworn.)

14 CLERK: Thank you. You may have a seat and please
15 state our name again for the record.

16 WITNESS: Patricia Eikhoff.

17 THE COURT: Your witness.

18 MR. GIPSON: Thank you, Your Honor.

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

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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PATRICIA EIKHOFF - DIRECT EXAMINATION

BY MR. GIPSON:

Q. Good morning, Detective Eikhoff.

A. Good morning.

Q. Now how long have you been -- well, I'll tell you what, let's do it this way. I'm just going to ask you a series of questions, and if you will answer those questions with a yes or a no first, and then you'll have an opportunity to explain the answer. So, can we abide by those rules?

A. Yes, sir.

Q. Okay. Thank you. Now, how long have you been in law enforcement?

A. Seven years and two months for Orangeburg County Sheriff's Office, and prior to that altogether Sixteen years.

Q. And where was your other experience?

A. Texas.

Q. What part?

A. The east part.

Q. Okay. So like the El Paso area?

A. Close to Houston area, Harris County area, the east side of Beaumont also, and one time in Dallas.

Q. And were you a certified officer when you were in Harris County?

A. Yes.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 Q. Alright. And so, you, and you said Sixteen years
2 total, correct?

3 A. Yes, sir.

4 Q. Okay. What's the highest rank that you achieved when
5 you were in Harris County?

6 A. Detective.

7 Q. Alright. And so that means you went through
8 certification with, I guess the Harris County Sheriff's
9 Department?

10 A. Not Harris County, no.

11 Q. Okay. Was it the Houston police?

12 A. No, it wasn't Houston, it was Southeast Texas Narcotics
13 Tactical Force. I was an investigator in narcotics.

14 Q. And you received certification there?

15 A. Correct.

16 Q. Alright. Then when you came to South Carolina you had
17 to, I guess, I call it re-upping, but you had to receive
18 certification here as well?

19 A. Yes, sir.

20 Q. Okay.

21 A. And then they accepted the rest.

22 Q. Alright, fair enough. And when you went to, or when you
23 started and you had to go through their equivalent of the
24 Criminal Justice Academy?

25 A. Yes, sir.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 Q. Alright. And in that Criminal Justice Academy they
2 teach you kind of the basics, the fundamentals of becoming a
3 law enforcement officer?

4 A. Yes, sir.

5 Q. Alright. And as you do those things they teach you,
6 again, the basics which may be just a little bit about some
7 of the basics of the law. They teach you a little bit about
8 how to handle situations on the street and also a little bit
9 about taking notes, right?

10 A. Yes, sir.

11 Q. Alright. And they teach you a little bit about
12 preserving crime scenes, interviewing witnesses and
13 evaluating evidence, right?

14 A. Yes, sir.

15 Q. Alright. And in order to get more certification you
16 have to rise up through the food chain essentially?

17 A. Yes.

18 Q. Alright. And as you do that you get more training?

19 A. Yes.

20 Q. Alright. And you got all of those things in Texas as
21 well as in South Carolina?

22 A. Yes.

23 Q. Alright. And as you got that training while they taught
24 you about memorializing the crime scene, meaning taking
25 extensive or sometimes they call it copious notes, right?

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 You want to take a bunch of notes?

2 A. Yes, sir.

3 Q. And you want to write down everything that took place so
4 that again if you have to come to Court you don't have to
5 rely on your recollection, you can just look at your notes
6 and know exactly what you did?

7 A. Yes.

8 Q. And you did that in this case, right?

9 A. Yes.

10 Q. Alright. And you did that so that you wouldn't have to
11 speculate or guess about things, right?

12 A. Yes.

13 Q. Alright. Now, you're the chief investigator in this
14 case?

15 A. I was the case agent on this case.

16 Q. Okay. Tell us what that means.

17 A. I was the lead investigator on the case, I was the on
18 call investigator, - - -

19 Q. Okay.

20 A. --- the person that was handling the case.

21 Q. Alright. So, and others assisted you with the case,
22 right?

23 A. Yes.

24 Q. But basically that person who handles the investigation,
25 the buck stops with you, right?

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 A. It's a joint effort.

2 Q. Alright. But in a joint effort somebody has to call the
3 shots, right?

4 A. Yes, sir, that's why we have a chain of command.

5 Q. Okay. And you would have been, in this particular case,
6 although there may be people who out ranked you who came
7 around, as the chief person on the case you're the person
8 who basically calls the shots, right?

9 A. Yes.

10 Q. Okay. Alright. Now, with your training in law
11 enforcement you learn just about, of course, taking
12 statements from witnesses but you also learn that there are
13 other tools that can help you in your investigation, too,
14 right?

15 A. Yes.

16 Q. And some of those tools are things that include maybe
17 DNA evidence?

18 A. Yes.

19 Q. You learned about gun shot residue?

20 A. Yes.

21 Q. And just a short story about gun shot residue is
22 essentially, if a person fires a gun generally gun powder or
23 primer goes in any direction, well, goes forward from the
24 gun because obviously the bullet's being projected, but
25 there are spaces in the gun, meaning, holes, then there's

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 going to be some back splashes as well, correct?

2 A. Yes.

3 Q. It's kind of like a sneeze, if you sneeze stuff goes
4 everywhere. When you fire a gun that residue goes
5 everywhere, right? Goes in different places?

6 A. Yes.

7 Q. And one way of detecting who a shooter is, is by
8 collecting residue from the hands of a person or persons who
9 are around, right?

10 A. Yes, sometimes.

11 Q. Sometimes. And if a person is found to have residue on
12 them then there's a chance they were a person who fired a
13 gun, right?

14 A. Yes.

15 Q. Okay. So, that's one of the ways that you learn. Also
16 fingerprint evidence, you learned about that?

17 A. Yes.

18 Q. You learned a little bit about shoe prints?

19 A. Yes, sir.

20 Q. Okay. And taking plastic casts of shoe prints, things
21 of that nature?

22 A. Yes, sir.

23 Q. Okay. And blood spatter evidence, you learned that
24 that's something that exists?

25 A. Yes, sir.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 Q. Canine searches?

2 A. Yes, sir.

3 Q. Search warrants?

4 A. Yes, sir.

5 Q. And wire taps?

6 A. Yes.

7 Q. And just an array of different ways you can investigate
8 so that you can rely on independent evidence as opposed to
9 somebody's word, right?

10 A. Yes, sir.

11 Q. And one of the reasons you want to try to find those
12 things is because, you know, people lie sometimes, right?

13 A. Yes.

14 Q. Okay. And if you have independent evidence, things like
15 shell casings or gun shot residue or bullet fragments, those
16 things are what they are, right?

17 A. Yes, sir.

18 Q. And they're not going to come into Court and slant their
19 testimony, are they?

20 A. No, sir.

21 Q. It's just, it's science, and the science tells you
22 certain things that witnesses may fail to tell you, right?

23 A. Yes, sir.

24 Q. And that's why you want to bring in experts and people
25 who can analyze things because that gives you some backup to

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 kind of bolster what people may be saying?

2 A. Yes.

3 Q. And sometimes in investigations you find that it doesn't
4 bolster what people are saying, right?

5 A. Sometimes.

6 Q. Okay. Was this one of those times?

7 A. No, sir.

8 Q. Okay. Now, your office received a call at some point
9 from dispatch that essentially alerts you that there's an
10 incident that needs to be investigated, right?

11 A. Yes.

12 Q. Alright. Do you know who the first person to come on
13 that scene was?

14 A. The first - - -

15 Q. Officer from your department?

16 A. --- officer was Lieut -- Sergeant Davis, excuse me, and
17 Lieutenant Culler.

18 Q. Okay.

19 COURT REPORTER: Lieutenant?

20 A. Randy Culler.

21 Q. And what would their job have been when they got there?

22 A. Secure the scene.

23 Q. Okay. Tell us what you mean when you say, secure the
24 scene?

25 A. Protect the evidence, rope it off, keep people away from

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 evidence, the body ...

2 Q. Okay. And they also, if they have, if there's
3 information that's shared with them, they're going to write
4 that down, too, right?

5 A. Yes, sir.

6 Q. For instance, who did this, kind of thing, they write
7 down what they observe and what people say, correct?

8 A. Yes.

9 Q. Okay. Now, you also did a crime scene entry log,
10 correct? Well, let me show you this before I ask you that.
11 Are you familiar, I'm showing you Defendant's Exhibit Number
12 One for ID purposes. Take a look at that and tell me if
13 that rings a bell?

14 A. Yes, sir.

15 Q. Okay. Now, is that something that you handled?

16 A. This is something that I can handle and sometimes the
17 first responding deputy will make a log of it.

18 Q. Okay. Now, did you personally handle this one?

19 A. I don't recall, to be honest with you.

20 Q. Okay.

21 A. I just, I believe I may have but I'm not, I don't
22 recall. But it was done by either myself or the first
23 responding officer.

24 MR. GIPSON: Okay. I'd like to have this marked
25 officially now as Defense Exhibit Number One. It was for ID

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 purposes, Your Honor.

2 THE COURT: Alright, any objection?

3 SOLICITOR SORENSON: No objection.

4 THE COURT: Very well.

5 COURT REPORTER: Defendant's One.

6 MR. GIPSON: Thank you.

7 (Defendant's Exhibit One
8 marked and filed.)

9 Q. Alright. Now, if you'll take a look at that, obviously,
10 lots of people came out to the scene, right?

11 A. I beg your pardon?

12 Q. Obviously, lots of people came out to that scene,
13 correct?

14 A. Yes, sir.

15 Q. Alright. And one of the reasons you keep that log is so
16 again you can know exactly who arrived and, about the time
17 they arrived and about the time they left, correct?

18 A. Just who was there, yes, sir.

19 Q. And if you take a look at that, can you count the number
20 of deputies or people from the -- let's just say law
21 enforcement folks who came out there that night? Does it
22 look like about Thirteen?

23 A. It's about Thirteen, yes, sir.

24 Q. Alright. So, Thirteen different officers came out and
25 they, and you were essentially making, you were the

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 supervisor of those officers while they were out there?

2 A. I advised them to -- yes.

3 Q. And what did you advise them to do?

4 A. I advised them to separate the witnesses and only talk
5 to each one of them individually. I also called for
6 additional help with other investigators, which were
7 Commander Williams and Sergeant Shumpert at the time, he's a
8 lieutenant now. Also, an individual was Detective Carrigg,
9 Marty Carrigg.

10 Q. Why would we need to separate witnesses?

11 A. So they wouldn't talk among themselves, and we could get
12 a clearer picture of what each one of them saw.

13 Q. How long were they together before you separated them?

14 A. As soon as I got there that's when that was done.

15 Q. Okay. What time did you get there?

16 A. It was about nine:ten p.m.

17 Q. Okay. And tell the jury the first time -- you got there
18 about nine:ten p.m., correct?

19 A. Yes, sir.

20 Q. And the responding officer, Lieutenant Davis, was there
21 prior to you, correct?

22 A. Yes.

23 Q. Alright. Now, tell the jury the first time that you
24 heard Romeo Brown's name mentioned?

25 A. The first time I heard Romeo Brown's name mentioned was

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 when I spoke with the witnesses.

2 Q. About what time was the first time you heard his name
3 mentioned?

4 A. When I was talking to Thomas, Joe Thomas.

5 Q. Isn't it true that that was over an hour after you
6 arrived at the scene?

7 A. I can't recall exactly how long it would be. We would
8 be at a scene for a long time.

9 Q. Okay. Now, do you remember a preliminary hearing back
10 on January Seventh, Two thousand eleven?

11 A. Yes.

12 Q. And at a preliminary hearing -- tell the jury what a
13 preliminary hearing is?

14 A. A preliminary hearing is to see if there's enough
15 probable cause for it to go forward to Court.

16 Q. Okay, and it meaning a case to go forward to Court,
17 correct?

18 A. I beg your pardon?

19 Q. It meaning if there's enough probable cause for a case
20 to go to Court, correct?

21 A. Correct.

22 Q. Alright. And you testified at that, correct?

23 A. Yes.

24 Q. And you were under oath, right?

25 A. Yes.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 Q. And isn't it true that on January Seventh, Two thousand
2 eleven, you said that it was -- I'm going to ask you if you
3 remember this, and if not then we'll go further, that you
4 said it was about an hour after that, responding to a
5 question about how long it was before you heard Romeo
6 Brown's name mentioned?

7 A. I don't recall that but like I said, we would be at a
8 scene for a long period of time. I would have to talk to
9 each individual witness and then other investigators were
10 called in to help in investigating those witnesses.

11 Q. Alright. Well, are you holding a copy -- well, let me
12 do this a little bit more properly.

13 SOLICITOR SORENSON: She has my copy up there.

14 MR. GIPSON: Alright, well, Judge, I'd like to mark
15 this as an exhibit.

16 THE COURT: If you'd be so kind as to break the seal
17 and get the paper cut for me.

18 MR. GIPSON: Yes, ma'am.

19 THE COURT: You know, plastic paper cuts are the worse.
20 Look there. Isn't she wonderful, she looks after all of us.

21 MR. GIPSON: And ultimately, Judge, I'd like to have
22 this marked as a Defendant's exhibit, for ID purposes at
23 this point, Your Honor.

24 THE COURT: Alright.

25 COURT REPORTER: Defendant's Fourteen for ID only.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 (Defendant's Exhibit Fourteen,
2 Transcript of Preliminary Hearing,
3 marked for ID only.)

4 COURT REPORTER: Do you want this, Judge?

5 THE COURT: No, I think they need it.

6 MR. GIPSON: Okay. Thank you. And if we can just
7 switch copies, I want to give you the Court copy at this
8 point. I'll give this back to Mr. Sorenson.

9 Q. I want you to look at, and if I can direct your
10 attention to Page Ten, Line Seventeen, please. Okay, and
11 the Q would relate to the question that I asked you, and the
12 A would be the answer you gave, does that seem correct?

13 A. Are you, are you referring to ...

14 Q. Well, let me just clear further, the Q would be the
15 question I asked you, correct?

16 A. On Seventeen?

17 Q. Yes, ma'am. And the A would be A would be answer. Q
18 would be question and A would be answer, is that right?

19 A. That's true, yes, I said it was about an hour later. It
20 may have been about an hour later. That doesn't mean that
21 it was an hour.

22 Q. Alright, it could have been Fifty minutes, it could have
23 been an hour and Twenty minutes, you know, you said about an
24 hour later, though, correct?

25 A. Yes.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 Q. Okay. So without even going any further into this, you
2 do admit to the jury, during an examination about a year and
3 a half ago under oath you did say that the first time you
4 heard Romeo Brown's name was about an hour after you arrived
5 on the scene, correct?

6 A. I'm saying about.

7 Q. Okay. And so, about an hour after you arrived on the
8 scene would be about Ten:ten, right?

9 A. No, not necessarily.

10 Q. Well, you arrived at Nine:ten, right?

11 A. Correct.

12 Q. So, about Sixty minutes after that would put us at
13 Ten:ten, about?

14 SOLICITOR SORENSON: Your Honor, that's, I would have
15 an objection, because that's not what he had her referencing
16 here, that's not what that says.

17 THE COURT: It's cross-examination, I'm going to let
18 him cross-examine her, and she's got the document. I mean,
19 if she doesn't have the document -- yeah, she's got the
20 document.

21 Q. Well, can we agree that Sixty minutes after Nine:ten
22 would be Ten:ten, can we agree on that?

23 A. If you're asking me if Sixty minutes after that time
24 would be that time, yes.

25 Q. Okay. That's what I'm asking. And so, about an hour

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1 could be more than an hour, maybe a little less than an
2 hour, right? So, about means an average, right?

3 A. It's not -- it's an average.

4 Q. Okay. So, an average time after, of an hour would be
5 maybe between Fifty-five and Sixty-five minutes, is that
6 fair?

7 A. There's a range there, I can't give you specifics.

8 Q. Well, I guess the key is that, when you got to that
9 scene nobody ran up to you and said, Romeo Brown did this,
10 did they?

11 A. No.

12 Q. When you got there none of those witnesses that you
13 spoke about said, you know, was irate saying, Romeo Brown
14 did it, I know he did it, and there's no question in my mind
15 he did it, for that first hour that your were there, or so,
16 or about an hour that you were there, right?

17 A. Right.

18 Q. And it was about an hour until you heard something about
19 Romeo Brown, right?

20 A. Yes.

21 Q. Okay. And these are people who say that they know him,
22 right?

23 A. Yes.

24 Q. By sight?

25 A. Yes.

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1 Q. Okay. These are people who say that they've seen him
2 around before, right?

3 A. Yes.

4 Q. So people who would know exactly who he was when they
5 saw him, right?

6 A. Yes.

7 Q. And it took about an hour before anybody even said that
8 it was him, right?

9 A. Yes.

10 Q. Okay. That's all I'm trying to get at. Alright. Now,
11 isn't it true that Lieutenant Davis had a chance to talk to
12 these folks before you even got there?

13 A. He was a first responding officer.

14 Q. Okay. And isn't it true that the description that they
15 gave him was that an unknown black male between six feet and
16 six feet two, between Two hundred and Two hundred twenty
17 pounds was the shooter in this case?

18 A. That's correct.

19 Q. Okay. And that's what you were working with when you
20 got there, right?

21 A. Yes.

22 Q. Okay. And that was clear?

23 A. That was what was given, yes.

24 Q. Okay. Alright. So, it wasn't until about an hour after
25 that that you first hear Romeo Brown's name, correct?

1 A. Yes.

2 Q. Alright. And like you said, one of the things you like
3 to do is sequester, well, I say sequester, you like to
4 separate witnesses so that they don't have a chance to start
5 corroborating things and putting things together, right?

6 A. Yes.

7 Q. And that's why you do that so that they don't start
8 making up something or putting something together
9 afterwards, right?

10 A. Yes.

11 Q. And they were together for a period of time before you
12 could separate them, right?

13 A. They were separated immediately when I responded.

14 Q. Alright. But they were together before you got there
15 for a period of time?

16 A. Yes, sir.

17 Q. Okay. And all of these people who say they knew him by
18 sight, none of them could say anything about him for over an
19 hour?

20 A. Yes.

21 Q. Okay. Alright. Now, I want you to tell the jury about,
22 we talk about these different ways that you can go about
23 collecting evidence and different things that can help you
24 and assist you with your investigation. Tell the jury when
25 you obtained a search warrant for Mr. Brown's house?

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1 A. I did not.

2 Q. Okay. Can you explain to the jury what a search warrant
3 is?

4 A. A search warrant, you have to get a judge to sign off
5 on. You have to have enough probable cause for a search
6 warrant for a judge to sign off on it. You also have to
7 have an address where a person is at, and once that
8 paperwork is done then we are allowed to go into a residence
9 and search.

10 Q. Okay. And did you ever get a search warrant for Mr.
11 Brown?

12 A. No.

13 Q. Okay. One of the things you can do once you get a
14 search -- well, let me ask you this, there were magistrates
15 on duty that night, right?

16 A. Yes, sir.

17 Q. And the next day, right?

18 A. Yes, sir.

19 Q. And to be quite frank with you, in Orangeburg you have,
20 what, about, you've got a bunch of magistrates, you've got,
21 let's see, you have Judge Moore, correct?

22 A. Yes.

23 Q. Judge Robinson, Judge Williamson, Judge Dash, Judge
24 Murray?

25 A. Yes, sir.

1 Q. So that's five?

2 A. Yes, sir.

3 Q. And then we've got Judge Duramus, that's six, there are
4 a bunch around?

5 A. Yes, sir.

6 Q. And there's always one on duty, correct?

7 A. Yes, sir.

8 Q. So, you can always go to them and say, I need a search
9 warrant for X, Y and Z because I think there's some evidence
10 we could obtain there?

11 A. Yes.

12 Q. Okay. And in a case like this that's something that's
13 good to do, right?

14 A. Yes.

15 Q. Because in a situation where there is blood and
16 different types of DNA, that stuff can be tracked back to
17 your house if you take it back to your house, right?

18 A. Yes.

19 Q. Alright. So, you never went into the place where he
20 stayed or was known to stay and looked for these things, did
21 you?

22 A. We, the defendant ...

23 Q. Well, answer the question and then you can explain it.
24 That's it, you never went to the place and looked?

25 A. No.

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1 Q. Okay. Alright, now, you were saying?

2 A. And now I'm saying the defendant was hard to locate and
3 it was, we tried to locate the defendant and, because we
4 couldn't -- we went to one place and he wasn't there, he had
5 fled, we heard that he had fled.

6 Q. Well, that's hearsay, what you hear but you went to one
7 ...

8 A. But we had heard it, and he wasn't at that a location
9 and we didn't have a location to get a search warrant.

10 Q. Okay. Well, let me ask you this, since you had a
11 location did you get a warrant for the location where you
12 heard he was?

13 A. We did not, because we did not have -- he was not there.

14 Q. Okay. But if you heard that he was at a location, then
15 wouldn't that be probable cause to say, well, Judge, we
16 heard he was here, let's go in here and search?

17 A. I don't believe it would be enough probable cause to get
18 a search warrant.

19 Q. So, you never had a probable cause, you never had a
20 warrant issued for probable cause because you had
21 information that a person was staying at a particular
22 address, a person who you are at some point in time accusing
23 of murder, is that what you're telling this Court?

24 A. He wasn't there, he wasn't at that location, so we
25 didn't have an address to get a search warrant.

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1 Q. But the addresses that you went to, did you get warrants
2 for the addresses that you went to?

3 A. No, sir.

4 Q. Okay. Did you get warrants for the address that you
5 learned that he was living at?

6 A. He wasn't there.

7 Q. But did you get a warrant to search?

8 A. He wasn't staying there, no, because he wasn't staying
9 there.

10 Q. And so, your testimony is, the only way you can get a
11 warrant is if a person is staying there?

12 A. If it was his house and he was staying there we could
13 get a warrant, yes, but if ...

14 Q. Did you discuss that with a judge?

15 A. No, sir.

16 Q. Did you try to get a warrant?

17 A. No, sir.

18 Q. Did you go to a judge and present this evidence and the
19 judge said, no, I can't give you that warrant because he
20 wasn't staying there?

21 A. No, sir, we were trying to locate him.

22 Q. Okay. Alright. So, and if you get a warrant one of the
23 things you look for, excuse me, not a warrant, a search
24 warrant, you start looking for clothes, right?

25 A. Uh-huh, yes.

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1 Q. Okay. You start looking for shoes maybe?

2 A. Yes.

3 Q. Okay. And just anything that could potentially tie this
4 person to the scene, right?

5 A. Yes.

6 Q. As a matter of fact, what was the assailant wearing in
7 this case?

8 A. The clothes were, was like jeans and a shirt, and the
9 clothes were turned over into - - -

10 Q. And that's what you have in your report?

11 A. Yes, in the report, the clothes, I stated, the clothes
12 were turned over to Orangeburg County Sheriff's Office, into
13 evidence.

14 Q. But I mean, not the clothes that the victim -- but I'm
15 talking about the clothes of the assailant, what description
16 of the clothes did you get that the person who did this was
17 wearing?

18 A. I didn't.

19 Q. None?

20 A. None.

21 Q. Alright, so you mean to tell me, these witnesses never
22 even told you what the person was wearing who did it?

23 A. No, because they were saying they knew who he was. The
24 witnesses knew who he was.

25 Q. Okay.

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1 A. They picked him out of a lineup.

2 Q. Okay. But they knew who he was and said nothing about
3 it for that first hour?

4 A. That is correct.

5 Q. Okay. Alright. And so, you did not get a warrant to
6 look for clothes or any of those things that could have been
7 at the house, right?

8 A. No.

9 Q. Okay. Alright. Now, tell us about the DNA that you
10 secured that traced Romeo Brown back to this scene?

11 A. The evidence, as far as the physical evidence?

12 Q. Yes, ma'am.

13 A. I called, SLED was called, and I spoke with two agents
14 who came to the scene, a Carl Kinley and a Special Agent
15 Sabrina -- who was crime scene persons - - -

16 Q. Sure.

17 A. --- who came to the scene. Our crime scene person had
18 been - - -

19 Q. He had other different duties he was performing that
20 day?

21 A. He was off duty.

22 Q. Right.

23 A. And when he was off duty and we didn't have another
24 person to help us we would call SLED to help us out.

25 Q. Let me ask you a question before we go back to the

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1 crime, to the SLED folks who looked at the crime scene. You
2 mentioned photo lineups, right?

3 A. Yes, sir.

4 Q. And you're pretty confident about how that process
5 works?

6 A. Yes, sir, I am.

7 Q. How does that process normally work?

8 A. The photo lineups are given pictures of more than just
9 one person. It's like six different people who look similar
10 to the defendant. And those pictures are shown to the
11 witnesses and they pick them out of a lineup of six people.

12 Q. And what happens when they see the pictures, is there
13 something particular they need to do?

14 A. They usually initial it, circle it, and there's a
15 statement usually given saying that they know that this is
16 the person and they positively identify him as being the
17 person who committed the crime.

18 Q. And being an investigator you're extremely confident
19 about how that process works, right?

20 A. Yes, I am.

21 Q. Okay. I want to show you State's Exhibit Number Ten.
22 Just take a look at that if you will, since you're so
23 confident in how the photo lineup process works. Now, can
24 you explain to -- well, tell us what you see, there's a set
25 of pictures, correct?

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1 A. Yes.

2 Q. And then on the second page of that, State's Exhibit
3 Number Ten, there's an affidavit, correct?

4 A. Yes, sir.

5 Q. Okay. What -- and - - -

6 A. There's a statement, it's a statement saying that that
7 person that we talked with knows for sure that this person
8 is the person that they identified as being the defendant
9 who shot the victim - - -

10 Q. Okay. And what time did they sign ---

11 A. --- and they initial it and sign it.

12 Q. Right. What time did they sign that affidavit or the
13 statement? There's a time in there, right? Yeah, turn to
14 the second page, please, let's go back to that second page.
15 What time did they sign that page?

16 A. Ten:forty-five.

17 Q. Okay. Now, what time were they shown the lineup that
18 they initialed?

19 A. Ten:fifty-seven.

20 Q. Okay.

21 A. The reason for that is, they could have picked that
22 picture out - - -

23 Q. Before they saw the affidavit, or after they saw the
24 affidavit?

25 A. No, they just - - -

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1 SOLICITOR SORENSON: Your Honor, can he let her finish
2 her answer, please?

3 THE COURT: Yes.

4 MR. GIPSON: Oh, I'm sorry.

5 SOLICITOR SORENSON: Thank you.

6 THE COURT: And if you believe she's being non-
7 responsive just direct that to me. Otherwise, you must let
8 her finish her answer.

9 MR. GIPSON: Yes, ma'am.

10 A. They circle it, they initial it, they date it, and then
11 they'll put the time on it, but what could have happened in
12 this case is that they probably picked the person out,
13 initialed it, dated it, and then filled this out first, and
14 then went back and dated it and timed it and signed it when
15 they -- they put the time after that.

16 Q. Alright.

17 A. But they identified him as positively being the
18 defendant.

19 Q. And they identified him -- no, you can hold on to that
20 for me, please.

21 A. Okay.

22 Q. They identified him at Ten:fifty-seven according to the
23 document that was signed by them, correct?

24 A. The document here that they wrote was at Ten:forty-five.

25 Q. Alright. So, that means they -- and that says they

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1 picked the person out of a lineup at Ten:forty-five,
2 correct?

3 A. Right. They probably filled this out first, and then
4 when they, right here it has a number - - -

5 MR. GIPSON: Judge, I think she's being unresponsive on
6 that.

7 A. --- and so they put the correct number there so, this is
8 the number, the last, six, Number Six, and that's why they
9 put Number Six right there, and then what happened is, they
10 signed and dated it but they forgot to put the time there,
11 so they went back after it was over and put, signed the
12 date.

13 Q. Were you there?

14 A. The - - -

15 Q. Were you there?

16 A. I wasn't there but Lieutenant Shumpert, this is
17 Lieutenant Shumpert's, - - -

18 Q. Okay.

19 A. --- he's the one, the investigator, and his name is on
20 this. But that does happen.

21 Q. Okay. Let me ask you this, you use the word, could,
22 right?

23 A. Yes.

24 Q. Okay, so - - -

25 A. Because I wasn't there, right.

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1 Q. Okay, so could means speculate, right?

2 A. Correct.

3 Q. Okay. So what we know -- let's talk about what we know.
4 What we know is that on the page that shows the picture, - -

5 -

6 A. Uh-huh.

7 THE COURT: Is that a yes?

8 A. Yes.

9 Q. - - - it says Ten:fifty-seven p.m., right?

10 A. Yes.

11 Q. Okay. And what we know is that the document says that
12 the identification was made at Ten:forty-five, right?

13 A. Right.

14 Q. Okay. So, what we know based on the signing of the
15 document and the dates is that this person has signed a
16 document and said they know that somebody did, that Number
17 Six did something before they were ever shown the lineup,
18 right, according to the document?

19 A. According to the document, yes.

20 Q. Okay. So since we're talking about could, we don't have
21 to talk about could because that's what this document shows,
22 right?

23 A. The document shows that it's Number Six on that paper
24 right there.

25 Q. And it also shows that the picture was shown after they

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1 made the identification, right?

2 A. I don't believe that.

3 Q. I'm not asking you what you believe, that's what the
4 document shows.

5 A. There are two different times on there, yes.

6 Q. Okay. And the second time is the time -- and this time
7 suggests that the picture was shown after the identification
8 was made?

9 A. I also talked to the person.

10 Q. The pictures, the document shows that the picture was
11 shown after the affidavit was signed, right?

12 A. It has two different, yes, it has two different times on
13 it, but I explained why that would happen.

14 Q. Why you think it would happen?

15 A. Yes.

16 Q. Why you speculate it would happen. Now what ended up,
17 it could also happen that something improper happened, too,
18 right? That's another explanation, right?

19 A. I don't believe that because it also shows the statement
20 from that person, and that person identified him, or said
21 that's who he was, and because of that also, because of a
22 written statement, his written statement that also tells us
23 that that person who signed this knew who it was. But there
24 was more than one witness also.

25 Q. Okay. Back to my question, let's try to answer the

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1 question and then we can get back to what you did?

2 A. I thought I did.

3 Q. Okay. The question was, it also suggests that something
4 improper could have happened, doesn't it?

5 A. I don't - - -

6 THE COURT: And that's a yes? If you could answer ...

7 A. No.

8 Q. It doesn't?

9 A. No. I don't think so.

10 Q. Okay. Because nothing improper ever happens when it
11 comes to lineups, right?

12 A. Ever? No, I don't think so. It is what it is.

13 Q. And it is, on this, a time that a person was shown
14 something after, after they wrote an affidavit saying it,
15 right? That's what it is?

16 A. They also gave a written statement to me also saying
17 that was the person.

18 Q. This document, State's Exhibit Number Ten, is what it
19 is, right?

20 A. What you have, right, but you also have a witness
21 statement, I mean, a written statement as well.

22 Q. Okay. Thank you. Now, let's also look at some of the
23 photographs that were taken of the crime scene. SLED took
24 these photographs, right?

25 A. Yes, sir.

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1 Q. Okay. Tell us what you see here, and I'm sorry, I don't
2 mean to take that back. That would be Defense Exhibit
3 Number Ten.

4 A. Well, what I see here is the hat, a blue hat that was at
5 the scene, a hand of the victim that was like ...

6 Q. Do you see anything in that hand?

7 A. No, sir, I don't see anything. His hand is like this.

8 Q. Okay. You don't see anything inside of that hand?

9 A. I don't see anything inside the hand on this picture,
10 no.

11 Q. Do you see a reddish type substance in his hand?

12 A. I do see red, yes.

13 MR. GIPSON: I'd like to publish this to the jury, Your
14 Honor.

15 THE COURT: Alright, very well.

16 Q. On the hand on what's been marked as Defense Exhibit
17 Number Eleven, can you describe the fingers of the victim in
18 that situation?

19 A. Well, he's lying with his hand down closed, just like
20 that one.

21 Q. Can you describe the fingers?

22 A. And the fingers are kind of dirty and ...

23 Q. Does he have nails?

24 A. Yes.

25 Q. Okay. Alright.

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1 MR. GIPSON: I'd like to publish that to the jury as
2 well.

3 THE COURT: Very well.

4 Q. Now, you received information in this particular case
5 that there was a struggle of some type, didn't you?

6 A. Yes, sir.

7 Q. Alright. I'm also going to show you -- and based on
8 your investigation isn't it true that if there's a struggle
9 and a person has nails there is a chance that scratching is
10 taking place?

11 A. It's a possibility, but it would have to be something
12 that the person would handle.

13 Q. Let me show you State's -- excuse me, Defense Exhibit
14 Number Thirteen. That's a larger view of the hand?

15 A. Uh-huh.

16 THE COURT: Is that a yes?

17 A. Yes.

18 Q. Do you see that reddish, and that's a reddish substance
19 in that hand?

20 A. Yes.

21 Q. Okay. Did you test that?

22 A. I did not do that, no.

23 Q. Did you direct for that to be tested?

24 A. SLED would, SLED handled the crime scene, like I said
25 before, SLED would be the crime scene person.

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1 Q. And SLED also followed your direction as well, right?

2 A. SLED, they, when a crime scene person gets there they're
3 handling the crime scene.

4 Q. As the lead investigator - - -

5 THE COURT: Just let me interrupt. The question was,
6 Detective Eikhoff, did you direct?

7 A. No, I did not direct.

8 THE COURT: Very well. Very well. If you could
9 answer, the question is a yes or no, if you can answer yes
10 or no do that and then please explain. I don't want you to
11 feel as though you cannot do that.

12 A. Yes, ma'am.

13 Q. So, you didn't direct anyone to test it?

14 A. No.

15 Q. And as the chief investigator in the case, the head of
16 the case, the case agent, you are able to direct how the
17 investigation goes, right?

18 A. Yes, sir, but crime scene from SLED, they are well
19 educated in crime scene. That's why we bring them to the
20 scene to do that for us.

21 Q. But seeing that you have been a certified investigator
22 in the State of Texas and also in the State of South
23 Carolina, you're well educated in this, too, right?

24 A. Yes, I am.

25 Q. And so, you know that in a fight, if people have nails a

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1 lot of times people get scratched, right?

2 A. Yes, sir.

3 Q. And even if you're at home playing around, I mean,
4 inadvertently if you're playing with the kids and you start
5 wrestling with them or playing around, lots of times you get
6 scratched?

7 A. But that may not -- yes, sir, but that may not -- let me
8 clarify that, that may not have happened, may not have been
9 enough time for that to happen. But regardless, crime scene
10 is going to handle the crime scene.

11 Q. And what you said, there may not have been enough time
12 but there may have been enough time, right?

13 A. It's possible.

14 Q. Okay. So, as a detective who's licensed in two states,
15 you see nails, shouldn't you say, why don't y'all check
16 these and just scrape them and see if there's something
17 underneath them, isn't that logical to do?

18 A. What the crime scene - - -

19 Q. That's a yes or no question.

20 A. What was done at the crime scene?

21 Q. That's a yes or no question. Isn't it logical to ask
22 them to scrape?

23 A. Not necessarily, no.

24 Q. Not necessarily, no?

25 A. No.

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1 Q. Just so, what does that mean? Its not necessarily no
2 logical, tell me what that means?

3 A. That means that when crime scene comes there from SLED
4 they handle the crime scene.

5 Q. The question to you is, is it logical to ask them - - -

6 SOLICITOR SORENSON: Objection, she answered that and
7 then explained the answer, Your Honor.

8 MR. GIPSON: I don't quite know what not necessarily,
9 no, means, Judge. I think it's, the conditioning of the no,
10 and I don't know what that means. I think it's a yes or a
11 no.

12 SOLICITOR SORENSON: And he asked her that and she
13 explained that.

14 THE COURT: It's cross-examination. I'll allow it.

15 MR. GIPSON: Thank you.

16 Q. Not necessarily, no. So, the question is -- I'm just
17 trying to ask you a simple question. You don't think it's
18 logical to ask them to scrape the nails in a situation where
19 you have a life and death struggle that took place, and you
20 see that the person has nails?

21 A. No. Crime scene comes, crime scene handles the crime
22 scene.

23 Q. So, as the investigator you didn't think it was
24 relevant, you just let the crime scene folk do what they do?

25 A. Yes.

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1 Q. And you just step back and say, y'all do what you do, I
2 don't care what you do, I don't think it's relevant?

3 A. I observed them but -- I observed them, but they are
4 doing the crime scene.

5 Q. And you have the ability after the fact to say, hey, why
6 don't y'all look into this, or why don't you look into that,
7 don't you?

8 A. But I wasn't doing crime scene at that time, no.

9 Q. You have the ability as the - - -

10 A. But -- I think I've answered that.

11 Q. You have the ability as the investigator to say, once
12 you've looked at this, why don't you look at this, too,
13 don't you?

14 A. Do I have that option? Yes.

15 Q. Okay. And you didn't do that here, right?

16 A. No.

17 Q. Okay. Now, the blood in the hand, who does that blood
18 belong to?

19 A. I don't know. He has blood in his hands.

20 Q. Okay. And - - -

21 A. It could be from him getting shot.

22 Q. And it could be from?

23 A. I don't know.

24 Q. Okay. If there is a struggle and two people are
25 involved in a struggle, that could mean the blood could come

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1 from the person who is in the struggle, too, couldn't it?

2 A. But more than likely, because of the way this person was
3 shot twice, it's the victim's blood.

4 Q. Did you direct for it to be tested?

5 A. No. I allowed crime scene to do their job.

6 Q. Do you think it's important to at least check if you're
7 trying to make sure that you get the right person?

8 A. Yes, it's important to get the right person, yes.

9 Q. Okay. And it's your job - - -

10 A. And I believe we have.

11 Q. And it's your job to do justice, right, not to try to
12 get a conviction, it's your job to do justice, isn't it?

13 A. Yes.

14 Q. Alright. To protect and to serve?

15 A. Yes.

16 Q. And one way to protect and to serve you've got to
17 protect all citizens, right?

18 A. Yes.

19 Q. And again, we go back to, the best way in a case like
20 this to determine what the truth is, is to try to supplement
21 what you have with direct evidence, right? Right?

22 A. Yes.

23 Q. So, you don't have to rely on somebody's word, you can
24 say, we've done the science, right? Right?

25 A. Yes.

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1 Q. And we - - -

2 A. But witness statements are very important as well.

3 Q. Witness statements are absolutely, can be important, but
4 DNA is important, too, because the witnesses sometimes lie,
5 right, or don't tell you the whole truth, right?

6 A. Defendants lie, too.

7 Q. The witnesses sometimes lie, right? Well, investigators
8 lie, too, don't they, sometimes, if we want to go down that
9 road?

10 A. I've not seen one in Orangeburg County lie.

11 Q. Wow. So, back to the original question, the original
12 question was, isn't it logical to ask them to swab it so - -
13 -

14 A. No.

15 Q. It's not logical?

16 A. No.

17 Q. It's not important?

18 A. No. Because they're there to do their job, and they're
19 good at doing it.

20 Q. And so, whatever they do you just tell them, do what you
21 do, and just tell me what you find, right? If they find - -
22 -

23 A. That's pretty flippant, I mean, - - -

24 Q. She made the answer.

25 A. I'm just saying that they are responsible for coming in

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1 and doing the crime scene.

2 Q. Alright.

3 A. And I think I've answered your question.

4 Q. Is that Romeo Brown's blood?

5 A. I believe it to be, yes.

6 Q. Right. Okay. Thank you.

7 A. No -- yeah, I believe it to be the victim's blood.

8 Q. You believe it to be, not - - -

9 A. I believe it to be the victim's blood - - -

10 Q. Okay. Let me ask you this, - - -

11 A. --- because he was shot twice, and he bled, and he
12 probably held himself when he did.

13 Q. Okay. Let me ask you this, since you believe it to be,
14 what degree do you have in forensic pathology?

15 A. What degree do I have?

16 Q. Yes.

17 A. I don't have a degree in pathology.

18 Q. What degree do you have in pathology?

19 A. That's why crime scene comes in to a crime scene.

20 Q. Okay.

21 A. The crime scene people handle it.

22 Q. Have you been declared an expert in any Court?

23 A. For crime scene?

24 Q. Yes.

25 A. No, sir.

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1 Q. Okay. So, what you believe, you don't really have the
2 ability to name it because you're not an expert?

3 A. No, but I'm basing that on my experience in law
4 enforcement.

5 Q. Okay. And in your experience in law enforcement you
6 swab it just to make sure, right?

7 A. I'm not doing the crime scene.

8 Q. Okay. And you're directing what happens and you didn't
9 direct them to do it because you already just decided what
10 happened, right?

11 A. Crime scene is handling the case on the crime scene.

12 Q. Okay. Now, you asked a question a moment ago, that's
13 very flippant, that's what you said, right? And don't you
14 think that's pretty flippant, the crime scene people do what
15 they do?

16 A. No, because they're educated and they're more educated
17 in crime scene than I am.

18 Q. And they also take direction from the investigating
19 officer, too, right?

20 A. Yes, sir.

21 Q. Okay. And you didn't direct them to do anything, right?

22 A. No, I did not.

23 Q. Okay.

24 A. Because I felt like they were doing what they were
25 supposed to do.

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1 Q. Fair enough. Isn't it true that you heard that a
2 revolver was used in this case?

3 A. No. It was -- all I know is it was a Forty-five
4 caliber.

5 Q. You didn't hear from any of those witnesses that you
6 spent so much time with that a revolver was used in this
7 case?

8 A. No, I didn't.

9 Q. As the case, the chief case investigator, you're not
10 aware that one of the witnesses said that a revolver was
11 used in this case?

12 A. I don't recall. If you want to bring it up, this is,
13 like, Two thousand and ten, but I did look at it. If there's
14 one, if you show me I'll be glad to look at it again, and
15 I'll stand corrected.

16 Q. Let me just show you Defendant's Exhibit, well, it's
17 Number Seven for ID purposes. Just take a look at that.
18 Don't make a comment on it yet, just take a look at it.

19 A. Okay. In this case he did say a revolver, but this,
20 this one was given, and he does say -- Lieutenant Shumpert,
21 this is Lieutenant Shumpert, asked him - - -

22 Q. Well, hold on before. Let me, I just asked you to see
23 if you recognized the document, and I had you take a look
24 at it.

25 A. Yeah. This is Lieutenant Shumpert's statement by

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1 Guinyard and he asked Guinyard what kind of gun did Romeo
2 have, and he stated, a revolver.

3 Q. Okay.

4 A. I stand corrected.

5 Q. Okay. And so, if you didn't know, that's something you
6 should have known, right?

7 A. Sir, I just said I stand corrected.

8 Q. Okay. Now, you just also said that the gun used in this
9 case was an automatic, right?

10 A. I did not, I don't believe I said that. I said there
11 was shell casings at the scene that were believed to be of
12 Forty-five caliber.

13 Q. Okay. And having been in law enforcement for over a
14 decade, generally the way this works, when you fire a gun
15 that's an automatic the shells pop out, right?

16 A. If it's an automatic, yes, sir.

17 Q. Okay.

18 A. If it's a revolver - - -

19 Q. Uh-huh, but the revolver, the only way to get those
20 shells out is to open the chamber up, dump them out and load
21 them, right?

22 A. Yeah.

23 Q. Okay. So, - - -

24 A. But everybody doesn't understand, everybody doesn't
25 understand what a revolver and an automatic is, they just

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1 know it looked like a revolver, you know, or it looked like
2 a gun.

3 Q. Okay. But revolvers generally have that chamber that
4 spins around, right?

5 A. That's correct.

6 Q. Okay. It doesn't look a whole lot like an automatic,
7 does it?

8 A. No.

9 Q. Okay. So, we also learned through the witnesses that
10 you and your team that you were in charge of, interviewed,
11 that some said there were about four shots, right, four or
12 five shots?

13 A. There was different statements given.

14 Q. Yeah, it was, isn't that interesting how different
15 people - - -

16 A. And some said there were two.

17 Q. Yeah, and some said there were four?

18 A. Some said there were more.

19 Q. Right. Okay. So, there are two that we can, without
20 question, we're can account for two?

21 A. We can account for two.

22 Q. Because these two were found, right?

23 A. Correct.

24 Q. And unfortunately, the victim had two shots, correct?

25 A. Yes, one into the right side under his arm, the other

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1 one in his abdomen at a close range - - -

2 Q. Okay.

3 A. --- that had powder, a powder mark that would show that
4 he, the second he actually held the gun to the man's stomach
5 and shot him.

6 Q. Okay.

7 A. And there was a powder ring around that.

8 MR. GIPSON: Your Honor, that's unresponsive.

9 THE COURT: Yes, ma'am, you're not being responsive. I
10 want you to, here's what I'd like you to do is listen to his
11 question.

12 A. Yes, ma'am.

13 THE COURT: And if you, and answer his question. Okay?

14 A. Yes, ma'am.

15 THE COURT: Very well, thank you.

16 Q. We can account for two, right?

17 A. Yes.

18 Q. Okay. Some witnesses said two shots, some said more,
19 right?

20 A. Yes.

21 Q. Okay. And that's a classic example of the fact that
22 there are different statements, so that calls for trying to
23 figure out if there were more shots fired, right? Right?

24 A. Yes.

25 Q. Okay. Now, with a revolver, if you fire off a shot

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1 there's not going to be a what?

2 A. A casing.

3 Q. Exactly. And there's not going to be a casing unless a
4 person opens it up and dumps them out, right?

5 A. Yes.

6 Q. So, there is an explanation that if a revolver is fired
7 there's not going to be other casings there, right? Right?

8 A. Yes.

9 Q. Okay. Didn't we learn from the experts that there was
10 gun shot residue on the victim's hand?

11 A. I beg your pardon?

12 Q. Did we learn from the investigators, excuse me, the
13 experts that there was gun shot residue on the victim's
14 hand?

15 A. That I'm not sure about, I'd have to listen - - -

16 Q. Okay. But you're the chief investigator, you don't
17 remember if - - -

18 A. I'd have to look at that, that file. Once - - -

19 Q. Okay. Do you have the file?

20 A. Once the hand residue was taken it would be sent off and
21 then it would be in a file, it would be in the file.

22 Q. So, you don't know the results of what the residue was
23 there?

24 A. I don't recall the results, no, sir, because sometimes
25 it take a long time before we -- to get it back, and I don't

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1 recall what it is, I'd have to look in the file and see.

2 Q. Alright. So what you're telling this jury, we're at
3 trial today and you don't recall whether or not the experts
4 said that there was gun shot residue on his hand?

5 A. I don't recall, no, sir.

6 Q. Alright. Do you have the case file, if you need to
7 refresh your recollection, take your time, please.

8 A. Um, whether I said anything about - - -

9 Q. No, whether the investigator said that there was gun
10 shot residue on the victim's hand?

11 A. No, I didn't say anything about that, I just - - -

12 Q. I didn't say - - -

13 A. --- said that crime scene handled that.

14 Q. I didn't say you said anything about it, I asked if you
15 were informed as to whether or not there was gun shot
16 residue on the victim's hand?

17 A. No.

18 Q. Would you believe me if I told you that there was gun
19 shot residue or would you need to look at your case file to
20 see?

21 A. I would need to look at the file. I don't know.

22 MR. GIPSON: Okay. May I ask that she be given a
23 chance to refresh her recollection, Your Honor?

24 THE COURT: Very well.

25 A. I don't have the, I don't have that information here in

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1 my file.

2 Q. Alright. So, we're here in Court today on a trial for
3 which Mr. Brown has been accused of murder?

4 A. Yes, sir.

5 Q. And you don't have the case file?

6 A. I've got the case file, I've got what I did, my part of
7 what happened, yes. Crime scene would have that and would
8 send that back to us, and it would be placed in the file,
9 but it would be placed on another date later.

10 Q. Did they hide it from you?

11 A. I'm not saying that, nobody hides anything, it just
12 takes a long time from them to get that back.

13 Q. So, you're saying - - -

14 A. Different testing.

15 Q. --- the wheels of justice turns slow, and right now you
16 didn't feel like speeding them up by getting your case file
17 here, did you?

18 A. I have what I have, sir.

19 Q. So, you have never reviewed what SLED's findings were
20 about the gun shot residue?

21 A. I don't recall it, no.

22 Q. Have you met with John Roberts from SLED about his
23 findings?

24 A. No.

25 Q. Do you know who John Roberts is?

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1 A. I'm sure he works for SLED.

2 Q. Do you know who he is?

3 A. No.

4 Q. Do you know what his - - -

5 A. I might know him when I see him.

6 Q. Do you know what his expertise is?

7 A. No, sir.

8 Q. Do you know what he's been qualified as an expert for?

9 A. No, sir.

10 Q. Do you know that information was sent to him to test for
11 this case?

12 A. Everything that crime scene did was in the file, and
13 everything that was tested was sent back to us and is in the
14 file.

15 Q. So, basically, you're telling this jury that once you
16 get out there you tell them to separate the witnesses, you
17 talk to a couple of folks, and say, crime scene, y'all do
18 your thing. They do their thing and they leave, and you
19 just say, bye, I'll see y'all later. Is that pretty much
20 how it works?

21 A. No. We, they send that stuff off and we get it, a copy
22 of it, and it goes in the file.

23 Q. Okay. Well, tell me what's the copy, what does the copy
24 say?

25 A. I don't have it with me, sir.

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1 Q. Where is it?

2 A. It's in the case jacket.

3 Q. Where's the case jacket?

4 A. There's case -- you have a copy of it, I'm sure. If
5 anything came back from SLED you'll have a copy of it.

6 Q. Was I the chief investigator in this case?

7 A. No, sir.

8 Q. Am I a member of the Orangeburg County Sheriff's
9 Department?

10 A. No, sir.

11 Q. Am I a detective?

12 A. No, sir.

13 Q. Am I a detective employed by the Orangeburg County
14 Sheriff's Department who's in charge of investigating this
15 case?

16 A. No, sir.

17 Q. Am I a detective who went and actually had a warrant
18 sworn out on Romeo Brown for murder on a case?

19 A. No, sir.

20 Q. So, is it my responsibility to bring the case jacket to
21 you?

22 A. No, sir.

23 Q. Whose responsibility is that?

24 A. What do you mean, whose responsibility is it? It's SLED
25 that's - - -

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1 Q. Is it Mr. Sorenson's responsibility to bring the case
2 jacket to Court and have it?

3 A. No.

4 Q. Is it Mr. Shumpert's responsibility to have the case
5 jacket so we can go through the case jacket and see what the
6 SLED investigator said?

7 A. Well, I asked for the case jacket and this is what I
8 got.

9 Q. And you're okay with that?

10 A. That's what it is.

11 Q. It is what it is?

12 A. It is what it is.

13 Q. Okay. And you're here to do justice, right?

14 A. Yes, sir.

15 Q. Okay. And you feel like you're doing justice right now,
16 don't you?

17 A. Yes, sir.

18 Q. Fair enough. And you've been an investigator for how
19 long?

20 A. I've already answered that question, sir, if I need to
21 answer it again - - -

22 Q. I'm just trying to refresh my recollection.

23 A. I was seven years, two months for Orangeburg County
24 Sheriff's Office.

25 Q. And that's how they taught you to do it in Texas?

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1 A. We're not talking about Texas, we're talking about South
2 Carolina.

3 Q. Did they teach you how to do it in South Carolina like
4 that?

5 A. They do a little different here in South Carolina, I
6 mean, in Texas than they do in South Carolina. They're two
7 separate states, even though their laws are pretty much the
8 same.

9 Q. Okay. How have you ruled out the fact that a second gun
10 may have been in play in this case?

11 A. I beg your pardon?

12 Q. How have you ruled out that a second gun could have been
13 in play in this case?

14 A. There was only -- through the witnesses' statements,
15 through the evidence that was at the scene.

16 Q. Okay. Well, let me ask you this, through the witnesses'
17 statements there was a revolver, right?

18 A. Yes, sir, that was one - - -

19 Q. Okay.

20 A. --- only one statement.

21 Q. But he's a witness.

22 A. And every, every witness, everybody doesn't see
23 everything the same way as everybody else does. But they
24 definitely knew that he had, that Romeo Brown had shot
25 Alexander Harrison.

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1 Q. Back to what I asked you, the original question, semi-
2 automatic, we found these, and this is just an automatic,
3 right? Right.

4 A. Yes.

5 Q. And -- well, let me ask you this, are you familiar with
6 SLED Agent Cromer?

7 A. No, I'm not.

8 Q. Are you familiar with her expert - - -

9 A. I'm sure if I see him I would.

10 Q. Are you familiar - - -

11 A. But I don't see him every day.

12 Q. Are you familiar - - -

13 THE COURT: Wait a minute, y'all can't talk at the same
14 time because Ms. Walker cannot take down when you're both
15 speaking.

16 MR. GIPSON: I'm sorry, Your Honor.

17 THE COURT: If you'd ask the question.

18 MR. GIPSON: Yes, ma'am.

19 Q. Are you familiar with Ms. Cromer's expertise in firearms
20 and tool marks?

21 A. No.

22 Q. Are you an expert in firearms and tool marks?

23 A. No.

24 Q. So, are you familiar with what her expert opinion was
25 about what kind of gun these came from?

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1 A. I beg your pardon?

2 Q. Are you familiar with her, meaning Special Agent Cromer
3 from SLED, the expert in tool marks and firearms - - -

4 A. No.

5 Q. I didn't finish my question. I want to make sure we're
6 on the same page -- what her expert opinion was about where
7 these came from?

8 A. No.

9 Q. Isn't that kind of important?

10 A. Yes.

11 Q. You are familiar that one of your witnesses who you
12 trust so much said that it came from a revolver, right?

13 A. Yes.

14 Q. If these came from a semi-automatic, right, and there
15 are at least two or three other shots that some of the other
16 witnesses that you trust so much said happened, then isn't
17 it reasonable to suggest that a revolver like one of your
18 witnesses said, could have been in play as well?

19 A. No, sir.

20 Q. Isn't it reasonable to suggest that maybe there was - -
21 -

22 A. No, because there's more than one witness and they don't
23 see it the same way but they all stated that Romeo Brown was
24 the person who shot Alexander Harrison.

25 Q. Have witnesses in your many years in law enforcement

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1 ever told you an untruth?

2 A. Yes.

3 Q. Seeing that one of your witnesses said that a revolver
4 was there - - -

5 A. Maybe one.

6 Q. Seeing that one of your witnesses said that a revolver
7 was there, and the gun shot residue was on the victim's
8 hand, could a second gun have been in play?

9 A. No, based on the witness statements we got.

10 Q. Alright.

11 A. There was more than one so therefore - - -

12 Q. So, the witnesses are more important than what the
13 experts said?

14 A. The witness statements are a lot, have a lot to do with
15 it. They were the ones who observed your defendant shoot
16 Alexander Harrison and testified to that in an affidavit.

17 MR. GIPSON: Judge, she's not responsive.

18 THE COURT: That's -- I'm sorry. Thank you.

19 Q. Did you ever go receive a schmerber order from the
20 Court?

21 A. No.

22 Q. Do you know what a schmerber order is?

23 A. Yes.

24 Q. What is that?

25 A. It's -- I do know, I'm sorry. I do know what a

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1 schmerber is. I'm sorry, refresh my mind, my memory, I
2 don't recall. I did know, I've had one before, but I just
3 can't recall it now.

4 Q. I understand. That's an opportunity to actually check
5 the vic -- excuse me, a defendant's DNA by either taking a
6 hair sample or a swab?

7 A. Yes, that's correct.

8 Q. Okay. Did you do that?

9 A. No.

10 Q. Did you request it?

11 A. No.

12 Q. And if you requested it then it's possible that you
13 could maybe try to match and see if that matched the victim,
14 right, I mean, excuse me, the defendant, right? And let me
15 ask a better question. If you had requested that a
16 schmerber be done - - -

17 A. Yes.

18 Q. --- then that would be a better opportunity for SLED's
19 experts to maybe match this blood and see if it -- that's
20 on, shown in Defendant's Exhibit Number Thirteen, that would
21 be an opportunity for them to maybe match it against the
22 defendant, right?

23 A. Yes.

24 Q. And if you're here to do justice isn't that fair, just
25 to make sure, make sure that the people out there were being

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1 truthful?

2 A. Well, when one or more witnesses, when you've got more
3 than one witness saying the same thing - - -

4 Q. Were one or more witnesses drinking that night?

5 A. I can't determine whether they were all drinking that
6 night. The only thing I know is that one witness did say
7 that they went to the store to get some alcohol, but they
8 didn't get it. They came back to the scene because of what
9 was going on.

10 Q. So, you don't remember the fact that there were at least
11 Thirty-six beers that were ingested by the group there and
12 maybe about a half gallon of gin?

13 A. I'm, I can't say that for sure, sir. And regardless of
14 whether they were drinking or not - - -

15 Q. That's, people can be impaired sometimes when they
16 drink, and maybe not remember things quite as well?

17 A. If I felt like the witness wasn't able to give me a
18 correct, you know, give me a statement, they were too
19 intoxicated to do that, I would allow them to wait until
20 later to give a statement.

21 Q. Alright. But you don't even remember any alcohol use
22 out there that day?

23 A. They may have, I don't know, sir. Some of them may have
24 been drinking.

25 Q. And again, you can't even tell us, because it was never

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1 submitted, whose blood that is right there to any reasonable
2 degree of any certainty, can you?

3 A. It's crime scene's.

4 Q. Okay. Thank you. Now, you said you were familiar with
5 the ability of footprints to be taken, shoe castings,
6 right?

7 A. Crime scene would be the person to do all those at that
8 scene in this case.

9 Q. Okay.

10 THE COURT: I'm going to just interject because I don't
11 believe that that was responsive.

12 Ladies and Gentlemen, I'm going to ask you to step to
13 your jury room. Do not discuss this matter or allow anyone
14 to discuss it with you. There's a matter that I must take
15 up with counsel.

16 (Whereupon, the jury retires
17 to the jury room and the following
18 takes place out of the presence
19 of the jury.)

20 THE COURT: Detective Eikhoff, I'm going to ask you to
21 do this for me. I'm going to ask you to listen very
22 carefully to the question that you are being asked. I'm
23 going to ask you to answer that question. If it is a yes or
24 no answer, I'm going to ask you to answer it yes or no. You
25 may explain your answer. I don't want you to go into a non-

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1 responsive dialogue, but if you need to explain your answer
2 I want you to do that. The reason that I have sent the jury
3 out is because it's clear that Mr. Gipson is not going to
4 abandon his question because you're not answering it, he's
5 just simply going to come back around to the question, and
6 you know, we have a jury here and I must be mindful of their
7 time as well as everyone else's.

8 Now, there has been also some reference to some
9 documentation, and if it's a document that you need to
10 respond to a question you can certainly ask to see that
11 document rather than struggle with information you don't
12 have before you. You are certainly entitled to have that
13 information before you if it is available, and I wanted you
14 to know that as well. My concern is, is that we're getting
15 far afield from the question being asked, the yes or no
16 response being given, and then an explanation relevant to
17 the question being given. Let me give you an example, I
18 don't remember what the question was but your answer was,
19 was that it was important what statements had been given and
20 that the individuals had testified to that information. You
21 haven't been here in Court, you clearly don't know what has
22 been testified to.

23 A. I was referring, Judge. to the affidavit that they
24 signed.

25 THE COURT: I understand that but what you said was,

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1 and those individuals have testified. Not only was it non-
2 responsive, there would be no way for you to know whether or
3 not these witnesses have testified to that information to
4 this jury or not. That's only an example of how we're
5 getting so far afield in your responses. And also, I sent
6 the jury out because I did want you to know that you're not
7 here expected to remember information. If you have it in a
8 document and the document is here in the courtroom you
9 certainly may ask for that document as well. And I wanted
10 you to know that, too. If there's a document you certainly
11 have the right to see that document. Okay?

12 A. Yes, ma'am.

13 THE COURT: Very well. Can we take just a few minutes
14 for everyone to have a three minute comfort break? And then
15 we'll begin anew. And that means you, too. But don't talk
16 to anyone about your testimony. I know I don't need to tell
17 you that, but I do it in an abundance of caution. But only,
18 let's keep it very short, but just a short comfort break as
19 it's known in Beaufort County. Thank you all. About three
20 or four minutes.

21 (Recess)

22 THE COURT: Anything from the State before we bring the
23 jury back in?

24 SOLICITOR SORENSON: No, Your Honor.

25 THE COURT: Anything from the defense?

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1 MR. GIPSON: No, ma'am.

2 THE COURT: Very well.

3 BAILIFF: Are you ready for the jury?

4 THE COURT: Yes, please.

5 (Whereupon, the jury enters
6 the courtroom.)

7 THE COURT: Ladies and Gentlemen, we'll continue with
8 this case, and examination of Detective Eikhoff. You may
9 proceed.

10 MR. GIPSON: Thank you, Your Honor.

11 Q. Now, Detective Eikhoff, you mentioned that you were not
12 aware or you don't remember whether or not alcohol was being
13 used, right?

14 A. I don't recall, no.

15 Q. Okay.

16 A. They have said it one of their statements that there was
17 some alcohol, - - -

18 Q. Well, let me just point - - -

19 A. --- but the only thing that I knew, no.

20 Q. And I just want to point you back to that preliminary
21 hearing back on January Seventh, Two thousand eleven. If
22 you'd just turn to Page Thirteen if you would, and we're
23 looking at Page Thirteen.

24 A. Page Thirteen?

25 Q. Page Thirteen, Line Twenty-four, at the bottom, the last

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1 two lines. The question was, "And again, we're clear that
2 this is" excuse me. "And again, we're clear that at this
3 social event there was alcohol that was being used,
4 correct?"

5 A. Correct.

6 Q. And your answer is?

7 A. And it was, "Yes."

8 Q. "And the witnesses have testified to that as well,
9 correct?"

10 A. Correct.

11 Q. And your answer was?

12 A. "Yes." And so, that, therefore, is yes.

13 Q. Okay. Now, you oftentimes talked about what witnesses
14 testified to, correct?

15 A. Yes.

16 Q. Now, you have not been sitting in this courtroom through
17 this trial, have you?

18 A. No, sir.

19 Q. Okay. You weren't here Tuesday or Wednesday, correct?

20 A. No, sir.

21 Q. And, of course, today is your first day here?

22 A. Yes, sir.

23 Q. Alright. So, you don't know what they've testified to
24 in this courtroom, do you?

25 A. No, sir.

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1 Q. Okay. And all you, what you have relied on is what they
2 told you or your officers, right?

3 A. And written witness statements.

4 Q. Okay.

5 A. Notarized.

6 Q. And they've also told officers from your department that
7 an unknown black male shot Romeo Brown, right?

8 A. I beg your pardon?

9 Q. They've also, these witnesses have also told members of
10 your department, of your team that an unknown black male
11 shot Alex Harrison -- I said Romeo Brown, I'm sorry -- Alex
12 Harrison, the victim in this case?

13 A. There were witness statements, several witness
14 statements who said that, that Romeo Brown was the shooter
15 and that he had shot, so no.

16 Q. There were also, the first witness statements that were
17 given to Lieutenant Davis said that an unknown black male -
18 - -

19 A. At first to the primary deputy that arrived out on the
20 scene at first, that's correct. It wasn't until after we
21 got there and started talking with them that they gave the
22 information to us.

23 Q. That they gave different statements?

24 A. Correct.

25 Q. Okay. Now, again, you are aware that there was an

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1 allegation that some kind of struggle took place, correct?

2 A. Yes.

3 Q. And with the struggle that some of this was on the
4 ground, correct?

5 A. I'm not sure about that, I don't recall that.

6 Q. You were given information that the shooter fled from
7 the scene, correct?

8 A. Yes.

9 Q. Aren't you taught that if somebody flees from the scene
10 one of the better ways to track them is with canines, dogs?

11 A. Yes.

12 Q. Okay. And you have dogs here in Orangeburg, too, right?

13 A. Yes, sir, we do. We've had some retire and we've - - -

14 Q. The dog retired?

15 A. We had one dog that retired and now we - - -

16 Q. How do dogs retire, I'm just curious?

17 A. Medically.

18 Q. Oh, I've got you. Alright. So, you have, so the ones
19 that weren't retired came to work that day?

20 A. No, sir.

21 Q. Well, they would have come to work had you called them
22 to come out there, right?

23 A. Yes, sir, if they were available. They may have been in
24 training at the time, I don't know.

25 Q. Okay. Well, show me some documentation that shows that

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 they were in training?

2 A. I don't recall, sir.

3 Q. Okay. So, you don't know if they were available or not
4 is what you're telling me?

5 A. No, sir.

6 Q. Okay. Did you call for them?

7 A. No, sir.

8 Q. Alright, in calling -- and quite frankly, those canines
9 are actually located right across the street from the
10 complex, right?

11 A. Yes, sir.

12 Q. Alright, so we're talking about across Chestnut, and is
13 that Shumpert -- Ellis, I'm sorry?

14 A. Ellis.

15 Q. Okay. So, on Ellis Street you have the complex, and
16 next door to the complex is the magistrate's court, right?

17 A. Yes.

18 Q. Okay. And across the street from that you've got an
19 impound yard, right?

20 A. Yes, sir, and there are different - - -

21 Q. And behind are the canines?

22 A. They have different dogs that do different things.

23 Q. Okay. Well, the dogs that would have tracked are kept
24 where?

25 A. All the dogs are kept there, sir.

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1 Q. Okay. Alright. So, as the chief investigator you can
2 make a call and say, hey, a person fled on foot, let's get
3 the canines out here and see where they went. Right?

4 A. Yes.

5 Q. And did you do that?

6 A. No, sir.

7 Q. Now, did you have an opportunity to meet with Ulysses
8 Daniels?

9 A. Yes.

10 Q. Alright. And he came to see you the day of this
11 incident?

12 A. The day of the incident I spoke with - - -

13 Q. And don't tell me what he said, but you can tell me who
14 you spoke with. Barry Williams?

15 A. Yes, sir.

16 Q. DEA Agent Barry Williams?

17 A. Yes, sir.

18 Q. Alright.

19 A. And then I spoke with Ulysses on the phone.

20 Q. Okay.

21 A. That, at that scene while it was happening. It was the
22 next morning because it was already after Twelve o'clock.
23 So, I wrote in my notes, the Twenty-eighth, because it would
24 have been after Twelve.

25 Q. Okay.

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1 A. But it was during the same night that the incident
2 occurred. He told me that he observed - - -

3 Q. Well, let me ask you this, before you tell me what he
4 told you. When did he come and meet with you?

5 A. He told me what happened during -- he told me that Romeo
6 Brown shot - - -

7 Q. When did he meet with you?

8 A. He told me that during, when I was at the scene, and
9 then he came in on a different date, a few days later and I
10 can give you the exact date if you need it.

11 Q. Alright. So, you're saying that Ulysses Daniels gave
12 you a statement at the scene?

13 A. He talked, I talked with him and he told me what I just
14 said, that he observed - - -

15 Q. Well, you talked to him how?

16 A. I talked to him by, on the phone.

17 Q. Okay. So, you didn't see him face to face?

18 A. No, sir.

19 Q. So, you didn't see him face to face because he had - - -

20 A. Because he had left the scene, and he told me he had
21 left the scene and he had called the, DEA Agent Barry, and
22 that he was, he did see it, and he didn't want to come back
23 to the scene. And I told him that was alright that we could
24 get the statement at a different location, at a different
25 time. And we set an appointment up for him to come in and

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 give me a written statement, which he did.

2 Q. But he told you he didn't want to come back to the scene
3 then?

4 A. He did not come back to the scene at that time.

5 Q. And your notes reflect that he did not want to come
6 back to the scene now?

7 A. But he did tell me that he, that Romeo Brown was the
8 shooter, the person who shot Alexander Harrison, and then on
9 - - -

10 Q. Detective Eikhoff, my question was, when you spoke with
11 him he said he did not want to come back to the scene,
12 correct?

13 A. He would -- yes, he would rather not - - -

14 Q. Okay.

15 A. --- because he did not -- he was, he did not. He wanted
16 -- so we set up an appointment, yes, sir, for him to come in
17 and give me a written statements.

18 Q. And that was five days later, right?

19 A. That's what I was looking for, the exact date.

20 Q. It was November First, Two thousand ten?

21 A. I believe that's correct, and I just wanted to make sure
22 it was the right date. November the First at Two:twenty-
23 four p.m.

24 Q. Okay. So, I'm just curious, when has it become standard
25 protocol for you all to allow people tell you when they're

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 going to come in when there's a situation?

2 A. I set an appointment for him to come in and I understood
3 his situation.

4 Q. After he said he didn't want to come back?

5 A. He was willing to come in at a certain date, to give me
6 -- at a certain time to give me a statement, a written
7 statement. He gave me a verbal statement on the phone
8 stating this.

9 Q. But he was too busy to come that day?

10 A. I can't say whether he was too busy or what, you know.

11 Q. Alright. Now, let me ask you this, was there any point
12 in time that you personally ever went and knocked on Mr.
13 Brown's door to see if he was at home?

14 A. Not myself, other investigators.

15 Q. Alright, now, you actually got a warrant for his arrest,
16 correct?

17 A. Yes.

18 Q. And you obtained that from Judge Dash, is that correct?

19 A. Yes.

20 Q. Do you remember the date and time that that happened, or
21 do you need the documentation?

22 A. I need the documentation, sir.

23 Q. Let me just show this to you. Don't tell me about it
24 yet just tell me if that refreshes your recollection before
25 you answer any question.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 A. This is for the possession of a firearm during the
2 commission of a violent crime, not for the murder.

3 Q. Let me ask you this, would you have gotten both warrants
4 at the same time?

5 A. Yes, sir, I would have. I don't know, unless there was
6 something that I had to go to, or something, I would go back
7 and get the second one. You know, sometimes, it's a
8 standard, sometimes, you try to get them all at one time,
9 but sometimes you have to go back.

10 Q. Okay. And so, just asking, as a result - - -

11 MR. GIPSON: Let me just have that marked as Defense
12 Exhibit, just since I'm talking about it, for ID.

13 COURT REPORTER: Just for ID?

14 MR. GIPSON: Yes, ma'am.

15 COURT REPORTER: Defendant's Fifteen and Sixteen, ID.
16 (Defendant's Exhibit Fifteen and Sixteen,
17 Arrest Warrants and Affidavits,
18 marked for identification only.)

19 MR. GIPSON: Thank you.

20 Q. Detective Eikhoff, I'm just going to hand you
21 Defendant's Exhibits Numbers Fifteen and Sixteen, and tell
22 us, are those affidavits?

23 A. These are Warrant Affidavits that I would present to the
24 judge, yes.

25 Q. And basically, the way that works is for you to, you

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 present that affidavit, the information to a judge and then
2 the judge determines if a warrant's going to be issued based
3 on what you've sworn to, right?

4 A. Yes.

5 Q. And after, after that happens, if a judge determines if
6 a warrant can be sworn, then he or she will sign it, right?
7 Sign the affidavit and issue a warrant?

8 A. Yes.

9 Q. And that warrant was issued at what date and time, those
10 warrants?

11 A. This is Ten/Twenty-eight, it looks like Ten/Twenty-
12 eight.

13 Q. At what time?

14 A. One was at Twelve:thirty-three, and one was at
15 Twelve:forty-one, something like that.

16 Q. Okay. So essentially, the afternoon, early afternoon of
17 the Twenty-eighth, these warrants were issued, correct?

18 A. Yes, sir.

19 Q. Okay. And that was the day after the incident, correct?

20 A. Yes, sir.

21 Q. Okay. And no time after that did you get search
22 warrants to try to go to any residence that you thought Mr.
23 Brown would be located at, right?

24 A. And like I had said -- I beg your pardon?

25 Q. No time after the warrant was sworn did you try to get

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 search warrants for any residences that you thought he would
2 be at?

3 A. No.

4 Q. And there is a residence address listed on that, isn't
5 it?

6 A. There's a residence, yes, there's an address residence
7 on there.

8 Q. Okay. And you didn't get a warrant for that address,
9 did you?

10 A. No.

11 Q. And at no time as you investigated this case did you
12 call the investigators back and say, hey, I think we need to
13 look into this, this and this also, did you?

14 A. We were still looking for him and wasn't able to locate
15 him, we had trouble locating him.

16 Q. Let me ask you a better question, after the warrant was
17 issued did you ever call the investigators to ask them to
18 look into or do additional testing on any of the information
19 or any of the evidence that they got, did you give them
20 additional directions?

21 A. Have him picked up, try to have him picked up. We would
22 go and look for him.

23 Q. I'll try again, I didn't ask a good question. He was
24 arrested at some point, correct?

25 A. Yes.

PATRICIA EIKHOFF - DIRECT BY MR. GIPSON

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1 Q. After the arrest, or anytime since the Twenty-eighth of
2 October, Two thousand ten, have you ever called the
3 investigators at SLED to ask them to do any additional
4 testing - - -

5 A. No, sir.

6 Q. --- to determine anything additional?

7 A. No, sir.

8 Q. So, in the Nineteen or so months since that time you
9 haven't asked them to do anything else, you just said - - -

10 A. No.

11 Q. --- whatever you picked up that night you guys run with
12 it and give me your reports back?

13 A. No.

14 Q. Okay. And have you read the reports that they submitted
15 back to you?

16 A. No, I don't recall reading those.

17 MR. GIPSON: Alright, that's all my questions, Your
18 Honor.

19 THE COURT: Alright. Cross-examination.

20 SOLICITOR SORENSON: Thank you, Your Honor, may it
21 please the Court.

22 (NOTE: Blank lines on this page do not indicate any part of
23 record has been omitted. Headers on testimony pages and
24 hard page breaks between testimony are now required by the
25 Court.)

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 PATRICIA EIKHOFF - CROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. I just have a few things to go over with you. Now, are
4 you, are you still employed with the Orangeburg County
5 Sheriff's Office?

6 A. No, sir.

7 Q. Okay. And when did you leave the Sheriff's Office?

8 A. I automatically retired April the Fifteenth of this
9 year.

10 Q. Of this year?

11 A. Yes, sir.

12 Q. Okay. And have you been having some health issues
13 leading up to that also - - -

14 A. Yes, sir, I have.

15 Q. --- that led to that occurring?

16 THE COURT: You know what I need you to do is wait and
17 let the lawyer ask the question and then you respond.

18 A. I apologize.

19 THE COURT: That's okay. And the reason for that is,
20 it makes it so difficult for Ms. Harry Dot to be able to
21 take it down.

22 A. Yes, ma'am.

23 MR. GIPSON: I just object to the relevance of that
24 last question.

25 THE COURT: Okay. Asked and answered.

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: Okay.

2 THE COURT: Well, you were asking - - -

3 SOLICITOR SORENSON: Well, he objected so that's all
4 that - - -

5 THE COURT: That's right. Well, you have it, I
6 understand what the question was.

7 SOLICITOR SORENSON: That's why I didn't want to - - -

8 THE COURT: Hold on one second.

9 SOLICITOR SORENSON: May we approach?

10 THE COURT: Yeah, and let me talk to you about that.

11 (Whereupon, a bench conference
12 is had out of the hearing of
13 the jury and court reporter.)

14 Q. And along those same lines, Ms. Eikhoff, are you
15 currently now in law enforcement?

16 A. No.

17 Q. Now, back in October of Two thousand ten I believe you
18 had testified that when you responded out that night to the
19 scene that you were the on call investigator at that time?

20 A. Yes.

21 Q. So therefore, you essentially became the lead
22 investigator as a result of that, is that correct?

23 A. Yes.

24 Q. Okay. Now, there were other investigators, as you
25 testified though that responded out there that night with

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 you, is that correct?

2 A. Yes.

3 Q. It was Investigator Carrigg I believe you testified
4 about, Commander Williams, is that correct?

5 A. Yes.

6 Q. And of course, he would be up your chain of command, is
7 that correct?

8 A. Yes.

9 Q. And also Lieutenant Shumpert who may have been Sergeant
10 Shumpert at the time?

11 A. Yes.

12 Q. But he still would have been your supervisor also at
13 that time, right, is that correct?

14 A. Yes.

15 Q. Alright. And they responded out to the scene, is that
16 correct?

17 A. Yes.

18 Q. Okay. And did they assist you out there that night as
19 far as interviewing witnesses and with your duties out
20 there?

21 A. Yes, they did.

22 Q. Did they assist you then in the coming days also in the
23 attempts to locate Mr. Brown?

24 A. Yes, they did.

25 Q. Now, I believe you had testified, ma'am, that you think

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 you arrived there at approximately Nine:ten, is that
2 correct?

3 A. Yes.

4 Q. And if you remember the line of questioning kind of
5 early on in Mr. Gipson's cross-examination where he was
6 asking you about what you had testified to at the
7 preliminary hearing, do you remember that, about the, kind
8 of the time frame?

9 A. Yes.

10 Q. And specifically he asked you on Page Ten I think he was
11 referring you to where you had indicated that it was about
12 an hour after that that you had first heard Romeo's name
13 mentioned out there, is that correct?

14 A. Yes, sir.

15 Q. Okay. And the actual question that was asked at that
16 preliminary hearing was, upon your department's arrival at
17 Eight:fifty-nine, Romeo's name wasn't mentioned at
18 Eight:fifty-nine, correct?

19 A. That's correct, yes, sir.

20 Q. And your response to that was, it was about an hour
21 after that. So, about an hour after the sheriff's office
22 first arrived out there, is that correct?

23 A. Yes.

24 Q. And yet again you had indicated that, I mean, that's an
25 estimation, is that correct?

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 A. Yes.

2 Q. Were you looking at your watch the first time to make a
3 note of the first time you heard Romeo Brown's name
4 mentioned that night?

5 A. No.

6 Q. Let me ask you, that night, I mean, there were, there
7 were several witnesses out there at the scene, is that
8 correct?

9 A. Yes.

10 Q. Okay. Were you the one that personally interviewed
11 every one of those witnesses?

12 A. I interviewed - - -

13 Q. Let's see, how many, were you the one that interviewed
14 every one them, that was my question?

15 A. No.

16 Q. Okay. Was Lieutenant Shumpert involved in interviewing
17 them?

18 A. Yes, he was.

19 Q. Was Commander Williams?

20 A. Yes.

21 Q. Investigator Carrigg?

22 A. Yes.

23 Q. And, in fact, were some of those witnesses ultimately
24 taken back to the sheriff's office to be further talked to
25 and shown lineups by Lieutenant Shumpert?

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 A. Yes.

2 Q. And were you involved or present in the showing of those
3 lineups that night at the sheriff's office to Mr. Thomas,
4 Mr. Guinyard and Ms. Mack?

5 A. No, I was not.

6 Q. You were aware, however, that they were shown, though,
7 is that correct?

8 A. Yes.

9 Q. Let me ask you, when you first arrived on the scene that
10 night, and we've seen that crime scene log, there were a lot
11 of people out there, is that correct?

12 A. Yes.

13 Q. Okay. Now, did you immediately sit down and start
14 interviewing witnesses the minute you first got there?

15 A. After speaking with the primary, Deputy Davis and
16 Lieutenant Culler, I did.

17 Q. Okay, so you spoke to other officers out there?

18 A. Yes, sir.

19 Q. Was SLED crime scene out there when you first got there?

20 A. No, sir.

21 Q. Okay. Was it part of your duties to kind of make sure
22 that, that that stuff had been requested and those people
23 were in route also?

24 A. Yes, sir.

25 Q. Okay. Let me ask you, Mr. Gipson asked you about a

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 photo lineup that was shown to Mr. Guinyard, and you may
2 have it up there because I don't see it here -- hold on,
3 here it is. Oh, here it is, I'm sorry, State's Exhibit
4 Number Ten, do you remember him asking you about that
5 document?

6 A. Yes, sir.

7 Q. Do you remember him asking you about the, kind of
8 discrepancies in the times on those two pieces of paper?

9 A. Yes, sir.

10 Q. Okay. Let me ask you this, before you were shown that
11 lineup and asked that by Mr. Gipson Thirty minutes ago had
12 anybody ever asked you about those discrepancies before
13 that?

14 A. No.

15 Q. And I believe you had testified that, I mean, you
16 weren't present when that lineup was shown, is that right?

17 A. No.

18 Q. Okay. So the persons to be asked about, you know, those
19 discrepancies would be either the witness or the person that
20 shows the lineup, is that correct?

21 A. Yes.

22 Q. So, either Mr. Guinyard or Lieutenant Shumpert, is that
23 correct?

24 A. Yes.

25 Q. Now, I had asked you a few minutes ago, I mean, that you

PATRICIA EIKHOFF - CROSS BY SOL. SORENSON

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1 didn't interview every witness out there that night. Were
2 there several of them that you did, though, talk to?

3 A. Yes.

4 Q. And did any of those witnesses that you talked to out
5 there, in your experience as a law enforcement investigator,
6 appear to be intoxicated out of the ones you talked to?

7 A. No.

8 SOLICITOR SORENSON: I beg the Court's indulgence.

9 THE COURT: Alright.

10 SOLICITOR SORENSON: That would be all. Thank you,
11 Your Honor.

12 THE COURT: Alright. Redirect?

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.)

PATRICIA EIKHOFF - REDIRECT BY MR. GIPSON

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PATRICIA EIKHOFF - REDIRECT EXAMINATION

BY MR. GIPSON:

Q. Now, you mentioned that you took folks to the station to have these statements taken?

A. No, I didn't. I had Lieutenant Shumpert, who was Sergeant Shumpert at the time, and Commander Williams.

Q. Now, don't you reflect in your notes that you actually took these statements in your car?

A. That's correct, yes.

Q. Okay. So, you took yours in the car and they took theirs back to the station?

A. Yes.

Q. Okay. And you mentioned again you were having some medical issues that you've had to deal with and as a result of that you're retired now, correct?

A. Yes.

Q. Alright. But back in Two thousand ten those medical issues didn't prevent you from submitting evidence to SLED, correct?

A. No, sir.

Q. Okay. And they didn't prevent you from reviewing the evidence from SLED when it returned to the office, correct?

A. I'm not sure about that, sir.

Q. Okay. Well, you have not, as of the Nineteen months between then and now sat down with any of these agents and

PATRICIA EIKHOFF - REDIRECT BY MR. GIPSON

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1 gone through their findings and what they believe about it?

2 SOLICITOR SORENSON: Your Honor, I don't see how that's
3 in response to any of my cross-examination. I mean, he
4 explored that on his direct but I didn't go into that on
5 cross.

6 THE COURT: Thank you. Overruled. You may proceed.

7 Q. In the Nineteen months since then have you sat down with
8 them at any point in time and gone through their findings
9 and their expert opinions based on what they found with the
10 evidence?

11 A. That would be, are you talking about the crime scene?

12 Q. Have you done this, yes or no?

13 A. It would be sent to the office in a letter form. It
14 would be put into the file. If you have that, I mean, I'll
15 be glad to look at it but - - -

16 Q. But my question was, in the Nineteen months since this
17 incident occurred have you sat down with the SLED folks?

18 A. No.

19 Q. Okay. Have you reviewed the information - - -

20 A. No.

21 Q. --- so that you can discuss what you found versus what
22 they found?

23 A. No.

24 Q. So, you quite frankly don't know what they found?

25 A. I, no.

PATRICIA EIKHOFF - REDIRECT BY MR. GIPSON

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1 Q. And you're okay with that, being the case agent in a
2 murder case, for not even knowing what your experts found in
3 your case?

4 A. Yes.

5 MR. GIPSON: That's all my questions, Your Honor.

6 THE COURT: Alright. Recross.

7 SOLICITOR SORENSON: Just real briefly.

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.)

PATRICIA EIKHOFF - RECROSS BY SOL. SORENSON

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1 PATRICIA EIKHOFF - RECROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Of course, there's reports, I mean, they were all turned
4 over to me as the prosecutor, is that correct?

5 A. Yes, that's correct.

6 SOLICITOR SORENSON: That's all, Your Honor.

7 THE COURT: That's all? Alright, is this witness free
8 to leave?

9 MR. GIPSON: Yes, ma'am.

10 THE COURT: Alright. Any objection?

11 MR. GIPSON: No objection.

12 SOLICITOR SORENSON: No objection.

13 THE COURT: Very well, you are free to go.

14 Call your next witness, please.

15 MR. GIPSON: I'd like to call Tammy Ryant, Your Honor.
16 She should be right outside. Tammy Ryant.

17 (Whereupon, the witness
18 enters the courtroom.)

19 THE COURT: Good morning, come right on down.

20 CLERK: Please place your left hand on the Bible and
21 raise your right hand.

22 (Whereupon Tammy Ryant
23 is duly sworn.)

24 CLERK: Thank you. You may have a seat and please
25 state your name for the record.

1

WITNESS: Tammy Ryant.

1 COURT REPORTER: Pull your chair up a little bit,
2 please, ma'am. Thank you.

3 THE COURT: Your witness.

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.)

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 TAMMY RYANT - DIRECT EXAMINATION

2 BY MR. GIPSON:

3 Q. Good morning, Ms. Ryant.

4 A. Good morning.

5 Q. Now, just by way of a little bit of background, where
6 are you from?

7 A. Orangeburg. I stay in Orangeburg but I was born in
8 Brooklyn, New York.

9 Q. Okay. And you've been in Orangeburg about how long?

10 A. About Twenty-five, Twenty-six years.

11 Q. Okay.

12 A. A long time.

13 Q. Alright. And are you married?

14 A. Yes, sir.

15 Q. Who is your husband?

16 A. Randolph Ryant.

17 Q. Okay. And where do you live?

18 A. Wingfield Street.

19 Q. And Wingfield Street is the address that there was an
20 incident that we're in here for Court today, correct?

21 A. Yes, sir.

22 Q. Alright, now, you were subpoenaed by the Solicitor's
23 office to be here at some point in time?

24 A. Uh-huh.

25 Q. And you have to say yes or no?

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 A. Yes.

2 Q. Okay. And do you have any relation to Mr. Brown, Romeo
3 Brown?

4 A. Yes.

5 Q. And explain that to the jury?

6 A. Romeo Brown is my brother, and I know him for a long
7 time, I raised him because my mother used to work all the
8 time, and I had to keep Romeo.

9 Q. What's his dominant hand?

10 A. Romeo is left handed.

11 Q. Has he been that way all his life?

12 A. All his life, he's left handed.

13 Q. Are you older or younger, well, let me - - -

14 A. I'm the oldest.

15 Q. You're the oldest. Okay, so you have a way of knowing
16 what his dominant hand is?

17 A. Uh-huh.

18 THE COURT: Is that a yes?

19 A. Yes.

20 Q. And we may have to do that from time to time just to
21 remind you to say yes or no.

22 A. That's fine.

23 Q. Now, let's forward to Two thousand and ten.

24 A. Alright.

25 Q. Were you living on Wingate Street in Two thousand ten?

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 A. Yes.

2 Q. Alright. Who was living with you in Two thousand ten?

3 A. Randolph Ryant, my son, Jordon Ryant, and me.

4 Q. Okay. How old is your son, Jordon?

5 A. Jordon is seven years old.

6 Q. Alright. Was there ever a time that you shared a
7 residence with your brother?

8 A. Yes.

9 Q. And about when would that have been?

10 A. Yes, in, well, the same year, and he stayed with me.

11 Q. Did, did he, was he living with you in October of Two
12 thousand ten?

13 A. Yes. Was he living with me then?

14 Q. At the time of this incident was he living with you
15 then?

16 A. No, no.

17 Q. Okay. Do you know where he was living?

18 A. No, not specific.

19 Q. Do you know what county he was living in?

20 A. He was living in Orangeburg but he - - -

21 Q. Did -- I'm sorry.

22 A. --- but he just would come and see me.

23 Q. Okay. When would he come and see you, about how often?

24 A. Romeo would come and see me about every three or four
25 days. He always come to see me and Jordon because he loved

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 to play with Jordon.

2 Q. Okay. And Jordon's your son?

3 A. Yes.

4 Q. Okay. And when would he come by?

5 A. Mostly be in the daytime.

6 Q. Okay. And around October of Two thousand and ten did
7 you start to notice anything different about Romeo?

8 A. No.

9 Q. Okay. How would he come to the house when he came to
10 see you in October?

11 A. When Romeo come to the house, when he came to see me in
12 October he had a cane, and he takes forever to get up the
13 steps, and I was like come on in and shut the door until you
14 get in, you're letting the flies in the house.

15 Q. Uh-huh. And he, you said he was using a cane?

16 A. Yes.

17 Q. Alright. And do you know how long he had been using
18 that cane?

19 A. No, not -- I don't know how long he was using the cane
20 but I know after the incident he was walking with that cane.

21 Q. Okay. And when you said incident, you're not talking
22 about this incident here, are you?

23 A. No.

24 Q. Okay. Alright, but he was walking with a cane, and he
25 would still come to visit you from time to time?

TAMMY RYANT - DIRECT BY MR. GIPSON

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- 1 A. Yes.
- 2 Q. Did he walk to the house?
- 3 A. No.
- 4 Q. Okay. How would he get to your house?
- 5 A. Someone would bring him in a car but I don't know who it
- 6 is.
- 7 Q. Okay. Now, why would he come to your house after that,
- 8 in October why would he come to your house?
- 9 A. He always come and see me and Jordon because he loved to
- 10 wrestle with Jordon.
- 11 Q. Uh-huh. And was he wrestling much when he got the cane?
- 12 A. No, not wrestling, wrestling, you know, like just
- 13 playing with him like, yeah.
- 14 Q. He just kind of played?
- 15 A. Yeah.
- 16 Q. Alright, now let me ask you this, I'm going to forward
- 17 us to the date of the actual incident, October Twenty-
- 18 seventh, Two thousand and ten.
- 19 A. Okay.
- 20 Q. Did you see Romeo that day?
- 21 A. No.
- 22 Q. Okay. Did you see him that night?
- 23 A. No.
- 24 Q. Do you know what happened outside, and I mean, you know,
- 25 from your personal knowledge what happened on October Tenth,

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 excuse me, October Twenty-seventh, Two thousand ten?

2 A. Okay. From my knowledge I don't know anything. The
3 only thing I heard was the gun went off. And I ran in the
4 room, I heard gun shots, to check on Jordon because his
5 bedroom is in there, and he was asleep, and I ran in the
6 room.

7 Q. Okay. Now, where were you when you heard the gun shots?

8 A. Looking at Lifetime in the living room.

9 Q. Okay. So you weren't outside hanging out?

10 A. No, I don't hang out outside.

11 Q. Okay. It is common place for those guys to kind of come
12 out and hang outside?

13 A. Uh-huh, they hangs outside out there. But when they get
14 violent, or somebody get loud I will go to the door and say,
15 it's time to go home. If you don't know how to act, go
16 home.

17 Q. Alright. And they respected you?

18 A. Yes.

19 Q. And if you said, go home, what would they do?

20 A. They would get in their car and leave.

21 Q. Okay. And you had an occasion to do that on sometimes?

22 A. Yes.

23 Q. Alright. And that particular night had you gone out
24 there and told them anything like that?

25 A. Well, when that happened that night I heard the shooting

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 I went to check on my son, - - -

2 Q. Right.

3 A. --- then the young man, Ulysses came knocking on the
4 door and was asking me to call - - -

5 Q. Well, you can't tell us what he said.

6 A. Okay.

7 Q. Okay. Alright. But you got knocks on the door, did you
8 learn something had happened?

9 A. Yes. A young man was laying on the ground.

10 Q. Okay. What did you personally do after you heard those
11 gun shots and checked on your son to make sure he was
12 alright?

13 A. I grabbed the phone to call Nine one one to get some
14 help.

15 Q. Okay. And then what did you do?

16 A. Then I called my husband on the phone because he wasn't
17 out there.

18 Q. Okay.

19 A. And I didn't know he wasn't out there.

20 Q. And you told him to do what?

21 A. I said, you need to come home because someone is hurt in
22 the yard, - - -

23 Q. Okay.

24 A. --- and you need to come home now, and you're supposed
25 to be in the yard. And I was upset, you know.

TAMMY RYANT - DIRECT BY MR. GIPSON

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1 Q. Right, right. And at any of that point in time did you
2 see Romeo out there?

3 A. No.

4 Q. Did you see him running around and doing anything out
5 there?

6 A. No.

7 Q. Okay.

8 MR. GIPSON: Alright. That's all my questions, Your
9 Honor.

10 THE COURT: Very well. Yes.

11 SOLICITOR SORENSON: Just a few things, 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.)

TAMMY RYANT - CROSS - SOL. SORENSON

604

1 TAMMY RYANT - CROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good morning, Ms. Ryant, how are you?

4 A. Good morning.

5 Q. We've met once before?

6 A. Yes, sir.

7 Q. A month or two ago, is that correct? I've just got a
8 couple of things just to kind of make sure I've got it
9 straight here, okay?

10 A. Okay.

11 Q. Obviously, you're out in your yard, I think you
12 testified about and told us before, you know, people used to
13 just kind of like to hang out, have a good time?

14 A. Yes.

15 Q. And drink, and just, kind of just hanging out in your
16 front yard, is that right?

17 A. Yes.

18 Q. And your husband would, would typically be out there
19 with them, is that correct?

20 A. Yes.

21 Q. You would not be?

22 A. No, sir.

23 Q. And basically, if they got too loud you told them - - -

24 A. That's when I would come to the door, yeah.

25 Q. --- it was time to go at that point in time?

TAMMY RYANT - CROSS - SOL. SORENSON

605

1 A. Yes.

2 Q. And they usually would at that point in time, they would
3 either quiet down or break it up for the night, is that
4 correct?

5 A. Yes, sir.

6 Q. Alright. And the night that this happened, the shooting
7 happened, you hadn't had to do that, you know, prior to the
8 shooting, is that correct?

9 A. Yes.

10 Q. Had you been outside that evening to even know who was
11 out in your yard prior to hearing the gun shots?

12 A. No, I didn't been out there.

13 Q. In fact, I think you testified that to your knowledge
14 you thought your husband was still out there, correct?

15 A. Yes, sir.

16 Q. And so obviously, you never saw your brother out there?

17 A. No.

18 Q. But don't have any first hand knowledge of whether he
19 was out there, right, because you didn't go outside, is that
20 right?

21 A. Because I didn't go outside at all.

22 Q. Okay. And let me just make sure I understood, it's back
23 in October of Two thousand and ten, at the time this
24 incident happened, he was not living with you at that time,
25 is that correct?

TAMMY RYANT - CROSS - SOL. SORENSON

606

1 A. No, he was not.

2 Q. And I want to make sure I caught this right, that you at
3 that time weren't too sure where he was staying at, is that
4 right?

5 A. Right.

6 Q. Is that what you told the jury?

7 A. Uh-huh, yes.

8 Q. Alright. But sometime in October of Two thousand he
9 had been using a cane at some point in time during that
10 time, right?

11 A. Yes.

12 Q. But you're not aware of how long he was using that for?

13 A. After the wound.

14 Q. Okay. But for how long he used it after he got
15 injured?

16 A. He was using it after the wound, he was using it ever
17 since.

18 Q. Okay.

19 A. Uh-huh.

20 Q. Alright. And let me ask you this, after the night of
21 the shooting that took place at your house did you see your
22 brother over the next week?

23 A. No.

24 Q. Was he around?

25 A. No.

TAMMY RYANT - CROSS - SOL. SORENSON

607

1 Q. Okay. And you had testified before that, I mean, he
2 used to come by, you know, frequently to visit you and your
3 son?

4 A. Yes.

5 Q. Okay. But in the week after the shooting he didn't come
6 by?

7 A. No.

8 Q. Okay. Alright. And now let me just kind of go through
9 just real briefly what you said you heard that night.
10 You're inside, and how old is your son?

11 A. Seven.

12 Q. Seven? Seven now or was he seven at the time this
13 happened?

14 A. Let's see - - -

15 Q. A year and a half ago?

16 A. --- he was six.

17 Q. Six?

18 A. Yes.

19 Q. Okay. And what, kind of right before you heard the
20 first gun shot outside, tell the jury what you were doing
21 inside at that point in time?

22 A. I was sitting in the chair in the living room looking at
23 Lifetime. I always have the door shut, and the fellows
24 always be outside.

25 Q. Okay.

TAMMY RYANT - CROSS - SOL. SORENSON

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1 A. So, I was just sitting down looking at Lifetime, looking
2 at T.V. He already put him to bed for school - - -

3 Q. Okay.

4 A. --- the next day.

5 Q. Okay. And that's what I was going to get at next. And
6 this was about nine o'clock, is that about right, somewhere
7 give or take?

8 A. Yes, sir.

9 Q. Alright. So, your son was in, had been put to bed for
10 the night at the point in time?

11 A. Yes.

12 Q. And I believe you testified that you heard a gun shot?

13 A. Yes.

14 Q. And at that point in time, obviously as a mother your
15 concern was, you would go check on your child, right?

16 A. Yes, that's the first thing I went to do.

17 Q. And thankfully, I mean, he was okay at that point in
18 time?

19 A. Yes.

20 Q. Tell the jury how many gun shots you heard?

21 A. Well, I can't remember how many, but I know I heard
22 shots and then I just was like, you know, ...

23 Q. I've got you. And then somebody knocked at the door?

24 A. Yes.

25 Q. Who was that? You can't say what they said but who came

TAMMY RYANT - CROSS - SOL. SORENSON

609

1 up to the door?

2 A. The young man's name was Uley.

3 Q. Uley? Okay. And as a result you, obviously from
4 hearing gun shots out in your yard, I mean, you called Nine
5 one one?

6 A. Yes.

7 Q. And then I believe you testified that you called your
8 husband because you realized I guess at that point in time
9 that he wasn't out there?

10 A. He wasn't out there.

11 Q. Okay. Alright, now, you remember, obviously a whole
12 bunch of police officers ended up at your house that night,
13 is that correct?

14 A. Yes.

15 Q. Do you remember giving them consent to, you know, to do
16 what they needed to do in your yard?

17 A. Yes.

18 Q. Alright. And do you remember ultimately ending up
19 giving them a statement that night?

20 A. Yes.

21 Q. Okay.

22 SOLICITOR SORENSON: I guess we need to mark this for
23 ID since I'm going to show it to her?

24 THE COURT: Yes.

25 COURT REPORTER: State's Seventeen for ID only.

TAMMY RYANT - CROSS - SOL. SORENSON

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1 (State's Exhibit Seventeen,
2 Statement of Tammy Ryant,
3 marked for ID only.)

4 Q. And Ms. Ryant, if I could show you what's been marked
5 just for ID, it's State's Seventeen and ask you - - -

6 A. Yes.

7 Q. --- is that the statement you gave to the sheriff's
8 office that night?

9 A. Yes.

10 Q. Okay. And is that, it's in your handwriting, is that
11 correct?

12 A. Yes, it is.

13 Q. You actually wrote that? And I mean, nobody forced you
14 to give that statement, I mean, you were, you were being
15 cooperative with law enforcement, is that correct?

16 A. Yes, yes.

17 Q. And do you remember that night, does that help kind of
18 refresh you as to what -- well, let me ask you this, do you
19 remember what time it was you gave the statement?

20 A. No, not really, I don't remember the time.

21 Q. I've got you. Now, looking at that, State's Seventeen,
22 does that kind of help refresh your memory of what time it
23 was?

24 A. Yes.

25 Q. Okay. And what time was that that you gave that

TAMMY RYANT - CROSS - SOL. SORENSON

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1 statement?

2 A. About Ten o'clock.

3 Q. About Ten o'clock?

4 A. Uh-huh.

5 Q. Okay. And now, let me ask you, where it says the time,
6 is that what it says under the time?

7 A. That time got one -- when I heard -- the one o'clock was
8 how long the police take to come talk to me.

9 Q. Okay. Well, this says, date, it says October Twenty-
10 eighth of Two thousand ten, so that's now into the next day,
11 is that correct, at one:nineteen a.m.?

12 A. yeah, they came and talked to me.

13 Q. At one:nineteen a.m.?

14 A. Uh-huh.

15 Q. Okay. So, that was after they had talked to everybody
16 else, right?

17 A. Yes.

18 Q. Alright.

19 A. They came and talked to me last, I didn't see them then.

20 Q. Okay. But, and obviously that's because you had told
21 them, I mean, you weren't outside - - -

22 A. Yes.

23 Q. --- so you didn't see what had happened outside, is that
24 correct?

25 A. Uh-huh, yes.

TAMMY RYANT - CROSS - SOL. SORENSON

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1 Q. Let me ask you though, when you gave this statement that
2 night, and take a look over this - - -

3 A. Okay.

4 Q. --- did you tell them that night how many, how many gun
5 shots you heard?

6 A. Yeah. It has two on there.

7 Q. Okay. And that's, I mean, that's your handwriting?

8 A. Yes.

9 Q. I mean, you wrote that you heard two gun shots?

10 A. Yes, uh-huh, yes, sir.

11 Q. And there's no reason to doubt that's what you, I mean,
12 back when it was fresh in our memory?

13 A. It was fresher then, yes, sir.

14 Q. Right. So obviously, Nineteen months ago as opposed to
15 now, right?

16 A. Yes.

17 Q. Okay. Alright. And otherwise, basically what you told
18 them in there is pretty much basically what you've testified
19 here today about?

20 A. Yes, yes.

21 Q. And prior to the gun shots you hadn't heard any other,
22 any arguing or anything, anything that would have caused you
23 to go out there and tell them to quiet down or y'all have
24 got to go, is that right, that night?

25 A. That night, no, I ain't heard nothing.

TAMMY RYANT - CROSS - SOL. SORENSON

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1 SOLICITOR SORENSON: I beg the Court's indulgence one
2 moment, please?

3 THE COURT: Alright.

4 SOLICITOR SORENSON: That would be all I would have,
5 Your Honor, thank you.

6 THE COURT: Alright.

7 MR. GIPSON: Nothing further.

8 THE COURT: Very well, yes, ma'am, you may come down.
9 And is this witness free to leave, Counselor?

10 MR. GIPSON: Yes, ma'am.

11 THE COURT: Any objection?

12 SOLICITOR SORENSON: No objection.

13 THE COURT: Very well. You are free to go.

14 Call your next witness, please.

15 MR. GIPSON: I'd like to call Tedriks Green.

16 THE COURT: Alright, Mr. Green.

17 MR. GIPSON: Tedriks Green. He should be right out
18 there.

19 (Whereupon, the witness
20 enters the courtroom.)

21 THE COURT: Alright, come right on down.

22 CLERK: Please place your left hand on the Bible and
23 raise your right hand.

24 (Whereupon, Tedriks Green
25 is duly sworn.)

1 CLERK: Thank you. Please have a seat and state your
2 name again for the record.

3 WITNESS: My name is Tedriks Green, T-E-D-R-I-K-S G-R-
4 E-E-N.

5 CLERK: Thank you.

6 COURT REPORTER: Put it back up there.

7 MR. GIPSON: I've got it.

8 COURT REPORTER: I don't think it's any way you could
9 cut it off. It's not. That's fine. Thank you.

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.)

TEDRIKS GREEN - DIRECT BY MR. GIPSON

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1 TEDRIKS GREEN - DIRECT EXAMINATION

2 BY MR. GIPSON:

3 Q. Good morning, Mr. Green.

4 A. Good morning.

5 Q. Now, do you know Romeo Brown?

6 A. Sir?

7 Q. Do you know Romeo Brown?

8 A. Yes, sir.

9 Q. Okay. How is it that you know Mr. Brown?

10 A. He's my uncle.

11 Q. Okay. Did you know Mr. Alex Harrison?

12 A. Yes, sir.

13 Q. Okay. And how did you know him?

14 A. From being under the tree at my uncle's house, my other
15 uncle's house.

16 Q. Okay. Alright, so you knew both parties involved in
17 this particular incident?

18 A. Yes, sir.

19 Q. Alright. Now, let me just ask you a little bit about
20 yourself. Where are you from?

21 A. I'm from Orangeburg.

22 Q. Okay. Pretty much born and raised?

23 A. Yes, sir.

24 Q. Alright. And where did you go to high school?

25 A. I went to O-W, I went to Bowman, Airport, I went to like

TEDRIKS GREEN - DIRECT BY MR. GIPSON

616

1 three different high schools.

2 Q. Okay. Speak up just a little bit if you would, or maybe
3 speak into the mike just a little bit more to make sure we
4 can hear you.

5 MR. GIPSON: Let met just ask the jury if they can
6 hear, Your Honor. Alright, they're fine.

7 Q. Alright, and you said you went to O-W, Bowman and
8 Airport?

9 A. Yes, sir.

10 Q. Did you graduate from one of the three?

11 A. No, sir.

12 Q. Okay. Did you eventually finish your studies?

13 A. I recently got my GED December the Third, on my
14 birthday.

15 Q. Okay.

16 A. Yeah.

17 Q. Congratulations.

18 A. Thank you.

19 Q. Alright. And how old are you now?

20 A. I'm Twenty-eight.

21 Q. Alright. Do you work?

22 A. Yes, sir.

23 Q. Where are you working?

24 A. I'm working at Mars Pet Care.

25 Q. Okay.

TEDRIKS GREEN - DIRECT BY MR. GIPSON

617

1 A. It's a dog food plant.

2 Q. Okay. And that's here in Orangeburg County?

3 A. Yes, sir.

4 Q. Alright. What kind of shifts do you work, generally?

5 A. I work night shift, Eleven to seven.

6 Q. Okay. Did you work last night?

7 A. Yes, sir.

8 Q. Okay. And you got off at seven?

9 A. Yes, sir.

10 Q. And you came on in today?

11 A. Uh-huh.

12 Q. Alright. And if you say uh-huh or huh-uh - - -

13 A. Yes, sir.

14 Q. Alright. I've just got to clear you on that.

15 A. Okay.

16 Q. Alright. Now, if I can I'd like to just kind of orient
17 you to, well just have you run your mind back to October of
18 two thousand and ten, - - -

19 A. Yes, sir.

20 Q. --- specifically, October Twenty-seventh?

21 A. Yes, sir.

22 Q. Okay. Do you remember that day?

23 A. Yes.

24 Q. Can you tell us what you were doing and what kind of
25 unfolded during day? And I may interrupt you from time to

TEDRIKS GREEN - DIRECT BY MR. GIPSON

618

1 time to ask more specific questions.

2 A. Okay.

3 Q. Alright.

4 A. The day I was at my friend's house, he stayed in an
5 apartment complex off Chestnut.

6 Q. Okay.

7 A. I'd say around about, round about six, before seven, or
8 a little bit after seven, it had been close to seven, around
9 seven, I was on my way home down Chestnut, I was going down
10 Chestnut, and I was passing the Four Way Stop and I seen my
11 uncle - - -

12 Q. Okay. And who was your uncle?

13 A. --- because he usually be in that area.

14 Q. Who is your uncle?

15 A. Romeo Brown.

16 Q. Okay. And you saw him around the Four Way Stop?

17 A. Yes, sir.

18 Q. Okay. And what happened after that?

19 A. I turned around and went to go talk to him. He asked me
20 what I was doing. I tell him I'm about to go get something
21 to eat and I'm headed to the house.

22 Q. Now, when you saw him how was he getting around?

23 A. With a cane.

24 Q. Okay.

25 A. Yeah.

TEDRIKS GREEN - DIRECT BY MR. GIPSON

619

1 Q. Alright. And had he been using that cane for a while?

2 A. Yes, sir.

3 Q. Okay. How long do you remember, if you remember, had he
4 been using that cane?

5 A. Ever since he got released from the hospital.

6 Q. Okay. And this was, this particular day was October
7 Twenty-seventh, correct?

8 A. Yes, sir.

9 Q. Okay. And so you ran, you -- I don't want to say you
10 ran into him, but you saw him?

11 A. Yes, sir.

12 Q. And when you saw him you said that y'all discussed
13 getting something to eat?

14 A. Yes, sir.

15 Q. And what happened after that?

16 A. We went back to my house.

17 Q. Okay. Well, did you get anything to eat?

18 A. Yes, sir. We went to Biddie Banquet and got some
19 chicken, yeah.

20 Q. Alright. And what did you after you left the Biddie
21 Banquet -- did you stay and eat?

22 A. No, sir.

23 Q. Okay. What did you do from there?

24 A. We went to my house.

25 Q. Okay. Why did you go to your house?

TEDRIKS GREEN - DIRECT BY MR. GIPSON

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1 A. To watch the World Series.

2 Q. Okay. Now, who, well let me -- you went to the Biddie
3 Banquet, did everybody get food or just you?

4 A. Everybody got food.

5 Q. Okay. And then you went back to your house. Where do
6 you live, or where did you live at the time?

7 A. Off Three O One, Dogwood Trailer Park.

8 Q. Okay. And that is closer to what side of town in
9 Orangeburg?

10 A. That's close to, like going toward Santee.

11 Q. Okay. Alright, and what happened after that?

12 A. We just sit and watched the game, talked, conversated a
13 little bit.

14 Q. Okay. Now, you said the game, the World Series, do you
15 remember anything about the World Series?

16 A. I'm not a baseball fan so I was just talking, you know
17 what I'm saying.

18 Q. Uh-huh.

19 A. I'm not a baseball fan, I was just talking to him.

20 Q. Alright. Who is the baseball fan?

21 A. My uncle.

22 Q. Okay. And so, what did y'all do?

23 A. We sit and talked, and he took his medicine for his leg,

24 - - -

25 Q. Uh-huh.

TEDRIKS GREEN - DIRECT BY MR. GIPSON

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1 A. --- he start dozing off, so I was, like, are you ready
2 to go home? And I said, I'll take you home real quick.

3 Q. Okay.

4 A. So, I took him home.

5 Q. Alright. And how did you travel to take him home?

6 A. I drove. We went by, we went the back way because I
7 don't like going around the long way to his house.

8 Q. Okay. And what's the back way?

9 A. Right there by AYP store.

10 Q. Okay.

11 A. I can't remember the name of the road, though.

12 Q. Okay. And you did take him home?

13 A. Yes, sir.

14 Q. Do you know the name of the street where he lived at
15 that time?

16 A. Beverly.

17 Q. Okay.

18 A. Yes.

19 Q. And is that in Orangeburg County?

20 A. Yes, sir.

21 Q. Okay. Did anything particular happen as you were
22 dropping him off?

23 A. No, sir.

24 Q. Okay. Let me ask you this, knowing your uncle as long
25 as you have -- well, I didn't ask you how long you've known

TEDRIKS GREEN - DIRECT BY MR. GIPSON

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1 him, because you've known him, how long have you know him?

2 A. All my life.

3 Q. Alright. Do you know what his dominant hand is?

4 A. Yes, sir.

5 Q. What is that?

6 A. The left hand.

7 Q. Alright. So, you dropped him off and what happened
8 after you dropped him off?

9 A. After I drop him off I wait until he got into the house,
10 and then I left and went back home.

11 Q. Okay. Do you know about what time that would have been?

12 A. Around like Eleven, around Eleven.

13 Q. Alright. So, is it your testimony that between Seven or
14 so and Eleven that night you and Mr. Brown were together?

15 A. Yes, sir.

16 Q. Okay. And y'all were watching the World Series?

17 A. Yes, sir.

18 Q. Any idea who was even playing in the World Series?

19 A. It was San Francisco and Texas.

20 Q. Okay. Alright.

21 MR. GIPSON: That's all my questions, Your Honor.

22 THE COURT: Cross-examination.

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

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 TEDRIKS GREEN - CROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good afternoon, Mr. Green.

4 A. Good afternoon.

5 Q. Let me just ask you this, back in Two thousand eight,
6 you were convicted for giving false information to the
7 police, is that correct?

8 A. Yes, sir.

9 Q. Okay. That's your uncle, you've known him all your
10 life, right?

11 A. Yes, sir.

12 Q. Would you lie for him?

13 A. No, I wouldn't.

14 Q. You would not lie for him?

15 A. No.

16 Q. And you know, obviously, you know his name, right?

17 A. Yes, sir.

18 Q. What name did you know him by?

19 A. What name did I know him by? Romeo Brown.

20 Q. Romeo Brown?

21 SOLICITOR SORENSON: Your Honor, at this time I think
22 I'd have a matter of law I'd like to take up dealing with
23 this witness.

24 THE COURT: Oh, okay. Ladies and Gentlemen, I'm going
25 to ask you to please step to your jury room. Do not discuss

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 this matter or allow anyone to discuss it with you.

2 (Whereupon, the jury retires

3 to the jury room and the following

4 takes place out of the presence

5 of the jury.)

6 THE COURT: Okay. Yes, sir?

7 SOLICITOR SORENSON: Your Honor, he has indicated that
8 he would not lie for his uncle and that he did know his
9 name. If Your Honor recalls, the testimony that I attempted
10 to proffer, or did proffer but attempted to admit earlier in
11 this week through Ulysses Daniels, basically what I would
12 seek to ask him, the sheriff's office responded out to that
13 scene that day and ultimately made contact with the victim,
14 who obviously I can't get into what they asked the victim,
15 but this was the individual that the, that whole altercation
16 over the bag of marijuana was supposedly over, and law
17 enforcement, the sheriff's office responded and asked him
18 that day, you know, they were trying to, because all they
19 had was the name, Romeo, that they were looking for as a
20 possible suspect in this assault, and asked him if he knew
21 who Romeo was, and he replied that he didn't know anything
22 about who Romeo was. I think that is a situation where he
23 has lied to law enforcement to protect his uncle.

24 THE COURT: This has to do with this incidence or the
25 prior incidence?

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: The prior incidence. But I mean,
2 that was four months earlier where I submit he lied to law
3 enforcement to protect that man, the same man he is now
4 testifying for.

5 MR. GIPSON: Judge, first and foremost, the question
6 was asked, would you lie for him? He said, will you lie for
7 your uncle? He said, no. And the question is, I mean,
8 there's questions: Number One is that even relevant to what
9 we're dealing with now? If -- and there's an assumption
10 that he lied on that occasion, I mean, I actually don't need
11 to look back at the report, but there's an assumption that,
12 Number One, you know, law enforcement went over there and
13 actually specifically questioned him about Romeo Brown. He
14 doesn't mean he was lying on his behalf to protect him
15 because there's an assumption there that Romeo wasn't even
16 there that particular day. I mean, we're making assumptions
17 on a report that we don't even know. And so, to say that
18 you're lying for someone, that suggests that there's some
19 kind of cooperation or some idea that both parties know that
20 something is going on or that somebody is colluded, you
21 know, to perform some type of act. And I think the question
22 is ...

23 THE COURT: Hold on one second.

24 MR. GIPSON: Yes, ma'am.

25 THE COURT: Well, first of all, I'm going to sequester

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 this witness before I go into this discussion any further -

2 - -

3 MR. GIPSON: Yes, ma'am.

4 THE COURT: --- just to keep in force my sequestration
5 order.

6 So this is rude to say, but I'm going to ask you to
7 leave the room so we can talk about you behind your back.
8 My mama would be rolling in her grave. So what I'm going to
9 ask you to do is to just step outside the door because
10 there's a sequestration -- as you know there's a
11 sequestration order in effect. So, since we're going to be
12 chatting as I make this ruling, I feel like I'm supposed to
13 do that. But I'm not going to keep you out there for very
14 long. Okay? Thank you so much.

15 SOLICITOR SORENSON: Okay. Just make sure he knows, I
16 don't know who's out in the hallway, but obviously, he can't
17 talk to anybody out there. I mean, I don't know who's
18 sitting out there but, you know, if he's not told that he
19 may not know.

20 THE COURT: Yeah, don't talk to -- anything about this
21 case. You can talk -- well, you're not going to talk about
22 baseball, I know that, I guess basketball or some other
23 sport or whatever, but you can't talk about your testimony.
24 Okay? Thank you so much. We'll be with you very shortly.
25 (Whereupon, the witness

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 leaves the courtroom, and
2 the following takes place out
3 of the presence of the witness.)

4 MR. GIPSON: If I could just make one point.

5 THE COURT: I'm listening.

6 MR. GIPSON: And Judge, I'm looking at this incident
7 report, and the incident report actually says, the last page
8 I think that Mr. Sorenson is referring to, - - -

9 THE COURT: Yes.

10 MR. GIPSON: --- "Both parties left the scene. This
11 unit returned to the incident location, located at Tedriks
12 Green, a/k/a, Snook, and the complainant, Ryant ..." "All
13 of the persons had left and Green nor Ryant could provide
14 information about Romeo." It doesn't say he lied about it,
15 it says he couldn't provide information.

16 THE COURT: Okay.

17 MR. GIPSON: I think that's a whole different can of
18 worms.

19 THE COURT: Okay. Now, I'm just for purposes of the
20 record, I'm referring to Six O Eight. You've done Six O
21 Eight, Nine, you've done that already.

22 SOLICITOR SORENSON: Six O eight what?

23 THE COURT: Nine.

24 SOLICITOR SORENSON: Nine?

25 THE COURT: Six O Nine, I mean, Six O Nine.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: Yes, yes, ma'am.

2 THE COURT: You've done Six O Nine?

3 SOLICITOR SORENSON: Yes, ma'am.

4 THE COURT: And you're now, where we are now is at Six
5 O Eight, B.

6 SOLICITOR SORENSON: Six O Eight, B?

7 THE COURT: Yeah.

8 SOLICITOR SORENSON: Or possibly C even. I agree it's
9 B but I think it also could be possibly, just to kind of
10 show some bias here, prejudicial motive to misrepresent.

11 THE COURT: Now, here's what you can do. What you can
12 do is, you can ask this -- and the reason I wanted him to
13 step out - - -

14 SOLICITOR SORENSON: I understand, Your Honor.

15 THE COURT: --- is because you can certainly ask him
16 that, have you had a conversation with law enforcement in
17 the past where they asked you did you know Romeo? And did
18 you respond, no? And you've got to take it, but you do
19 understand, you can't prove how extensive - - -

20 SOLICITOR SORENSON: I understand, I'm stuck, let's
21 just say, I'm stuck with what Your Honor said. I know
22 that's why you sent him out so he couldn't pick up on that.

23 THE COURT: Exactly, exactly. Yes. But you've got to
24 take his answer, and you can't prove it by extrinsic
25 evidence.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: Yes, ma'am.

2 THE COURT: Yes, sir?

3 MR. GIPSON: Alright. And again, Judge, the statement
4 that is written in this report, I mean, that essentially,
5 for us to allow the inquiry we're assuming that everything
6 in this report is true. And essentially it says, he asked
7 if he had any information about Romeo, and they said neither
8 one had information about him. That doesn't mean that he
9 said, who is he, where does he live or any of that kind of
10 stuff. I mean ...

11 THE COURT: I know. And here's the standard, the
12 standard is, is that the Solicitor has to, must have a good
13 faith belief in that the act occurred, and the act being
14 that, A, this gentleman was asked and that was his response.
15 And I gather if you didn't have a good faith belief - - -

16 SOLICITOR SORENSON: Right. And I think that report
17 gives me a good faith belief to ask him. And as you said, I
18 mean, I'm stuck with his -- I mean, if he says, no, I mean,
19 I can't - - -

20 THE COURT: There you have it.

21 SOLICITOR SORENSON: --- I mean, I can't call the
22 investigator that talked to him.

23 THE COURT: That's right, that's right, that's exactly
24 right. And I don't want you to give the date. Alright? I
25 don't want you to give the date.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 SOLICITOR SORENSON: Can I say a couple of months prior
2 just so we kind of - - -

3 THE COURT: Oh, ...

4 MR. GIPSON: Can we proffer it?

5 SOLICITOR SORENSON: Just so we kind of know what we're
6 -- no, because that kind of, that's the whole reason why she
7 sent him out of the courtroom.

8 THE COURT: I want you to ask him, have you been asked
9 by law enforcement, period, and I don't want to get into the
10 date. The reason I don't want to get into the date is,
11 we've got, we've danced around the injury, the wounds, and I
12 don't want to dance around the date, I really don't, because
13 I don't want to encourage this jury to speculate, we've
14 danced around the wound and the walking with a cane, and now
15 I don't want to start talking about a couple of months
16 earlier, because at that point I think I'm misleading my
17 jury.

18 SOLICITOR SORENSON: And I guess my concern is, I'm not
19 sure how I can expect to get a truthful answer out of him if
20 I don't, because he doesn't know what date I'm talking
21 about. So, it makes it real easy for him to just go, no, -
22 - -

23 THE COURT: You can ask him ...

24 SOLICITOR SORENSON: --- because there's nothing even
25 at all specific I'm asking him. I mean, - - -

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 THE COURT: Well, sure there is. You just ask him,
2 have you had a conversation with law enforcement in the past
3 where law enforcement asked you if you had any information
4 about Romeo, or knew Romeo? That catches this incidence,
5 any prior incidence.

6 SOLICITOR SORENSON: Okay.

7 THE COURT: I think it's inclusive, yeah. Okay. And I
8 don't want to give dates because then I've got my jury
9 speculating.

10 SOLICITOR SORENSON: I do have something else I planned
11 on going into, and I don't think will be objectionable, - -

12 -

13 THE COURT: Sure.

14 SOLICITOR SORENSON: --- that does deal specifically
15 with this incident, so ...

16 THE COURT: Okay. Sure.

17 MR. GIPSON: With this minora that this -- well, I've
18 got you.

19 THE COURT: Alright. Very well.

20 MR. GIPSON: And I would just, and just note my
21 objection for the record.

22 THE COURT: Absolutely, absolutely, and I am overruling
23 your objection, absolutely. And since -- that's going to be
24 your next question, isn't it?

25 SOLICITOR SORENSON: Yeah, I guess it is.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 THE COURT: Okay. Just for purposes of the record, I
2 don't want Mr. Gipson to get caught up in that, you know, -
3 - -

4 SOLICITOR SORENSON: Yes, and I will, yes.

5 THE COURT: --- And then make contemporaneous
6 objections. Therefore, you waived it. I've got it, I don't
7 intend for you to waive it. So, let's have him back.

8 SOLICITOR SORENSON: We need to get him back in here
9 before we get the jury, right?

10 THE COURT: Yeah.
11 (Whereupon, the witness, Tedriks Green,
12 enters the courtroom and retakes
13 the witness stand.)

14 THE COURT: Alright, you can start bringing the jury
15 in.
16 (Whereupon, the jury enters
17 the courtroom.)

18 THE COURT: Alright, you may proceed.

19 SOLICITOR SORENSON: Thank you, Your Honor.

20 Q. Alright, Mr. Green, we had left off with, let me ask you
21 this, have you ever been untruthful with law enforcement
22 when they questioned you about who Romeo is?

23 A. I've been -- yes, sir.

24 Q. You have? And let me ask you this, you've got a, do you
25 go by the nick name, Snook, is that right, is that your nick

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 name?

2 A. Yes, sir.

3 Q. S-N-O-O-K?

4 A. Yes, sir.

5 Q. And is it your testimony that on October Twenty-seventh,
6 the night of October Twenty-seventh of Two thousand ten Mr.
7 Brown was with you from Seven o'clock until Eleven o'clock,
8 is that right, is that your testimony?

9 A. Yes, sir.

10 Q. Now, where did you, where did you -- I missed this
11 initially, you may have said it but I was writing, where did
12 you, where did you pick him up or meet him that night?

13 A. At the Four Way Stop.

14 Q. The Four Way Stop. And that's, the Four Way is a gas
15 station?

16 A. Yes.

17 Q. Alright. And that's located at Six O One and Chestnut?

18 A. Yes.

19 Q. Is that correct?

20 A. Yes.

21 Q. Is that some place he commonly hung out was at the Four
22 Way?

23 A. Yes.

24 Q. Okay. And a lot of people just kind of hang out there,
25 is that right, sometimes?

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 A. Yes.

2 Q. But have you picked him up there before?

3 A. Yes, I picked him up there before.

4 Q. Alright. And it's your testimony that y'all sat and
5 watched baseball even though you weren't paying attention to
6 the game, right?

7 A. Yes.

8 Q. So, I guess if I asked you who won would you know the
9 answer to that?

10 A. No, I, it came out in the newspaper, I seen that, I know
11 who won.

12 Q. Alright, who won?

13 A. San Francisco.

14 Q. Okay. What was the score?

15 A. I have no idea.

16 Q. Okay. But you know San Francisco won?

17 A. Yeah.

18 Q. Okay. Who won the World Series that year, do you know?

19 A. San Francisco.

20 Q. Okay. And you saw that in the newspaper you said?

21 A. Yes.

22 Q. Okay. And when did you see that in the newspaper?

23 A. The next day.

24 Q. The next day? And you remember that Nineteen months
25 later?

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 A. Yeah.

2 Q. Okay. Who won the game, do you remember what game of the
3 World Series that was?

4 A. No, sir.

5 Q. Okay. You just remember that San Francisco won that
6 game, right?

7 A. Yes, sir.

8 Q. Alright. Anything else about that game you remember?

9 A. No, sir. I just know the pitcher, that's all.

10 Q. Alright, and was it Tim Lincecum and Cliff Lee that
11 were pitching, right?

12 A. No, sir, I don't know their name.

13 Q. You don't know their names?

14 A. No, sir. I just know about the beard, that's all I
15 know.

16 Q. Okay. About the beard?

17 A. Yeah.

18 Q. Ryan Wilson? You don't know? Alright. But it's your
19 testimony that y'all were there that night and that baseball
20 game was on, and that you dropped him off at Eleven o'clock?

21 A. Yes, sir.

22 Q. And that was at his house?

23 A. Yes, sir.

24 Q. And that was on Beverly, is that the street you said?

25 A. Yes, sir.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 Q. Okay. How long had he been staying there?

2 A. I don't know exactly how long he had been staying there.

3 Q. Okay. So, you don't know how long he had been there?

4 A. No, sir.

5 Q. Okay. And let me ask you this, you know Lieutenant
6 Shumpert, right?

7 A. Yes, sir.

8 Q. Alright. And do you remember, do you remember around
9 that time period Lieutenant Shumpert stopping you when you
10 were in a car after the shooting, after Mr. Harrison had
11 been killed, sometime shortly after that and asking you if
12 you had seen your uncle, Mr. Brown, around?

13 A. No, sir, he never stopped me in the car.

14 Q. Do you remember him having a conversation with you?

15 A. Yes.

16 Q. Okay. And I think it was over in maybe Dogwood Trailer
17 Park?

18 A. Yes, sir.

19 Q. Okay. And do you remember, did you tell him that, you
20 told him that you hadn't seen your Uncle Romeo in a while,
21 right?

22 A. Well, I tell him I ain't seen him since that night.

23 Q. So, you deny telling him that you had not seen him in a
24 while?

25 A. I said since that night.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 Q. Okay. So, you deny saying that you hadn't seen him in
2 a while when he asked you - - -

3 A. Yeah, yes, sir.

4 Q. Okay. So, you deny that. Okay. And of course, you
5 also wouldn't give him your name, would you?

6 A. No, sir.

7 Q. Okay. All you would tell him was your nick name, right,
8 Snook?

9 A. No. He came to me, telling me my name was Snook. I
10 told him my real name.

11 Q. But you did tell him your real name?

12 A. I told him my real name.

13 Q. Okay. Alright. But when he asked you about whether you
14 had seen Mr. Brown you said that you -- what did you tell
15 him when he asked you, I mean, they were looking for him at
16 that point in time, what did you tell him?

17 A. He asked me if he was in the house, I tell him, no, he's
18 not in the house.

19 Q. Okay.

20 A. That's all he asked me.

21 Q. Okay. He didn't ask you if you had seen him recently?

22 A. Recently, he asked me.

23 Q. And what - - -

24 A. I tell him, no, I ain't seen him since that night, last
25 night, that night it happened.

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 Q. Okay. So, you told Lieutenant Shumpert that back in
2 October of Two thousand ten?

3 A. Yes, sir.

4 Q. Okay. And where were you staying at at that time?

5 A. Dogwood Trailer Park.

6 Q. Okay. So, that's over, and that's actually where he
7 came and talked to you, right?

8 A. Yes, sir.

9 Q. Okay. Let me ask you, in that week or so, are you aware
10 of one time when Mr. Brown, when your uncle got arrested,
11 are you aware of that?

12 A. When he got arrested?

13 Q. Did you hear about it?

14 A. Oh, yes, sir.

15 Q. Okay. And in that week prior to that had he been with
16 you during that week prior?

17 A. That week prior?

18 Q. Yes, sir.

19 A. Yes, sir.

20 Q. And how often had he been with you?

21 A. How often?

22 Q. Uh-huh, yes, sir.

23 A. Since the incident or after the incident happened?

24 Q. In that week after the incident happened, the week, from
25 the incident until when he was arrested?

TEDRIKS GREEN - CROSS BY SOL. SORENSON

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1 A. Oh, I ain't seen him none after that incident happened.

2 Q. Okay. You didn't see him none during that week?

3 A. Huh-uh.

4 Q. Okay. And of course, you haven't come in to the
5 sheriff's office anytime within the last Nineteen months and
6 given them a statement or anything saying that, you know, he
7 was with you that night, right?

8 A. No, sir.

9 SOLICITOR SORENSON: Thank you, Mr. Green.

10 THE COURT: Alright. Redirect?

11 MR. GIPSON: Just very briefly.

12 THE COURT: Yes.

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.)

TEDRIKS GREEN - REDIRECT BY MR. GIPSON

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1 TEDRIKS GREEN - REDIRECT EXAMINATION

2 BY MR. GIPSON:

3 Q. You said that Lieutenant Shumpert came out to your house
4 and asked you if you had seen Mr. Brown, correct?

5 A. Yes, sir.

6 Q. And you said, not since the night of the incident,
7 correct?

8 A. Yes, sir.

9 Q. At that point in time did he pull out a note pad and
10 say, well, tell me what you did the night of the incident
11 when you saw him?

12 A. No, sir.

13 Q. Alright. And you gave him that information, did he ever
14 follow up on that information to your knowledge?

15 A. No, sir.

16 MR. GIPSON: Alright. That's all my questions.

17 THE COURT: Alright. Yes, sir, Recross?

18 SOLICITOR SORENSON: Nothing more, Your Honor.

19 THE COURT: Alright. Is this witness free to leave?

20 SOLICITOR SORENSON: No objection.

21 MR. GIPSON: No objection.

22 THE COURT: No objection. Very well, thank you, you
23 are free to go. And you certainly may take your water.

24 Alright, call your next witness, please.

25 MR. GIPSON: I'd like to call Erica Smith, Your Honor.

1 THE COURT: Alright.

2 MR. GIPSON: She should be out in the hallway.

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

5 CLERK: Please place your left hand on the Bible and
6 raise your right hand.

7 (Whereupon, Erica Smith
8 is duly sworn.)

9 CLERK: Thank you. You may have a seat and please state
10 your name again for the record.

11 WITNESS: Erica Smith.

12 THE COURT: Your witness.

13 MR. GIPSON: Thank you.

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.)

ERICA SMITH - DIRECT BY MR. GIPSON

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ERICA SMITH - DIRECT EXAMINATION

BY MR. GIPSON:

Q. Good afternoon, Ms. Smith.

A. Good afternoon.

Q. I just want to ask you just a few questions about just, about October of Two thousand and ten, and I'm going to try to orient us to October Twenty-seventh within those whereabouts. Do you know Mr. Brown?

A. Yes, I do.

Q. And when I say, Mr. Brown, I'm talking about Romeo.

A. Yes.

Q. Alright. Tell the Court how you know him?

A. We were neighbors.

Q. Okay. Neighbors where?

A. On Beverly Drive, on Beverly Lane.

Q. Okay. And where is Beverly Lane?

A. Right off of Myers.

Q. Okay.

A. Off Myers Street in Orangeburg.

Q. And is there a major road that it's close by?

A. Myers is the main road.

Q. Okay.

A. And you turn off of Myers onto Victoria, and then onto Beverly.

Q. Okay.

ERICA SMITH - DIRECT BY MR. GIPSON

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1 A. It's a little trailer park.

2 Q. Okay. A small trailer park?

3 A. A small trailer park.

4 Q. And about how long had he been on Beverly Lane when you
5 knew him?

6 A. Well, he was there when I got there, so he was there
7 before I was, so how much longer he was there before I was
8 I'm not sure.

9 Q. Okay. Alright. And you came to know him?

10 A. Yes, I did.

11 Q. Okay. And how is it that you knew him?

12 A. Like I said, we were neighbors and one day I was outside
13 and he was doing his yard, and he spoke to me, and then
14 maybe a week or so later his, at the time it was his
15 fiance', she came down and then he introduced the two of us,
16 and we became good friends, his wife and I.

17 Q. Okay. Alright. Now, was that in October, or that was -

18 - -

19 A. I moved there on Beverly Lane, I think it was in the
20 summer, I think I moved there in -- the trailer burned down
21 in O-ten, I think I moved there in O-nine -- O-eight I think
22 it was, yeah.

23 Q. Alright. Now, let me ask you this, I'm going to kind of
24 point us back to the date of October Twenty-seventh. Do you
25 remember coming into contact with Mr. Brown at that point in

ERICA SMITH - DIRECT BY MR. GIPSON

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1 time?

2 A. Yes.

3 Q. Okay. Tell us how you came in contact with him?

4 A. My friend and I were in my home playing card that night,
5 something, we played gin rummy all the time, and we heard, I
6 heard a car door slam, and at that time, you know, we didn't
7 think nothing of it because, you know, there's other
8 trailers around us, you know, Mr. Brown's trailer is right
9 in front of me and there were like, there are three other
10 trailers before you got to our trailer.

11 Q. Let me ask you a brief question, how far is his trailer
12 away from yours?

13 A. I could walk out my front door and take maybe five steps
14 and I'm at his front door.

15 Q. Alright. So, it's, you're about as far as we are?

16 A. Yeah.

17 Q. Okay. So, spitting distance basically?

18 A. Yeah.

19 Q. Alright. Okay, go ahead.

20 A. And you know, it was a like a door slammed, and like I
21 said, I didn't pay anymore attention to it. And then
22 someone knocked on my door. And I'm like, me and my friend
23 both looked like, who -- because I'm freaking, this time of
24 night why would somebody be knocking on my door, because
25 it's late for me. Anyway, I'm like, who is it? And he

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1 said, Romeo. So, I said, oh, George, that's Romeo. So, he
2 walked in. And so, I opened the door and he came on in. And
3 I said, I'm so glad to see you, because I need some milk,
4 you know. I can be honest, we was drinking, you know,
5 drinking, you know, little drinks, and I like to have mile
6 to coat my stomach. So, I said, I need some milk. And he
7 gave me the key and said, well, go ahead to the house and go
8 and get it. So, I did that and when I walked out the door,
9 when I walked out the door, I was shocked because I saw a
10 lot of lights.

11 Q. Right.

12 A. So, I went on to the house, I ain't paid no attention
13 because it was always something going on on that side, so I
14 didn't pay any attention to it.

15 Q. Okay.

16 A. And I came back in the house and I mentioned it to the
17 both of them, and Romeo wanted to know how to play gin
18 rummy, which was what we was playing, he didn't know how to
19 play. And we tried to show him, and I was, you're really
20 wasting my time, you know. So he sat there for about, I
21 would give it, altogether he was there for like Thirty
22 minutes or whatever. He said, well, I'm tired, I'm going on
23 home. I said, okay, talk to you tomorrow.

24 Q. Okay. Now, how did he come up to the door?

25 A. He was, he walked into the door, you know, because at

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1 the time he had, he was using a cane because I know he had
2 got shot, you know.

3 Q. He had an injury to his leg?

4 A. Yeah.

5 Q. Okay. And he was using that cane to get around?

6 A. Yes, sir.

7 Q. Okay. And let me ask you this, when he came to the
8 house how was he acting?

9 A. Like Romeo, I mean, he was just, you know, like I said,
10 I heard a door slam, and then he knock on the door, and I
11 was like who is it, and he said Romeo, so he came on in.

12 Q. Right.

13 A. And right then I, when he came in the first thing I
14 said, well, I'm so glad to see you because I need some milk.

15 Q. Right.

16 A. You know, he laughed, he gave me the key and said, go
17 ahead and get it.

18 Q. Okay.

19 A. You know, but he was fine to me, to me, you know, yeah,
20 he was fine to me.

21 Q. Okay. I mean, did he, essentially, nothing out of the
22 ordinary to you?

23 A. Not to me, no, sir.

24 Q. And that's after knowing him for several months prior to
25 that?

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1 A. Uh-huh, yes, sir.

2 Q. Okay. Now, did, were there any disturbance at your
3 house or his that night that you witnessed or saw?

4 A. No.

5 Q. Okay. Did you ever see any law enforcement come by the
6 house?

7 A. That night?

8 Q. Yes, ma'am.

9 A. No.

10 Q. How is it you would have known if somebody came by?

11 A. Because, I mean, with me seeing all the blue lights,
12 like I said, we were, me and my friend, we were drinking,
13 drinking on what we drink, and I was up for a while because
14 that kind of annoyed me to see all those lights, I didn't
15 know what was going on. Because like I said, things always
16 was going on on that side.

17 Q. Okay.

18 A. So, I didn't know. And we sat up for, we sat up for a
19 long time, and you know, to my knowledge and to me knowing,
20 no, no one came there that night.

21 Q. Okay. Did there come a point in time when you saw
22 police?

23 A. Two days later they had that house surrounded.

24 Q. Okay.

25 A. That trailer. They were, because as a matter of fact, I

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1 know for sure it was two days later because what I did, when
2 I saw the police, because what happened they were, they
3 didn't pull all the way up, they pulled like between, it was
4 like two trailers before to cross each other before you got
5 to my trailer and Romeo's trailer, and the cars was pulled
6 right there, and I looked out and I saw the unmarked car.
7 And I was like, Oh, Lord, what's going on? So, I got on my
8 phone and I called Michelle, Erica, his wife, and, because
9 she lives, living in Anderson. And I was, like, Michelle,
10 they've got your house surrounded, what the hell, excuse me,
11 what the hell is going on?

12 Q. Right.

13 A. And -- I'm sorry, but that's what I said. And I said,
14 what's going on? And she was, like, for real, are you
15 serious?

16 SOLICITOR SORENSON: Objection.

17 Q. Okay. Don't tell what she said.

18 THE COURT: Thank you.

19 Q. I cut you off. Okay, but you can't say what anybody
20 said, you can only just tell us directly what you said.

21 A. Oh, okay.

22 Q. Yeah.

23 A. And I just called her, I just called her and told her
24 that, you know, they had the house surrounded.

25 Q. Okay.

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1 A. Yeah.

2 Q. And, and, but we're going back to the night of the
3 Twenty-seven and the morning, did you ever see, you know,
4 this gentleman or any other officers knocking on the door or
5 beating on the door or anything like that?

6 A. That night?

7 Q. Yes, ma'am.

8 A. No, sir.

9 Q. Alright.

10 A. No, sir.

11 Q. And again, when you saw Romeo how was he acting towards
12 you?

13 A. Romeo was fine towards me. He was, I always thought,
14 like I said, I been on, I don't judge anyone but just for me
15 knowing him, Romeo was fine to me, you know.

16 Q. Okay.

17 A. He's the Romeo that I knew, that I grew to know. Other,
18 I mean, I can't say anymore than that.

19 Q. Okay. Now, you have a prior record of a conviction of
20 forgery, is that correct?

21 A. Yes.

22 Q. Alright. Now, let me ask you a question then also, I'm
23 going to show you what's been marked as State's Exhibit
24 Number Five, and if you would, step down - - -

25 MR. GIPSON: Your Honor, can she step down?

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1 THE COURT: She certainly may.

2 MR. GIPSON: Thank you. Just come on down.

3 Q. Now, if you can, this is aerial view of the neighborhood
4 area. Can you look at this and make any sense out of it, if
5 I kind of tell you where things are?

6 A. I don't have my glasses on.

7 Q. Well, you don't have glasses on, but if this is
8 Whittaker Parkway, and this is Wingfield Street, okay, and
9 this is Beverly Drive and Victoria?

10 A. Victoria here.

11 Q. Yes, ma'am.

12 A. If this is Victoria, you turn here, this is - - -

13 Q. Hold on one moment.

14 THE COURT: Keep your voice up for us a little bit,
15 please.

16 SOLICITOR SORENSON: That's alright, but I can't see.

17 A. This is Victoria, Victoria is here, you turn onto
18 Victoria, turn onto Victoria - - -

19 Q. Let me give you this.

20 THE COURT: You've got to keep your voice up.

21 Q. Use that to point if you would so they can see, but
22 speak loud enough so the court reporter can hear you.

23 A. Okay. Well, Victoria is here, and you turn off of
24 Victoria to Beverly Lane, this is where the trailer park is,
25 right in here, because Beverly Lane, so Beverly is where the

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1 trailers are, it's a little dirt road, not a dirt road but,
2 you know, it's right in here.

3 Q. Okay. And can you tell from that view, is your home
4 shown there?

5 A. I don't think so, because my trailer is in here.

6 Q. Okay.

7 A. Yes, this is my trailer.

8 Q. And Mr. Brown's would be where?

9 A. Right across from me.

10 Q. Okay. Alright. And so, at that -- and you said you saw
11 lights that evening. Where could you see the lights?

12 A. Okay. This is my trailer, the lights would have been
13 over here, over in here, because of the path, my path that
14 you would walk through. I never walked through that path,
15 I don't know, you know, I pretty much stay to myself pretty
16 much. So, I mean, this was over in here.

17 Q. Was there a fence through that path, do you know?

18 A. My landlord had had something up right there, but they
19 kept tearing, people kept tearing, knocking it down, so the
20 guys, you know, guys always walked through that path.

21 Q. Okay. And again, but you saw lights on this end?

22 A. Uh-huh, yeah.

23 Q. Okay. And that's what made you kind of be a little bit
24 more aware that night?

25 A. Yeah. Extremely so.

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1 Q. And your testimony is you never heard anybody knocking
2 on anything that night?

3 A. No, sir, because if they knocked on their door or
4 anybody knocked on that door it's like they was knocking on
5 your door.

6 Q. Okay.

7 A. You know, and that, no, nobody, no, sir. Now, like I
8 said, two days later, yes, they had that trailer surrounded.

9 Q. Okay.

10 MR. GIPSON: That's all my questions. Oh, I do have
11 one more question. I'm sorry, you can have a seat.

12 The Court's indulgence for a moment?

13 THE COURT: Alright.

14 MR. GIPSON: That's all my questions. Please answer
15 any questions Mr. Sorenson has.

16 THE COURT: Cross-examination.

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

ERICA SMITH - CROSS BY SOL. SORENSON

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1 ERICA SMITH - CROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good afternoon, Ms. Smith.

4 A. How are you doing?

5 Q. I just have just a couple of questions for you.

6 A. Uh-huh.

7 Q. I believe it was your testimony that you, you're good
8 friends with, with Mr. Brown's wife, is that correct?

9 A. Yes, yes.

10 Q. And would it be fair to say that out of the two of them
11 that's probably who you are closer to, out of the two of
12 them?

13 A. Yes.

14 Q. Alright. But she was not living with him back in
15 October of Two thousand ten, is that correct?

16 A. No, sir.

17 Q. She was up in Anderson?

18 A. Yes, sir.

19 Q. Alright. And you testified about, you referenced it
20 being two days later that Mr. Brown's trailer was surrounded
21 by police?

22 A. Uh-huh.

23 Q. Okay. And was he there at that point in time?

24 A. No, no, he wasn't.

25 Q. Okay. Had you seen him that day that you are aware of?

ERICA SMITH - CROSS BY SOL. SORENSON

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1 A. Honestly, no, I don't, no, not that day I didn't see
2 him, no.

3 Q. How about the day before that?

4 A. I saw him that night, and he came to my house and I got
5 the milk. The next day I laid down late. Yes, I'm trying
6 to remember. I don't think I saw him that morning, that
7 next day, prior next day, because like I said, I laid down
8 late, yeah, so, and what woke me up, my daughter called me
9 and asked me, you know, was talking to me, asking me some
10 things and that's what woke me up really. So, you know, I
11 don't think I saw him that next day.

12 Q. Okay. I've got you. So, you don't think you saw him
13 that next day, you don't think you saw him the day that the
14 police were surrounding the trailer. Did you see him the
15 day after that?

16 A. No.

17 Q. Did you see him anymore around his trailer, after you
18 saw the police out there surrounding his trailer did you see
19 him anymore that week around his trailer?

20 A. No, because actually, I'm trying to think what day I
21 left, because my friend and I, we did go down to ...

22 THE COURT: Alright, keep your voice up, please.

23 A. Oh, okay, I'm sorry. I'm trying to think, my friend and
24 I did leave and we were gone for like two days.

25 Q. Okay. And where did you go?

ERICA SMITH - CROSS BY SOL. SORENSON

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1 A. My friend and I, we went to, as a matter of fact, South
2 of the Border, because we always went there.

3 Q. Okay.

4 A. We went to South of the Border a lot.

5 Q. Okay. So, you went to South of the Border, you and a
6 friend?

7 A. Yes.

8 Q. And do you remember what days of the week you did that?

9 A. Honestly, we, I can't, I really can't remember because
10 we would just jump in the car and go, because we just didn't
11 like to stick around Orangeburg a whole lot, so we would
12 just go.

13 Q. You used to do that a lot?

14 A. Oh, yeah.

15 Q. But you specifically remember that you would have done
16 that within a few days - - -

17 A. Yeah, because I remember.

18 Q. --- after what you were testifying about?

19 A. Oh, yeah.

20 Q. Okay. And is there anything that makes you sure about
21 that?

22 A. Because when my daughter, like I said, my daughter had
23 called me and we were talking about some things. As a
24 matter of fact, I took one of my grand kids with me.

25 Q. Okay. But you're not sure what days of the week or days

ERICA SMITH - CROSS BY SOL. SORENSON

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1 even that was?

2 A. I cannot remember what days, no, I can't honestly.

3 Q. Is that something you typically do on the weekend or
4 sometime during the week, or just kind of just - - -

5 A. Like I said, like I said, we would just jump up, and we
6 would just go because we could do that so ...

7 Q. I've got you.

8 A. Yeah.

9 Q. And you had testified, you testified that when you came
10 out that night that we're talking about here, and what day
11 was that, what day that you went over and got the mile from
12 Romeo's?

13 A. It was, I'm assuming it was the night of the shooting
14 because I saw the blue lights from that next day. How I
15 find out it was a shooting my daughter called me and said,
16 Mama, what happened over - - -

17 SOLICITOR SORENSON: Your Honor, - - -

18 A. Oh, I'm sorry.

19 THE COURT: You can't testify to what someone said.

20 A. Oh, okay.

21 Q. But you had come out and you said you saw, you know,
22 lights over kind of in this wooded, kind of path area over
23 here?

24 A. It's a path, yes, sir.

25 Q. Okay. And that's where you saw the lights at that

ERICA SMITH - CROSS BY SOL. SORENSON

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1 night?

2 A. Yes, sir.

3 Q. Alright. Did you go -- let me ask you this, when you
4 went back inside you said - now, who was there? Because I
5 didn't catch initially who you said was there initially in
6 your house?

7 A. My friend and I, my friend, George Williams.

8 Q. George Williams?

9 A. Yes.

10 Q. Okay. So, you and Mr. Williams were playing gin rummy
11 or something like that?

12 A. Yes.

13 Q. And having a couple of drinks?

14 A. Yes.

15 Q. Okay. And what were you drinking, do you remember that
16 night?

17 A. I always drink parrot bay coconut rum.

18 Q. Okay. Just straight or was it cut with something?

19 A. No, I usually use pineapple, pineapple juice. I didn't
20 have, I was out of pineapple juice and I usually coat it
21 with milk sometimes also, so ...

22 Q. I've got you. Okay. So you had been there, and had you
23 had a lot to drink that night?

24 A. No, it wasn't a lot.

25 Q. Okay. But you were playing, and you said that you, when

ERICA SMITH - CROSS BY SOL. SORENSON

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1 you saw these lights, and that you went back in. What did
2 you tell, what did you tell Mr. Brown about what you saw
3 outside?

4 A. It wasn't just to Mr. Brown, I said to both of them, I
5 was like -- should I? Okay, I said ...

6 Q. What did you say to them?

7 A. Okay. I said, man, there's a lot of blue lights through
8 the field, through the path, like that.

9 Q. Okay.

10 A. You know, and ...

11 Q. Let me ask you this, are you aware that Mr. Brown's
12 sister lives in that kind of direction?

13 A. Yes.

14 Q. Okay. And did he seem concerned at all that there were
15 a lot of blue lights over in the direction of his sister?

16 A. No, the response that was made, and we all, not my
17 friend, George, because he didn't know anything about the
18 area too much, but things always going on on that side, it
19 ain't no telling what's going on, like that, you know. And
20 like I said, and Romeo, Mr. Brown want to know how to play
21 gin, want to know how to play, and we tried to show him, and
22 I was, like, well, you're wasting my time. So ...

23 Q. So, he didn't seem too concerned about the fact that
24 there were a whole lot of police lights over in the vicinity
25 of his, of his sister and then his young nephew's house, did

ERICA SMITH - CROSS BY SOL. SORENSON

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1 he?

2 A. Not so much of a concern, it was just like, we were
3 just, you know -- I really can't say what the expression,
4 you know, I can't, you know, judge his expressions on it.

5 Q. I've got you. Now, of course, you never contacted law
6 enforcement about any of this information, is that correct?

7 A. No, sir.

8 Q. Okay. I mean, you knew he got arrested and charged with
9 murder from the incident that happened that night?

10 A. Yeah, I found out that, yeah.

11 Q. Let me ask you this, do you, do you know a young man by
12 the name of Tedriks Green that goes by Snook, it's his
13 nephew?

14 A. I've met him.

15 Q. You've met him?

16 A. I've met him before, yes.

17 Q. Have you seen him out in the hallway this morning?

18 A. Yes, I saw him out there.

19 Q. Did y'all talk out in the hallway?

20 A. Yeah, just hi, because I hadn't seen him in a long time,
21 you know, I used to see him come over there to Romeo's
22 house, and I was introduced to him as his nephew, so I mean,
23 but as far as just knowing him like that, no, I didn't know
24 him like that.

25 Q. But this morning y'all didn't talk this morning about

ERICA SMITH - CROSS BY SOL. SORENSON

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1 your testimony when you were together, did you?

2 A. Oh, no, no.

3 Q. Okay.

4 SOLICITOR SORENSON: That would be all I would have.

5 Thank you.

6 THE COURT: Alright. Redirect?

7 MR. GIPSON: Just briefly.

8 THE COURT: Alright.

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.)

ERICA SMITH - REDIRECT BY MR. GIPSON

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ERICA SMITH - REDIRECT EXAMINATION

BY MR. GIPSON:

Q. Now, you keep mentioning the blue lights. Now, could you see if they were in the woods or on the other side of the woods?

A. It, it was more like on the other side of the woods.

Q. Uh-huh.

A. You know, not in the woods.

Q. Right.

A. You know, because, I mean, it was like a sit still.

Q. Right.

A. You know, they were just flashing, you know, a lot of lights was just flashing and, you know, I just went on in the house, got the milk and came back out and went on back into my house.

Q. And you say that's a common occurrence on that end?

A. Yeah, I mean, it was all, because right to this day there's still a lot of people be going through that path shooting guns and stuff through that path to this day, you know.

Q. Uh-huh.

A. And just crazy, just real wild and crazy over there.

Q. Okay. And so, for that to happen that wasn't something that was just out of the ordinary that just, you know, made you just say, you know, I've got to leave this place, it was

ERICA SMITH - REDIRECT BY MR. GIPSON

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1 something you had seen before?

2 A. Oh, yeah.

3 Q. Okay. And again, was Romeo acting out of sorts or any
4 kind of way that would make you look suspicious at him?

5 A. No, not to me.

6 Q. Okay.

7 A. Honestly, not to me.

8 Q. And the question was asked if he and his wife were
9 together, living together at that point. She was living in
10 Anderson?

11 A. She was living in Anderson.

12 Q. Do you know what she was doing in Anderson?

13 A. No.

14 MR. GIPSON: Alright, I think that's all my questions.

15 THE COURT: Recross?

16 SOLICITOR SORENSON: Just real briefly, Your 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.)

ERICA SMITH - RECROSS BY SOL. SORENSON

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ERICA SMITH - RECROSS-EXAMINATION

BY SOLICITOR SORENSON:

Q. Mr. Gipson asked you if you had been asked about, you know, going over for the milk and seeing, to get the milk and seeing the lights kind of, and I think you kind of still said, kind of in this area, is that correct?

A. Yes, if I'm reading the map, I mean, to the right.

Q. Yes, ma'am.

A. Yeah, it was, from my trailer and Romeo's trailer, if I walk outside it would be to my right. So ...

Q. Walk outside of your trailer area?

A. If I walk out my front door.

Q. So, this is your trailer here?

A. Yes, if I walk out my front door to my right there was a path.

Q. Okay. And what time was that that you were seeing these lights over there?

A. I would be guessing, I'm going to say between like ten and eleven o'clock.

Q. Ten and eleven o'clock?

A. Or something like that, maybe eleven. I'm not; I'm not -- don't quote me on that but I know it was, like I said, when a knock came on my door I'm like, who's knocking on my door this time a night. That time of night would be late for me because I'm, like I said, I'm a quiet person, I

ERICA SMITH - RECROSS BY SOL. SORENSON

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1 don't have a whole lot of company and don't have people
2 coming to my house unless it's one of my kids or something
3 like that, you know. So ...

4 Q. And that initial knock on your door, what time do you
5 think that is?

6 A. Like I said, it was like, give or take between ten -- I
7 can't say for sure, between ten and eleven o'clock maybe, it
8 could have been later, I'm not sure. Honestly, I can't.

9 Q. Okay.

10 A. You know, I'm not, don't quote me on that.

11 Q. And is that unusual for him -- you said you usually
12 don't have company that time of night, so would that be
13 unusual for him to pop up knocking on your door at that
14 time?

15 A. Unusual for him to knock on my door, no, because, not
16 really, but maybe not that time, because when he has come
17 over at night before and him and his wife have both come
18 over, like, you know, we had a couple of things before, you
19 know what I'm saying, but for it to be unusual for him to
20 knock on my door, but I mean, just saying that time of
21 night, you know.

22 Q. And you know, for him by himself at that time of night?

23 A. At that time of night, just coming, you know. Like I
24 said, I heard a door slam, I don't know, you know, yeah,
25 so...

1 SOLICITOR SORENSON: Okay. Thank you, Ms. Smith.

2 THE COURT: Alright. Is this witness free to leave?

3 MR. GIPSON: Yes, ma'am.

4 SOLICITOR SORENSON: No objection.

5 THE COURT: Very well. You are free to go.

6 Call your next witness, please.

7 MR. GIPSON: May we approach for a moment, Your Honor?

8 THE COURT: You may.

9 (Whereupon, a bench conference
10 is had out of the hearing of the
11 jury and court reporter.)

12 THE COURT: After conferring with counsel our next
13 witness is going to be perhaps a little more lengthy, and
14 it's ten 'til one, and I know your din din bell, if it
15 hadn't already gone off is going to go off. I'm getting a
16 lot of nodding. So, we'll go ahead and break for lunch.
17 I'm going to ask you all to please be back at two. I know
18 we've been taking about two hours, about an hour and fifteen
19 minutes, but I'm going to ask you to cut that short just a
20 little bit. That gives you an excuse to get, you know,
21 something fast like a cheeseburger with french fries or
22 onion rings that you would not normally get, you normally
23 get that salad, but you can blame it on me because you've
24 got to be a little quicker. But don't give me the calories,
25 you keep your own calories, but you can blame it on me. But

1 Ladies and Gentlemen, I am going to ask you to be back at
2 two o'clock. Remember, do not discuss this matter or allow
3 anyone to discuss it with you, and don't read anything or
4 listen to anything about this matter on the radio,
5 television, newspapers or internet, don't have any social
6 networking about this matter, and remember to leave your
7 phones away from the courthouse. Have a wonderful lunch and
8 I'll see you at two.

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: Anything from the State before we take our
14 lunch break?

15 SOLICITOR SORENSON: The only thing I guess I would ask
16 Your Honor is to, if you have made a ruling or wish to hear
17 at this point in time, I guess, about -- from what Mr.
18 Gipson has told the Court up at the bench was that his only
19 witness he may have left might be the defendant.

20 THE COURT: Right.

21 SOLICITOR SORENSON: So, I'm not sure if we need to
22 address my motion to be able to get into his prior armed
23 robbery conviction at this point in time. I'm sure that may
24 weigh, may or may not weigh in his decision to testify.

25 THE COURT: I understand. You know, here's, here is my

1 concern, and I'm just being quite honest with you about it,
2 and I'm going to -- let me tell you what I'm going to do is,
3 I'm going to read again State versus Alamein.

4 SOLICITOR SORENSON: It would be our position that it
5 rules that armed robbery is a crime of dishonesty, I mean,
6 that is ...

7 THE COURT: I know it does. I know it does. And here,
8 and I don't mind -- I know that it does, and it is a Court
9 of Appeals decision, and certiorari was denied on Alamein.
10 My concern about this particular offense is that, to put it
11 quite frank, you know, Weinstein on Evidence and so many of
12 the other jurisdictions in the United States are pretty
13 clear that armed robbery is not a crime involving
14 dishonesty. And let me say that, and let me cite,
15 Weinstein's Federal Evidence lists the traditional crimes of
16 dishonesty as being matters of bribery, counterfeiting,
17 forgery, or transporting forgery, fraud, fraudulent passing
18 of worthless checks, and of course, perjury. South Carolina
19 by its case law has expanded that, and I've always been a
20 little bit concerned about that, because there are very
21 states that consider robbery to be a crime of dishonesty.
22 Of course, you know, if I consider it not to be a crime of
23 dishonesty, and differ from the Court of Appeals, then that
24 puts me in the position of going against the stare decisis
25 associated with the Court of Appeals and that is always a

1 very uncomfortable place for me to be, very uncomfortable.
2 And this happens to be one of those areas of the law that I
3 have a definite opinion, but again, I am not someone that
4 typically and normally finds herself ignoring the appellate
5 courts of this state, but I am concerned about it. If I
6 was, though, if I was to determine that armed robbery was,
7 in fact, not a crime of dishonesty, then that would put me
8 into the position of weighing whether or not the probative
9 value outweighs the prejudicial effect, and I can assure
10 you, it does not. Prejudicial effect of this conviction
11 greatly outweighs any probative value, and I'm satisfied
12 with that. So, where I think you are is Alamein, that I'm
13 going to read again.

14 SOLICITOR SORENSON: And I'd also add, I mean, and it's
15 going back, and I understand your opinion regarding the
16 probative versus prejudicial effect, but we're in maybe a
17 little different situation in this case because the jury has
18 heard about the conviction. So, it's not like there's no
19 knowledge at all of it. I mean, they ...

20 THE COURT: Then why do you want to push the envelope?

21 SOLICITOR SORENSON: Well, because I think I'm allowed,
22 because you're going to limit me from what I can argue in
23 that regard at this point in time. So ...

24 THE COURT: I am. I would, I would, you're exactly
25 correct.

1 SOLICITOR SORENSON: And that would be why, I mean, you
2 know, if he's choosing to testify, I mean I ...

3 THE COURT: I understand, I understand, but -- I do
4 understand, and that doesn't lessen for me.

5 SOLICITOR SORENSON: I just think it puts us in a
6 little different light than if it wasn't, I mean, if it
7 wasn't out there at all, I mean, at least, I mean, it's not
8 like they're going to be shocked when they hear when he
9 takes the stand and he gets asked, do you have a prior
10 conviction for armed robbery, I mean, they've heard that
11 already. So, I mean, they're going to know that. So, I
12 mean, that I think takes a little bit of that prejudice away
13 in that regard.

14 THE COURT: I'm with you completely, but I can't ...

15 SOLICITOR SORENSON: You don't agree with me but you're
16 with me, right?

17 THE COURT: I, I, exactly, I'm with you completely, but
18 again, your best argument is Alamein because I am not
19 someone that doesn't believe in stare decisis.

20 SOLICITOR SORENSON: And they clearly, I mean, they
21 hold armed robbery as a crime of dishonesty under Six O
22 Nine, A, Two, I mean ...

23 THE COURT: Right. And may I also say that the
24 authority, both the state authority and in terms of national
25 discussion, asterisk, South Carolina Law, you know, almost

1 is a, can you believe this? But they do make the
2 discussion, particular in regards to the federal court
3 system do make note of the fact that our Court of Appeals
4 has made that determination. And again, I'm not, I'm not, I
5 don't think I am bound by stare decisis, and I believe in
6 stare decisis, so I think probably you are going to, for
7 purposes of your planning, find that today I shall not be a
8 renegade with Alamein. But gosh, I'd love to have something
9 all about it. Actually, my problem is, I went to a seminar
10 about it, so that's probably where I get all messed up, but
11 in any event, I think that's, you can probably look for me
12 to follow Alamein. And I think that the ten years, because
13 of the Eighty-five percent and because of the period of the
14 incarceration, it does lie within the ten years. And you
15 should see me up here doing the math.

16 MR. GIPSON: I haven't done the math, Your Honor, but
17 my objection would be similar, I mean, our position would be
18 that just under State versus Johnson the test about
19 impeachment of the prior value -- impeachment value of a
20 crime and the point in time of the conviction between the
21 subsequent history ...

22 THE COURT: You've got to slow down. You know she's
23 really, really good, but I know she can't pick it up that
24 good.

25 MR. GIPSON: I'm sorry. It just lists the balancing

1 test from State versus Calph, and I think that balancing
2 test essentially puts us in a position where ultimately we
3 look at the prejudicial value versus probative effect, and I
4 don't think that's ...

5 THE COURT: I don't get to balance if it's a crime of
6 dishonesty. If it's not a crime of dishonesty you win on
7 the balancing, and I'll put that right out there, but the
8 dishonesty, if it is a crime of dishonesty it says, shall.
9 So, then the question is, does it lie within the ten years,
10 and of course, we know that yes, it does, because it has to
11 do with the release date, not the conviction date, although
12 early on as we adopted and began to use the federals I think
13 we did use the conviction date, but that has been changed
14 and I think probably clarified over time. So, Alamein I
15 think gets him where he wishes to be at this point. But
16 you're gonna have an appellate issue, and you'll have it if
17 you need it, should you need it.

18 MR. GIPSON: I understand. And my feeling is, Judge,
19 is as you've mentioned this, with the element of, of
20 possession of a firearm by a person convicted of a felony,
21 it's in there, and so, I mean, that's something, but in -- I
22 think the limiting instruction is something that I would
23 still request because it doesn't necessarily mean that he's
24 got a proclivity for this type of thing.

25 THE COURT: Oh, yeah.

1 SOLICITOR SORENSON: You'll get two of them now.

2 THE COURT: Exactly, and I'm really looking to you to -
3 - I'm inclined, Mr. Gipson, to, if I don't verbatim giving
4 the limiting instruction you wish, it's going to be as close
5 to that as I possibly can have it be. So ...

6 MR. GIPSON: And I request something along the lines
7 of, I don't care if he was convicted of this, it doesn't
8 matter if we're here for this particular charge.

9 THE COURT: I've got it.

10 MR. GIPSON: But let me give you our request.

11 THE COURT: Absolutely. Well, you know, it's pretty
12 close to that, it's like it is to be used for this purpose
13 and this purpose only and not for propensity at all. I
14 typically just say it, it is not to be used for any sort of
15 propensity evidence. Okay, I will come back to you.

16 What I'm doing is, I am finishing the charge,
17 hopefully, over the lunch, but if -- I know y'all are not
18 going to take the whole lunch. If you could just give me
19 like Fifteen minutes I'd love to be able to go over the
20 charge so that when we're ready we can keep going if that's
21 okay with you guys.

22 SOLICITOR SORENSON: Okay. And that was, I guess, was
23 our intention just to, I mean, what -- and we don't
24 necessarily need to do this on the record.

25 THE COURT: I know. Ms. Harry Dot, go get some lunch.

1 We're off the record.

2 COURT REPORTER: Alright, thank you.

3 (Recess)

4 THE COURT: Anything before we bring the jury out from
5 the plaintiff?

6 SOLICITOR SORENSON: The plaintiff, Your Honor?

7 THE COURT: Plaintiff? The State. What's wrong with
8 me? I'm thinking about next week, I'm sorry.

9 SOLICITOR SORENSON: Did you make a final ruling?

10 THE COURT: Yeah, Alamein say you get to do that.

11 SOLICITOR SORENSON: Nothing else, Your Honor.

12 THE COURT: Very well.

13 MR. GIPSON: And just so I'm clear, I'm just making
14 sure that Mr. Brown understands that. I'm explaining to him
15 that Alamein means that he can be asked if he has a prior
16 conviction from Nineteen ninety-nine for armed robbery.

17 THE COURT: That's correct. And the, of course, I'll
18 give them a limiting instruction that the jury may only
19 consider that as an element of the offense, I'll handle that
20 at that point, but that it may only be utilized on cross-
21 examination as, or on the issue of credibility, unless it --
22 on the issue of credibility at that point. Okay.

23 MR. GIPSON: Alright.

24 THE COURT: Yeah.

25 MR. GIPSON: We're ready to roll.

1 THE COURT: Very well, let's have the jury.

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

4 THE COURT: Mr. Gipson, call your next witness.

5 MR. GIPSON: I call Mr. Romeo Brown.

6 CLERK: Please put your left hand on the Bible and
7 raise your right hand, please.

8 (Whereupon, Romeo Brown
9 is duly sworn.)

10 WITNESS: Yes, ma'am.

11 CLERK: Thank you. You may have a seat and please
12 state your name again for the record.

13 WITNESS: Romeo Brown.

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.)

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ROMEO BROWN - DIRECT EXAMINATION

BY MR. GIPSON:

Q. Good morning, Mr. Brown.

A. Good morning.

Q. Or afternoon, I'm sorry.

A. Good afternoon, too.

Q. Alright. Now, I know you've kind of heard how the proceedings go but I'm going to ask you as well just to try to keep your voice up, and if you can make sure to speak into the microphone, but also raise your voice just a little bit to make sure that everybody can hear you.

A. Okay.

Q. Do you ...

A. Yes, sir.

Q. Okay. Just let me back up a little bit more. Alright. How old are you, Mr. Brown?

A. Forty-five.

Q. Alright. And where are you from?

A. From New York, been born, raised my childhood in New York but lived down in Orangeburg most of my life.

Q. Okay. Do you know about what grade you would have come on down to Orangeburg?

A. I was about Twelve, about Eleven, about Eleven.

Q. Okay. And since that time Orangeburg has been you, or South Carolina has been your permanent residence, the State

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1 of South Carolina?

2 A. Yes, sir.

3 Q. Okay. And you were pretty much born, or excuse me,
4 raised in what area of Orangeburg?

5 A. Roosevelt Gardens, a little bit of everywhere.

6 Q. Okay. But it started with Roosevelt Gardens?

7 A. Yes, sir.

8 Q. Okay. When you first moved here?

9 A. Yes, sir.

10 Q. Alright. Now, if you would, tell the jury just a little
11 bit, did you go to high school here in Orangeburg?

12 A. Yes, sir.

13 Q. And what high school did you attend?

14 A. Orangeburg-Wilkerson.

15 Q. Did you finish, or graduate from Orangeburg-Wilkerson?

16 A. No, sir.

17 Q. Okay. What happened, or did you receive a high school
18 diploma or any other type of certification?

19 A. A GED. I went to Job Corps in Georgia - - -

20 Q. Okay.

21 A. --- and received my GED, you know. I received, I got my
22 trade, auto body painting.

23 Q. Okay. And you received that through Job Corps?

24 A. Yes, sir.

25 Q. Alright. Now, do you have any brothers and sisters?

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1 A. Yes, sir.

2 Q. Okay. Tell the jury about that.

3 A. I've got two sisters and two brothers.

4 Q. Alright. And where do you fall in them?

5 A. Almost in the middle.

6 Q. Okay.

7 A. Right in the middle.

8 Q. Alright, so two above and two below you?

9 A. One below me and three above me.

10 Q. I've got you. Alright, and we met your sister earlier
11 today in Court, is that correct?

12 A. Yes, sir.

13 Q. Alright. Now, as we start to kind of fast forward a
14 little bit, let me just ask you this question outright, you
15 have a Nineteen ninety-nine conviction for armed robbery, is
16 that correct?

17 A. Yes, sir.

18 Q. Okay. And did you go to trial for that?

19 A. No, sir.

20 Q. How did you reach that disposition?

21 A. I was guilty, I was guilty of it and it was something
22 that I done wasn't right, it was very foolish and it was a
23 mistake that I made, and I admitted to it because I done it.

24 Q. You've now been charged with murder and possession of
25 vehicle, excuse me, possession of a firearm by a convicted

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1 felon, or somebody who's been convicted of a violent crime.

2 How have you pled to those charges?

3 A. Not guilty.

4 Q. To both of those charges?

5 A. Yes, sir.

6 Q. And why are we going to trial then, or why are we in
7 trial?

8 A. Because I'm not guilty of it, and that's why I'm here
9 today to tell you the truth about it.

10 Q. Well, I want us to focus a little bit more in time,
11 let's just move, fast forward to the year of Two thousand
12 and ten. Were you working and, well, at some point in time
13 were you living with your sister?

14 A. Yes, sir.

15 Q. Okay. And who lived in the house with her?

16 A. Her husband and my nephew.

17 Q. Okay. And did we meet ...

18 A. J. R., I call him J. R., Jordon, I call him J. R.

19 Q. And did we meet her husband earlier this week?

20 A. Yes, sir.

21 Q. Okay. What's his name?

22 A. Randolph Ryant.

23 Q. Okay. And everybody calls him Randy?

24 A. Yes, sir.

25 Q. And his residence is actually

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1 Wingate?

2 A. Correct.

3 Q. And that's the property where this allegation is, stems
4 from, correct?

5 A. Yes, sir.

6 Q. Alright. And you lived with your sister during that
7 period of time. Did there come a point when you moved out?

8 A. Yes, sir.

9 Q. Okay. Do you know about when that was?

10 A. No, I can't remember, but I didn't stay long, I stayed
11 about maybe a month, a month and a half, two months,
12 something like that.

13 Q. And were you working during that time?

14 A. Yes, sir.

15 Q. Okay. What kind of work were you doing?

16 A. I had my own business doing carpet cleaning and stuff, I
17 had my own equipment.

18 Q. Okay. And you would do that as the jobs became
19 available?

20 A. Yes, sir.

21 Q. Alright. And as you did that work that gave you the
22 ability to get your own place?

23 A. Yes, sir.

24 Q. Where was that place?

25 A. Beverly Drive.

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1 Q. Uh-huh. And have we indeed spoken a little bit about
2 Beverly Drive today?

3 A. Yes, sir.

4 Q. Alright. And if you're able, and I'll see if we can do
5 this without you having to step down at this point, but just
6 keep your voice up. Looking at State's Exhibit Number Five,
7 looking at State's Number Five, can you kind of point to the
8 area where your house would be if you look at this as being
9 Whittaker Parkway, this is Myers Road, and the square, this
10 blue square is the Ryant's residence, your sister and her
11 brother, excuse me, your sister and brother-in-law's
12 residence?

13 A. Right here, this the street what I lived on, this is the
14 street right here.

15 Q. Okay. Beverly Drive?

16 A. Beverly Drive right here.

17 Q. Alright. And can you also show the jury about where
18 your trailer would have been -- hold on one moment -- where
19 your home was at that point in time?

20 A. Right here.

21 Q. Okay.

22 A. Isn't that a trailer?

23 COURT REPORTER: Speak louder, sir.

24 A. I'm trying to see if that's a trailer.

25 Q. But based on this diagram does that look like about

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1 where your house would be located?

2 A. Yes, sir.

3 Q. Okay.

4 A. I'm trying to see whether these little things, but if
5 that's the road. It's real short, it's a real short road,
6 and the trailers are so close. My trailer would be on the
7 left side right here - - -

8 Q. Okay.

9 A. --- as you're coming in - - -

10 Q. Yes, sir.

11 A. --- it would be the last trailer on the left side.

12 Q. Okay.

13 A. So if this a trailer then it would be right here.

14 Q. Okay. Fair enough. And who lived across the street
15 from you at that time?

16 A. What's the lady's name?

17 COURT REPORTER: I'm sorry?

18 A. Erica, Erica Smith.

19 Q. Are you a little bit nervous today?

20 A. Oh, you know, my leg is kind of numbing up on me.

21 Q. Let me ask you an additional question now that we're
22 talking, there's a -- if we're looking at this as your
23 trailer that you pointed to on State's Exhibit Number Five,
24 can you tell me about this green area between your trailer
25 and I guess Wingfield Street, I'm sorry, and the street that

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1 your family lived on?

2 A. Yeah, that's the wooded area.

3 Q. Okay. How thick is that wooded area and what's that
4 like?

5 A. Well, at night you can't even, you can't even see
6 through there. You can't even, you can't walk through there
7 or anything. They got a fence, my landlord, I helped him
8 sometimes, you know, work on the fence. He had, they had
9 put a fence right before the woods - - -

10 Q. Yes, sir.

11 A. --- like right here somewhere.

12 Q. And what was the fence intended to do?

13 A. To keep people from cutting through his property.

14 Q. Okay.

15 A. And, you know, they had the wired and stuff.

16 Q. When you say wired, what kind of wire?

17 A. Like barbed wire or something like that.

18 Q. Okay.

19 A. And he ran it, we put that up with some pipes and some
20 boards and, you know, and nobody wouldn't even cut through
21 there no more or anything, you know. You can't climb it or
22 anything, you can't - - -

23 Q. Was it ---

24 A. --- it's real dark, it's real dark in that area, you
25 can't see nothing.

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1 Q. Was it easy to cross that area once that fence was built
2 during the day time?

3 A. No, sir.

4 Q. And what about night time, once that fence was built was
5 that easier to cross?

6 A. I'm sure it was even more difficult.

7 Q. Did you use that area to cross through?

8 A. No, sir.

9 Q. Alright. Now, how often, once you moved to Beverly
10 Drive how often were you visiting your sister and the
11 family?

12 A. Every, every now and then I go through there and ask her
13 could I wash my clothes and stuff like that.

14 Q. Uh-huh.

15 A. You know, I get a ride, get somebody to drop me off
16 there or something like that, you know.

17 Q. Uh-huh. And - - -

18 A. Just there when I needed my clothes washed and played
19 with my little nephew, you know, talked to him and things
20 like that.

21 Q. Okay. And about, and as you did that, when was your
22 normal schedule if I can call it schedule, of visiting with
23 her?

24 A. I wouldn't really call it a schedule because, you know,
25 I would just, you know, pop up, I would just show up and,

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1 you know - - -

2 Q. What time of day?

3 A. --- but I called her, I called her in advance - - -

4 Q. Uh-huh.

5 A. --- because she don't like me to just show up to her
6 house, so, she's real straight, you know.

7 Q. Would you - - -

8 A. I mean, I ain't, you know, telling on her about how
9 strict she is, but she's a strict little lady, man, I mean,
10 she wouldn't, any arguing or anything, any confusion, any
11 confrontations or anything like that she'll tell you, leave,
12 you've got to go, you know. She don't tolerate it. She'll
13 call the law, she'll call the police in a heart beat, I
14 know.

15 Q. Okay. Now, let me ask you this, as you would visit her
16 what time of day would it normally be?

17 A. During the daytime.

18 Q. Okay.

19 A. I always just, just during the daytime. At night I
20 always try to be in the house - - -

21 Q. Okay.

22 A. --- or either in somebody else's house, you know.

23 Q. I understand. Now, let's focus on somewhere around,
24 just kind of close to the fall of Two thousand and ten, did
25 you have an opportunity, or I won't even call it an

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1 opportunity, did you have something happen to you back in
2 Two thousand and ten?

3 A. I had an injury.

4 Q. Okay. And what was the injury to?

5 A. To my right leg.

6 Q. Okay.

7 A. And the artery, and that artery that was busted, I was
8 rushed to the hospital immediately, - - -

9 Q. Okay.

10 A. --- they done the stitches.

11 Q. You can take a moment if you need to. You said - - -

12 A. They - - -

13 Q. Uh-huh, go ahead.

14 A. I was, if I hadn't made it to the hospital - - -

15 SOLICITOR SORENSON: I'm going to object, Your Honor,
16 he's getting ready to say what somebody told him, I mean, I
17 - - -

18 THE COURT: Right. Hearsay. Of course, his objection,
19 -- unless you want to argue an exception.

20 MR. GIPSON: I think it would fit under present sense
21 impression, Your Honor.

22 THE COURT: Overruled.

23 MR. GIPSON: Thank you.

24 SOLICITOR SORENSON: I guess my other objection would
25 be to the relevance to this part of this.

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1 MR. GIPSON: I'll move on. I'll move on.

2 A. I had surgery.

3 Q. Thank you. Okay. We'll just move on, and again we
4 can't talk about -- just hold on one second for me. You
5 can't talk about what anyone told you but, you know, you can
6 tell me what you personally know and what you did as a
7 result of the injury that you received.

8 A. I was bleeding severely, the blood was gushing out my
9 leg about that far. They immediately rushed me into surgery
10 and they had to clamp my leg, my skin together.

11 Q. And when you say clamp it, can you explain to us what
12 you mean by clamp it?

13 A. When they clamp it together they stapled it - - -

14 Q. Okay.

15 A. --- after they tied the, tied something together. I
16 don't know the medical terms but they tied it together.

17 Q. Uh-huh. And used staples to close the wound?

18 A. Yes, sir.

19 Q. Alright. Do you remember how many staples it took to
20 close the wound?

21 A. Seventeen.

22 Q. I want to show this to you and just let me know if you
23 recognize this that I'm showing you. Don't tell me what it
24 is yet.

25 A. Yes, sir.

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1 Q. Okay.

2 MR. GIPSON: And we'll have that marked as a defense
3 exhibit. And I'll show it to the Court.

4 THE COURT: Thank you. Did you show it to counsel?

5 MR. GIPSON: I have, I've shown it, Your Honor.

6 THE COURT: Okay.

7 COURT REPORTER: Defendant's Seventeen for ID
8 (Defendant's Exhibit Seventeen,
9 Photograph,
10 marked and filed.)

11 Q. Let me show you what's been marked as Defense Exhibit
12 Number Seventeen, and you tell me when you're ready. Can
13 you explain to the jury what that is a picture of?

14 A. Okay. This is a picture of my - - -

15 THE COURT: Don't show it to them yet.

16 Q. Okay. Can you tell me what it's a picture of?

17 SOLICITOR SORENSON: I don't have any objection, Your
18 Honor, I mean, if he's offering it.

19 THE COURT: Alright. Very well, we'll go ahead then.

20 MR. GIPSON: Okay. And I will offer it into evidence
21 at this point.

22 THE COURT: Alright, without objection.

23 COURT REPORTER: Defendant's Exhibit Seventeen.
24 (Defendant's Exhibit Seventeen
25 marked and filed.)

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1 Q. And what is that a picture of?

2 A. That's a picture of my injury.

3 Q. Okay. And this was to your right leg?

4 A. Yes, sir.

5 Q. And this is the injury that you just testified that you
6 had Seventeen staples that were used to close it, is that
7 correct?

8 A. Yes, sir.

9 Q. Okay. Do you remember how long you were in the hospital
10 before you were able to go home?

11 A. About four days, something like that, three or four
12 days.

13 Q. Alright. And as a result of being in the hospital you
14 had an opportunity to see doctors obviously, you saw
15 doctors, correct?

16 A. Yes, sir.

17 Q. What hospital were you at?

18 A. Orangeburg.

19 Q. Okay. So, the Regional Medical Center?

20 A. Yes, sir.

21 Q. Do you remember what doctors specifically you met with?

22 A. Banish.

23 Q. Dr. Banish?

24 A. Yes, sir.

25 Q. Okay. Was there a treatment regimen that you went on

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1 with Dr. Banish, did you have to come back and see him from
2 time to time?

3 A. Yes, sir.

4 Q. Tell us a little bit about that if you would?

5 A. I had to go back and, for him to check and see if it was
6 okay for the staples to come out. And when I went back
7 about a week and a half after I got out of the hospital he
8 checked it and he said - - -

9 Q. Well, you can't tell me what he said but you can tell me
10 what you did as a result of that.

11 A. I'm sorry. It was checked, it was checked and it wasn't
12 ready to come out at the time.

13 Q. Okay.

14 A. So they rescheduled me for another appointment, and they
15 checked it again, it wasn't ready to come out again, and
16 they rescheduled me for the following week.

17 Q. And what I didn't ask you is, do you remember the date
18 that this injury occurred?

19 A. It was about the Fifteenth or something like that maybe
20 - - -

21 Q. The fifteenth of what?

22 A. September.

23 Q. Okay. And if you were there three days that would have
24 put you out about what date?

25 A. About the Eighteenth.

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1 Q. Okay. And so, you mentioned the staples that were, were
2 placed in your leg, and you said you went back a couple of
3 times but it wasn't time to take those out yet?

4 A. Yes, sir.

5 Q. Can you continue, while the staples were in your leg
6 were you able to do physical therapy?

7 A. No, sir.

8 Q. Were you able to do any kind of rehab?

9 A. Not at the moment.

10 Q. Okay. What things could you and could you not do with
11 those staples in your leg?

12 A. I couldn't, I couldn't even shower.

13 Q. I'm sorry, you couldn't?

14 A. I couldn't - - -

15 Q. I just wasn't able to hear what you said, I'm sorry, you
16 said you couldn't do what?

17 A. I couldn't wash.

18 Q. How were you able to, how did you keep your hygiene up?

19 A. I had a, they gave me a, you know, a little pan, a
20 little pink little pan. I had to, you know, wash in there
21 and stuff like that, you know.

22 Q. Okay.

23 A. And to sponge off like that, I couldn't shower, no bath,
24 I couldn't bathe, I couldn't, you know, get in the tub or
25 anything.

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1 Q. I see. And how long did that course of action, for lack
2 of a better word, how long did that last that you had to,
3 you know, essentially use sponge baths and that type of
4 thing?

5 A. I went through that when I got out -- I went through
6 that about, about three weeks. I went through that about
7 three weeks.

8 Q. So, if this, if the incident took place, and the
9 incident meaning when you injured your leg took place on the
10 Fifteenth, three weeks would have put you into October, is
11 that fair?

12 A. Yes, sir.

13 Q. Okay. Is there anything else that you were unable to do
14 as a result of the injury to your leg at that point in time
15 before the staples came out?

16 A. I couldn't, I couldn't cook or anything, I couldn't
17 stand on it no longer than five minutes.

18 Q. Why is that?

19 A. Because of the main, the main artery, the vein that runs
20 down, that runs down under my foot, you know, it was checked
21 and everything, you know, the doctors checked it and all.

22 Q. How did it feel?

23 A. How does it feel now?

24 Q. No, how did it feel then?

25 A. On a scale from zero to ten - - -

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1 Q. Zero being the best, ten being the worst?

2 A. Ten being the worst.

3 Q. Okay. And where would it have been?

4 A. It would have been at a ten.

5 Q. Okay. And what, if anything, did you do to try to help
6 the pain?

7 A. I was put on medication, I had, what's that, Lortabs.

8 Q. Okay. And anything else?

9 A. I was on some medication called Oxycotton or something
10 like that, I think that's what it was.

11 Q. Okay.

12 A. It was some pain pills.

13 Q. But whatever it was, it was prescribed by the doctors?

14 A. Yes, sir.

15 Q. Dr. Banish?

16 A. Yes, sir.

17 Q. Okay. And you took what he prescribed you?

18 A. Yes, sir.

19 Q. And why did you have to take it?

20 A. To endure the pain, deal with the pain without, you
21 know, feeling so much pain.

22 Q. Okay.

23 A. But even though, you know, even though I would take it I
24 still, you know, felt the pain at times.

25 Q. Okay.

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1 A. And I had to elevate my leg. People would come over, I
2 would call somebody to come over and help me.

3 Q. Okay.

4 A. And I just, I mean, you know, I sympathize with the
5 people that - - -

6 SOLICITOR SORENSON: Objection, Your Honor, I'm not
7 real sure that he's answering a question at this point in
8 time.

9 MR. GIPSON: I'll ask a question.

10 THE COURT: Very well.

11 MR. GIPSON: Okay. I'll ask a question.

12 Q. Now, you said you were on pain medication for a good bit
13 of time, and how did the pain medication affect you?

14 A. It made me real drowsy, you know, sleepy.

15 Q. Were you able to work and do those types of things?

16 A. I couldn't, I couldn't work, I had to stop, you know,
17 doing our business and, you know, I used to strip and wax
18 floors also, and I had to stop, you know, I couldn't do
19 anything until my leg had gotten better.

20 Q. Okay.

21 A. And I mean, it was a lot of things I couldn't do, I
22 couldn't even go shopping like, you know, for home supplies
23 and stuff like that. I used to, had to call people to come
24 over and see if they'd go by the store for me or, you know,
25 see if they'd do certain things for me and stuff.

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1 Q. Okay. Was there a point when you were finally able to
2 kind of get up and walk a little bit with it?

3 A. Yes, it was. It was, you know, I had to start, I know I
4 had to start somewhere, you know, start trying to, you know,
5 get around, move, you know, move a little bit or something.

6 Q. How did you get around?

7 A. I used a cane, I had to use one.

8 Q. And at the risk of asking a stupid question, why did you
9 have to use the cane?

10 A. Because I couldn't, I had -- because, I mean, my leg
11 wasn't strong, it wasn't strong enough, and it was real
12 wobbly and weak, and like it ain't had no life in it, you
13 know.

14 Q. Now, did there come a point in time when the staples
15 were finally removed?

16 A. Yes, sir.

17 Q. Okay. I'm going to hand you something, and just let me
18 know if you recognize -- don't tell us what it is yet but
19 just flip through those and let me know if you recognize
20 what I'm handing you.

21 A. Yes, sir.

22 Q. Let me have that back if I could for a moment.

23 MR. GIPSON: I'd like to have this marked - - -

24 Q. Well, can you tell us what it is first?

25 A. That's copies, that's documents from what happened, you

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1 know, how I got injured and all of that, the surgery and
2 stuff like that that I went through.

3 MR. GIPSON: I'd just like to have this marked as an
4 exhibit, please?

5 COURT REPORTER: Do you want it marked as a group or -
6 - -

7 MR. GIPSON: As a group.

8 COURT REPORTER: Have you already stapled it?

9 MR. GIPSON: I have, yes, ma'am.

10 COURT REPORTER: Okay.

11 MR. GIPSON: Just one exhibit.

12 COURT REPORTER: How do you want it marked?

13 MR. GIPSON: Yes, ma'am, defense exhibit.

14 COURT REPORTER: Well, for ID now or - - -

15 MR. GIPSON: No, ma'am, no ID we're putting it in.

16 COURT REPORTER: Alright. You're putting it in?

17 MR. GIPSON: Yes, ma'am, I plan to put it in.

18 Subject to what's been agreed upon, I will not publish
19 it.

20 THE COURT: Alright.

21 COURT REPORTER: Defendant's Exhibit Eighteen.

22 (Defendant's Exhibit Eighteen
23 marked.)

24 MR. GIPSON: Thank you.

25 Q. So, to be clear, after you were injured, you originally

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1 went to Regional Medical Center, is that correct?

2 A. Yes, sir.

3 Q. And you were in the hospital approximately three days,
4 correct?

5 A. Yes, sir.

6 Q. And based on - - -

7 MR. GIPSON: And again, I'm not sure if I did, I'd like
8 to have this entered as Exhibit Number Eighteen.

9 THE COURT: I don't think it has been moved in. Any
10 objection?

11 SOLICITOR SORENSON: That would be the four pages we're
12 talking about?

13 MR. GIPSON: That's the -

14 SOLICITOR SORENSON: No objection, Your Honor.

15 MR. GIPSON: Okay. And it's subject to our agreement,
16 Your Honor.

17 THE COURT: Very well.

18 MR. GIPSON: Alright.

19 (Defendant's Exhibit Eighteen
20 filed.)

21 Q. Now, in showing you what's been marked as Defendant's
22 Exhibit Number Eighteen, you were a patient at the Regional
23 Medical Center, it looks like from the Fifteenth to the
24 Eighteenth of September, is that correct?

25 A. Yes, sir.

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1 Q. And after being released that's when you started to see
2 Dr. Banish from time to time so he could assess the healing
3 process, correct?

4 A. Yes, sir.

5 Q. Alright. After he removed the staples tell us about how
6 things went after that?

7 A. I was given a lot of, what you call the stuff that you,
8 bandages, big bandages and stuff that you patch your leg up
9 with. I was given a lot of that and some stuff like
10 peroxide and some other stuff to keep the wound from getting
11 infected.

12 Q. So, betadine and all that stuff?

13 A. Yes, it was still, you know, it was still partly open
14 because it was pussing and bleeding.

15 Q. Okay.

16 A. And - - -

17 Q. And about when, so after they took the staples out it
18 was still pussing and bleeding?

19 A. Yes, sir.

20 Q. Okay. And that was, about when was that when it was
21 still pussing and bleeding?

22 A. I would say in October, it was in October, I don't
23 recall, you know, the exact date or anything like that.

24 Q. Okay. But you cared for it as you were taught by the
25 doctors and the nurses there?

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1 A. Did he care for it?

2 Q. No, you cared for it?

3 A. Yes.

4 Q. Did it get infected after you started caring for it?

5 A. No, sir.

6 Q. Okay. Now, obviously it finally, the wound portion
7 finally healed at some point, do you remember about when you
8 were released from doctor's care for the actual wound
9 healing?

10 A. I don't know, I don't know exactly but it was in
11 October.

12 Q. Okay.

13 A. It was late October maybe, something like that.

14 Q. Okay. But those record would be reflected in here?

15 A. I don't know, I don't know.

16 Q. I'm going to hand you again State's Exhibit Number
17 Eighteen, excuse me, Defense Exhibit Number Eighteen, and
18 I'd just like you to just look generally at Dr. Paul
19 Banish's report for the Nineteenth of October, and just take
20 a look at that. You don't have to read it into the record
21 at this point but just take a look at that, that last
22 paragraph. Does that reflect your recollection as to when
23 he would have released you from the wound care?

24 A. Yes, sir, that was on the Nineteenth.

25 Q. Okay. So, the Nineteenth of October?

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1 A. Yes, sir.

2 Q. Okay. Now, on the Nineteenth of October when you were
3 released from the wound care, did that mean you were able to
4 go out and turn cartwheels and run around and do things at
5 that point?

6 A. No, sir.

7 Q. What condition were you in at that point physically?

8 A. I couldn't even, I still, I couldn't lift anything
9 heavy.

10 Q. Uh-huh.

11 A. I was moving real slow, you know. People would call me,
12 you know, old man, you know. They wouldn't, they wouldn't
13 want to, you know, hang around me as much because they said
14 I moved too slow, you know, stuff like that. You know, I
15 guess it was in a joking with them or whatever, but they
16 would want to go and do things for me because of me, I
17 couldn't move fast enough for them or, you know, and I
18 sympathize with the handicapped.

19 Q. Were you still able to, could you get around just
20 walking around?

21 A. I couldn't go far, I couldn't go far. As far as I went
22 is like maybe to the mail box, you know. I would walk real
23 slow, you know, going down that way because I knew that I
24 had to start, you know, working my leg some kind of way, you
25 know, to start, you know, doing things for myself.

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1 Q. And did you go for long walks?

2 A. I couldn't.

3 Q. Okay. Now, what -- did you require any kind of
4 assistance to get around?

5 A. Yeah.

6 Q. Okay. And tell the jury about that, please?

7 A. I would call my nephews or some friends of mine and they
8 would come through when they had time, you know, to take
9 me, you know, to take me to the store, things like that. If
10 I wanted something to eat we wouldn't get out of the car.
11 They would always try to do things to prevent me from
12 getting out of the car because, you know, because I
13 couldn't, you know, I couldn't, you know, have too much
14 pressure on my leg. I couldn't, you know, move as swift or,
15 you know.

16 Q. And you said at that point were you still using the
17 cane?

18 A. Yes, sir.

19 Q. Okay. Now, I want us to kind of fast forward a little
20 bit. The doctor released you on or about the Nineteenth of
21 October from the wound area and you were at that point not
22 having to go back to him as regularly. Did you start
23 physical therapy right away?

24 A. They sent, they sent -- well, I was signed up for it,
25 and they sent my papers to the wrong address - - -

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- 1 Q. Okay.
- 2 A. --- and you know, I had my wife and them calling to find
3 out, you know, when am I going to start this therapy, you
4 know. And they said they sent the papers out, and I never
5 received it, and they told me - - -
- 6 Q. Well, don't tell us what they told you.
- 7 A. Oh, okay, I'm sorry. They sent it to the wrong address
8 and then we gave them the address that they should have
9 always had, and they sent it maybe a week later or two
10 weeks, almost two, about two weeks, almost two weeks later
11 maybe, something like that.
- 12 Q. Okay. Now, the incident that we're in Court for now
13 occurred on the Twenty-seventh of October, is that correct?
- 14 A. Yes, sir.
- 15 Q. Alright. So, in that eight day span between the time
16 that Dr. Banish released you from the wound care were you
17 able to start physical therapy prior to that point?
- 18 A. Repeat the question.
- 19 Q. Alright. In that eight day span between the time that
20 Dr. Banish released you from wound care were you able to
21 start doing physical therapy at that point?
- 22 A. No.
- 23 Q. Or did you start, let me say?
- 24 A. No, I didn't, no, sir, I didn't start right away. I
25 went -- where the artery was at, you know, it had a little

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1 hole because he said the little hole had to -- I'm sorry,
2 hearsay. The little hole was left so that, you know, the
3 pussing and the bleeding, to keep it from getting infected
4 it had to, he said it had to drain out like that.

5 Q. Okay.

6 A. And, you know, I couldn't start until after it
7 completely closed.

8 Q. Right.

9 A. But they had already started my paperwork so that, you
10 know, it wouldn't take a long time after the wound
11 officially closed.

12 Q. Okay. And it looks like on the Nineteenth he officially
13 said it was closed at that point. Now, at that point on the
14 Nineteenth were you able at that point to just start lifting
15 weights and running and things like that?

16 A. No, sir.

17 Q. Okay. What could you do?

18 A. I would only sometimes walk to the mailbox, or part of
19 the way down there and come back. The reason, the reason
20 why I didn't, I couldn't walk around the corner, you know,
21 or none of that stuff. You know, they got a pack of wild
22 dogs, and before my injury, you know, I got chased by them
23 dogs before, you know. And I couldn't, I couldn't run or
24 anything, so I said, I'm not going, you know, I'm not going
25 out that far where these dogs can see me, you know.

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1 Q. Now, you at some point in time would go to Four Way
2 Stop, correct?

3 A. Yes, sir.

4 Q. Okay. Were you able to walk around in those areas?

5 A. Just across the street. It's a guy named Napp, old guy,
6 he just passed away, I just got word he passed away, and you
7 know, I would go over there with the elderlies, and you
8 know, we'd sit and just, sit over there and just talk right
9 across the street from Four Way, it's like a four lane
10 highway, and between the convenience store and Mr. Napp's
11 yard, and I would just go over there and, you know, sit with
12 them.

13 Q. So, you would visit in that area?

14 A. Yeah. I visit all the time.

15 Q. Okay. And how were you, how would you walk around,
16 would you just walk around like this?

17 A. No, I had to, you know, as less as possible I tried to
18 walk because of the pain. You know, the pain was, it was
19 bothering my leg, it was hurting real bad.

20 Q. And you were still, and were you still using a cane
21 during that period of time?

22 A. Yes, sir.

23 Q. Up until the time that you were arrested were you still
24 using a cane?

25 A. Yes, sir.

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1 Q. Alright. Well, I want to focus us in on the day of the
2 Twenty-seventh, of this incident. Tell us what you remember
3 about that day. Let's just start in the afternoon, tell us
4 about that if you would?

5 A. I called for a ride to take me over to Mr. Napp's yard
6 where I sit, you know, with the brothers over there, you
7 know. We just talk and stuff like that. Hours passed, it
8 started getting dark, and I said, I need to find me a ride
9 home. And right at dark I knew this lady that stayed a
10 street right next to the Four Way. And sometimes if I
11 needed a ride home I would give her money for gas and she
12 would give me a ride. So, I was headed - - -

13 Q. Now, did you have a driver's license at this point?

14 A. No, sir.

15 Q. Okay.

16 A. And so, you know, I was slowly headed towards her way,
17 her house, and then somebody honked the horn and, you know,
18 coming down the highway, I think that's Chestnut, something
19 like that.

20 Q. Uh-huh.

21 A. Somebody honked the horn and I looked and I seen, that
22 was my nephew's car.

23 Q. Right.

24 A. And you know, I -- you know, I walked over and asked him
25 what he was up to, and he said he was just - - -

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1 SOLICITOR SORENSON: Objection to hearsay.

2 THE COURT: Yes.

3 A. Okay, I'm sorry.

4 Q. And what did you do as a result of him honking the horn?

5 A. That's a ride.

6 Q. Okay.

7 A. That's a ride. That's definitely a ride, and you know,
8 and also, it saved me gas money, I ain't had to give nobody
9 gas money, you know.

10 Q. Alright. So what did -- did you get in the car with him
11 ultimately?

12 A. Yes, sir. I got in the car and, you know, and we went
13 by the store, went by a restaurant, a little place that
14 sells chicken, Biddie something, Biddie Banquet I think
15 that's what it is.

16 Q. Uh-huh. And what did you do at -- did you get food
17 there?

18 A. Yes. He, you know, he bought some food. I laughed at
19 him, because he was, you know, he complained a little bit
20 about the fries and a piece of chicken missing. And, you
21 know, I laughed at him, you know, but you know it wasn't no
22 big deal.

23 Q. And what did y'all do after you left the Biddie Banquet,
24 what happened next?

25 A. We went to his house, and he said he was going to watch

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1 the game or something like that, you know. So, I was like,
2 yeah? I said, man, what you know about baseball? You know.

3 Q. Right.

4 A. And we just sit around, ate a piece of chicken. I had
5 to eat something before I took my medication.

6 Q. Okay.

7 A. You know, and I popped one of my pills, and you know, -

8 - -

9 Q. The prescription that you got from Dr. Banish?

10 A. Yes, sir. The Lortabs.

11 Q. Alright. So, you took the Lortab?

12 A. Yes, sir.

13 Q. And what, and you all watched, you said watched some
14 baseball?

15 A. Yes, sir.

16 Q. Tell me what you were watching, if you - - -

17 A. The World Series.

18 Q. Okay. Do you remember who was playing?

19 A. The Giants and the Rangers, Texas Rangers.

20 Q. Alright. And do you watch baseball from time to time?

21 A. Yes, sir.

22 Q. Okay. And do you remember anything particular about the
23 game?

24 A. They had a pitcher, he was pretty good.

25 Q. Uh-huh.

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- 1 A. The Giants. I don't remember too much, I was nodding.
2 What's the dude's name, what's his name, what's his name?
- 3 Q. Do you remember - - -
- 4 A. Lincoln, Linsecomb, something like that?
- 5 Q. Linsecomb?
- 6 A. Something like that.
- 7 Q. I mean, could you describe him or anything like that?
- 8 A. Dark hair, he had dark hair, he usually pull his hat off
9 and fix his hair, you know, and his hair would be hanging
10 down out the back.
- 11 Q. And so, you watched a little bit of baseball?
- 12 A. Yeah, a little bit from time to time.
- 13 Q. Alright. Now, at some point in time it was determined
14 that it was time for you to go home. Do you remember if you
15 watched the whole game, do you remember how that unfolded,
16 how you ended up going home?
- 17 A. I didn't watch the whole game, I nodded out, I was
18 nodding out, and I remember my nephew tapping me and saying,
19 hey, I'm going to go ahead and take you home, man.
- 20 Q. Alright.
- 21 A. And I didn't - - -
- 22 Q. And he took you home from there?
- 23 A. --- I don't know what, you know. I don't know what, it
24 could have been, you know, real late, or whatever, but - - -
- 25 Q. Was it dark outside when he took you home?

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1 A. Yeah, it was past dark.

2 Q. Okay. And, and you said you didn't watch the whole
3 baseball game, I mean, was it, can you tell me any portion
4 or how much you watched, I mean, do you know?

5 A. I couldn't, huh-uh. No, sir, I couldn't, because I was,
6 I was out of it.

7 Q. Okay. Now what happened after that? You said he took
8 you home?

9 A. He took me home and dropped me off, you know. I checked
10 on my neighbor, - - -

11 Q. Uh-huh.

12 A. --- I went and knocked on the door, and I saw the light
13 on, - - -

14 Q. Right.

15 A. --- so I knocked on the door.

16 Q. And your neighbor would be who?

17 A. Erica Smith.

18 Q. Okay. And she testified earlier today?

19 A. Yes, sir.

20 Q. Okay. So you knocked on Erica's door and what happened
21 when you knocked on her door?

22 A. She came to the door and she was, she was glad to see
23 me, you know.

24 Q. Uh-huh.

25 A. And you know, I was, like, what's going on, are you

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1 alright? You know, like that. Because we usually watch
2 each other's house in that little area.

3 Q. Right.

4 A. You know, from people, you know, because people be
5 breaking in, you know, - - -

6 Q. Okay.

7 A. --- stealing people's ACs out of the windows, air
8 conditioners and stuff like that.

9 Q. And so, you had a chance to converse with her that
10 evening?

11 A. Yeah, she -- yeah, she real cool.

12 Q. Do you know about how long you were with -- well, what
13 was she doing while you were over there, and what was going
14 on when you arrived?

15 A. She was with her friend playing cards.

16 Q. Okay.

17 A. And I asked her, what's up, I asked them what were they,
18 you know, what was they playing, and she was trying to show
19 me how to -- him and her was trying to show me how to play
20 rummy, you know, but I think they was cheating me out of the
21 game, you know. I mean, I don't know how to play it so, you
22 know. They was beating me pretty bad.

23 Q. And, and did you have occasion at some point in time
24 going home?

25 A. Yes, sir.

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1 Q. Okay.

2 A. I gave, but before -- let me see, when I walked in we
3 start playing a little cards. She was showing me, she asked
4 me for my, did I have some milk or something, - - -

5 Q. Right.

6 A. --- and I gave her the key to go over there and get it
7 because, you know, me getting up and sitting down and
8 getting up and sitting down wasn't comfortable.

9 Q. Okay.

10 A. And I was trying to keep myself comfortable at all
11 times.

12 Q. Alright. Now, and there was some alcohol use going on
13 over at her house, correct?

14 A. If they, I know she do drink a little, but - - -

15 Q. Well, did you drink anything while you were there?

16 A. I don't drink, I don't drink, no drugs, no cigarettes.

17 Q. Okay.

18 A. I never got into it.

19 Q. Okay.

20 A. You know.

21 Q. And that means you didn't have anything to drink?

22 A. No, sir.

23 Q. Okay. Did you go, did you finally go home that night?

24 A. Yes, sir.

25 Q. Okay. And what did you do when you got home?

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1 A. When I got home, you know, when I got to the door I
2 looked back, she's standing there saying, go ahead, I'm just
3 making sure you, you know, you make it in. And I went in
4 and, you know, locked the door, went over to my bedroom,
5 put my cane on the side, sat down on the bed and I took my
6 bandage off, I changed my bandage and stuff like that, you
7 know, and I just, you know, dropped my shoes off - - -

8 Q. And went on to bed?

9 A. --- put my arm -- the pillows, I had to have my --
10 because I had to elevate my leg. My leg wouldn't, you know,
11 it would hurt tremendously if I kept it, you know, flat, so
12 I had to put the pillows under it to raise it up like that.
13 And I couldn't turn from side to side, I had to just lay
14 there on my back, lay flat on my back, you know. And it
15 took me like maybe Twenty minutes, Fifteen, Twenty minutes
16 maybe, something like that, to get out of the bed.

17 Q. And that was kind of normal for you at that point as a
18 result of the injury, was that a normal thing, just taking a
19 while to get in and out of the bed?

20 A. Yes, yeah, it was.

21 Q. Now, tell me this, once you got in the bed that night,
22 were you ever awakened by anybody knocking on your door?

23 A. I ain't heard no knocks, not nothing.

24 Q. Go ahead.

25 A. I ain't heard no knocks or anything.

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 Q. Did anybody come beating on your door, friends, police,
2 or otherwise?

3 A. No, sir.

4 Q. When was the next time that you left your residence
5 that, either at -- the evening or the morning of, as the
6 evening of the Twenty-seventh or the morning of the Twenty-
7 eighth came, Romeo, did you stay there all day, I mean, when
8 did you next leave?

9 A. I stayed, I stayed there, and then in the morning I
10 washed up, I called Bernard. Bernard said he was at the
11 laundry-mat with his wife.

12 Q. No hearsay.

13 A. Oh, I'm sorry. He was at the laundry-mat, when he get
14 time he will come through and, you know, scoop me up and
15 take me over to Napp's yard and, you know, that was the,
16 that was my hangout right there in Napp's yard.

17 Q. Now, at some point in time were you alerted that
18 something had happened over at your sister's house?

19 A. I was later, later on that day, later on that day they
20 say something happened over there, something about a
21 shooting or something. You know, and I was, like, wow.
22 And they asked me where I was at.

23 Q. Go ahead.

24 A. I'm sorry to hearsay.

25 Q. Go ahead.

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 A. I told them I was over here by the Four Way in Napp's
2 yard, you know.

3 Q. And this would have been - - -

4 A. Is everything alright?

5 Q. And this would have been what date are we talking about?

6 A. The Twenty-eighth.

7 Q. Okay. And I said, is everything alright? I asked them,
8 is everything alright, you know, what's going on, you know,
9 like that. It wasn't, it wasn't nothing like, you know, - -
10 -

11 Q. Did you learn - - -

12 A. --- tragic happened, you know, at the time, and I was,
13 like, you know, why is, my sister was crying, and I was,
14 like, what's -- and then -- I can't do this, it's hearsay.
15 But - - -

16 Q. Well, let me ask you this, did you learn at that point
17 that there had been a warrant issued for your arrest?

18 A. No, because, I mean, I was right there and I didn't
19 know.

20 Q. Okay.

21 A. I didn't know, then one of my nephews called me and said
22 that - - -

23 SOLICITOR SORENSON: Objection to hearsay.

24 A. Oh, I'm sorry.

25 THE COURT: Yes. Sustained.

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 A. It was, it was somebody was threatening me.

2 SOLICITOR SORENSON: Objection, Your Honor.

3 THE COURT: Sustained.

4 Q. Did you at some point in time have a chance to be in
5 contact with your wife in Anderson or any other cousins
6 about anything particular?

7 A. No.

8 Q. Okay. And did you, can you tell us when you
9 specifically learned that there was a warrant for your
10 arrest?

11 A. About the Twenty-ninth, I think it was the Twenty-ninth,
12 Friday, about Friday night, I think it was about Friday
13 night. Let's see, yeah, I think it was about Friday night.

14 Q. Okay. And were you in Orangeburg when you learned there
15 was a warrant for your arrest?

16 A. No, sir.

17 Q. Okay. Where were you?

18 A. I was in Anderson.

19 Q. Okay. What did you do when you learned there was a
20 warrant for your arrest?

21 A. I immediately came back.

22 Q. Okay.

23 A. Because I had to, I had to get a ride back, and my step
24 daughter was in school and I had to wait until she get a
25 break in her classes to give me a ride. I paid the gas

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 money to give me a ride back.

2 Q. Okay. And you came back to?

3 A. I came back to Orangeburg.

4 Q. To Orangeburg.

5 A. Yes, sir.

6 Q. Why didn't you just keep riding when you learned there
7 was a warrant for your arrest, why didn't you just go some
8 place else?

9 A. I didn't have any need to run.

10 Q. Why?

11 A. I didn't have any need to, I mean, for what? I'm not
12 guilty of anything.

13 Q. And so, upon learning that a warrant had been issued you
14 came back here?

15 A. Yes, sir.

16 Q. Alright. Now, did you turn yourself in?

17 A. No, sir. I had -- what I done, I was seeking some legal
18 counsel, I was getting some money together to get me a
19 lawyer, and then I was going to go ahead and turn myself in,
20 and, but I was going to turn myself in with my lawyer. And
21 the day before, that morning, that morning that I was
22 arrested I was already up to, I was up, I was dressed, and I
23 was getting ready to come in, because I had already, peoples
24 had already told me they had the money to go ahead and get
25 the lawyer. And I said, okay.

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 Q. Now, did somebody at some point in time, did the
2 sheriff's department come and arrest you?

3 A. Yes, sir.

4 Q. Okay. Tell us how that happened?

5 A. I was over at some friends' house and I heard the big
6 bang on the door.

7 Q. Right.

8 A. The boom, boom, boom. And I was laying on this, this,
9 the people's house wasn't too, you know, up to par, and you
10 know, what you may consider a closet, you know, they had a
11 line with some clothes hanging there, they had a bunch of
12 clothes on the love seat, the little love seat didn't have
13 no legs on it, it was like sitting on the floor. Just about
14 every place in the house, it wasn't nothing but a one
15 bedroom. Just about every place in the house was occupied,
16 you know. My kids, my wife, you know.

17 Q. So, everybody came to Orangeburg, came back down here at
18 one time?

19 A. Yes, sir, yes, sir.

20 Q. Alright.

21 A. And I took the place on the floor, and it was a pile of
22 clothes next to me.

23 Q. Right.

24 A. And you know, I heard the big bang, and I kind of, you
25 know, it scared me, - - -

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 Q. Right.

2 A. --- and I kind of got up under the clothes a little, - -
3 -

4 Q. Right.

5 A. --- but then when the law enforcement came in and they
6 was screaming, show me your hands, show me your hands, show
7 me your hands, and, you know, come out and show me your
8 hands. And I show them my hands, and I asked them to help
9 me, I asked them to help me up. And they, you know, they
10 grabbed me, you know, helped me up, put the cuffs on me, put
11 me in the car. I asked them could I, you know, could they
12 get my cane for me, - - -

13 Q. Right.

14 A. --- and they told me, no, I can't take that where I'm
15 going.

16 Q. Okay. And - - -

17 A. So, they kind of helped me, you know, but they was
18 holding onto me, and you know, as a support.

19 Q. And they took you to the complex from there?

20 A. Yes, sir.

21 Q. Okay. Now, did you murder Alex Harrison?

22 A. No, sir.

23 Q. Did you shoot Alex Harrison?

24 A. No, sir.

25 Q. Did you fight with Alex Harrison on Ten/Twenty-seven/Two

ROMEO BROWN - DIRECT BY MR. GIPSON

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1. thousand and ten?

2. A. No, sir.

3. Q. Alright. Were you at Wingate on
4. that date?

5. A. No, sir.

6. Q. Did you sneak up or walk over or hide somewhere in the
7. bushes, or anything like that?

8. A. I couldn't, no, sir.

9. Q. Why couldn't you?

10. A. Because of my leg injury, I couldn't, I couldn't move, I
11. couldn't, or nothing, you know.

12. Q. Okay. What's your dominant hand,-- what does that mean?

13. A. I'm left handed, I used to pitch little league coming up
14. playing baseball, I used to pitch and the coach always liked
15. lefties.

16. Q. Okay. And you're left handed, born and raised?

17. A. Yes, sir.

18. Q. Alright. Now, once you had an opportunity to, once you
19. were arrested, I mean, did your leg pain go away or anything
20. like that?

21. A. No, sir.

22. Q. Uh-huh.

23. A. When I got here the nurse and the doctor checked me out,
24. and they ordered for them to give me a wheel chair to get
25. around. They said I couldn't have no cane or no crutches

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 back there or none of that, you know.

2 Q. And back there meaning at the jail?

3 A. Yes, sir, at the precinct.

4 Q. Okay. And did you at some point in time finally start
5 to do physical therapy?

6 A. The papers was sent there but they never got to it, they
7 never, I had to wait on them, and, you know, the chief and
8 all of them go through a chain of command.

9 Q. Right.

10 A. And they never got around to me, so I had to kind of,
11 you know, do a little walking, you know, try to do a little
12 exercise on it, a little therapy myself.

13 Q. Okay. Now, if you will stand up for just a moment, if
14 you're able, can you point to the area where the wound is?

15 A. It's from here to there.

16 Q. Okay.

17 A. It hit me in - - -

18 Q. And the injury went from, and you're showing about a
19 five to six inch area where the injury was and where the
20 surgery occurred?

21 A. Yes, about that long.

22 Q. Okay.

23 A. It hit me like in the joint.

24 Q. Okay.

25 A. The arteries in here.

ROMEO BROWN - DIRECT BY MR. GIPSON

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1 Q. Okay. And you can have a seat. And you said the, the
2 result of, the injured artery was damaged?

3 A. Yes, sir.

4 Q. Okay.

5 A. And I, if I sit in a position too long it locks up on
6 me.

7 Q. Okay.

8 A. And that's why most of the time I sit with my leg out
9 like when I get up in the mornings, you know, it's stiff,
10 you know, I was told - - -

11 Q. Well, you can't talk about hearsay.

12 A. Okay. But my leg is always going -- it will never be
13 the same.

14 Q. And again, the question, all of these things that we've
15 been talking about, are you responsible for this situation,
16 -- State's Exhibit Number Two, are you responsible for
17 this?

18 A. No, sir.

19 Q. Are you responsible for State's Exhibit Number Four?

20 A. No, sir.

21 Q. Did you kill Alex Harrison?

22 A. No, sir.

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

24 THE COURT: Very well. Cross-examination.

25 SOLICITOR SORENSON: Thank you.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 ROMEO BROWN - CROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Mr. Brown, how tall are you?

4 A. Six, two.

5 Q. And back in October of Two thousand ten, obviously, you
6 would have been Six foot two back then also, you haven't
7 grown since then, have you?

8 A. I don't know, not to my knowledge.

9 Q. Okay. And about how much back in October of Two
10 thousand ten, back when you were arrested, how much did you
11 weigh back then, do you know about what you weighed?

12 A. One fifty. The nurse, they do a physical on you when
13 you come in, and I got the documents.

14 Q. Okay. But you are Six foot two, though, - - -

15 A. Yes, sir.

16 Q. --- is that correct?

17 A. Yes, sir.

18 Q. And as Mr. Gipson had asked you, back in Nineteen
19 ninety-nine you were convicted of armed robbery, is that
20 correct?

21 A. Yes, sir.

22 Q. Alright. Let me -- alright, you were talking earlier
23 with Mr. Gipson about, I believe that's your trailer right
24 there, right, where you were living, is that correct?

25 A. Yes, sir.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 Q. Okay.

2 A. That's when you go in.

3 Q. Coming down you said it was on the left?

4 A. It was on the left side, yes, sir.

5 Q. Alright. And that's the one that's been identified by
6 several other witnesses, I know you haven't had, been able
7 to come around and see that, but do you have -- you were
8 telling the jury that, about this area through here?

9 A. Yes, sir.

10 Q. Alright, back in October of Two thousand ten could you
11 see through there, did you say you couldn't see through
12 there or - - -

13 A. No, you couldn't, you -- the only thing you could see
14 through there if -- you can't see through there like as far
15 as see somebody, you know, as far as looking through and see
16 a crowd of people or cars or whatever, you can't see that.
17 The light, you've got to have - - -

18 Q. If there were Thirteen police cars with their blue
19 lights going on, would you be able to see those blue lights
20 looking through that wooded area there from your house?

21 A. You could see little bits of flash but not, you know,
22 not directly seeing the light like you see that light like
23 right there.

24 Q. Well, you know, like the blue lights on a police car,
25 would you be able to see those blue lights on a police car

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 if there are a whole bunch of police cars over in front of -
2 - and that's where your sister lives, right, on Wingate?

3 A. Okay, yes, sir.

4 Q. I'm sorry, Wingfield, I don't why we got to calling it
5 Wingate.

6 A. Yes, sir.

7 Q. On Wingfield, I mean, that's where your sister was
8 living back in October of Two thousand ten, is that correct?

9 A. Yes, sir.

10 Q. Okay. So, from your house can you see through the woods
11 to your sister's house?

12 A. No, you can't see her house, you can't see her house.
13 You, like if its a car, it's something that's put there,
14 that pulls close up to the woods - - -

15 Q. Uh-huh.

16 A. --- if it pulls close up to the woods the light shines,
17 you know, reflects through the woods or whatever, you could
18 just see the reflection, you can't see directly the light,
19 you know, like as if you're looking at this microphone or
20 something like that, you know, you can't clearly see it.

21 Q. But my question is, if there were, you know, Thirteen
22 some odd police cars and ambulances to at your sister's
23 house with their lights going would you be able to see that
24 from outside of your house?

25 A. No, sir.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 Q. And how long did you live in that trailer over on, is it
2 Beverly, I believe, how long were you living there?

3 A. I know the Hills, I rent it from the Hills. Maybe, I
4 don't know, about six months, maybe a little later than
5 that, maybe longer than that.

6 Q. Okay. And you lived there by yourself?

7 A. Yes, sir.

8 Q. Okay. The whole time you were there you were living
9 there alone, - - -

10 A. Yes, sir.

11 Q. --- is that correct?

12 A. Yes, sir.

13 Q. Okay. And Ms. Smith that testified lived across, across
14 from you that whole time you were living there?

15 A. Yes, sir.

16 Q. Okay. Alright, let me ask you, you were talking about
17 early on in Mr. Gipson's questioning about you, with you
18 about, I think he asked you what, about the pain scales,
19 zero to ten, how much pain you were in, is that correct?

20 A. Yes, sir.

21 Q. And you had made reference to it being a ten, is that
22 correct?

23 A. Yes, sir.

24 Q. Alright, now when were you talking about that you were
25 in that amount of pain that would be described as a ten? I

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 mean, was that - - -

2 A. From the time I got out of the hospital all the way up,
3 even after the staples was removed.

4 Q. Okay.

5 A. Even after that.

6 Q. And you know the scale that the doctor, that hospitals
7 use, because when you were in the hospital for those several
8 days the nurses asked you that question all the time, didn't
9 they? And the way they would describe it is, you know, zero
10 would be no pain, five would be kind of moderate, and ten
11 would be like the worse pain imaginable, right?

12 A. Oh, yes, yes, that's what they do.

13 Q. I mean, that's the scale they're asking you about?

14 A. Exactly.

15 Q. So, is it your testimony, from the time you got out of
16 the hospital on September Eighteenth of Two thousand ten,
17 all the way up until, I guess whenever, that you were, it
18 was a ten that entire time?

19 A. Yes, sir. I felt that it was, yes, sir. I did felt
20 that it was.

21 Q. Okay. So you were in the worse pain imaginable that
22 entire time, is that correct?

23 A. Yes, sir.

24 Q. Of course now, when you were in the hospital that was
25 not what you told the nurses in the hospital, is that

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 correct?

2 A. I did, sometimes I did, you know, and then -- most of
3 the time I did, you know. Then - - -

4 Q. You told them it was a ten, it was the worse pain
5 imaginable?

6 A. Yes, sir.

7 Q. Okay. Let me - - -

8 SOLICITOR SORENSON: Your Honor, if I could mark this
9 as a State's exhibit.

10 COURT REPORTER: Do you want it ID or - - -

11 SOLICITOR SORENSON: Do you have an objection to it?

12 MR. GIPSON: No, I don't have an objection.

13 SOLICITOR SORENSON: Okay. So, we'll move it into
14 evidence, offer it.

15 COURT REPORTER: State's Eighteen.

16 (State's Exhibit Eighteen
17 marked and filed.)

18 SOLICITOR SORENSON: Thank you.

19 THE COURT: It's in evidence without objection.

20 Q. Let me show you if I could, Mr. Brown, State's Exhibit
21 Number Eighteen.

22 A. Yes, sir.

23 Q. Have you had a chance to -- I assume your lawyer's gone
24 over these medical records with you or shown them to you?

25 A. Yes, sir.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 Q. Do you recognize those pages from your medical records
2 that your lawyer provided to me?

3 A. Yes, sir. I think I have this also.

4 Q. Okay. And of course, on there, if I could hold that
5 back for a second, of course, on each of these, there's one
6 of these basically that covers each of the days you were
7 there, - - -

8 A. Yes, sir.

9 Q. --- on September Fifteenth, into the Sixteenth, the
10 Sixteenth into the Seventeenth, and the Seventeenth into
11 ultimately the Eighteenth when you were discharged, is that
12 right?

13 A. Yes, sir.

14 Q. And part of this, these nurse's notes there's a spot
15 where there's a pain scale on there where they have asked
16 you that very question, what - - -

17 A. Exactly, exactly.

18 Q. --- what amount of pain you're in, is that correct?

19 A. Exactly.

20 Q. Okay. And can you show me on there, over these, let's
21 see, one, two, three, four, five, six, seven, eight, nine,
22 ten, eleven twelve, thirteen, fourteen, fifteen, fifteen,
23 sixteen, seventeen, eighteen times that it was documented
24 that a nurse had asked you when you told her that your pain
25 was a ten, can you show that for me so I can show the jury?

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 A. No, it's not on here. It's not on here, and you know
2 why? Because needles, I'm real afraid of needles and, I'm
3 real afraid of needles, and then every time I looked around
4 they would be coming and, you know, hitting me with these
5 needles all the time. This the, you know, this the first
6 time, you know, I been in a hospital bed like that.

7 Q. Okay.

8 A. And I don't like needles, I'm going to be straight with
9 you. When it came time for physicals when I was a kid, my
10 mother, my sister will tell you, man, they had to grab me
11 and hold me. If not, I would break out, I would dash out
12 and run. I don't like needles.

13 Q. Okay.

14 A. And as, you know, I'm telling you the truth, I don't
15 like needles.

16 Q. So, your fear of needles somehow led you to be in less
17 pain, I guess? I'm not understanding that, how that
18 connects.

19 A. No, I was in pain, I was in pain, you know.

20 Q. Okay. So, when you told the nurses - - -

21 MR. GIPSON: Judge, I'd like for him to be able to
22 finish answering his question.

23 A. Yes, sir, I was.

24 SOLICITOR SORENSON: Only if he's responsive to my
25 question.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 THE COURT: Yes, if you don't believe it's responsive
2 let me know.

3 A. Yes, sir, I was in pain, you know, and that's the truth,
4 I was in pain. And that, you know, me wanting to get out of
5 the hospital, I just wanted to be out of the hospital. I
6 don't like hospitals, you know, I don't like hospitals. I
7 mean, when I came, when the officers locked me up they done
8 an x-ray on my leg - - -

9 SOLICITOR SORENSON: Your Honor, now, I'm not quite
10 sure how this is responsive.

11 THE COURT: That's sustained.

12 SOLICITOR SORENSON: Thank you.

13 A. I was still - - -

14 Q. Mr. Brown, let me, let me - - -

15 A. Okay. Go ahead, I'm sorry.

16 Q. Let me ask you another question, okay, and then if you
17 feel you need to explain you can go from there. Alright, so
18 my question a few moments ago before I marked this was that,
19 whether you told the nurses in the hospital that your pain
20 was a ten, that it was the worse pain imaginable, is that
21 correct? And your answer was yes, right, that you had told
22 them that?

23 A. Yeah, I told them that.

24 Q. Okay. But that is not documented by the nurses in this
25 report. That's a yes or no question.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 A. No, that's not documented, you're right, it's not
2 documented.

3 Q. And in fact, on many of the occasions in there the
4 answer is, zero, which would be, you were in no pain, is
5 that correct?

6 A. I wasn't -- exactly, that's right, you know. And I told
7 you that's why I would tell them that. I would tell them
8 that to get away from the needles, the thing they had hooked
9 up in me. They had something hooked to my thing between my
10 legs, and you know, all that stuff, man, and I don't, you
11 know, seriously, I don't like needles, I don't like them.
12 And I don't like no hospital.

13 Q. Okay.

14 A. So I wanted to get out of there.

15 Q. Alright.

16 A. And I figured that I'd tell them that I'm okay, I'm
17 okay, but knowing that I'm not, you know.

18 Q. So, is it your testimony that then, over the next -- so
19 you got out on September Eighteenth I think is what this
20 records show, so that over the next, you know, Forty some
21 odd days that basically about,-- you were in the worse pain
22 imaginable, and about all you could do was maybe get out to
23 your mail box, does that pretty much sum up your existence
24 over the month or so?

25 A. Yes, sir, that's the distance that I only could walk at

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1 a time, you know, and when my leg would start throbbing and
2 hurting real bad I had to get off of it, you know. And so
3 I would only walk the short distance. I had to do some kind
4 of walking or doing something on my own, you know.

5 Q. Okay. Alright. And the fact of the matter, as far as
6 actually beginning any kind of physical therapy, that did
7 not, I mean, if you ever did any it didn't begin until
8 after January Thirteenth of Two thousand eleven at the
9 earliest, is that correct?

10 A. January Thirteen, that's when the papers was - - -

11 Q. That's what's listed on here, yes, sir.

12 A. Yes, sir, they had to do the papers over again. They
13 sent me some papers and they sent it to the wrong address.

14 Q. Okay.

15 A. And so, I had to get them -- okay.

16 Q. And you had mentioned after they had sent it once and
17 then sent it again a couple of weeks later - - -

18 A. Yes, sir.

19 Q. --- and when was it that that occurred, all that
20 occurred then?

21 A. I know it was in October, it was in October, it was like
22 close to the end of October, close to it. I couldn't just
23 go down there to therapy or wherever the place was at and
24 just barge in and say, hey, y'all need to start working on
25 my leg, you know. They said I had to have papers, I

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 couldn't just go sign up on my own.

2 Q. Yes, sir. Of course, they, according to your, the
3 medical records that your lawyer put into evidence is that
4 they did that referral on October Nineteenth of Two thousand
5 ten for you, right?

6 A. Yes, sir.

7 Q. Is that correct?

8 A. Uh-huh.

9 Q. But you didn't begin any of that though, I mean, that
10 you didn't request it until January of Two thousand eleven,
11 is that correct?

12 A. Yes, sir. They - - -

13 Q. Okay, I'm just going by -- this is the records your
14 lawyer put into evidence.

15 A. Okay, okay, yes, sir, yes, sir.

16 Q. Alright, let me ask you about some of the people.
17 Obviously, you've been in the courtroom upstairs earlier in
18 the week, you were here for the whole trial, correct?

19 A. Yes, sir.

20 Q. Alright, let me ask you, do you remember Joe Thomas who
21 testified Tuesday afternoon, Mr. Thomas, who is probably the
22 oldest gentleman that testified out of the witnesses?

23 A. Okay.

24 Q. Do you know Mr. Thomas?

25 A. I don't know him.

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 Q. You don't know Mr. Thomas?

2 A. No, sir.

3 Q. Okay. Do you think you've ever seen him before over at
4 your sister's and brother-in-law's?

5 A. No, sir.

6 Q. Okay. And how often -- let me ask you this, how often
7 did you used to hang out over at your sister's and brother-
8 in-law's?

9 A. I never hung out. I used to go to my sister's house.
10 When I go I go straight in the house and during the day I
11 play with my nephew. Sometimes I used to help him get off
12 of the bus, and you know - - -

13 Q. And would there be - - -

14 A. --- in the afternoons.

15 Q. --- and when you go over to visit would there be
16 occasions when there would be people hanging out kind of
17 drinking and just socializing?

18 A. But I don't make --

19 Q. I'm not asking you if you were with them, I'm asking you
20 - - -

21 A. I'm sorry, sir.

22 Q. --- whether there were people out there when you would
23 go over and visit that would be sitting outside, not that
24 you joined them but did you observe people sitting and
25 socializing outside at your sister's and brother-in-law's

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1 house when you would go visit your sister and your nephew?

2 A. From time to time I did see people out there and they be
3 drinking and, you know, all these bottles of liquor and beer
4 and stuff like that.

5 Q. And your brother-in-law, your brother-in-law, Randy,
6 would be out there with them?

7 A. Yes, sir.

8 Q. Because obviously it's his house, right?

9 A. Yes, sir.

10 Q. So, okay, but your testimony is you didn't go over and
11 socialize with those, those people over there?

12 A. No, sir.

13 Q. Alright, but people were sitting, socializing in that
14 yard they would have had the opportunity to view you coming
15 over and visiting, is that correct?

16 A. I assume so.

17 Q. Okay. Alright, so that was Mr. Thomas. Alright, how
18 about Vandy Morgan, do you know Mr. Morgan, Vandy Morgan?

19 A. Yeah, I know Vandy.

20 Q. Okay. How well do you know Vandy? You remember, he was
21 the gentleman that, he testified that he saw you, that
22 passed you out on the street while he was going to his
23 vehicle.

24 A. Vandy, me and Vandy don't, we don't hang out together.
25 We don't hang out together. If we're in company with each

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1 other we may dialogue five minutes, you know, something like
2 that, you know, because - - -

3 Q. But he would know you?

4 A. I think he went to school, I think he went to - he went
5 to school with me. He might have been under me or something
6 like that, I don't know.

7 Q. But he would know you there, you have no reason to doubt
8 that he would know you by name and face, is that correct?

9 A. Yes.

10 Q. Okay. Alright, how about his cousin, Isaac Morgan, you
11 heard Mr. Morgan, he was the gentleman that testified that
12 basically he didn't see you at all that night, do you
13 remember that person testifying?

14 A. Isaac, Isaac ...

15 Q. Isaac Bernard, or Bernard Isaac?

16 A. Okay. Yeah.

17 Q. Do you know him?

18 A. I don't, I don't know them, I seen them during the day,
19 you know, when I came through to, you know, wash my
20 clothes, to see my nephew, like that, I see them ...

21 Q. Okay. You'd seen him around out there, kind of
22 recognized him?

23 A. I seen, I seen, yeah, I seen them out there, I seen them
24 out there during the day.

25 Q. Okay. So, you recognized him but didn't really know him

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1 otherwise, is that accurate?

2 A. Yeah, I don't know him like, you know, we went to school
3 with him or sitting, you know, dialogue with him and know
4 how many kids he got and if he's married and - - -

5 Q. I've got you.

6 A. --- I don't know none of that stuff.

7 Q. I've got you. And you knew Vandy better than him, I
8 guess, is that correct?

9 A. You know, - - -

10 Q. You said you'd had some conversations with Vandy
11 before?

12 A. Yeah, about five, ten minutes, you know, we say, hey,
13 you know, how you doing.

14 Q. Okay.

15 A. I think Vandy used to live in St. Paul or something one
16 time before but - - -

17 Q. Okay. Alright.

18 A. --- he don't know, we don't know each other like, you
19 know, is he married now or do he, what kind of vehicle he
20 drive and where he work, and personal stuff like that, I
21 don't know him like that.

22 Q. Okay. Alright, how about Ulysses Daniels, do you know
23 Mr. Daniels?

24 A. Mr. Daniels?

25 Q. He's the gentleman that was in the ...

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1 A. No, I don't.

2 Q. --- he was incarcerated, that had the orange jump suit
3 on.

4 A. I don't know him.

5 Q. You don't know him at all?

6 A. No, sir.

7 Q. Alright, how about Brandy Mack, the young lady that
8 testified, do you know Mr. Mack?

9 A. Don't know her, no, sir.

10 Q. Ms. Mack, I'm sorry. So you do not know her?

11 A. No, sir.

12 Q. Alright. How about Shawn Guinyard, Monique Shawn
13 Guinyard, do you know Shawn?

14 A. The same as Isaac and, you know, see him, hey, how you
15 doing, you know, keep on moving.

16 Q. Did you know his name back in October?

17 A. Shawn?

18 Q. You knew him by Shawn?

19 A. Yeah, that's all, just Shawn.

20 Q. Okay. You knew him. Alright, and how about the victim,
21 Alex Harrison, did you know Mr. Harrison back in October of
22 Two thousand ten?

23 A. No, sir.

24 Q. It's your testimony that you didn't know him at all?

25 A. No, I don't know him at all.

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1 SOLICITOR SORENSON: Your Honor, at this time I'd have
2 a matter of law.

3 THE COURT: Our jury needs to break, so you have --
4 your timing is excellent. Ladies and Gentlemen, we're going
5 to take our afternoon break. Please step to your jury room,
6 do not discuss this matter or allow anyone to discuss it
7 with you. We're going to take about, probably about
8 Fifteen.

9 (Whereupon, the jury retires
10 to the jury room and the following
11 takes place out of the presence
12 of the jury.)

13 SOLICITOR SORENSON: Your Honor, at this time I -- you
14 know, he has indicated that he doesn't have any idea who the
15 victim is, and you know, you've not allowed me to get into
16 evidence of this prior alleged altercation from several
17 months before. I mean, I -- I think I can get into it now.
18 I mean, he is indicating he doesn't even know who the victim
19 is. I mean, I've got, I mean, I could recall every witness
20 that I've put up to indicate differently than that, I mean,
21 not to mention his sister and brother-in-law who told me
22 different when I met with them.

23 THE COURT: Alright. Yes, sir?

24 MR. GIPSON: Your Honor, in each of those questions he
25 asked a follow up question. He asked, you know, did you

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1 know Isaac Bernard, and he said, well, I don't really know
2 him. He said, well, did you know -- and he's ask him a
3 follow up question, and he'd have an opportunity to answer
4 that follow up question. I mean, when you talk about know,
5 some people talk of know as, have you had conversations
6 with him, do you sit down and talk to him, do you all break
7 bread together. I mean, he didn't ask him if he'd ever had
8 a conversation with him, he didn't ask him that question,
9 which is a follow up he asked of each of the others when he
10 gave a similar answer. So, I think he's entitled to follow
11 that question up and, from that point and see if there's an
12 answer that he gives other than no, or at least define what
13 he means by no. That would be my position, Your Honor.

14 THE COURT: The beauty of it is, we're going to take a
15 little break, and I've got a minute to think about it.
16 Alright, and very well, we'll take about Fifteen. Well,
17 I'll see y'all right at four.

18 SOLICITOR SORENSON: What's, I mean, what's our plan
19 right now?

20 THE COURT: Ah, you know, here's what I think, I think
21 -- here's what I think our plan is. I'm going to go until
22 we finish the testimony, then I'm going to see what they
23 want to do. I just, one of the things I'm going to do is E-
24 mail both my administrative assistant and my roster in
25 terms of, see if my life is falling apart in Dorchester.

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1 SOLICITOR SORENSON: Because I don't, because we
2 talked, I don't see how between arguing and charging, I
3 mean, we're now talking well over two plus hours, I mean, so
4 ...

5 THE COURT: I know, I know.

6 SOLICITOR SORENSON: Okay.

7 THE COURT: And here is the response I got back. If
8 this jury wants to wait and come back on Tuesday what do you
9 think that would do to the Dorchester Roster? Not much.

10 (Recess)

11 THE COURT: Alright, before we bring the jury back in,
12 I do not believe at this point that I can limit that cross-
13 examination. I think for impeachment purposes I can't limit
14 that any longer. I know I have done it throughout this
15 trial but I do not think at this point that I can. And
16 that's noting your exception for the record.

17 MR. GIPSON: Yes, ma'am.

18 THE COURT: Okay?

19 SOLICITOR SORENSON: So in other words I can ask him
20 about that prior incident?

21 THE COURT: Yeah, I think that's, I think that's what
22 I'm saying, yeah.

23 SOLICITOR SORENSON: I'm just - - -

24 THE COURT: I know.

25 SOLICITOR SORENSON: --- I definitely want to be clear

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1 on that because ...

2 THE COURT: I understand. In other words, I have
3 limited that entirely throughout this trial and I think I
4 can no longer do that.

5 Let us have the jury.
6 (Whereupon, the jury enters
7 the courtroom.)

8 THE COURT: Alright, yes, sir, you may continue.

9 SOLICITOR SORENSON: Thank you, Your Honor.

10 THE COURT: Yes.

11 Q. Mr. Brown, I think my last question where I left off is,
12 I had asked you whether you knew Mr. Harrison, Alex
13 Harrison, the victim in this case, and I believe your answer
14 was that no, you did not know him, is that correct?

15 A. Yes, sir.

16 Q. Okay.

17 A. Um, can I say something, sir?

18 Q. Well, I have one other question, I was getting, kind of
19 just getting us back on track of where we were, okay?

20 A. Okay.

21 MR. GIPSON: Well, could he clarify, I guess, what he
22 was about to say? I'm not sure he's going to say it.

23 SOLICITOR SORENSON: I just wanted to kind of get to
24 where we had left off at the last question, because after
25 you take a Fifteen minute break ...

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1 THE COURT: I understand. I understand. I think that
2 you can bring him back to that point, and you've done that.

3 SOLICITOR SORENSON: Thank you.

4 THE COURT: Yes.

5 Q. Alright, Mr. Brown, let me ask you then, back on June
6 the Sixth of Two thousand ten, so some four and a half
7 months prior to this, out at the same address, your sister
8 and brother-in-law's house on Wingfield, did you on that
9 date hit Mr. Harrison up side the right side of his cheek
10 with a hand gun?

11 A. No.

12 Q. You deny that?

13 A. Yes, sir.

14 Q. Okay. Do you deny having an altercation with him on
15 that day in reference to a bag of marijuana belonging to
16 your nephew, Snook?

17 A. Yes, sir.

18 Q. And do you deny that Mr. Daniels observed, Ulysses
19 Daniels observed that altercation?

20 A. No, I don't know Ulysses.

21 Q. You don't know him?

22 A. What I'm saying, when I say -- excuse me, sir, but when
23 I say I don't know a person as far as, you know, I been to
24 your house and, you know, we ride together and, you know,
25 etcetera, things like that, I don't know nobody personally

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1 like that. You know, I seen people, you know, we may speak
2 to each other or something and, you know, as a pass by, you
3 know, like that.

4 Q. Okay.

5 A. But as far as knowing them like -- no.

6 Q. Let me ask you this, I asked you the question earlier
7 about Ulysses Daniels, the guy that testified in the orange
8 jump suit, did you know him before the other day, had you
9 seen him before?

10 A. Yes, I seen him before.

11 Q. Okay. But you didn't know him?

12 A. I don't know him.

13 Q. Okay. Alright. But you would deny that you had that
14 altercation with Mr. Harrison back in June of Two thousand
15 ten, is that correct?

16 A. Yes, sir.

17 Q. Okay. And you deny that your brother-in-law actually
18 had to call the police to get y'all to break that up out in
19 his yard?

20 A. Yes, sir.

21 Q. And I believe it's your testimony, to kind of get back
22 to the Twenty-seventh of October, that back at that point in
23 time you were basically hanging out every day up at the Four
24 Way?

25 A. No, no, sir, not every day. Some days I wouldn't even

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1 come out at all, I wouldn't even come out of the house at
2 all.

3 Q. Alright. And you had made reference to a Bernard giving
4 you a ride one time, who is that?

5 A. This guy named Bernard, he got a Burgundy car. Bernard
6 is older than me.

7 Q. It's not the Bernard that testified?

8 A. No, no, sir, that's -- no, sir.

9 Q. Alright. And I want to just kind of go through, I've
10 just got a few more things, Mr. Brown, about the night of
11 the Twenty-seventh. Alright, it's your testimony that you
12 were kind of hanging out over at the Four Way, and had
13 gotten picked up by your nephew, Snook, is that right?

14 A. Yes, sir.

15 Q. Okay. And you went back, and it's your testimony that
16 he was the one that was interested at that point in time in
17 watching the baseball game?

18 A. Yes, sir.

19 Q. Is that right?

20 A. Yes, sir.

21 Q. And that you were basically nodding off and not paying
22 attention to the game, is that correct?

23 A. Yes, sir.

24 Q. Alright. Are you aware of whether your nephew is a
25 baseball fan?

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- 1 A. Uh, he's quiet, he, you know, he's real quiet but I
2 don't know his sports like that or, you know, because he
3 don't really open up, you know, and talk much.
- 4 Q. I've got you. But it's your testimony that you, because
5 you were basically falling asleep sitting over at his house,
6 that he ultimately told you he was going to take you home,
7 is that right?
- 8 A. Yeah, he tapped - yes, sir, he tapped on me and said,
9 hey, I'm going to go ahead and, you know, take you home.
- 10 Q. Alright. And do you remember kind of what was going on
11 with the baseball game when you left at that point in time,
12 you know, where they were, inning-wise, score-wise, who
13 happened to be winning or anything of that nature?
- 14 A. No, sir, I didn't, you know, because those are not my
15 teams. I like the Yankees.
- 16 Q. Okay.
- 17 A. I like the Yankees.
- 18 Q. Now, tell this jury what time was it then that you are
19 alleging that you got dropped back off by your nephew at
20 your house?
- 21 A. I know when I, after I left the neighbor's house when I
22 went in the house ...
- 23 Q. That wasn't my question, what time did you get dropped
24 off over, outside of those trailers?
- 25 A. Close to eleven, maybe, something like that.

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1 Q. Okay.

2 A. Eleven o'clock.

3 Q. Okay. Were you looking at your watch, or how are you
4 remembering that time Nineteen months later?

5 A. I remember because when I went to Erica's house, when I
6 went into Erica's house I saw the clock, and I mean, whether
7 her clock was wrong or right, that's what, you know - - -

8 Q. Okay. And you remember that night - - -

9 A. --- that's what - - -

10 Q. --- Nineteen months later?

11 A. --- that's what time it was.

12 Q. Okay. And my question to you is, you can remember that
13 now, Nineteen months later?

14 A. Not being precise, but that's why I said it was about
15 Eleven or maybe a little after or something like that, maybe
16 somewhere in there. But, you know, it wasn't ...

17 Q. Alright. And it's your testimony that you did not
18 observe anything going on through the woods over in the
19 vicinity of your sister's house, is that correct?

20 A. Repeat that again?

21 Q. It's your testimony that when you got dropped off you
22 did not observe kind of looking through the woods towards
23 your sister's house anything going on over there that night,
24 at Eleven o'clock when you say you got dropped off?

25 A. No, sir. Seeing the lights and stuff over there, it's

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1 been times before when, you know, I'm hearing this from,
2 you know ...

3 Q. Okay. Well did you, my question is, I mean, that night
4 did you observe anything?

5 A. No, I didn't observe, I didn't observe it, you know. I
6 see the little, you know, little flickers through the woods
7 or whatever, but I didn't, like, you know, look at it and
8 really saying, is there something going on, you know, I
9 didn't, it didn't hit me like that.

10 Q. Okay. So, now you do remember seeing something you just
11 didn't think anything was going on?

12 A. But when they, when I found out about the next day then
13 that's when, you know, I was, like, okay, well, you know - -
14 -

15 Q. And it's your ...

16 A. --- that's why these lights were over there like that,
17 or something like that.

18 Q. I've got you. And it's your testimony that you -- well,
19 actually, I'm not sure if Mr. Gipson asked you this, but how
20 long did you end up spending at Erica Smith's trailer?

21 A. It wasn't long, you know, a few minutes. They showed
22 me, tried to show me how to play the game, and I didn't stay
23 long to even learn the game.

24 Q. Okay.

25 A. I just said I'd rather, you know, I'm -- you know, let

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1 me mosey on, you know.

2 Q. And define a few minutes, I mean, two, three minutes,
3 five minutes, Fifteen minutes?

4 A. Well, yeah, about Ten, Fifteen minutes, something like
5 that maybe, Ten, Twenty minutes, somewhere in there, you
6 know.

7 Q. Okay. Alright. And from there you went, your testimony
8 is that you went back, walked across back to your trailer
9 and - - -

10 A. Yes, sir, I went home.

11 Q. --- and you went to sleep?

12 A. Yes, sir.

13 Q. Is that correct?

14 A. Yes, sir.

15 Q. Alright. And the following day your testimony is that
16 it was business as usual, over the next couple of days,
17 because you said it wasn't until the Friday that you found
18 out there was a warrant out for you, right?

19 A. Yes, sir.

20 Q. So, you were hanging out at your house, hanging out down
21 at the Four Way, not doing anything out of the ordinary, is
22 that correct?

23 A. Yes, sir.

24 Q. But now, let me ask you this, but now you testified that
25 on the Twenty-ninth when you found out that there was a

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- 1 warrant for your arrest that you were up in Anderson at that
2 point in time, right?
- 3 A. Yeah.
- 4 Q. How did you get to Anderson?
- 5 A. I got a ride from my cousin.
- 6 Q. The same cousin?
- 7 A. Oh, what you mean, the same cousin?
- 8 Q. Snook?
- 9 A. No, that's my nephew.
- 10 Q. Nephew, I'm sorry, your cousin. Which cousin was that?
- 11 A. My cousin, Dennis.
- 12 Q. That testified?
- 13 A. Yes, sir.
- 14 Q. Okay. And what day was it that he gave you the ride?
- 15 A. He gave me a ride on the Twenty, the Twenty-eighth, the
16 Twenty-eighth, I think, yeah, it was the day after.
- 17 Q. Okay. So, on the Twenty-eighth Mr. Jones - - -
- 18 A. Yeah, the Twenty-eighth.
- 19 Q. --- and I'm sorry, I didn't realize that's who we were
20 talking about.
- 21 A. Yes, sir.
- 22 Q. Okay. So Mr. Jones, he gave you a ride all the way to
23 Anderson?
- 24 A. No, sir.
- 25 Q. Where did he give you a ride to?

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1 A. He dropped me off because he told me he couldn't take me
2 all the way or nothing like that, at a place, I think it's a
3 station or something like that. It's a station on Twenty-
4 six, I don't, you know, I don't know the highways like that,
5 or whatever, but it's on Twenty-six.

6 Q. You got on I-Twenty-six heading towards Columbia?

7 A. Yes, sir.

8 Q. Okay. And by -- you know, he had testified it was the
9 rest stop, the rest area?

10 A. That's what it -- okay.

11 Q. Is that, is that accurate?

12 A. Yes, sir.

13 Q. Alright. And your testimony is, that was on the Twenty-
14 eighth, so that would be Thursday, the Twenty-eighth, is
15 that correct?

16 A. Thursday, Twenty-eighth, yes, sir.

17 Q. Okay. And what time of day was that that he gave you
18 that ride to that rest area?

19 A. It was dark.

20 Q. Okay. Alright. And basically that you hung out, you
21 found out then on the Twenty-ninth, while you were up in
22 Anderson, that there was a warrant out for your arrest, is
23 that correct?

24 A. Yes, sir.

25 Q. Okay. And it's your testimony that you came back as

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1 quick as you could come back, as soon as you could get a
2 ride back?

3 A. As soon as I can get a ride I came back.

4 Q. You came back to Orangeburg on the Twenty - - -

5 A. Yes, yes, sir.

6 Q. --- is that the Twenty-ninth that you got back or was it
7 the following day on the Thirtieth?

8 A. No, it was, it was a couple days, it was a few days
9 after, through the week, as I had to wait until my step
10 daughter got a break from her classes, you know, at the
11 college. And then I was able, that was the only ride that
12 I, I knew that I had to come back.

13 Q. Okay. So, from the Twenty-ninth through the Thirty-
14 first or so, somewhere in that range you were up in, still
15 up in the Anderson area, is that correct?

16 A. Yes, sir.

17 Q. And it's your testimony that you didn't have any contact
18 with law enforcement during that point in time?

19 A. No, sir.

20 Q. And they never looked for you up in that area, the U. S.
21 Marshals or anybody never looked for you up in the Anderson
22 area?

23 A. When I got my papers and stuff then, you know, I was
24 already here in Orangeburg when I found out, you know, I got
25 my papers and, you know, the documents, you know, showing

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1 that they was -- but I didn't, I been to Wal-Mart, we been
2 to Wal-Mart playing games, and you know, all that type of
3 stuff, you know.

4 Q. You're just going around, business as usual, while
5 there's a warrant out there for your arrest for murder?

6 A. Listen, I didn't, I didn't, you know what I'm saying,
7 like, you know, try to hide or anything like that, you know.
8 I mean, because, for what, I ain't have any reason.

9 Q. You didn't turn yourself in on October Twenty-ninth when
10 you found out there was a warrant for you, is that correct?

11 A. I came -- no, sir, I came ...

12 Q. On October Thirtieth you didn't turn yourself in?

13 A. No, sir.

14 Q. October Thirty-first you didn't turn yourself in?

15 A. No, sir.

16 Q. You got back to Orangeburg somewhere around the area,
17 November First, didn't turn yourself in, did you?

18 A. No, sir.

19 Q. November Second, you didn't turn yourself in?

20 A. No, sir.

21 Q. November Third, you didn't turn yourself in?

22 A. No, sir.

23 Q. November Fourth, you didn't turn yourself in?

24 A. I got arrested.

25 Q. You got arrested and it's your testimony that you were

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1 in the process of getting ready to go turn yourself in?

2 A. I had to get my money together for my lawyer, and then I
3 said I'll go ahead and let my lawyer walk me in, you know,
4 like that, that's all.

5 Q. And, of course, when they got you on November Fourth you
6 weren't at your house, is that correct?

7 A. No, sir.

8 Q. Okay. Because you hadn't been at your house since you
9 got back to Orangeburg, is that correct?

10 A. Exactly.

11 Q. And they found you, you said it was at a friend's
12 house?

13 A. Yes, sir.

14 Q. And that was, was it Last Drive or something like that,
15 is that right?

16 A. Out in the country, I'm bad with names.

17 Q. Does that sound right from what Lieutenant Shumpert had
18 said the other day, Last Drive or something like that?

19 A. I think, I don't know, I don't know. They know the
20 streets better than I do.

21 Q. And you had made the comment on direct examination that
22 that house wasn't up to par. What is that, I'm not
23 familiar, I mean, what does that mean?

24 A. It was a one bedroom, you know, and they had the, you
25 know, when you don't have a closet you make a closet. You

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1 put the, you know ...

2 Q. I've got you.

3 A. Yeah, you know, you might put a rod against one wall and
4 this wall to hold up your clothes on a hanger and, you know,
5 things like that, you know. You might fold up a pile of
6 clothes here and just sit it over here, be boxes of clothes
7 here and some things.

8 Q. But you were hiding under some - - -

9 A. Huh?

10 Q. --- you were hiding under some of those clothes when the
11 sheriff's office came in, right?

12 A. On the clothes that was on the side of me, where I was
13 laying at, the pile of clothes was about this high next to
14 me, and when the big bang came to the door, you know, and
15 people rushed in they scared me, and I kind of got up under
16 the clothes a little bit like this, and then when they said,
17 the sheriff's department and this and that I stuck my hands
18 out and I asked them to help me up.

19 Q. Alright. And let me ask you, this friend's house that
20 you were hiding out at, who, who, how many people live in
21 that house?

22 A. Two.

23 Q. Two? Is that, and they are adults?

24 A. Yes, sir.

25 Q. A male and a female, is it a couple?

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1 A. Yes, sir.

2 Q. Okay. And was that where -- when you came back to
3 Orangeburg around November First, is that where you were
4 from November First until you were arrested on November
5 Fourth, was at that house?

6 A. Yes, sir.

7 Q. Okay. And who else was staying at that house during
8 that three day period, that couple, were they both there?

9 A. Yes, sir.

10 Q. And what were their names?

11 A. Janice, I forgot her husband's name, I don't know, I
12 forgot her husband's name.

13 Q. Okay. And you were hiding out from the police with them
14 for three days and you don't know his name?

15 A. I wasn't hiding from the police, I wasn't hiding. If I
16 had -- let me say something to you, Mr. Sorenson, please,
17 sir, may I say something to you?

18 SOLICITOR SORENSON: Your Honor, - - -

19 MR. GIPSON: I mean, if it's a ...

20 THE COURT: Excuse me. Just ask the questions, Mr.
21 Sorenson, and then you can respond. Certainly Mr. Gipson
22 will have an opportunity on redirect.

23 MR. GIPSON: And what he's saying may be absolutely
24 responsive to what he's saying. I'm just, just because he
25 phrased it, may I ask a question, I ...

ROMEO BROWN - CROSS BY SOL. SORENSON

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1 THE COURT: But when people typically start -- hold on
2 here and let me just say something to him to not be bad, in
3 my experience. So, you can ask him if it's something he
4 wants to say on redirect.

5 MR. GIPSON: Yes, ma'am.

6 Q. During that three day period, so Janice and her -- is it
7 her husband, her boyfriend or ...

8 A. Husband.

9 Q. Husband? Janice and her husband were there in this one
10 bedroom house, and then you were there obviously for those
11 three days, was your wife with you then for these three
12 days?

13 A. She, yes, sir, she would go out, she would go out and,
14 you know, go to the store, whatever, you know.

15 Q. Okay. So, she would go out - - -

16 A. --- things like that.

17 Q. --- and you would stay -- you'd stay at the house and
18 she'd go out and run errands, pick up food, things of that
19 nature?

20 A. Not pick up food or nothing but she would, you know,
21 just go to the store, you know, go see her family or
22 whatever, you know, like that. But listen, ---

23 SOLICITOR SORENSON: That's all I'd have, Your Honor.

24 THE COURT: Very well, redirect.

25 MR. GIPSON: Thank you, Your Honor.

ROMEO BROWN - REDIRECT BY MR. GIPSON

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ROMEO BROWN - REDIRECT EXAMINATION

BY MR. GIPSON:

Q. When you came back to Orangeburg what was your intentions?

A. My intentions were to turn myself in, get my money together for my lawyer and then get my lawyer to walk me in.

Q. Were you trying to run when you came back to Orangeburg?

A. I mean, no, that's the thing about it, I couldn't run, you know, and I didn't have any intentions to run because if I did -- I was in Anderson, I mean, I had the opportunity if I wanted to run away from something that I know I didn't do, to go to anywhere, go to any state, to keep going, you know, or something like that, you know. I ain't, I mean, New York, Georgia, you know, all these places, you know. I mean, when I found out that the cops, you know, wanted me, you know, somebody said, wanted for questioning, I came on back, you know. But I had to wait for a ride. Anderson is, like, maybe three hours, about three hours and some change maybe. And when I got a ride back I said, let me go ahead and get my money together for a lawyer to go in to see, we'll walk in and see what's going on, you know.

Q. And at some point you were arrested at that house on

ROMEO BROWN - REDIRECT BY MR. GIPSON

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1 Last Drive, is that correct?

2 A. Yes, sir.

3 Q. And without incident, meaning, did you fight with the
4 police when they came in?

5 A. No, sir, no, sir.

6 Q. Did you try to pick your cane up and hit somebody?

7 A. No, sir.

8 Q. Did you try to run?

9 A. No, sir, I couldn't run, no, sir.

10 Q. Crawl away?

11 A. No, sir.

12 Q. Did they have to take you because you were trying to
13 fight them and get away from them?

14 A. No, sir.

15 Q. Alright. So essentially, you came back to Orangeburg,
16 although you didn't turn yourself in right away, you did
17 come back to Orangeburg?

18 A. Yes, sir.

19 Q. What was your intention?

20 A. My intentions were to clear this, you know, whatever the
21 problem was or whatever I was wanted for, to go ahead and
22 clear it up.

23 Q. Okay. Now earlier in the cross you were asked about
24 just your pain tolerance. When you were in the hospital was
25 there anything attached to your hand?

ROMEO BROWN - REDIRECT BY MR. GIPSON

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- 1 A. Yes.
- 2 Q. What?
- 3 A. They had an IV hooked here, another IV hooked, I think
- 4 it was in this, I think it was here. They had something
- 5 else hooked to this arm and - - -
- 6 Q. And probably a catheter and other things?
- 7 A. --- yeah, and they had something hooked to my thing - -
- 8 -
- 9 Q. Okay. Now what generally - - -
- 10 A. -- to my private area.
- 11 Q. To your private area, probably a catheter.
- 12 A. Yes, sir.
- 13 Q. Now what generally comes from that IV?
- 14 A. Some medication and some, let me see what they said it
- 15 was. It had morphine, morphine and some other stuff they
- 16 was, you know, nurses kept, come rushing in and poking me
- 17 with a needle and, you know, and every time I look around
- 18 I'm out, I can't hardly eat my food or nothing, you know.
- 19 Q. And what does morphine, what effect does the morphine
- 20 have on you?
- 21 A. Oh, man.
- 22 Q. Did it make you hurt more?
- 23 A. Morphine ...
- 24 Q. Did it put you in more pain?
- 25 A. No, sir.

ROMEO BROWN - REDIRECT BY MR. GIPSON

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1 Q. Alright. So, if you're telling somebody what your pain
2 level is at the hospital when you're full of morphine, do
3 you think that might be accurate, that it doesn't quite hurt
4 as bad?

5 A. No, I mean, because I was out. Every time I looked
6 around they had this, this button where you push it when
7 your pain, like when your leg or something is hurting you,
8 and you push the button and I think it ejects a double dose
9 or triple dose or something like that, and you know, my wife
10 was there and, you know, and every time, you know, when I
11 said it was hurting or she think that I'm in pain or
12 something, you know, she would hit the button, but then she
13 would, you know, be hitting the button more than one time,
14 and you know, I'm out, I'm knocked out. I haven't eaten
15 nearly the whole day and then, you know, the nurse, you
16 know, was wondering why my food was piling up, and I said, I
17 was lost with the days and everything, and I told them, I
18 don't know, you know. The majority of the stuff I couldn't
19 remember because I was knocked out, I was knocked out most
20 of the time.

21 Q. Now, so let me ask you this, when you talk about your
22 pain level being something you could tolerate, did the
23 morphine help you tolerate that pain a whole lot better?

24 A. Oh, yes, sir.

25 Q. When you left the hospital did they prescribe you

ROMEO BROWN - REDIRECT BY MR. GIPSON

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1 morphine?

2 A. No, sir.

3 Q. What did they prescribe you?

4 A. They gave me some, they gave me some kind of pills, I'm
5 trying to think what kind fo pills it was . I don't know the
6 name of the medication because this the first time, you
7 know, that I went through taking medication, being in the
8 hospital.

9 Q. Did they prescribe you Lortab?

10 A. But then later they had prescribed me Lortab because of
11 the pain that I was feeling.

12 Q. And did the Lortab have the exact same effect on you as
13 the morphine did?

14 A. No, sir, no, sir.

15 Q. Alright, now, you were arrested on November Fourth, Two
16 thousand and ten, correct?

17 A. Yes, sir.

18 Q. Were you surprised that they didn't let you just get in
19 a wheel chair and go to see Dr. Banish or whomever so you
20 could have a physical therapy appointment whenever you
21 pleased?

22 A. Was I surprised?

23 Q. Yes.

24 A. When I got locked up?

25 Q. Did you expect that you could just say, I need to go to

ROMEO BROWN - REDIRECT BY MR. GIPSON

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1 physical therapy, and they were just going to say, alright,
2 come on, let's go, there at the jail?

3 A. Oh, no, no, sir.

4 Q. So, were you in control of when you were able to do
5 physical therapy once you were arrested?

6 A. No, sir.

7 Q. Alright. When you were able to do physical therapy is
8 who said you could do it?

9 A. The, Director Bamberg, it comes through, it's a chain of
10 command, you know, you've got to go through the lieutenants
11 and then, you know, the sergeants, the lieutenants, the
12 major, the chief, you know, like that, the Director Bamberg
13 did the final call.

14 Q. Did you willfully reject going to physical therapy?

15 A. No, sir.

16 Q. Okay.

17 A. I kept asking them and kept asking them and as a matter
18 of fact I was asking you, I was getting my people to call
19 you to tell them that, you know, these people are not
20 taking me to therapy, I need to go. I need to and, because
21 they don't let you work out there, you can't do no work out
22 there or nothing, you know. They had a guy that was, you
23 know, ...

24 Q. Well, let me be, that's unresponsive as to what others
25 experienced.

ROMEO BROWN - REDIRECT BY MR. GIPSON

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1 A. Okay.

2 Q. But your experience was, as it relates to physical
3 therapy, you couldn't just up and go as you wanted to,
4 correct?

5 A. No, sir.

6 Q. You had to receive permission and then be cleared to do
7 that, right?

8 A. Yes, sir. And they had to transport you.

9 MR. GIPSON: The Court's indulgence very briefly.

10 THE COURT: Yes, sir.

11 Q. Now, there was a question about who you know and how you
12 know people. When you say, know, just tell me what you mean
13 if I say, do you know such and such a person, what, in your
14 definition of know, explain to me what you mean by that?

15 A. Okay. We see Michael Jordon, everybody will say they
16 know Michael Jordon, but have you ever lived with Michael
17 Jordon, do you know what kind of car Michael Jordon drives,
18 do you know if that's his real name, has he changed it, you
19 know, I mean, I don't, I don't - - -

20 Q. If I asked you ...

21 A. --- you know, people, I don't know about, you know, if
22 I say I don't know you, then I don't know your family, I
23 don't know where you work, I don't know your job
24 description, your occupation, you know, stuff like that.
25 That's what I consider know, you know, and you don't know.

ROMEO BROWN - REDIRECT BY MR. GIPSON

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1 If I say I know you, then me and you might have went to
2 school together and, you know, and I look at you and I
3 say, okay, yeah, yeah, I know you, and shake your hand
4 but, I seen you before but then, you know, walk away and
5 say, I don't know who that is, I don't know him.

6 Q. So is it a better question for me to ask, are you
7 familiar with somebody or do you know them?

8 A. Yeah.

9 Q. So, to you, knowing is something a little bit more, I'll
10 use the word, intimate.

11 A. That's the kind of knowing I was thinking that he was
12 talking about, knowing as far as knowing him like that, like
13 knowing their family, know that they got three kids or they
14 got two kids, or what ...

15 Q. So, you're familiar with Alex Harrison?

16 A. Yes, sir.

17 Q. Okay. But did you know him, meaning have conversation
18 with him and known him?

19 A. Oh, no, sir, no, sir.

20 Q. Okay.

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

22 THE COURT: Alright, recross?

23 SOLICITOR SORENSON: Just a couple of things, Your
24 Honor.

25 THE COURT: Alright.

ROMEO BROWN - RECROSS BY SOL. SORENSON

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1 ROMEO BROWN - RECROSS-EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Alright, let's go back to,-- Mr. Brown, are you familiar
4 with Joe Thomas? He's the older gentleman, the older of the
5 witnesses that testified Tuesday afternoon?

6 A. No, sir, that's the first that I seen Joe, during the
7 Court.

8 Q. So, the answer to that would be no, you've never seen
9 him before?

10 A. Never seen him before.

11 Q. Vandy Morgan, we've already addressed that you did kind
12 of know who he was?

13 A. Uh-huh.

14 Q. Isaac Morgan that you had seen him around. Alright,
15 Ulysses Daniels, are you familiar with Mr. Daniels, - - -

16 A. Yes, sir.

17 Q. --- the person in the orange jump suit?

18 A. Yes, sir.

19 Q. Okay. You're familiar with but didn't know him
20 otherwise, correct?

21 A. Exactly.

22 Q. Alright, Brandy Mack, the young lady?

23 A. I don't know her.

24 Q. Don't know her, are not familiar with her?

25 A. No, sir.

ROMEO BROWN - RECROSS BY SOL. SORENSON

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1 Q. And Shawn Guinyard we've talked about. And then how
2 about the victim, Alex Harrison, are you familiar with Mr.
3 Harrison?

4 A. Yes, sir.

5 Q. Okay.

6 SOLICITOR SORENSON: Thank you.

7 THE COURT: Very well. Alright, you can come on back
8 down. You can come on back down.

9 WITNESS: Thank you, ma'am. Do you want me to throw
10 this away?

11 COURT REPORTER: I'll do it for you, unless you want to
12 keep it.

13 WITNESS: I'll throw it in the garbage. Alright, thank
14 you, ma'am.

15 THE COURT: Alright. Ladies and Gentlemen, I'm going
16 to do this real quick, I'm going to ask you to please step
17 to your jury room for just a moment. Do not discuss this
18 matter or allow anyone to discuss it with you, and I'll be
19 right with you.

20 (Whereupon the jury retires
21 to the jury room and the following
22 takes place out of the presence
23 of the jury.)

24 THE COURT: Alright. I am prepared to send this jury
25 home until Tuesday morning, and we will start back I think

1 at nine o'clock Tuesday morning. At this point how many
2 additional witnesses do you believe you will have?

3 MR. GIPSON: Well, and I was discussing this with Mr.
4 Sorenson.

5 THE COURT: Yes?

6 MR. GIPSON: We were prepared to rest but I anticipate
7 there's going to be some reply that may need to come, and I
8 guess depending on the type of reply my position would be,
9 and I may have to research it, but my position would be I
10 may -- because of the nuance that kind of came up during
11 testimony, that's something that I would have explored more
12 so. But now that it seems that the door has been opened, I
13 may need to reply to his reply if ...

14 THE COURT: Are you talking about your curia reply?
15 Yeah, you're probably going to need to research it, but ...

16 MR. GIPSON: Yes, ma'am.

17 SOLICITOR SORENSON: We talked about how much either
18 one of us is aware of whether he can do that or not. I'm
19 hoping he can but I don't know that, I don't know that for a
20 fact.

21 THE COURT: I don't think it exists in South Carolina,
22 but I don't know the answer to that, and you -- but I'm
23 quite confident you all will know by Tuesday morning. I
24 just think that that's the most appropriate way for us to
25 proceed, and I'm trying to think what else, we've got a

1 charge, we've been through that.

2 SOLICITOR SORENSON: Are you going to wait and just let
3 him rest Tuesday morning? I guess that way in case
4 something ...

5 THE COURT: Oh, absolutely. I wouldn't, I wouldn't
6 cause you to do that now. I wouldn't, that doesn't jive
7 with my sense of fairness. So we will wait, unless you
8 prefer, and I don't know why you would prefer.

9 MR. GIPSON: I'd prefer to wait. I guess the question
10 would be, again, and because of the new, the additional
11 issue, - - -

12 THE COURT: Yes.

13 MR. GIPSON: --- I'll look at this, if there is, there
14 may -- I have met with people that may become necessary and
15 I just have to kind of think through that.

16 THE COURT: Uh-huh.

17 MR. GIPSON: And the folks that I'm thinking about are
18 not on the witness list at the moment, so that may, I don't
19 know logistically what that's going to mean. I just need to
20 look at that, because that's something that I'm, you know
21 ...

22 THE COURT: Okay. Very well. And you'll probably
23 want to let Mr. Sorenson know as soon as you know, and I
24 know y'all have each other's numbers. So, I would suggest
25 that you do that.

1 MR. GIPSON: I will absolutely, absolutely, yes, ma'am,
2 we'll do it.

3 THE COURT: Alright, Very well, alright, let me have
4 the jury.

5 (Whereupon, the jury enters
6 the courtroom.)

7 THE COURT: Ladies and Gentlemen, I'll bet you thought
8 we were finished today. Indeed we are not. So, that's what
9 we needed to do, we needed to sort of talk about our
10 schedule and it really, I do think, though, we will be able
11 to conclude on -- well, I'm not going to say we're going to
12 conclude on Tuesday because I'm not going to jinks anything
13 at all, and we will be together as long as we need to be
14 together, and that's all we need to focus on.

15 Ladies and Gentlemen, we, you know, these are the
16 choices that judges go through. Do you ruin everybody's
17 Memorial Day Weekend or not? And I tend not to do that, I
18 tend to be very mindful that you all have given us so very
19 much of your time, and the appropriate thing is to begin on
20 Tuesday. So, that's what we're going to do. We're going to
21 begin Tuesday at nine o'clock, nine o'clock Tuesday morning.

22 Now, you do realize that the curiosity is going to be
23 heightened. You know that, right? Well, put it on the
24 judge, remember, put it on the judge. Is it heightened?
25 Because again, you must not discuss this matter or allow

1 anyone to discuss it with you. And of course, the same
2 admonitions as earlier, don't read anything, don't listen to
3 anything about this matter, that's the radio, the
4 television, the newspapers, the internet, don't tweet, don't
5 face book, don't chat, don't blog, don't use any social
6 media, don't do any investigation. You must receive all of
7 your information here in Court while Court is in session.
8 And I gather our admonition yesterday and conversation is
9 holding firm, and if that should change all you need to do
10 is let us know Tuesday when we reconvene. Have a very
11 wonderful weekend.

12 Let me just suggest this for you, and I tend to do this
13 with jurors when we're going to have a bit of a break, and
14 it's this. Your mind's going to want to come back here to
15 the trial. Be confident and be comfortable putting it down,
16 putting it aside, rest your mind. Go about your holiday
17 weekend having a very, hopefully a very pleasant weekend.
18 But put these matters aside, rest your mind. That tends to
19 work the best in my experience for jurors, and you all have
20 been incredibly attentive throughout this matter, and I know
21 that while you may not realize it I am quite confident that
22 you are tired. So, enjoy your weekend, put these matters
23 aside, and go back to your lives, and enjoy your weekend,
24 and then I will see you at nine o'clock Tuesday morning.
25 And have a wonderful weekend. If you will go with our

1 bailiff.

2 THE COURT: Alright, see you all Tuesday.

3 Gentlemen, come up here just a minute.

4 (Whereupon, the Court and counsel
5 confer with two jurors at the bench.)

6 (Whereupon the jury, except
7 Juror Lucas, leaves the courtroom
8 and the following takes place out
9 of the presence of the jury.)

10 THE COURT: The juror, the first juror that spoke with
11 me, she has a graduation on Wednesday and Friday of next
12 week, and she just expressed her concern, and I just shared
13 with her that, not to worry, that we would deal with that as
14 we got closer. She's fine for Tuesday, but a little bit
15 concerned about Wednesday and Friday.

16 The second juror that approached, her husband is
17 scheduled to have knee surgery on, at the VA on Tuesday.
18 I'm going to excuse her, I don't think it's appropriate to
19 put his surgery off or cause her not to be with her husband,
20 but I do need to get her name and number, and then what we
21 will do is, we'll put both jurors, I mean, both alternates'
22 names in and draw them randomly, and let me know what this
23 is Monday, Madam Clerk, and then we will seat that person as
24 our juror.

25 Very well, I forgot your name?

1 JUROR LUCAS: Ms. Lucas.

2 THE COURT: Ms. Lucas. Wonderful. And you're Ms.
3 Lucas?

4 JUROR LUCAS: Yes.

5 THE COURT: Ms. Lucas, I would never let you miss --
6 your husband needs you, and obviously you have given us so
7 very much of your time, and that is why we have alternates.
8 I want to, from the bottom of my heart, thank you for all
9 the time that you have given to us this week and to this
10 process, but I am going to excuse you at this point because
11 it would be, it would be unfair for me to impose upon your
12 time anymore. And I wish your husband well, and safe and
13 healthy speed to his health.

14 JUROR LUCAS: Thank you.

15 THE COURT: Yes, thank you so much.

16 Alright, any objections to my comments to the jurors or
17 excusing the juror?

18 SOLICITOR SORENSON: Nothing from the State.

19 THE COURT: Nothing from the State. From the Defense?

20 MR. GIPSON: No, ma'am.

21 THE COURT: Very well. Alright, I will see you at nine
22 o'clock Tuesday morning everyone.

23 (Recess)

24 DATE:

25 MAY 29, 2012

1 THE COURT: Alright, anything from the State before we
2 bring our jury out?

3 SOLICITOR SORENSON: I don't believe so, I guess we
4 need to seat an alternate, we haven't done that, right?

5 THE COURT: We do, and there are two pieces of paper
6 sitting right on the desk. We'll have to pick one. And
7 anything from the Defense?

8 MR. GIPSON: Yeah, our request, in terms of the
9 alternate, if the Court remembers, the alternate that -- we
10 have two alternates, one male and one female. The female
11 alternate mentioned that tomorrow she's got a graduation
12 that she needs to attend and another on Friday, and I'd
13 suggest that just not knowing how long the jury -- I suspect
14 we will argue, charge, close and all those things today, but
15 just not knowing how long they will deliberate, it may put
16 her in a position if she becomes the main juror, if it ends
17 up having to go into tomorrow, and I'd suggest that since
18 we've got two, maybe bump him to be the alternate, I mean,
19 to be the person to serve on the jury at this point and she
20 can remain the alternate until the end, and if something
21 happens then she would move into place from there, as
22 opposed to the alternative. But I just wouldn't want to put
23 her in a position of ...

24 THE COURT: Well, let me ask you this question, at this
25 point how many additional witnesses do you anticipate

1 having?

2 MR. GIPSON: I guess the question would be if the Court
3 would consider a curia rebuttal, because depending on what's
4 testified to I would have one witness, depending on who's
5 called.

6 THE COURT: Alright, and how many rebuttal witnesses
7 for the State?

8 SOLICITOR SORENSON: Two.

9 THE COURT: Alright. Okay.

10 SOLICITOR SORENSON: And I told Mr. Gipson who I intend
11 them to be, so I don't know if that ...

12 MR. GIPSON: And if those are the only two then, Your
13 Honor, I wouldn't have a curia rebuttal.

14 SOLICITOR SORENSON: That's kind of what I thought, but
15 that's fine. I brought that up.

16 THE COURT: Okay. Alright. I think that I -- well, I
17 think, and I certainly do understand your concern. I think
18 that if you we find ourselves in a position where we could
19 lose the alternate, I think I wouldn't, we would simply
20 postpone for the graduation and come back, is what we would
21 do.

22 MR. GIPSON: Yes, ma'am.

23 THE COURT: Because the procedure is that we select the
24 two, and I think that I can accommodate both the case law
25 that says you put them both in and select one, and then if

1 we need to postpone in the morning for the graduation, then
2 that's what we're going to do.

3 MR. GIPSON: And she's got a fifty-fifty chance, I
4 mean, ...

5 THE COURT: And she's got a fifty-fifty chance,
6 exactly, that's exactly right. That's right. So, of
7 course, she will be the selected juror, of course.

8 Alright, and if you'll give those two, and you'll put
9 them in something so we can select them, Madam Clerk.

10 And do y'all have a preference of doing it while the
11 jury is present?

12 SOLICITOR SORENSON: I don't.

13 MR. GIPSON: I don't, Your Honor.

14 THE COURT: Okay. That way we can just tell them.

15 SOLICITOR SORENSON: Let me ask, are we going to bring
16 them out, let Mr. Gipson rest, and then send them back out?
17 Is that how ...

18 THE COURT: Are you going to rest, is that your
19 intention?

20 MR. GIPSON: I think I got little rest over the
21 holidays, Your Honor, so I think I should rest.

22 THE COURT: Oh, okay, very well. I'd like to go ahead
23 and argue any motions at this point.

24 MR. GIPSON: Yes, ma'am.

25 THE COURT: And then have them come out.

1 MR. GIPSON: Alright. I would argue at this point in
2 terms of -- well, may I -- there is one matter I'd like to
3 discuss for a brief moment.

4 THE COURT: Sure.

5 MR. GIPSON: And then I'll be willing to rest at that
6 point, - - -

7 THE COURT: Sure.

8 MR. GIPSON: --- and then I'll renew my directed
9 verdict motion. One of the witnesses we are aware was
10 caught, well, Mr. Sorenson has let me know who one of the
11 witnesses will be, and that would be Mr. Ryant, Randy Ryant,
12 the owners of the property. He testified last Tuesday, as a
13 matter of fact. And I ask if the Court would consider just
14 in a brief proffer whether the question that was asked to
15 Mr. Brown, whether or not he knew Alex Harrison, and again,
16 I understand what the Court's ruling was the other day, or
17 on Friday, but I think the question, some people interpret
18 know, kind of in different levels of know, and I think that
19 Mr. Ryant may be able to shed some light on that. I think
20 in the past it's been testified to by all the witnesses that
21 they were kind of aware of Mr. Brown because he came,
22 because of his comings and his goings, but they've never
23 really had a conversation with him, he didn't sit under the
24 tree and play cards with him or dominos, didn't drink with
25 them. And I think they all kind of had that kind of cursory

1 knowledge, and that's again where I think we fall in this
2 situation. And I understand that when Mr. Brown said he
3 didn't know Alex Harrison, that's when the door opened at
4 that point in time. But even on recross when I asked him
5 about, you know, know, he kind of explained, yeah, I was
6 aware of him, I knew him in the sense that, in quotation
7 marks, that he was there and he was out there when I came
8 and went, but I never had any particular, you know,
9 knowledge of who he was or who his people were, that kind of
10 thing. And so, it may be a nuance but I do think it's
11 important as we start opening this door and going, you know,
12 even deeper into things that the Court at on time felt
13 should not be delved into, a thinking in the sense that Mr.
14 Sorenson has asked additional questions, and he's gotten the
15 answers. I think he could argue those things without going
16 any farther down that road.

17 THE COURT: Okay. So, tell me what you're, what relief
18 you are asking for?

19 MR. GIPSON: Just relief-wise, - - -

20 THE COURT: Yes?

21 MR. GIPSON: --- with Mr. Ryant being called, I'd ask
22 if the Court could, or if I could ask him questions about
23 his knowledge of both individuals and their relationship if
24 there was one, and maybe that would alert the Court as to
25 what the definition of know was between the two, and if we

1 should even go any farther down this road of talking about a
2 prior incident.

3 THE COURT: Well, he had already asked him about the
4 prior incident, right?

5 MR. GIPSON: Yes, ma'am.

6 THE COURT: And he denied that any of that occurred.

7 MR. GIPSON: I think he, I think the question was, had
8 he ever hit Mr. Harrison with a pistol, and he said, no, he
9 hadn't.

10 THE COURT: And did you all have a fight? No. Did you
11 have an altercation? No. Did y'all have an altercation
12 over pot that belonged to your nephew, I think, and he said,
13 no. And as I recall, his answers to everything that had to
14 do with the alleged incident four months earlier was, no.

15 MR. GIPSON: Yes, ma'am.

16 THE COURT: He didn't know about it, he didn't have any
17 information about it, he didn't participate in it, - - -

18 MR. GIPSON: Yes, ma'am.

19 THE COURT: --- and as I recall, those were his
20 responses.

21 MR. GIPSON: Yes, ma'am.

22 THE COURT: And this is not character, what we're not,
23 we're not cross-examining on the issue of character, this is
24 plain old garden variety impeachment. Opened the door, I
25 don't know him, yes, you do. So, and the definition -- Ms.

1 Harry Dot, you have a dictionary sitting right there. Can I
2 borrow your dictionary? Thank you. Oxford English
3 Dictionary, according to the Oxford English Dictionary,
4 Know: "Be aware of through observation, inquiry, or
5 information. Have knowledge or information concerning."
6 And it goes on, "Be absolutely sure of something. Be
7 familiar or friendly with. Have good command of. Have
8 personal experience of. Regarded as having a specific
9 characteristic or title." And of Course, the Biblical one
10 that I shall not go into, because I don't think that's what
11 he's inquiring of. Thank you.

12 So, I think that -- I don't think that Mr. Sorenson on
13 behalf of the State is required to ascertain what definition
14 your client considers, appropriately fits the word, know. I
15 think that the solicitor is entitled to use the normal
16 definition, general definition of the word, know. And I
17 think that's why the door got opened. I think that if he
18 chooses to call Mr. Ryant in rebuttal, then you can
19 certainly cross-examine Mr. Ryant about what does he think
20 the word, know, means. I don't think there's a thing wrong
21 with that in this world. Okay?

22 MR. GIPSON: Yes, ma'am, thank you, Your Honor.

23 THE COURT: Very well. Alright, now, shall we pick our
24 juror? Have you got both names in there?

25 CLERK: Yes.

1 THE COURT: And they're folded up?

2 CLERK: They're folded up.

3 THE COURT: Jiggled around?

4 CLERK: Jiggled around.

5 THE COURT: Any objection to our clerk drawing the
6 names from the State?

7 SOLICITOR SORENSON: No, objection.

8 MR. GIPSON: No objection.

9 THE COURT: Very well.

10 CLERK: Do you want me to read it?

11 THE COURT: Vandy Stephens. How about that? Alright,
12 Vandy Stephens is our juror. Okay. Very well, let us have
13 our jury, please.

14 (Court's Exhibit Two
15 marked and filed.)

16 MR. GIPSON: I'm sorry, you asked me to argue my
17 motions before they came out?

18 THE COURT: Oh, I'm sorry, I forgot.

19 MR. GIPSON: Alright. Well, I'm confusing the
20 situation. And Judge, again, I understand the standard at
21 this point in time. At the end of State's case I argued for
22 a directed verdict motions on the indictment for murder and
23 the indictment for possession of a firearm by a person
24 convicted of a violent crime. And my position was that
25 although there was information that had been testified to,

1 that the weight of that information, the credibility of that
2 information was suspect just based on what some of the
3 experts mentioned, and what some of the witnesses mentioned,
4 that we learned seemingly could not be true based on the
5 experts mentioned. So, I'd just like to renew those motions
6 that I made at the end of the State's case.

7 THE COURT: Thank you so much. And again, though,
8 really, the determination to be made by the Court is whether
9 or not there is evidence on each and every element, not to
10 weigh it, that's for the jury to do. And I do find that
11 there is evidence on each and every element of both of
12 these, each of these indictments, both of these indictments
13 from which the jury could find guilty. On that basis I
14 would respectfully deny your motions and I note your
15 exception thereto.

16 It would be my anticipation that you would rest when
17 the jury comes back, and I think it's fine for Mr. Brown
18 just to stay right where he is, that way the jury is not
19 watching him walk. But he doesn't have the restraints, does
20 he?

21 MR. GIPSON: No, there are no restraints, Your Honor.

22 THE COURT: Okay.

23 SOLICITOR SORENSON: I can't remember, did he come down
24 off the stand before?

25 THE COURT: He did not, he was on the stand when we

1 finished on Friday.

2 SOLICITOR SORENSON: Okay. I couldn't remember.

3 THE COURT: So, it's up to you, do you want him to take
4 the seat and then come back down?

5 MR. GIPSON: No, ma'am, we can just sit right here.

6 THE COURT: Very well. Alright, let's have the jury.
7 (Whereupon, the jury
8 enters the courtroom.)

9 THE COURT: Good morning, Ladies and Gentlemen, I
10 certainly hope that you all had a very pleasant holiday
11 weekend. Thank you all for being back here this morning.

12 Ladies and Gentlemen, I was informed on Friday that one
13 of your number, one of our jurors, their spouse was having a
14 surgical procedure this morning, and on that basis I excused
15 that juror from further service on the jury. Before you
16 arrived this morning the names of our two alternates were
17 placed into a container selected by our Clerk, and Vandy
18 Stephens, you already know that because you have already
19 taken your seat, you are no longer our alternate, you are
20 now one of our jurors, and I appreciate it so much for
21 acting in that capacity. So, we have one alternate.

22 Very well, Ladies and Gentlemen, at this time we will
23 continue with this defendant's case.

24 Mr. Gipson.

25 MR. GIPSON: Good morning, Your Honor, the defense

1 rests.

2 THE COURT: Very well. Very well. Now, will there be
3 a reply on behalf of the State?

4 SOLICITOR SORENSON: Yes, Your Honor, just a couple, a
5 couple of brief witnesses.

6 THE COURT: Very well. Ladies and Gentlemen, let me
7 again tell you where we are. You have now heard from the
8 defense and their witnesses and evidence, and we now turn to
9 the State, and the State has what's called some reply
10 rebuttal.

11 Yes, sir, if you'll call your first witness.

12 SOLICITOR SORENSON: Thank you, Your Honor, may it
13 please the Court.

14 THE COURT: Yes, sir.

15 SOLICITOR SORENSON: The State calls Lieutenant
16 Shumpert.

17 THE COURT: Yes, sir, if you'd come around, please, and
18 be sworn. Well, you have been sworn, you don't need to be
19 sworn again. Just take your seat, Lieutenant Shumpert.

20 Alright.

21 SOLICITOR SORENSON: Thank you, Your Honor.

22 (NOTE: Blank lines on this page do not indicate any part of
23 record has been omitted. Headers on testimony pages and
24 hard page breaks between testimony are now required by the
25 Court.)

JAMES SHUMPERT - DIRECT BY SOL. SORENSON

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1 JAMES SHUMPERT - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good morning, Lieutenant.

4 A. Good morning.

5 Q. Now, you, just kind of to refresh your memory, you had
6 testified last week, I believe we were up here actually on
7 the second floor when you testified that you were involved
8 in attempting to find Mr. Brown in the days after the
9 homicide?

10 A. I was.

11 Q. Okay. And I think you had testified that you had spoken
12 to some of his family members?

13 A. I did.

14 Q. Okay. Let me ask you, did you have an opportunity to
15 have a conversation with his nephew that testified on
16 Friday, Tedriks Green, who went by the nick name, Snook?

17 A. I did.

18 Q. Okay. And tell the jury when that conversation with Mr.
19 Green occurred?

20 A. I can't remember when, exactly what day, but after the
21 incident took place we went out looking for Mr. Brown. It
22 could have been either that Thursday or that Friday, we
23 learned that he had a nephew that lived over in Dogwood
24 Trailer Park. So, we, with the Marshals, went over to
25 Dogwood Trailer Park and that's where I made contact with

JAMES SHUMPERT - DIRECT BY SOL. SORENSON

785

1 Mr. Green.

2 Q. Did you have an opportunity to ask Mr. Green at that
3 point in time whether he had seen his uncle, the defendant,
4 Mr. Brown, recently?

5 A. I did.

6 Q. And what was his response when you asked him that either
7 on that Thursday or Friday after the homicide?

8 A. He told me he hadn't seen him in a while.

9 Q. Okay. Let me ask you this, if he had told you that he
10 had been with the defendant the night of the murder, that
11 Wednesday, October Twenty-seventh, what would you have done
12 if he had told you that?

13 A. Well, we would have did just like we did all the other
14 witnesses, we would have took him back to the office and
15 took a statement from him so we could follow up from
16 there.

17 Q. Okay. And what would you have been trying to -- why
18 would you have wanted to do that if he had told you, in
19 fact, told you he had been with the defendant that
20 night?

21 A. Trying to find the location of Mr. Brown.

22 Q. But once he told you that he hadn't seen him in a
23 while did you question him any further at that point in
24 time?

25 A. No, no.

1 SOLICITOR SORENSON: That would be all I'd have for
2 Lieutenant Shumpert, Your Honor.

3 THE COURT: Very well. Cross

4 MR. GIPSON: The Court's indulgence.

5 THE COURT: Sure.

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 BY MR. GIPSON

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1 JAMES SHUMPERT - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good morning, Mr. Shumpert.

4 A. Good morning.

5 Q. Now, tell us why you cannot remember what date you went
6 out there?

7 A. Like I said, again, I was with the U. S. Marshal, we had
8 been running, golly, when that investigation started that
9 night we never really went home, we just kept following up
10 every lead. So, they asked me to assist them so I went with
11 them.

12 Q. Okay. Well, let me ask you this question, then. Just
13 with the protocol, again, as an investigator, as a
14 lieutenant, and you've been a lieutenant a couple of years,
15 correct?

16 A. Yes, I have.

17 Q. Were you a lieutenant when this case began?

18 A. That's a good question. I - - -

19 Q. You were at least a sergeant.

20 A. I think I was a sergeant, yes, sir.

21 Q. Okay. So at least as a sergeant, again, you were
22 trained that you've got to write down what's going on,
23 correct?

24 A. Correct, yes, sir.

25 Q. And again, the reason you do it is to avoid situations

JAMES SHUMPERT - CROSS BY MR. GIPSON

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1 just like this one, right?

2 A. Yes, sir.

3 Q. So that when you get in Court you know exactly what you
4 did, when you did it, how you did it, and who you did it
5 with, right?

6 A. Correct.

7 Q. You can answer all the whos, the whats, the whens, the
8 wheres, the whys, the hows and any other question you can by
9 looking at that report, right?

10 A. Yes, sir.

11 Q. And you're not left to say, well, on such and such a
12 date I think this happened, or I'm not quite sure, right?

13 A. Correct.

14 Q. Because dates and times are extremely important in a
15 situation like this, right?

16 A. Yes, sir.

17 Q. And you can't tell us the dates and times because you
18 didn't write anything down, right?

19 A. Well, actually, I was asked to assist, and I knew where
20 Dogwood Trailer Park was at, so we went over there, and we
21 determined - - -

22 Q. Whoa, whoa.

23 A. I'm sorry.

24 Q. That's not the question.

25 A. Okay. I'm sorry.

JAMES SHUMPERT - CROSS BY MR. GIPSON

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1 Q. If I could -- you didn't write anything down, right?

2 A. No, I did not.

3 Q. Okay. So, irrespective of being asked to assist, even
4 after you were asked to assist you still didn't write
5 anything down, right?

6 A. Well, we determined that it was a dead lead, because
7 like I said, once he said that he hadn't seen him in a while
8 - - -

9 Q. Uh-huh.

10 A. --- we just ...

11 Q. Now, did you ask him when the last time you saw him was
12 specifically?

13 A. No, once he gave me that statement, he hadn't seen him
14 in a while, I mean, we just left it at that because he was
15 kind of being irate, he really didn't even want to tell me
16 his name. So, I wasn't going to push the issue. So, ...

17 Q. You told him that you were looking for Romeo Brown?

18 A. I did.

19 Q. Okay. And he said?

20 A. I haven't seen him in a while.

21 Q. Okay. And that was -- what date was this?

22 A. Either that Thursday or Friday, I can't remember what
23 date.

24 Q. Okay. Alright.

25 A. It was the day after the, it was a couple of days after

JAMES SHUMPERT - CROSS BY MR. GIPSON

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1 the murder.

2 Q. Okay. So, a couple of days would have put us around the
3 Twenty-ninth?

4 A. Twenty-eighth or the Twenty-ninth, Thursday or Friday.

5 Q. Okay. Alright.

6 MR. GIPSON: Court's indulgence for a moment, Your
7 Honor.

8 THE COURT: Certainly.

9 Q. Did you ever get a -- did you ever search his house and
10 look?

11 A. Yeah, we did. He let us, he gave us a verbal - - -

12 Q. Consent?

13 A. --- consent to go in and look in his trailer.

14 Q. And you went in and looked around and Romeo wasn't
15 there, right?

16 A. Correct.

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

18 THE COURT: Very well, redirect?

19 SOLICITOR SORENSON: Nothing, nothing else, Your Honor.

20 THE COURT: You may come down.

21 Call your next witness, please.

22 SOLICITOR SORENSON: The State calls Randy Ryant.

23 (Whereupon, the witness

24 enters the courtroom.)

25 THE COURT: If you will recall, Mr. Ryant, you have

1 already been sworn in in this matter.

2 WITNESS: Yes, ma'am.

3 THE COURT: You may take your seat, and just state your
4 name for the record, just so the record will reflect that
5 you have returned.

6 WITNESS: Randolph Ryant.

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.)

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 RANDOLPH RYANT - DIRECT EXAMINATION

2 BY SOLICITOR SORENSON:

3 Q. Good morning, Mr. Ryant.

4 A. Good morning.

5 Q. And you actually testified last Tuesday afternoon
6 upstairs on the third floor, is that correct?

7 A. Yes, sir.

8 Q. Okay. And just to kind of refresh the jury's memory,
9 tell them, how do you know the defendant, Romeo Brown?

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

11 Q. Okay. So, he is your wife's brother?

12 A. Brother.

13 Q. Is that correct. And the victim in this case, Alex
14 Harrison, how did you know Mr. Harrison?

15 A. He was my friend.

16 Q. Okay. And how long had you known Mr. Harrison?

17 A. About six or seven years.

18 Q. Okay. Let me ask you this, back in October of Two
19 thousand ten, were you aware of whether your brother-in-law,
20 Romeo Brown, and Alex Harrison, whether they knew each
21 other?

22 A. They know each other as being in the yard, yeah, sure,
23 as being in the yard, but knowing each other by talking
24 around the table, no.

25 Q. Okay. So, they didn't hang out together?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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- 1 A. No, they didn't hang out together like that.
- 2 Q. Familiar with each other and knew each other, did you
- 3 observe them interact in the past?
- 4 A. As in the yard they sure know each other, just walking
- 5 through, but never been around each other sitting to the
- 6 table.
- 7 Q. Alright. Now, I want to turn your attention
- 8 specifically back to June of Two thousand ten. Were you
- 9 aware of whether there was an altercation in your presence
- 10 between the defendant, Romeo Brown, and your friend, Alex
- 11 Harrison?
- 12 A. Yes.
- 13 Q. Okay. And tell the jury where that altercation
- 14 occurred?
- 15 A. In my yard.
- 16 Q. In your yard? And what had been going on that night
- 17 before that altercation occurred in your yard?
- 18 A. I been having a fish fry in the yard.
- 19 Q. Okay. And tell the jury then what you observed, what
- 20 you observed going on between the two of them in your yard
- 21 that night?
- 22 A. Well, once I take the pot back Uley came and told me - -
- 23 -
- 24 Q. You can't, can't say what anybody said to you, okay?
- 25 A. Alright.

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 Q. Now, you said you took the pot back. Where did you --
2 did you have to go - - -

3 A. My next door neighbor.

4 Q. Okay.

5 A. And when I came back to the yard they - - -

6 Q. Did something come to your, brought to your attention
7 that brought you back to your yard?

8 A. Yeah.

9 Q. Okay. And tell the jury what it was that you observed
10 then when you got back to your yard?

11 A. When I got back in the yard I saw them tussling, two
12 people tussling. I didn't know who it was at first.

13 Q. Okay. Did you ultimately see who it was?

14 A. Later, yes, I did.

15 Q. Okay. Who was it that was tussling in your front yard?

16 A. It was Romeo and Alex.

17 Q. Okay. Is that the same yard where the shooting took
18 place four months later?

19 A. Yes, it was.

20 Q. Okay. Now what, did you hear, while observing this
21 tussling did you hear your brother-in-law say anything
22 during that tussle?

23 A. It was during the tussle and he called my son, D.T.,
24 come get the gun, D.T., come get the gun. And I told D.
25 T., don't go get the gun because a strange bullet don't know

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 nobody.

2 COURT REPORTER: D.T?

3 A. D. T.

4 Q. Okay. Who was it that you heard saying, come get the
5 gun?

6 A. Romeo.

7 Q. Romeo? Alright, now what did you do as a result of all
8 that going on in your front yard?

9 A. Well, I told them to stop, and it didn't look like they
10 want to stop so I went and called the police.

11 Q. Okay. So, you called the sheriff's office?

12 A. Yes, I did.

13 Q. And did they respond out there, did the sheriff's
14 office come out to your house?

15 A. Twenty minutes or Fifteen minutes later.

16 Q. Okay. Let me ask you this, was Romeo Brown at your
17 house when the sheriff's office got there?

18 A. No, he wasn't.

19 Q. How about Alex Harrison, was Alex there?

20 A. No, he wasn't.

21 Q. Okay. Did you have an opportunity then to speak to the
22 sheriff's office that night?

23 A. Yes, I did.

24 Q. Okay. And did you tell them what was going on out in
25 your yard?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 A. Yes, I did.

2 Q. Okay, let me ask you, did you tell them who was
3 involved, who was in that fight out in your yard?

4 A. I told them I didn't know who it was because I didn't
5 want to get none of them in trouble.

6 Q. You didn't want to get your brother-in-law in trouble?

7 A. I didn't want to get him in trouble, and neither Alex.

8 Q. And that was the next question, you didn't want to get
9 Alex in trouble, is that correct?

10 A. No, I did not.

11 Q. Let me ask you, that night, had you been around Alex
12 that night before this fight broke out?

13 A. Yeah, we been out in the yard talking.

14 Q. Okay. Did he have any injuries on his face before this
15 altercation?

16 A. No, he did not.

17 Q. Did you have an opportunity to see him sometime shortly
18 after this incident?

19 A. Yes, I did.

20 Q. Did he have any injuries on his face when you saw him
21 afterwards?

22 A. Yes, he did.

23 Q. And where?

24 A. It was on the right cheek.

25 Q. The right cheek?

RANDOLPH RYANT - DIRECT BY SOL. SORENSON

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1 A. Yeah.

2 Q. Okay.

3 THE COURT: Alright. Thank you, Mr. Ryant, I
4 appreciate it.

5 THE COURT: Alright. Cross-examination.

6 MR. GIPSON: Thank you, Your Honor.

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.)

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 RANDOLPH RYANT - CROSS-EXAMINATION

2 BY MR. GIPSON:

3 Q. Good morning, Mr. Ryant.

4 A. Good morning.

5 Q. Did you see Romeo Brown with a gun that day?

6 A. No, I did not.

7 Q. Did you see Alex with a gun that day?

8 A. No, I did not.

9 Q. Have you ever seen Romeo with a gun?

10 A. No.

11 Q. Have you ever known Alex to have a gun?

12 A. Not on him but maybe in his car or truck or whatever.

13 Q. Okay. Now, you said that when you got around you heard
14 Romeo call for somebody to come get a gun, or to get the
15 gun?

16 A. Yes, I did.

17 Q. So, there was a gun out there?

18 A. Yes, sir.

19 Q. Who did it belong to?

20 A. I don't know.

21 Q. Okay. Once whoever got the gun, did it go, did Romeo
22 get it?

23 A. No, I don't know who got it because they brought it to
24 my front porch and I told them, don't bring it in here
25 because I don't want it in here.

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 Q. Okay.

2 A. What he did with it I don't know.

3 Q. Alright. And this was in June or Two thousand ten?

4 A. I guess, I don't remember.

5 Q. Well, it was maybe summertime?

6 A. Yeah.

7 Q. Okay. It was several months before the incident for
8 what we're here in Court for today, right?

9 A. Uh-huh.

10 Q. And uh-huh meaning yes?

11 A. Yes, sir.

12 Q. Okay. Alright. Now, after the incident Alex came back
13 to your house, didn't he?

14 A. Yes, he did.

15 Q. Romeo came back to your house, right?

16 A. Yes, he did.

17 Q. And they were in one another's presence on multiple
18 occasions, right?

19 A. Right.

20 Q. Okay. Did they ever get into anything then?

21 A. No, sir.

22 Q. Alright. So, Alex would come back and play cards, Romeo
23 would come back and visit as he always did, right?

24 A. Yes, he did.

25 Q. Okay. And at no time did they ever have any kind of,

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 some folks call it a beef, but never an incident, no
2 arguments, no nothing?

3 A. No.

4 Q. And this was when Romeo was perfectly healthy?

5 A. Yes, it is.

6 Q. Alright. In October of Two thousand and ten, isn't it
7 true that Romeo had an injury to his leg?

8 A. Yes, he did.

9 Q. And he was using a cane to get around, right?

10 A. Yes, sir.

11 SOLICITOR SORENSON: Your Honor, I'm, this is kind of
12 outside the scope of my rebuttal. He had an opportunity to
13 ask him all of this on cross-examination earlier.

14 MR. GIPSON: I'll move on, I'll move on.

15 THE COURT: Very well.

16 Q. Let me ask you this, you said when this, when you first
17 heard the commotion, and I'm terming it a commotion, you
18 said you were in the next yard taking back a pan that you
19 had been frying some fish in?

20 A. That I borrowed, yeah.

21 Q. Okay. Was that the yard that's right next door to you,
22 to the left?

23 A. Yes, it is.

24 Q. Okay. How far is that house from your house, if you can
25 just look in distance, from here to -- this courtroom?

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 A. Maybe from here to where the guy's sitting in the blue
2 shirt at.

3 Q. The blue shirt? Alright, so it's about Sixty or so
4 feet?

5 A. Something like that.

6 Q. Okay. And does that house have a porch?

7 A. Yes, it do.

8 Q. Okay. Were you on that porch when you first heard it?

9 A. No, I wasn't on the porch.

10 Q. Okay. Well, can you see from where you are to the front
11 of your yard?

12 A. Where I was?

13 Q. Yes, sir.

14 A. I could.

15 Q. Okay. And was this daytime or nighttime when this
16 happened?

17 A. Night.

18 Q. Alright. So again, just summing it up, you don't know
19 who had a gun, correct?

20 A. No, I do not.

21 Q. But you've never in your life ever seen Romeo Brown with
22 a gun?

23 A. Not, no.

24 Q. Okay. And you're aware that Alex kept one?

25 A. Like I say, not on him but in his car or truck or

RANDOLPH RYANT - CROSS BY MR. GIPSON

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1 whatever..

2 COURT REPORTER: Not on him but what?

3 A. In his car or truck.

4 Q. And after all of this went down, the two of them were in
5 one another's presence on multiple occasions and never had
6 any events, is that right?

7 A. No, never had none after that.

8 MR. GIPSON: That's all my questions, Your Honor.

9 THE COURT: Alright. Redirect?

10 SOLICITOR SORENSON: Nothing further.

11 THE COURT: Very well. Is this witness free to leave?

12 MR. GIPSON: Yes, ma'am.

13 SOLICITOR SORENSON: No objection.

14 THE COURT: Very well, you are free to go.

15 Call your next witness.

16 SOLICITOR SORENSON: That would be all the State would
17 have, Your Honor.

18 THE COURT: Alright, very well. Counsel let me see you
19 just a second.

20 (Whereupon, a bench conference
21 is had out of the hearing of
22 the jury and court reporter.)

23 THE COURT: Ladies and Gentlemen -- the State's rested?

24 SOLICITOR SORENSON: Yes, ma'am.

25 THE COURT: You've now heard all of the witnesses and

1 received the evidence which you will have in this case.
2 What remains for us are the arguments of counsel and then my
3 charge or instruction on the law, and then you will receive
4 this case for your deliberations. Ladies and Gentlemen,
5 because we have reached this point in the trial there are
6 matters which I must take up outside your presence. We will
7 not be long I do not believe, but there are matters that I
8 must take up outside your presence. I'm going to ask you to
9 please step to your jury room. Because you have not heard
10 the arguments of counsel nor my charge on the law you are
11 not prepared to deliberate, so remember, do not discuss this
12 matter or allow anyone to discuss it with you. And we will
13 be with you shortly. Please step to your jury room, please.
14 (Whereupon, the jury retires
15 to the jury room and the following
16 takes place out of the presence
17 of the jury.)

18 THE COURT: Motions?

19 MR. GIPSON: I'd just renew all my motions.

20 THE COURT: Very well, and I would respectfully deny
21 your motions again. I do find that there's evidence on each
22 and every element of each of these indictments which would
23 allow the jury to bring back a verdict of guilt. It's not
24 for me to weigh, just to ascertain whether or not the
25 evidence is present, and I do believe that it is.

1 Now, obviously, with regard to the charge, we've had a
2 chance now, and y'all were kind enough to go over with me
3 last week, I am going obviously to remove the section that I
4 had in there about failure of the defendant to testify,
5 which was in there just as a precaution. And do you have
6 any limiting instruction that you have crafted, Mr. Gipson?
7 If not, I ...

8 MR. GIPSON: No, ma'am. You mentioned the limiting
9 instruction that you normally give, and I think that's
10 appropriate here, Your Honor.

11 THE COURT: Very well.

12 MR. GIPSON: And so, I have no objection to what you
13 mentioned before. Also, mere presence was removed and I was
14 just making sure of it. I think you took - I'm sure you
15 took that out now that we've begun to talk, - - -

16 THE COURT: Yes, yes.

17 MR. GIPSON: --- and that's not even an issue at this
18 point.

19 THE COURT: Yes, very well. Thank you so much. I
20 would give a limiting instruction both as to the mention of
21 armed robbery, viz-a-vie, credibility, as well as that it is
22 an element of the offense, and that that is the limitation
23 of the admissibility on the issue of being an element of the
24 offense. So, it's actually going to be two limiting
25 instructions with regards to the armed robbery conviction.

1 Alright, very well. Do y'all need anything before
2 you're ready to go?

3 SOLICITOR SORENSON: If we could just have maybe five
4 minutes and then to just kind of get organized?

5 THE COURT: Run go get your five minutes.

6 MR. GIPSON: Yes, ma'am, just to set up.

7 SOLICITOR SORENSON: Then we'll be ready to roll.

8 THE COURT: Get ready, get set up, because I'm ready to
9 rock and roll.

10 MR. GIPSON: Yes, ma'am.

11 THE COURT: Alright.

12 MR. GIPSON: And I'll need, and I know the jury will be
13 out, I'll kind of get mine set up, too, Your Honor.

14 THE COURT: Sure, sure.

15 MR. GIPSON: I'll probably need just a couple of
16 minutes right after he finishes just to move stuff around.

17 (Recess)

18 THE COURT: Alright, let's have the jury, please.

19 (Whereupon, the jury enters
20 the courtroom.)

21 THE COURT: Alright, Ladies and Gentlemen, I want to
22 tell you how we're going to be proceeding. You're first
23 going to hear from Mr. Sorenson in his closing arguments,
24 and then you're going to hear from Mr. Gipson in his closing
25 arguments, and then you're going to hear a rebuttal argument

1 from Mr. Sorenson. That will then conclude the closing
2 arguments of the attorneys. Once the closing arguments of
3 the attorneys are finish we're going to take a very, very
4 short break, quite frankly, just to order your lunch, and
5 then once you've had an opportunity to do that, and we may
6 even break, depending just on time between the two
7 arguments, we're just going to watch our time, to let you
8 order your lunch. And then, once the closing arguments are
9 concluded then I will deliver to you the charge or the
10 instruction on the law. There will be another very short
11 break after that, and then you will receive this case for
12 your deliberation.

13 Now, Ladies and Gentlemen, at this time I ask that you
14 please draw close as we listen to the closing arguments of
15 our attorneys.

16 Mr. Sorenson.

17 SOLICITOR SORENSON: Thank you, may it please the
18 Court, Your Honor.

19 THE COURT: Yes, sir.

20 CLOSING ARGUMENT BY SOLICITOR SORENSON:

21 Good morning, Mr. Foreman, and Ladies and Gentlemen of
22 the jury. I want to start off by thanking you not only for
23 the time that you've given over the last week now, but also
24 for the attentiveness that you've given to this matter. We
25 paid very close attention to you, and to the attention that

1 you've given to the witnesses. Back last Tuesday when you
2 were initially chosen to be on this jury the Twelve,
3 ultimately, the Thirteen of you were chosen because not only
4 myself but also Mr. Gipson felt that you would be fair,
5 impartial jurors, felt that you would be very conscientious
6 jurors. And to this point in time you have not let us down
7 in that matter. So, on behalf of the people, the citizens
8 of Orangeburg County, and also the family and friends of
9 Alex Harrison, I want to thank you for the attention that
10 you've given to this matter up until now, and that I'm sure
11 you're going to continue to give to not only us lawyers and
12 Her Honor this morning, but also to this very serious matter
13 when you get back into your jury room and ultimately are
14 able to begin deliberating.

15 Now, as Her Honor told you, the way things are going to
16 proceed is, I'm going to take just a few minutes of your
17 time right now and talk to you about, a little bit, a few of
18 the kind of legal concepts that are involved in this case.
19 And then I'm going to sit down and Mr. Gipson is going to
20 have an opportunity to come before you and argue to you what
21 he felt the evidence that has come from not only this
22 witness stand upstairs but also this witness stand in here
23 over the last week has proven. When he is done then I'm
24 going to have the last chance because the burden is on the
25 State of South Carolina, I'm going to have the last

1 opportunity to come before you, and I submit to you, argue
2 to you what I submit that the evidence in this case has
3 proven, not only beyond any doubt -- not only beyond a
4 reasonable doubt, but beyond any doubt.

5 Now, you've heard that term and that's the first thing
6 I want to just briefly talk to you about, the term beyond a
7 reasonable doubt. That is the standard of proof not only in
8 this courtroom but in every criminal courtroom in our
9 country, the same in every criminal case whether it's a
10 Magistrate's Court out in Washington, or a criminal court in
11 Texas or here in South Carolina, that we, the State of South
12 Carolina, have the burden of proof. And that's the way it
13 should be in a criminal case, it should be on us when
14 somebody's freedom is in jeopardy. But notice beyond a
15 reasonable doubt. It's not beyond any and all doubt, not
16 beyond any possible doubt, it's beyond a reasonable doubt.
17 Very simply, what Her Honor is going to charge you that
18 means is that after you've heard all the evidence in this
19 and you get back into your jury room, and y'all are weighing
20 that evidence, if you are firmly convinced of Romeo Brown's
21 guilt, if that evidence leaves you firmly convinced, then
22 under your oath you have a duty to return a verdict of
23 guilty. If, however, after weighing that evidence you feel
24 there's a real possibility he is not guilty I submit to you,
25 you have that same duty under your oath to find him not

1 guilty. That's what beyond a reasonable doubt means.

2 Now, as you've heard, Mr. Brown is charged in two
3 separate indictments, and I just want to just briefly kind
4 of talk to you about those two charges. The first one is
5 murder. And as I told you from the outset, murder is very
6 simply the unlawful killing of another person with malice
7 aforethought, either express or implied. It's the unlawful
8 killing of another person with malice aforethought either
9 express or implied.

10 Now I want to take just a couple of minutes and talk to
11 you about what these terms, malice, and express or implied
12 means. Now, basically, malice aforethought means that that
13 malice had to have existed in his heart, in his mind at the
14 moment that fatal blow was struck. We don't have to prove
15 any sort of premeditation, we don't have to prove any kind
16 of planning, it doesn't have to be something that he had
17 planning for days. As long as you find that that malice
18 existed at the time those two fatal gun shots were fired
19 that satisfies that element.

20 Let's talk about what is malice? Her Honor is going to
21 charge you that malice, malice is hatred or ill will or
22 hostility towards another person. It is an intentional
23 doing of a wrongful act without just cause or excuse with an
24 intent to inflict an injury. In other words, intentionally
25 injuring somebody without just cause, without just excuse.

1 It springs from depravity, from a heart devoid of social
2 duty and fatally bent on mischief. That's what malice is,
3 its a legal term of art.

4 Obviously, we can't open up Romeo Brown's head and see
5 what was going on inside there back on October Twenty-
6 seventh of Two thousand ten, so basically, how do you
7 determine whether malice exists? There's basically two ways
8 that we can prove it, it can be either express --
9 occasionally you have a situation where somebody, you know,
10 specifically yells out, I'm going to kill you. I mean,
11 that's express malice. The other way is, it can be implied.
12 And how is it implied? You look at the circumstances
13 surrounding the death, and the fact that you have somebody
14 that was basically shot one time in the back, another close
15 contact wound, the fact that a deadly weapon, in this case a
16 Forty-five caliber hand gun, was used. Those are factors
17 that you can consider in determining whether there was
18 malice when Alex Harrison was killed back in October of Two
19 thousand ten. So, that's one charge.

20 The other charge is possession of a firearm by a person
21 convicted of a violent crime. And very simply, Ladies and
22 Gentlemen, our legislature has made it illegal for certain
23 people to possess firearms. If you have a conviction, a
24 prior conviction for a violent crime, in this case you're
25 going to have back in your jury room where Mr. Brown was

1 convicted back in Nineteen ninety-nine for armed robbery,
2 which Her Honor is going to charge is classified as a
3 violent crime, he is therefore prohibited from possessing a
4 hand gun. He is not allowed under laws to possess a hand
5 gun. So, if you find that he committed this murder back on
6 October Twenty-seventh, that he had that Forty-five caliber
7 pistol that shot Alex Harrison two times, he would also be
8 guilty of that other charge.

9 Now, Ladies and Gentlemen, Her Honor kind of touched on
10 this I believe Tuesday afternoon before opening statements a
11 little bit. Just as she sits up there she is the judge of
12 the law, and she's made legal rulings throughout and
13 ultimately is going to charge you once we are done arguing,
14 doing our closing arguments, she is going to charge you on
15 the law in this case. And because she is the judge of the
16 law we are bound not only as lawyers but also you, as
17 jurors, are bound by what she defines the law to be. Even
18 if you don't agree with some part of it, you're still, under
19 your oath, you agreed to take the law as Judge Goodstein
20 charges it to you.

21 But just like she's the judge, the Twelve of you,
22 Thirteen of you are also judges also. You're the judges of
23 the facts. It is you and you alone that is ultimately going
24 to tell us through your verdict what the facts are, what
25 happened back in that yard back on October Twenty-seventh

1 of Two thousand ten. You may ask yourself, you know, when
2 you showed up here last Tuesday, I'm sure this is the place
3 you expected to be seven days later, but I'm sure you're
4 asking yourself, I mean, how am I suited, how am I prepared
5 to do this job? Nobody gave us any training, I mean, we
6 didn't have classes on how to be a juror, and we showed up
7 here and we sat in the big gallery and had our names, were
8 asked a bunch of questions and then had our names called,
9 and lo and behold, we found ourselves sitting in the jury
10 box listening to witnesses. I submit to you, Ladies and
11 Gentlemen, this is a job that each of you have been training
12 for every day of your lives, because your job as basically
13 the judges of the facts is to determine the credibility, or
14 the believability of every witness that's come before,
15 every piece of evidence that has been presented to you. and
16 that's something that you've been training for every day of
17 your lives. You do it every day whether you realize it or
18 not. In dealing with your spouses, in dealing with your
19 children, in dealing with co-workers, family, friends,
20 people you just encounter on the street. Every day you have
21 to make decisions as to whether people are being truthful
22 with you. And some of the factors, Ladies and Gentlemen,
23 that you're kind of going to look at when ultimately
24 determine the credibility is the witnesses' demeanor on the
25 witness stand. Okay? Do they appear to be forthright on

1 the witness stand or were they hesitant in their answers?
2 Was their testimony consistent or did it contain
3 discrepancies when looking at their testimony as a whole.
4 What was their ability to know the facts about what they
5 testified about? Did they have some bias or prejudice, some
6 reason to come in here and not be truthful with you? Along
7 the same lines, did they have some stake in the outcome?
8 Whatever your verdict, does it somehow affect their lives
9 and that outcome? Was their testimony corroborated, in
10 other words, is there other evidence whether it's physical
11 evidence or other witnesses that corroborate what that
12 witness told you, or was it contradicted the other testimony
13 or evidence? And the last thing you can look at, you've
14 heard, and I'm going to address this when I get back up,
15 you've heard several of these witnesses both that the State
16 called and also that the Defense called that have prior
17 criminal convictions, and that's something that you can
18 consider when determining a witness's credibility

19 Now, as you've heard from the witness stand, this case
20 ultimately kind of turns to some degree, and I'm going to
21 address this a little bit later because it kind of does but
22 it kind of doesn't, turns on the identification of the
23 defendant as the shooter back on October Twenty-seventh.
24 And just like when you're looking at judging the credibility
25 of witnesses there are obviously certain factors that should

1 go into your determination of whether a witness is telling
2 you the truth about what they observed and ultimately them
3 identifying that man as being the person they saw shooting
4 that night. These are some of things, some of the things
5 that you consider. Obviously, what was their opportunity to
6 observe the person? Obviously, you know, if you didn't have
7 an opportunity to observe the person or observe the shooter
8 and then you've come in here on this witness stand and said
9 that that's the person that did it, well, that doesn't make
10 sense, and that's obviously not very credible. But what was
11 their opportunity to observe, you know, how far, how close
12 were they? What was the lighting conditions and the ability
13 to observe out there, things of that nature? What degree of
14 attention were they paying? And obviously, if you're in a
15 situation where you're not paying a whole lot of attention
16 to something and it happens and then you come in and give a
17 whole lot of detail that, yet again, doesn't make, is not
18 particularly credible. You know, whether the witness had an
19 opportunity to see or know the person in the past, and
20 that's where this is a lot different. As I said, it's kind
21 of an ID case but kind of not. This isn't a case of a, you
22 know, a convenience store robbery where a person that the
23 clerk has never seen before comes in and pulls a gun on them
24 and robs them of the money in the cash registry, and then
25 they give a description of the person and ultimately end up

1 picking them out of a lineup and then IDing them in Court.
2 This is a lot different. You're going to hear, and I'm
3 going to talk to you about, you know, multiple witnesses
4 that have known him, some of them for years, others for
5 months, that IDed him, Mr. Brown as being the person they
6 saw shooting. What was their level of certainty, I mean,
7 was it kind of like, I think it might be him, or were they
8 certain, without any doubt, that they person that they saw
9 pull that trigger is the defendant, Romeo Brown.

10 And lastly, you know, when you're looking at it and
11 you're going to have it, I'm going to talk to you about
12 those photo lineups that were shown. It's more important in
13 that case of, you know, the convenience store robbery, but
14 how much time went by between the crime occurring and the
15 lineup being shown? In this case that time is important,
16 and I'm going to talk to you about that when I have an
17 opportunity to come back before you.

18 Alright, now the last thing I wanted to just kind of
19 briefly talk to you about is something that I've seen come
20 up in the past. Jurors will get back in the jury
21 deliberation room and they'll start talking. And you know,
22 they've had an opportunity to hear from all these witnesses
23 and they've heard about these witnesses having, giving
24 statements to law enforcement, and the first question that
25 inevitably comes up, I mean, it's just common nature, is,

1 well, where are those statements? Okay? Typically you're
2 not allowed to get those statements. Alright? You've got
3 to hear first hand from the witness what they had to say.
4 If they gave a statement and it was something different in
5 the statement, we as lawyers have an opportunity to cross-
6 examine them and ask them about it. But typically those
7 statements don't come into evidence. Now, you're going to
8 have one of them back there, that's Vandy Morgan's. Okay?
9 And I want to, and I'm going to address kind of, when I talk
10 to you about his testimony, how this ended up back there.
11 But that's just something, just so when you get back into
12 the jury deliberation room and you're looking at this being
13 the only statement you have, typically you would not have
14 any. Okay? There's a specific exception as to why Mr.
15 Morgan's got put into evidence, and as I said, I want to
16 kind of address that a little more when I have an
17 opportunity to go over the facts with you.

18 The last thing I want to kind of leave you with,
19 Ladies and Gentlemen, is, I know this is, I've never sat as
20 a juror, probably based on my job, I don't see that
21 happening anytime soon either, but I can't imagine how
22 frustrating it must be for the Twelve of y'all to have sat
23 there through three days last week and another day today,
24 and every time you leave you have the same admonishment from
25 the judge, you know, make sure you don't talk about the case

1 amongst yourselves, families, anything like that. So, you
2 basically had to just sit there as kind of a captive
3 audience and listen to us. Okay? But you're going to have
4 an opportunity in a short while for you to go back and
5 that's going to change. Okay? Then you're going to have
6 the opportunity to be the talkers. Okay? You're going to
7 have the opportunity to reach a verdict. The word, verdict,
8 comes from a Latin word meaning, to speak the truth. Ladies
9 and Gentlemen, all I ask, all the citizens of Orangeburg
10 County, all the family of Alex Harrison asks is that
11 ultimately you reach a verdict that speaks the truth about
12 what happened back on October Twenty-seventh, Two thousand
13 ten.

14 Thank you.

15 THE COURT: Thank you.

16 Yes, sir, Mr. Gipson.

17 MR. GIPSON: The Court's indulgence very briefly, Your
18 Honor.

19 THE COURT: Alright.

20 CLOSING ARGUMENT BY MR. GIPSON:

21 Mr. Sorenson, Mr. Foreman, Ladies and Gentlemen of the
22 jury, good morning. Again, just to echo what Mr. Sorenson
23 said and what this Court has said, I just want to thank you
24 again for your service, you jury service this week. Some
25 people may think that as lawyers we are disingenuous when we

1 say that, that we're not being truthful with you when we
2 say, thank you, but the truth, the best truth that I can
3 tell you is, we appreciate what you've done. I can almost
4 guarantee that when you get that jury summons in the mail
5 that none of you all ran around the house like you just won
6 the lottery and went thanking your friends and, you know,
7 like, just glad that you were going to have an opportunity
8 to be here over Memorial Day Weekend, and prior to Memorial
9 Day Weekend and not have a chance to have all that barbeque
10 digested that you wanted to eat, but I know that that's not
11 the first thing that you did. But, and you probably even
12 said a couple of words that if you said them in this
13 courtroom may land you in a different place.

14 But that being said, we appreciate the fact that you're
15 here, and the reason being is because jury duty is the most
16 patriotic duty that a citizen can do when you're in times of
17 peace. And that's because the cornerstone of our democracy
18 is that a person is innocent until proven guilty. A person
19 who has been charged with a crime, or alleged of committing
20 a crime is innocent until proven guilty beyond a reasonable
21 doubt. That's one of the fundamental cornerstones of our
22 democracy, that democracy that we partially celebrated
23 yesterday during Memorial Day. And it's crucial because in
24 so many societies people don't have that opportunity. In so
25 many societies the police come over and say, you did

1 something, and that's it. And as badly as some officers may
2 want that to be what the standard is, it doesn't quite work
3 like that in this country, and it doesn't quite work that
4 way in South Carolina, and it definitely doesn't work that
5 way in Orangeburg County. Just because somebody said
6 something happened doesn't mean that it happened. That's
7 your job as jurors to determine what actually happened, not
8 what somebody said happened.

9 And just as Mr. Sorenson spoke to you a little bit
10 about credibility and believability, and Judge Goodstein
11 will do the same in a few, in about an hour or so, it's your
12 job to determine the credibility or the believability, and
13 ultimately the weight that each witness has. And as you
14 determine what that weight is and the importance of each
15 witness just think again, like we talked earlier, about
16 those cuff links that I talked about, those jig saw puzzles,
17 how you get a piece of information here, a piece of
18 information there, and as you start putting those pieces
19 together you can get a better idea of the real picture. But
20 again, if the State, who's got the burden of proof in this
21 case, fails to bring you what you need, then based on the
22 oath that you took to well and truly try the facts of this
23 case you've got to find Mr. Brown not guilty. That's the
24 oath that you took. And at some point in time today you'll
25 have an opportunity to deliver and determine what the facts

1 of this case are in comparison to what the law is that Judge
2 Goodstein gives to you. And as you do those things you'll
3 be charged with bringing a verdict back, and I will be
4 asking that you bring back a verdict of not guilty.

5 Now, at this point of the trial, as you know, and I'm
6 sure you're quite pleased, the testimony is over. There is
7 no more testimony, there is no more going out and having
8 other witnesses come in, that's it. And now it's time for
9 us to summarize what we believe the evidence shows so that
10 you can go back and make the determinations that you need to
11 make after reviewing the evidence among yourselves, talking
12 about the testimony among yourselves, and quite frankly,
13 having everybody have a voice so that you can determine what
14 happened.

15 And as I start to put cases together one of the things
16 I try to do is to come up with an analogy that speaks to the
17 case, and it helps me kind of wrap my mind around what's
18 actually been happening in the courtroom over the last few
19 days. And in doing that, what I did is, I thought about
20 just the process that jewelers make, use to make gold
21 jewelry or to make silver jewelry or platinum or copper,
22 whatever kind of jewelry folks are wearing these days, just
23 the process that's used to make jewelry. If you've ever to
24 some of the colonial towns like maybe Williamsburg or
25 Jamestown or if you go out West, New Brunswell in Texas,

1 it's not a colonial town but they do those types of things
2 there, you may have watched some of the jewelers make
3 jewelry. And that they do is, it's kind of simple but it's
4 intricate, they take these nuggets of gold or nuggets of
5 silver, or platinum, whatever it is, and they dump it into
6 this big melting pot. It's called an urn or sometimes some
7 people a crucible. So, they dump it all in that crucible
8 and they start to heat it up, and they heat it, and they
9 heat it, and they heat it. And the hotter it gets you start
10 to see the soot and the dirt and whatever other gunk is in
11 there s tart to separate from the gold, or the silver, or
12 the platinum, or whatever the jewelry is. And as it
13 separates you have all of the impurities and the gunk on
14 top.

15 Another way of looking at it is, if you've ever made a
16 stew or spaghetti or gumbo or something like that, when you
17 dump all the meat in the pot and you start cooking it, you
18 add your seasoning and everything else, the more it cooks,
19 what happens? The grease starts to separate. And so, what
20 do you do? You don't just eat it, you skim the grease off
21 the top. And Why? Because you don't want to eat that
22 stuff. And as you start skimming the grease off the top and
23 all the other stuff that's coming out of it you are left
24 with the stuff that you really want to eat. Or, looking
25 back at a jeweler, as you heat it up and you skim all the

1 soot and the dirt and all of that stuff off of it, you're
2 left with pure testimony, pure gold, pure silver, pure
3 platinum. And that's just how that process works.

4 So, you're probably asking, well, what does that have
5 to do with Romeo Brown's case? Well, what it has to do is
6 this, as you look at this witness chair and you treat it
7 like it's that crucible, like it's that melting pot, like
8 it's that urn. The witness are those nuggets of gold or
9 silver or platinum that throw in here. And the cross-
10 examination that apply is the heat. And as we ask questions
11 and as we heat up that witness chair you start to separate
12 the trash and the gunk and the other stuff from the things
13 that really matter. And you skim it off the top and give it
14 to you as the jury, and you all come back with a verdict.
15 So, what we've tried to do is to get rid of all of that
16 other stuff so you'll be left with the things that really
17 matter in this case. And that's what's taken us a couple of
18 days to get through. But again, we appreciate your patience
19 with us.

20 One thing I'll also ask you is that if at any point in
21 time during this process if I've offended you or if I have
22 said something that went a little bit out of balance, that
23 you considered offensive, hold that against me and not my
24 client. Hold that against me in just being a zealous
25 advocate for Mr. Brown, and what I believe was failure to

1 investigate in this particular case. So, hold that against
2 me and not him, and I'll do my best to do a better job next
3 time around.

4 Now, I took the liberty, and my handwriting is not that
5 good so I can't quite tell you, but I took the liberty, the
6 witnesses are listed here for you. And I've listed most of
7 them in the order that they came. But I will take some of
8 them out of order just so that I can show you what's
9 important, or what I deem is important about each of these
10 witnesses.

11 The first of our witnesses was Lieutenant Craig Davis.
12 And you remember him, he was the big dude who came in here
13 last, last Tuesday. And the interesting thing about Mr.
14 Davis, Lieutenant Davis, is, he had the rare opportunity to
15 be certified as a law enforcement officer both in South
16 Carolina and in New Jersey. And he, quite frankly, seems to
17 have more experience than any of the others that testified.
18 He said he had Nineteen years of experience in law
19 enforcement. The first six or so he spent in New Jersey and
20 he became an investigator in New Jersey, which means that he
21 had to pass an array of tests, and based on his merit he
22 receive promotions and became an investigator. At some
23 point in time he moved to South Carolina, went through that
24 same process. He worked at South Carolina State for a while
25 as an officer, but he became certified in South Carolina,

1 and based on her merit he was promoted, and he is an
2 investigator as well. He's also a lieutenant, which is a
3 higher rank than most who are working with the sheriff's
4 department. What's important about him is, he had the
5 opportunity to be the responding officer in this case, which
6 means that once the Nine one one calls were made dispatched
7 assigned somebody to go to the scene, and he was at the
8 scene, and he was there within ten, within two minutes of
9 receiving that call. And he told you, as a responding
10 officer, first and foremost, he's an investigator so he
11 knows the jobs of everybody and what everybody needs to do.
12 So, he was the perfect person to be out there, because he
13 was able to secure the scene, meet with, talk to witnesses
14 to some extent, write reports about what he was told. He
15 was able to tape the scene off, make sure that evidence
16 didn't get contaminated, he was able to do all of those
17 things before Detective Eikhoff arrived. And what did he
18 tell you? He said that, when I got there I met with four
19 people, there were four people that I talked to. The people
20 that I talked to were Vandy Morgan, Joe Thomas, Isaac Morgan
21 and Brandy Mack, four people that I talked to. And out of
22 those four people, I asked them what happened. And what did
23 he tell you? The description that he got within minutes of
24 getting there, an unknown black male between six feet and
25 six feet two, between two hundred and two hundred and twenty

1 pounds shot and killed Alex Harrison. That's what he was
2 told. An investigator of Nineteen years told you that after
3 meeting with these people, that's the description that he
4 got. I asked him, at any point in time did anybody tell you
5 Romeo Brown was involved in this incident in any way, shape
6 or form? He said, no. I said, well, what would you have
7 done if you had learned that Romeo Brown was involved? He
8 said, I would have given that information immediately to
9 every body involved and that investigation would have gone in
10 a different manner immediately, immediately.

11 Folks, beyond a reasonable doubt, as I've told you,
12 mentioned to you, and the judge will mention to you as well,
13 is the amount of doubt that causes a reasonable person to
14 hesitate to act, the amount of doubt that causes a
15 reasonable person to hesitate to act. And the alternative
16 definition is that a person has to be, or a jury has to be
17 firmly convinced of a defendant's guilt in order to find him
18 or her guilty. You have to be firmly convinced in order to
19 find the person guilty. After hearing an investigator who's
20 been doing this in two states for over Nineteen years,
21 impeccable credentials, wrote everything down that he came
22 across immediately, he tells you that the people who came
23 into this courtroom and said something different to you,
24 when he first got there and asked them what happened and who
25 was involved, they said, we don't know. It was black guy

1 from between six feet and six feet two, we don't know who he
2 was, he weighed between Two hundred and Two hundred and
3 twenty pounds. And after it was over he ran, he didn't walk
4 away, he didn't limp away, he ran around, took off running
5 around the back of the house. That's what he told you,
6 that's what he told you. Does that make you hesitate to say
7 that Romeo Brown did these things? Are you firmly convinced
8 of his guilt when you hear that this man came out
9 immediately, ascertained the situation and took information
10 down the way that it's supposed to be done, and Romeo
11 Brown's name was never mentioned. Does that make you
12 hesitate just a little bit?

13 I'd suggest to you that what makes this case
14 interesting is, you have witnesses who claimed, just as Mr.
15 Sorenson said, with identification, they claimed to have
16 known Romeo Brown by sight. They've seen him back and forth
17 going to visit his sister and brother-in-law and nephew at
18 the house. They've seen him, they know him. If he walked
19 by right now, how is that? Oh, that's Romeo. How do you
20 know it's Romeo? Because he's always around here. He
21 doesn't hang out with us, he doesn't sit down and drink with
22 us or play cards or dominos with us, but we know him. But
23 the night of this incident they didn't know him. Does that
24 make you hesitate just a little bit? What's gone on to make
25 that story change? Think about that. Think about that.

1 Because all of these people who knew him, had seen him on
2 multiple occasions, all of them said, we don't know who did
3 it. But yet and still, these people, these same friends of
4 Alex Harrison want to come in here and they want you to
5 believe that they're telling you the truth about everything.

6 And just think about this piece, as you start
7 putting these pieces of the puzzle together. All of them
8 told you that Mr. Harrison had no alcohol on his breath,
9 none of them had seen him drinking, that he was driving a
10 motorcycle and he never drinks if he's riding his
11 motorcycle. And all they could tell you is, he had one
12 drink, he had only been there about two or three minutes,
13 just a few minutes before this happened. Y'all remember
14 that. But Dr. Janice Ross, the pathologist, who has done
15 over six thousand autopsies, told you that she performed a
16 test and she used ocular fluid, which is the fluid in the
17 eye, and based on her testimony, his blood alcohol level was
18 a point one eight, which if you translate, means
19 approximately Eighteen per cent of his blood was alcohol. I
20 asked her, can you get to that level by having one drink?
21 No, you can't. That should tell you somebody isn't telling
22 the truth. If you would lie about something as simple as
23 how much to drink he had, something just isn't quite right.
24 There's an old saying, what my grandfather used to say,
25 something's rotten in the cotton field, and something just

1 isn't quite right about that situation. Obviously, there's
2 a whole lot more going on than has been presented in this
3 case, by the Solicitor's office, by this table, who's got
4 the burden of proof.

5 One of the things that was mentioned by Lieutenant
6 Davis as he talked about what he found at the site. He said
7 that, I learned, he said that one of the things you learn is
8 that if a person flees on foot the simplest thing to do is
9 to call the dogs out. And the reason you do that is because
10 they catch a scent and they can follow that person where the
11 person flees. He said, that's elementary, you learn that
12 being an investigator, that's just something you know.
13 Where is the dog's house, folks? Right off of Ellis Street,
14 over by the impound lot, about three point three miles away
15 from Wingate. Detective Eikhoff told you, again, I didn't
16 call the dogs. And we'll get to her a little bit later. I
17 didn't call them, I didn't, essentially, I didn't think it
18 was important. But again, those are those things that
19 become important when you have witnesses who are impaired.
20 When you have witness testimony that's different from the
21 experts you start looking for what can draw that link
22 between the two before you start trying to call somebody
23 guilty as the folks at this table want you to do. That's
24 crucial. But hold that thought, as we talk a little bit
25 more about what Investigator Eikhoff did and didn't do.

Investigator Eikhoff was interesting because she was similar to Lieutenant Davis. She was similar in the sense that she was certified in two states as well. She was certified in Texas, certified in South Carolina. She became a detective here based on merit, and I would suggest to the jury that that's where the similarities stopped. And it was interesting that one of the things that she testified to over that hour and a half that she was up here is that once she arrived, it was about an hour before Romeo Brown's name was ever mentioned. Again, bolstering the credibility of Lieutenant Davis, about an hour. And whether or not the hour started at nine, ten, or whether or not it started at eight:fifty-nine, that's kind of inconsequential. The bottom line is, if the people who know and who have observed a person, know who the person is, cannot call that name immediately there's a problem. Is it reasonable to believe that grown folks, we're not talking about some six and seven year olds or some Twelve year olds. Grown folks witnessed a friend get shot and brutally killed, and when the police get there and they know nothing. Is that reasonable? Is it reasonable to believe that on the Nine one one call if you knew who did it the first thing you don't say is, you know, Nine one one, what's the emergency? My friend was just shot, Romeo Brown did it, he just ran around the house. Is that reasonable? When you parked your cars this morning and

1 every day that you've come to Court you didn't leave your
2 common sense in the back yard or wherever you parked on the
3 city lot, you brought it with you. And that's why, again,
4 we went through that process that Mr. Sorenson talked about,
5 because you need to bring those things in here and think
6 about what reasonable people do, what real people do. Does
7 this make you hesitate? Does it make you hesitate a little
8 bit? I guarantee you, if there as a Nine one one tape in
9 this case where any of those things were said they would
10 have blasted it through this courtroom all week long, all
11 last week and today as well. But it doesn't exist because
12 it didn't happen. Does that make you hesitate, are you
13 firmly convinced?

14 One of the things Mr. Sorenson talked about is how
15 forthright is a witness as he or she testified? Can you
16 tell us how forthright Detective Eikhoff was? Can you
17 explain to us why a Twenty minute cross-examination should
18 take over an hour? Can you explain why you have to continue
19 to say that somebody is unresponsive in failing to answer
20 the question? What is there to hide? Did anybody take as
21 long as she did to get the answers out? I submit to you
22 that maybe if she worked as hard investigating this case,
23 analyzing the evidence and coming back solutions, and coming
24 back with opinions based on that investigation, maybe we
25 would know who really murdered Alex Harrison. If she worked

1 as hard as she did evading my questions and trying to be
2 cute with the questions and trying to outsmart me and outwit
3 me, then maybe we would really know what happened. I asked
4 her simple questions that an investigator would know,
5 especially an investigator who's a licensed law enforcement
6 officer in two different states would know. I asked her,
7 what tools did you use? Well, let me change that, I didn't
8 quite -- I said, there are different tools that you can use
9 in order to determine what happened in the case. One of
10 them is witness testimony, but you always want to go past
11 that because witnesses can sometimes skirt what they say
12 based on a situation. Witnesses may sometimes have motives
13 or some kind of hatchet to bury, they may have that. So
14 what you look for is independent evidence so that you can
15 start to determine who did what, and it speaks irrespective
16 of what the witnesses say. So, first, we talked about DNA,
17 and I asked her the question, who collected this? Her
18 answer, the SLED investigators collected it. My question,
19 well, what did it show? Answer, I don't know. I don't
20 know. Is that acceptable to you, is that acceptable that a
21 lead investigator in a case who is charged with
22 investigating the case, charged with doing justice, not
23 charged with getting a conviction, but charged with doing
24 justice, which means presenting all of the evidence, looking
25 at all of the evidence and making decisions based on all of

1 the evidence, not the piece that you want to see, but
2 everything. She said she didn't know. I said, well, I said
3 it, and the other investigators did as well, well, in a
4 situation like that you can ask the investigators to look
5 for certain things, can't you? The investigator said, yes.
6 She said, well, I've never known that to happen. But the
7 investigator said yes, the SLED expert said, yes, if they
8 had asked me to look for this then I could have looked for
9 it. But it was never done. I asked her a specific
10 question, I said, well, who collected the evidence? She
11 said, the SLED people. I said, well, what did they find?
12 She said, well, they did their job. Well, what was their
13 job? To collect the evidence. At no time did she ever go
14 back and look at this evidence. She even told us that. She
15 never looked at it and assessed it to see if the evidence
16 that they found even matched up with what the people said.
17 Is that reasonable in a situation where you're charging a
18 man with murder, that you're saying that he took the life of
19 another person, is that reasonable, or do you expect more in
20 a situation like that? But that's the person who they put
21 up here to testify about what happened and how this case was
22 investigated. I asked her about fingerprints, you know,
23 the, I asked them to test it and they did their job, is what
24 she said. I asked her about shell casings. And that was
25 extremely important for a couple of reasons.

1 Number One, our expert, Ms. Cromer, excuse me,
2 Investigator Cromer from SLED, who is an expert, said a
3 couple of things. She said there are a couple of ways that
4 you can test. One is to essentially look for fingerprints
5 which is to essentially spray hot glue on them, you sprinkle
6 powder on them and you look for prints, you look for ridges.
7 She couldn't see that.

8 But the thing is, when you have two shells you can go,
9 you can look for prints on one and you can also look for DNA
10 on the other. And the DNA test is a simple test where you
11 swab it, just like she said, and you look for DNA. And you
12 can determine who loaded a gun by swabbing it for DNA. And
13 in a case like this if you can determine who loaded that
14 gun, pretty much you know who the shooter, especially if
15 there's a tie -- and if somebody else loaded it there may be
16 a tie into it, but at least that's the information that you
17 need in a case like this, that you need. And it's simple to
18 make the phone call to say to do it. But what did she say?
19 She said, I didn't do it. And then I asked her the
20 question, I said, well, isn't it your job to do justice, not
21 to seek a conviction but to do justice? And she skirted
22 around with that and eventually I think she said yes. And I
23 said, so you're okay with the fact that you're sitting up
24 here testifying in a murder case and you haven't reviewed
25 the evidence, and you didn't even ask them to do any of the

1 things that you should have asked them to do? Do you
2 remember what her answer was? Yes. That's what she said.
3 That is the most flippant, nonchalant, irresponsible
4 investigation that I've seen. And when you have a man who
5 is on trial for murder and a family who's son has been
6 killed don't you owe it to the two of them to just do the
7 job that you're sworn to do? That's all we're asking, do
8 the job. Don't you owe it to them? As citizens of this
9 county, don't you expect more from the investigator in a
10 case? This is information that could potentially exonerate
11 Romeo Brown, and it could show you -- and that's not even
12 talking about the other evidence out there. But this
13 independent evidence, it doesn't go home with anybody, it
14 doesn't talk to anybody, it doesn't drink with anybody, it
15 doesn't hang out with anybody, it doesn't play dominos with
16 anybody. This is independent evidence. Nothing, because it
17 wasn't important to her. Because as she said, it is what it
18 is. Are you okay with that, or does that make you hesitate
19 just a little bit?

20 I asked her, looking at these pictures, Defendant's
21 Exhibits Thirteen and Eleven, you look at the hands and what
22 do you see? You see fingernails, you see blood, fingernails
23 and blood. What does that say? Potential DNA, that's what
24 that says. I said, did you test for the DNA to see whose
25 blood that was, because you heard there was a struggle? No,

1 because you know he was shot and he could have been holding
2 himself. Well, it could also be the blood of somebody who
3 was in a struggle. Do you know if that person was injured
4 or shot? Did you try? It is what it is. Did you scrape
5 under the nails? You see nails on both hands, folks. Did
6 you scrape under the nails? I can tell you, and you've
7 probably seen this, just in my interactions, I like to joke
8 around, and I've got kids, I play with them all the time.
9 And one day I was, this was a few months ago, I was in there
10 with my son, he's seven, and just wrestling around with him,
11 and despite my size, I actually used to wrestle in high
12 school. But I grabbed him behind the neck in the normal
13 wrestling pose, and he said, well, you grab here and you
14 grab the arm here and you kind of tug on one another. And
15 you know, we were just kind of playing around. And then my
16 daughter, who is five, was not going to be outdone, so she
17 jumps in the game as well. So, she's, like, Daddy, I want
18 to do it, I want to do it. So, I jump up in there and she
19 grabs the back of my head and tries to grab here, and she
20 scratched the living daylights out of me right across here,
21 not meaning to, but at that age those fingernails are like
22 little razors, and she scratched me from here to here. And
23 I had to come to work and explain what happened, and people
24 didn't believe. They thought my wife got me, but she
25 didn't. But I say that to say, it is easy to be scratched.

1 And when you're scratched you get DNA under those nails.
2 And if I'm scratched, if they had scraped those nails they
3 could have found DNA that they could have easily traced. If
4 it was this man, Mr. Brown, just like that, they could have
5 traced it to him. That is simple detective work. And that
6 is what is owed to anybody who is on trial, who's fighting,
7 who's on trial for murder. And to her, Detective Eikhoff,
8 it is what it is. You can even look at this nail and see,
9 there's a blood blister right there. You have witnesses who
10 say they struggled, they struggled on the ground, on top of
11 them, fighting back and forth. Did she swab the hands, take
12 a q-tip, swab it, and send it away? Just like you did with
13 the gun shot residue, did you do that? No, I didn't do it.
14 It was their job. It may have been their job, but you
15 supervised the investigation and if you had asked them to do
16 it they would have done it. Dr. Ross suggested that if I'm
17 asked to do something I'll do it. And she was never asked.

18 Footprints. We were told that the person again fled
19 around the back of the house. They said, well, it was dark
20 back there, you know, we didn't really get a chance to look
21 back there. Well, if they were directed to they would have.
22 Because there's a bunch of dirt out there, and when you've
23 got dirt -- you've all stepped in dirt before, you can leave
24 a footprint. And these experts can take, like a plaster of
25 Paris type consistency, put it in that casing and match it

1 up. And at least you can get a shoe size, you can get the
2 tread ridges, and you can have an expert, which SLED has, to
3 come and testify about those things. Then you get the
4 search warrant and go to a person's house and just look at
5 the shoes and see if maybe the shoes match up.
6 Investigation One O One, but it is what it is, it was their
7 job, you know, they get it and, you know, they just do
8 whatever they do with it. That's Detective Eikhoff's
9 position.

10 And again, the dogs. To me, simple investigation. I
11 think I learned at about the age of six, watching Beaufort
12 and the bloodhounds detectives that you can actually use
13 dogs to track people when they run. I think I've seen it
14 over a thousand times in the movies. If you give a darn
15 about what you're doing, if you care about doing justice and
16 not just getting some kind of conviction on somebody, that's
17 what you do. But to Investigator Eikhoff, it is what it is.
18 Does that make you hesitate or are you comfortable with how
19 she handled this matter, and how flippant she is with this
20 man, with this family? Are you comfortable with that, are
21 you hesitating, are you firmly convinced of his guilt?

22 Let's look at Mr. Ryant and some of the other
23 witnesses. Mr. Ryant came in and testified first last
24 Wednesday, excuse me, last Tuesday. And he mentioned a few
25 things, and we all know, Romeo is his brother-in-law,

1 there's no question about that. He said he was having a
2 barbecue at the house and that he had the barbecue, he
3 bought a case of beer, which was Twenty-four, and Twelve.
4 We also learned at that point not to trust my math because I
5 said it was Forty-eight. But once we got the math right we
6 learned that Twenty-four plus Twelve is Thirty-six. Thirty-
7 six beers, and he had to go get more because it was all
8 gone. We also learned there was at least a half gallon of
9 gin, it may have been more than that but we know it's at
10 least a half gallon. All of it was gone because they had
11 gone through it. But interestingly enough, the witnesses
12 only had one or two drinks. Well, that liquor had to go
13 some place. I suspect it didn't just get poured out. But
14 suffice it to say, they went through all of that liquor, and
15 he said, at some point in time he got a call saying that
16 something had happened at the house. He ran home and he
17 learned that Mr. Harrison had been shot. He never saw
18 Romeo, never saw him that day. That's what he testified to.

19 Now, let's fast forward to today. Mr. Ryant tells you
20 that back in June of Two thousand ten, he is aware of a
21 situation where Romeo Brown and Alex Harrison had some type
22 of altercation. He said he came, he was at fish fry across
23 yard, returning a pot that he used to fry the fish, and he
24 was alerted that something was going on. He got there and
25 he saw the two of the tussling, and he said, Romeo was

1 screaming for him to get the gun, or somebody to get the
2 gun. I asked him, have you ever known Romeo Brown to have a
3 gun and to carry a gun? He said, no. I asked him the
4 question, have you ever known of Alex Harrison to carry a
5 gun? He said, he keeps one in the car sometimes. Again,
6 putting those pieces of the puzzle together, remember Joe
7 Thomas? He said the same thing, the same thing.

8 Romeo was asked whether or not he had hit Mr. Harrison
9 at some point in time with a pistol. He said, no, I have
10 not. He said he had not. But what's interesting about this
11 situation is that if you really sit back and think about
12 these pieces of the puzzle, this is the piece that they are
13 trying to use as motive. They, the prosecution, are trying
14 to say, well, they had some kind of incident, you know, four
15 and a half, five months earlier so that means that there was
16 some kind of animosity between the two which led to this.
17 That's what they're trying to lead to. But have we had any
18 testimony that suggest that that's true? What we've heard
19 is, Number One, somebody got a gun and left. It wasn't
20 Romeo. We've learned that on different occasions the two of
21 them were in that same yard multiple times afterwards and
22 there was never any kind incident, no discussion, no issue,
23 no nothing any other time after that. So, what I ask you to
24 think about with your common sense is that if two people
25 have a disagreement and they see one another multiple times

1 and that disagreement is still over, it's still about to
2 erupt, are you going to handle that disagreement when you're
3 able to, or are you going to wait for four months until
4 you've got a leg injury that requires you to get around on a
5 cane and requires you to take a Lortab and you can barely
6 walk to try to attack somebody? Let's just be honest about
7 the situation. Does that even make any sense? Person to
8 person, man to man, would you try to attack somebody when
9 you're a quarter of the strength that you normally would be,
10 or half of the strength, knowing that you can't do the
11 things that you would like to do to that person if there was
12 that kind of animosity between the two of you? Does that
13 even make any sense? Think about those things as you start
14 to listen to the theories that they come up with, because
15 this Court isn't concerned about speculation, they want to
16 know about proof, they want to know about what happened.
17 And that's what you have to look at, not guessing and trying
18 to connect a dot here or there, or well, it could have,
19 should have, would have. It doesn't count like that. They
20 have to bring it to you and you have to make that decision
21 beyond a reasonable doubt. And those are the things that
22 you've got to be concerned with in a case like this. But
23 again, multiple times they were together after that, same
24 space, never an issue, and nobody has come in with anything
25 that said that anything erupted between the two since.

1 But let me ask you this question, let me point this out
2 to you, it makes perfect sense now if you think about that
3 prior incident and why we're here today, because again, when
4 these witnesses came and they testi -- well, when they saw
5 Lieutenant Davis and even Detective Eikhoff at the
6 beginning, they said, we don't know who did this, unknown
7 black male, you know, six, two, six feet, six, two, two
8 hundred twenty pounds, that's what they said. And as they
9 left one another at some point in time they were separated.
10 Well, they had a chance to interact. And what happens when
11 you interact with people? You start talking, and when you
12 start talking rumors start to spec, you know, circulate.
13 And I can tell you what happened, this is what happened, you
14 know, after the fact, well, man, you know anybody who could
15 have done this? No. Well, you know what, a few months ago
16 he and Romeo had a fight. Oh, yeah, Romeo, yeah, that is
17 right, they did have a fight, didn't they? You know what,
18 maybe that was him, that did kind of look a little bit like
19 him, maybe that was him. And all of a sudden now it's Romeo
20 Brown, and everybody believes it's Romeo Brown. But what
21 none of them ever figured is that Romeo had been injured
22 less than -- a little over a month before that. Romeo, the
23 picture that was shown to the jury of a recent photograph of
24 the scar, seven or eight inches just inside the groin area.
25 He said an artery was punctured. Injured, injured, notice,

1 no witness is coming in here saying that didn't happen. Did
2 you notice that? No witness is coming in here saying, no,
3 he made that up, there's no possible way, that didn't
4 happen. No witness is coming up here saying that Dr.
5 Banish's information is a lie, or not true. No witness is
6 saying that. No witness is saying that he didn't have
7 Seventeen staples up there. No witness is saying that he
8 didn't lose a good amount of blood. No witness is saying
9 that, because it happened, it's the truth. It may be the
10 only uncontradicted piece of evidence in this entire case,
11 that he was injured. And he said, and these records will
12 speak to it, he went back, it didn't heal properly at first,
13 finally the staples came out, and after they finally came
14 out there was a little, still an area wound that he had to
15 continue to bandage and apply betadine and things like that
16 to, he had to continue to do that. Finally, the actual
17 wound healed by the Twentieth of October, and that's when he
18 was finally cleared to start physical therapy. When you're
19 cleared to start physical therapy that doesn't mean you're
20 running and jumping and doing everything right away, it
21 means you're cleared to start physical therapy. And you'll
22 have this record. The Nineteen of October, Two thousand and
23 ten, eight days before this situation happened. He was
24 cleared to start. And who tells you? Mr. Ryant tells you,
25 he got around on a cane. Dennis Jones tells you, he got

1 around on a cane. Tedriks Green tells you, he got around on
2 a cane. Tammy Ryant tells you, he got around on a cane.
3 Folks, what piece of information have you never heard in
4 this case? That a man with a cane came up here and did all
5 of these things and limped away after he shot him. Is it
6 physically possible?

7 The evidence that these folks testified to, Joe Thomas,
8 and you may ask, why do I keep rehearsing this and going,
9 well, not rehearsing but going down to the ground and asking
10 him to show me what happened, why? Because I wanted y'all
11 to see what they did. Joe Thomas said that Romeo Brown was
12 kneeling down on top of him, had the gun, and shot, shot.
13 Look at his hand, that's a right hand, isn't it? Shot. We
14 also learned that, incidentally, Romeo Brown is left handed.
15 But he leaned on top of him, both knees down, and shot him,
16 got up and ran. Again, is it humanly possible after all of
17 this that he went through to have done that? Did anybody
18 ever say they saw a cane around? No, because you know what?
19 They didn't, because it wasn't Romeo. They said a right
20 handed person did all of these things. That's what they
21 said. Each of them demonstrated with their right hand.
22 Another witness said, you know what? He came up and he shot
23 him and then they tussled for a minute and went down on the
24 ground and tussled some more, and he shot him again and took
25 off running. Took off running behind the back of the house.

1 This is one of those pieces of information that nobody can
2 contradict, or that nobody has contradicted because it's
3 true. These are the situations that we're dealing with,
4 that if prof -- excuse me, professor, I wish, if Detective
5 Eikhoff had even taken a moment to look at these things and
6 to listen to what she said the other day on the stand, if
7 she had just taken a moment maybe she would have
8 investigated this thing just a little bit harder, maybe she
9 would have. But those are those pieces that should make
10 you hesitate just a moment before you start believing all of
11 this stuff they're selling you. Those are the types of
12 things. Joe Thomas said that he was known, he meaning Mr.
13 Harrison was known to have a gun, he had a gun.

14 Vandy Morgan, interesting testimony, and Mr. Sorenson
15 referenced his statement, said that he saw Romeo Brown
16 walking up the road moments before this happened, walking.
17 Not with a cane, he didn't see him with a cane, he saw him
18 walking up the road. The statement that he gave at
19 Eleven:sixteen p.m., Ten/twenty-seven/ten, the same day,
20 nothing, doesn't know who did anything. But all of a sudden
21 some Nineteen months later after preparation for trial and
22 after talking to some people and starting to figure things
23 out, oh, well, I've got to find a way to make sure that, you
24 know, we've got to put Romeo at the scene, so yeah, I saw
25 him walking up the street right before this. He never said

1 a word about this before, never.

2 I'd suggest to you again, as we talk about Isaac Morgan
3 who heard the shots, never saw anything, each of them put
4 the shooter in a different area, and each of them had a
5 little bit different nuance to how this thing happened. But
6 they all demonstrated this happened with the right hand. I
7 suggest to you, if you're playing baseball, World Series,
8 bottom of the ninth inning, you're left handed, you're not
9 going to get up there and bat with a different hand when the
10 game is on the line. What if you're right handed? If
11 you're going to get into a fight with somebody are you going
12 to put it in your left hand and go at him with your left, or
13 are you going to use your dominant hand to do it? That's
14 just simple, you're not going to use your weak hand. And
15 anybody who's ever had any experience handling guns, that's
16 not what you're going to do, you use your dominant hand,
17 because the other hand is weaker. And in a situation that's
18 going to be a life and death struggle you're not going to
19 play around with the other hand. All of these guys said he
20 was right handed. Those are those little nuances, those
21 little bits and pieces that I ask that you think about and
22 that should make you hesitate before you make a decision.

23 Bandy Mack testified. She may have been the only one
24 that was truthful about what she had to drink. She said she
25 had three beers and a shot of gin. She's small, that's a

1 lot of liquor for a small person. But what she said again
2 is, after she had nothing to say because she didn't know who
3 did it, but all of a sudden magically an hour later it
4 became Romeo Brown. But she told you she had gone across
5 the way to talk to a neighbor, her cousin, who incidentally
6 wasn't in Court. His name the officers knew and
7 incidentally was never interviewed or talked to in any way,
8 shape or form. She mentioned somebody named Ricco, never
9 talked to, nobody ever got anything from Ricco
10 incidentally. Whose job was that? The investigators. But
11 she went across and talked to them. Shawn Guinyard says
12 that Brandy was on the porch when the shooting happened.
13 And I asked Mr. Ryant just a few minutes ago how far that
14 porch was. He said it was at least from here to somebody
15 who was sitting in blue, which is about at least, at least
16 Sixty or so feet away, Sixty or so feet away at night, Sixty
17 or so feet away at night after you've had three beers and
18 some gin, Sixty feet away at night after you've had some
19 gin, after you've already told the officers immediately
20 after the situation that you didn't know who did it. Sixty
21 feet away after you've three beers, some gin, you told the
22 officers that you didn't know who did it, and the second
23 officer who comes up an hour later, you still told you
24 didn't know. And then, all of a sudden now you know. They
25 know because the rumors had circulated.

1 I mentioned a quotation to you last Tuesday, a week
2 ago, I think some of you looked at me cross-eyed because
3 you're wondering what it had to do, but I'll tell you now.
4 The quotation was, "The moving finger writes and having writ
5 moves on. Nor all your piety or wit shall lure it back to
6 cancel have a lie, nor all your tears wipe out a word of
7 it." "The moving finger writes and have writ moves on, nor
8 all your piety or wit shall lure it bak to cancel have a
9 lie, nor all your tears wipe out a word of it." Folks,
10 what that simply means is this, or what I interpret it to
11 mean, once you write something, you write it, you move on.
12 It doesn't matter how pious you are, how witty, how smart
13 you think you are, you're not going to bring it back to
14 cancel what you've already put down. And no matter how hard
15 you cry and how hard you try to change it, it's not going to
16 wipe out a word of it. Look at Vandy Morgan, he never said
17 a word about Romeo. Look at what was written by Lieutenant
18 Davis. These guys didn't know anything until after an hour.
19 You can't wipe out a word of it now no matter how hard they
20 try. Look at what's said by these, the experts that are out
21 there. Look at what's here. You can't wipe out a word of
22 the fact that Romeo was injured, not a, getting around on a
23 cane, you can't wipe that out. Look at the fact that these
24 experts come in here and they tell you, his blood alcohol
25 level was an Eighteen, Eighteen per cent. Look at the fact

1 they tell you, and I didn't write them all down, but look at
2 the fact that they told you they couldn't trace one
3 scintilla of DNA evidence back to Romeo Brown, nothing.
4 They couldn't get a finger print, a shoe print, a hair,
5 scrapings, nothing. Thirteen officers and experts after the
6 fact have come out here and processed this crime scene and
7 done everything that they have been taught to do, and not
8 one of them agrees with anything that these witnesses say.
9 Why? Because there's nothing there to say that he did it,
10 except some people who came up with some suspicion because
11 of a prior incident. That's what this case is about. So,
12 the question is, are you comfortable finding a man guilty of
13 murder and possession of a weapon in that situation, are you
14 comfortable with that? In order to agree with Mr. Sorenson
15 you've got to believe that Romeo Brown essentially faked the
16 injury, faked walking around on a cane, faked being left
17 handed, faked all of this stuff, and then ran up in front of
18 all of these people and shot him and took off running.
19 You've got to believe that in order to follow what Mr.
20 Sorenson is saying.

21 Mr. Daniels, Ulysses Daniels was a witness as well.
22 And he's the one who again very clear that he was more
23 concerned when this thing first happened about saving his
24 own behind as opposed to telling what actually happened. He
25 said that he was there and the minute this thing happened he

1 took off running. Well, he said he waited for Thirty
2 minutes, know police, and left. I think Lieutenant Davis
3 would take issue with that. But he left because he didn't
4 want to be there. He left because he wanted to go and call
5 his, Special Agent Barry Wilson from the DEA who is his case
6 manager, because he was facing Twenty years federal which he
7 ultimately got for being a drug dealer, and he didn't want
8 to be around that area, you know, because he just wanted to
9 make sure it was okay for him to be around there before he
10 came and talked to anybody. Five days later, after he's had
11 a chance to read the papers and do everything else, now he
12 can come bak and start giving specifics, giving specifics
13 about what happened. But again, another person not there
14 when then police arrived, another person not around when the
15 police arrived.

16 Again we have Ms. Cromer, who was an expert who said,
17 interestingly enough, that these came from an automatic, and
18 one of the witnesses said that a revolver did the shooting,
19 interesting. Again, if a revolver was used in this case,
20 and we know -- well, we know an automatic was used, and
21 there is reference to revolver, and you have witnesses who
22 say that they heard more than two shots, then that suggests
23 a second gun. But that's something that Detective Eikhoff
24 never considered, never thought about, and quite frankly,
25 seemed not to even know was even in existence in this case.

1 There's also gun shot residue on Mr. Harrison's hand,
2 which again, based on the experts, Mr. Roberts, says that a
3 person could have fired a gun. Does that at least mean you
4 should at least check on that and follow that option up? It
5 doesn't mean it happened, but do you at least ask a couple
6 of questions? And according to Detective Eikhoff it wasn't
7 important.

8 Dennis Jones testified and he says that he gave Romeo a
9 ride and what the Solicitor's office tries to put out there
10 is, well, Romeo left right after this thing happened so he
11 must be guilty of something. We know his wife lives in
12 Anderson, and we know at some point in time he did go to
13 Anderson, we know that, no question. But the question is,
14 what day was that? Dennis says it was the night of the
15 incident, Romeo said it wasn't the night of the incident.
16 Erica Smith, his neighbor, said it was not the night of the
17 incident because I was home, he came by, I saw him. The
18 police say they came and knocked on the door and Romeo
19 wasn't home. Well, she says, no, that never happened, that
20 this is such a small area, if that happened I would
21 remember. They surrounded his house a couple of days later.
22 But what do you look for, again, you know, if there's a tie,
23 you know, they always say the tie goes to the runner, what
24 do you look for when you have different testimony? You look
25 for a police report to tell us when it happened, but that

1 never happened. So, we're left again here to start
2 speculating about when stuff happened, when we have
3 witnesses who say different things.

4 Well, let me suggest this to you, Romeo didn't run,
5 because he was in Anderson. He said, once I learned that
6 this warrant was out here, what did he do? He came back to
7 Orangeburg with his family. Folks, if he's going to run
8 he's not coming back to Orangeburg. If you're already three
9 hours and Fifteen minutes away in Anderson, South Carolina,
10 you're not coming this way. He told you he was born in New
11 York and raised in Orangeburg. He could have gone a whole
12 lot of different places if he wanted to be elsewhere. But
13 what did he do? He came back here. Yes, they arrested him
14 here, and no, he turn himself right away -- turn himself in
15 right away, but he said he was putting money together to
16 hire an attorney and turn himself in. Has there been
17 anything that has been brought to you, this is just a lie?
18 No. Quite frankly, he didn't have to testify, but he did,
19 and he subjected himself to Mr. Sorenson, who is a dynamic
20 attorney, a dynamic solicitor. And he did those things. He
21 didn't have to, but he told you his situation, he told you
22 about his leg, he told you about the injury, he told you, he
23 told you what was going on. And there is nothing that
24 contradicts any of those things. Did he tell you the entire
25 situation that happened between he and Alex? No, but the

1 question is, is that even relevant to why we're here today?
2 Because obviously there was no belief that there was
3 anything that would escalate that situation, none, zero,
4 none. And everybody said that everything seemed to be
5 alright.

6 The question is, if there's a question about when the
7 police came out, where are the phone records? We know that
8 you can trace phone records, we know that you can find out
9 who was where by pinging things off a tower. That was not
10 done. Is there anything that says that Romeo Brown was
11 calling around trying to run? No, nothing, nothing. They
12 haven't brought that stuff to you but they want you to
13 speculate, they want you to guess, and they want you to say
14 that he's guilty because some people said that it happened.
15 But that's why you're here because you have a chance to
16 objectively look at the evidence and look at what was done
17 and what wasn't done, and what should have been done. And
18 you have a chance to let your verdict speak and to say what
19 it needs to say based on the evidence that you have been
20 presented. There's been no contradiction of the surgery, no
21 contradiction about his healing process, no contradiction
22 about what he could and couldn't do, no contradiction about
23 him being left handed, no contradiction about him not being
24 able to run and jump and the use of a cane, no
25 contradiction. Does that make you hesitate, or are you

1 firmly convinced that he's guilty?

2 I suggest to you, folks, that these are the witnesses
3 and that's the testimony. And you're going to be asked in a
4 few moments to begin your deliberation after Mr. Sorenson
5 has a chance to give his closing argument. And I'm sure
6 he's going to come in and say that most of the stuff that I
7 said is not true, but it's going to be up to you to decide.
8 You don't have to think about what I said, just look at what
9 the experts said, what their own case agent said, and the
10 things that you know have not been contradicted. Think
11 about those things, and ask yourselves if you're firmly
12 convinced, if you're firmly convinced.

13 Again, the defendant in these cases has nothing to
14 prove. We could have sat on our hands and done nothing and
15 they would have had to prove this case beyond a reasonable
16 doubt. But we didn't do that, we came in here to fight
17 because from Day One, I told you, this is a tragic
18 situation, but it's equally tragic if you're accused of a
19 crime that you didn't commit. It's equally tragic when
20 you've been called a murderer for the last Nineteen months
21 and you didn't do it. Romeo Brown was convicted of armed
22 robbery back in Nineteen ninety-nine, and he told you, yeah,
23 I did something stupid, and I pled guilty to it because I
24 was guilty, but I didn't do this, and that's why I'm going
25 to trial. He told you that, he denied that, he told you

1 what it was. What you have to do here is, you've got to
2 separate the speculation and all that stuff that doesn't
3 even seem right from the truth, and the truth that you know
4 to be true. Mark Twain said that, "A lie can travel the
5 world around while the truth is home putting on its shoes."
6 I'm asking you to nip the lies in the bud that have been
7 floating around Orangeburg for the last Nineteen or so
8 months. I'm asking you to say that, after listening to the
9 evidence, Number One, that he's not guilty because he didn't
10 do these things; Second, because they have not proven that
11 he did them beyond a reasonable doubt. I'm asking you to
12 begin to let, to set a standard for what investigations
13 should be, not just flippant nonchalant, whatever happens,
14 it is what it is, somebody said that you did so you did it.
15 That's not the way it's supposed to be, folks. You're
16 supposed to be innocent until proven guilty. When you come
17 into this courtroom you're cloaked in innocence, and that
18 cloak can't be stripped unless you've been proven guilty
19 beyond a reasonable doubt. I'm asking that if you think
20 that he's guilty or you suspect or you think he could be,
21 that you uphold the oath that you took to well and truly try
22 the facts of this case. I'm asking that you do that by
23 returning a verdict of not guilty. A verdict of not guilty
24 doesn't mean that you approve of gun violence, it doesn't
25 mean that you approve a situation that happened in the past,

1 it doesn't mean that. In means in this specific instance,
2 in the State versus Romeo Brown, that they have not proven
3 this case beyond a reasonable doubt. And based on that oath
4 that you took to well and truly try the facts of this case,
5 you've got to find him not guilty.

6 Thank you.

7 THE COURT: Thank you, Mr. Gipson.

8 MR. GIPSON: Can I take that down?

9 THE COURT: Yes.

10 MR. GIPSON: Okay, thank you.

11 THE COURT: Ladies and gentlemen, I am informed that in
12 order for your lunch to arrive appropriately that I need to
13 ask you to step to your jury room. You have not heard the
14 reply and rebuttal argument from the solicitor and you've
15 not heard my charge on the law. Therefore, you are not
16 prepared at this point to deliberate. Therefore, do not
17 discuss this matter or allow anyone to discuss it with you.
18 What you'll be stepping into the jury room to do simply is
19 to do your order for your lunch. When you have finished
20 please knock on the door so that we may return and continue
21 these closing arguments. Please step to your jury room.
22 (Whereupon, the jury retires
23 to the jury room.)

24 (Recess)

25 THE COURT: Alright, let's have our jury.

1 (Whereupon, the jury
2 enters the courtroom.)

3 THE COURT: Alright, Mr. Sorenson.

4 SOLICITOR SORENSON: Thank you, Your Honor.

5 FINAL CLOSING ARGUMENT BY SOLICITOR SORENSON:

6 Ladies and Gentlemen, if you believe that in the
7 moments after Thirty-six year old Alex Harrison was shot two
8 times with that Forty-five caliber pistol, bled to death in
9 this grassy yard, in the arms of his friends, while they
10 waited impatiently for what I'm sure to them seemed like an
11 eternity for help to arrive, if you believe in those moments
12 as he was lying dying before law enforcement showed up that
13 those men could copy this story to blame that man right
14 there, I submit to you, find him not guilty, find him not
15 guilty. If you believe Joe Thomas, Vandy Morgan, Isaac
16 Morgan, Brandy Mack, Shawn Guinyard, Ulysses Daniels somehow
17 in the moments after this young man was shot and killed in
18 front of them decided that that was a good time to blame
19 Romeo Brown, the brother-in-law of their friend who was out
20 there also, Randy Ryant, if you believe that, Ladies and
21 Gentlemen, I submit to you, find him not guilty. To do that
22 I submit to you, you would have to ignore all of the
23 credible evidence that you've heard from this witness stand
24 over the last week, those cold, stubborn, hard facts that I
25 submit to prove beyond any doubt that Romeo Brown pulled

1 that trigger two times back on October Twenty-seventh of Two
2 thousand ten.

3 Now, I want to take a few minutes before I start
4 talking about the witnesses to kind of address one other
5 thing. Alright, you heard seven different people that
6 testified about what they saw that night. And I submit to
7 you, you will never find a group of seven people who observe
8 an event, who are then asked about it later, that will
9 remember every one of the details the same. Minor
10 inconsistencies are just part of human nature anytime you
11 get a group of people together, where everybody was sitting,
12 where everybody was standing, who everybody was talking to,
13 how much everybody had had to drink, what was said prior to
14 the altercation, what hand he had the gun in, and I'm going
15 to address that at the end. But things like this, Ladies
16 and Gentlemen, are minor inconsistencies that I submit to
17 you are just part of human nature. You're going to have an
18 opportunity in a few minutes when I'm done talking and Her
19 Honor's done with the jury charge to go back in that jury
20 room, and there are going to be Twelve of you back there,
21 and I submit to you, you're going to have some questions at
22 some point in time about one of these witnesses said,
23 because the Twelve of you are not going to remember exactly
24 what the witness said from this witness stand. I submit to
25 you, if I ask the Twelve of you to go back into that jury

1 room and list out the order that we called these witnesses
2 in, I submit to you that you wouldn't have been able to,
3 probably would have gotten Twelve different answers to that
4 question. You see, I know y'all were paying attention, I
5 know that y'all did not have outside distractions, I know
6 none of y'all were sitting around drinking. But people
7 remember things, the minor inconsistencies differently. If
8 seven people came into this courtroom and told y'all the
9 exact same thing word for word I'd start to wonder whether
10 they got together and hatched a story and they're sticking
11 by a script. I submit to you, that's not what happened in
12 this case. You see, nobody sat down with those seven
13 people before this happened and told them, guess what,
14 tonight y'all are become witnesses to a crime. Just like
15 there are no classes for y'all on how to be jurors, there
16 are no classes for them on how to be witnesses either. One
17 minute they were sitting, having a good time, drinking,
18 socializing, shucking and jiving I think was one of the
19 terms one of the witnesses used, and moments later their
20 Thirty-six year old friend is dead. There are no
21 professional classes on how to become a professional
22 witness. Nobody sat down with them that night and told
23 them, look, this is what is going to happen tonight, this is
24 what y'all need to paying attention to, these are all the
25 little details you need to remember. When you give a

1 statement to law enforcement you need to make sure you put
2 every single minute detail that you can think of in that
3 statement, because Nineteen months from now you're going to
4 end up in a courtroom and you're going to have to testify
5 about what you saw, because God know, if you didn't say one
6 of those details to one of those officers that night you're
7 going to have a seasoned defense lawyer that's going to come
8 up and that's going to attack your credibility. He may beat
9 around the bush but ultimately he's calling you a liar,
10 saying that you've taken this witness stand and lied to the
11 Twelve of you. Nobody sat down with them and explained to
12 them how important all of those minute details are. They
13 didn't know, they didn't know it.

14 Let's look at what some of what they went through that
15 night. Like I said, you've got a group of people that are
16 sitting, having a good time one minute. The next minute
17 later, probably the worse tragedy you could imagine has
18 happened, a friend of theirs has been shot and killed in
19 front of them, has died in their arms. You saw the emotion
20 from some of those men, these are grown men, from some of
21 those men on that witness stand last week, and what they are
22 still going through. So, imagine what they were going
23 through Nineteen months ago. Imagine how that affected each
24 of them that night. But it didn't end then because suddenly
25 they're being separated, there are police officers showing

1 up everywhere. EMS, EMTs showing up. Suddenly their friend
2 is covered with a sheet in the front yard. They're
3 separated and some of them are being drug off to the
4 sheriff's office to give statements. And yet we're somehow
5 supposed to believe that they were supposed to remember and
6 write down very single word, every single word about
7 everything. I submit to you, that just doesn't happen, it
8 just doesn't happen. They are not professional witnesses.

9 The last thing before I start going into talking about
10 the witnesses that I wanted to just address is the lighting
11 out there. Now, you've heard from nine witnesses, as you
12 count Numbers One through Nine that testified, that this may
13 have been nine o'clock at night, no doubt about it, the sun
14 was down, but no doubt about it, you could see in that yard.
15 There's lights on the street, there's lights on the left
16 side of that house pointing right where they're all
17 congregating underneath this tree. It's a clear night,
18 moon, stars, and you've got a bunch of people, also think
19 about it, just common sense, that are sitting out there.
20 Their eyes have become adjusted. They hang out there every
21 night. If it was pitch black and you couldn't see they
22 wouldn't be sitting out there playing cards and dominos at
23 night. Okay? So, I just wanted to kind of set that at
24 rest.

25 Alright, the first witness I want to talk about is

1 Lieutenant Craig Davis. Alright, he arrived about nine
2 o'clock in the evening, he testifies, two minutes after he
3 was dispatched. But he said, I am sure, I am sure that to
4 those young men out there, that seemed like an eternity, it
5 seemed like an eternity waiting for help to arrive, an
6 eternity that ultimately led to their friend dying, as you
7 heard Dr. Ross testify, it would have only been a matter of
8 minutes before he would have bled out. It led to him dying
9 in their arms, one of them with his shirt off trying to stop
10 the bleeding. But he got there within moments, a couple of
11 minutes of it. Alright, and what did he find, what did
12 Lieutenant Davis testify to you he found? You know, a young
13 man in the middle of the yard, multiple people attending to
14 him trying to help him. And what is his role at that point
15 in time? Alright, he's got to secure that scene, he's got
16 to be able to have EMS come in and check on the victim, and
17 part of that, securing that scene is getting those witnesses
18 now out of that scene, as he told you, separated, separating
19 them so that other investigators who he ultimately called
20 out there that night can come in and start taking statements
21 from them. He testified that's not, as that responding
22 officer that's not his role. His role is to try to
23 separate, keep the witnesses there, turn them over to law
24 enforcement, then turn to securing the scene, securing any
25 possible evidence and making sure it doesn't get tampered

1 with. Of course, during the course of that, because he is a
2 seasoned officer, he had an opportunity to talk to several
3 of those witnesses. And you heard who they were, Mr. Gipson
4 even mentioned it, Joe Thomas, Vandy Morgan, Isaac Morgan
5 and Brandy Mack. And Mr. Gipson made a big deal about th
6 fact that none of those people, that the description he got
7 was basically an unknown black male six foot to six foot
8 two, two hundred to two hundred twenty pounds. I submit to
9 you, a description that fits Mr. Brown, who is six, one,
10 six, two, whatever he testified to. Alright. But look at
11 the four individuals that Lieutenant Davis talked to that
12 night. Alright, and I'm going to go through their testimony
13 but I just want to touch on it just real quick, each of
14 them, before I talk about each of the individual witnesses:

15 Joe Thomas testified, he didn't know his name,
16 he'd seen him around there I think five, six months
17 beforehand, but didn't know his name.

18 Vandy Morgan. Mr. Morgan didn't see the
19 shooting, didn't see the shooting, and I'm going to
20 address that little more when I talk about his
21 statement. Why would he be telling Lieutenant Davis,
22 Romeo Brown? He saw Romeo out in the street, he never
23 saw him shooting. I mean, if he had told Lieutenant
24 Davis that he saw Romeo Brown shooting, that would be a
25 lie, because he didn't.

1 Isaac Morgan, same thing, he testified that he
2 didn't even seen him out there. But you remember,
3 they're walking, they're walking to their vehicle over
4 here. They're not together, Isaac is behind Vandy. So
5 yet again, why would, why would Isaac Morgan have told
6 Lieutenant Davis Romeo Brown's name? I submit to you,
7 if they had been doing what he wants you to believe
8 they were doing, that they were getting together and
9 concocting this story beforehand, those two individuals
10 would have mentioned Romeo Brown's name. But that's
11 not what they were doing.

12 Then lastly, Brandy Mack. You heard Brandy. She
13 doesn't know his name either. She doesn't know his
14 name either. I submit to you, you've got four, four
15 individuals that Lieutenant Davis spoke to before
16 turning all of these individuals over to
17 investigations, just trying to get a brief kind of
18 general idea about what happened, and if they knew.
19 Unfortunately, two of them didn't see the shooting, and
20 the other two didn't know his name, didn't know his
21 name.

22 Alright, you heard, it's not his role to ultimately take
23 statements from these individuals. That's why other
24 officers, including four investigators, were called out
25 there that night.

1 Alright, let's talk about the first witness, Randy
2 Ryant, his brother-in-law. What does he tell us? Alright,
3 he was gone, he had left the scene to go to the store. And
4 it was kind of curious, we've got two incidents that have
5 happened out in his yard involving his brother-in-law, and
6 guess what, both times it's right after he has walked away,
7 or driven away. So he's up to no good, but maybe because
8 the person he didn't want to do this in front of is his
9 brother-in-law. Alright, what does he tell you? Alright,
10 you know, the defendant lives within walking distance of his
11 trailer, and that's really about it. You know, the main
12 thing I called him for initially on last Tuesday was to kind
13 of set the scene, it was his yard, to be able to set the
14 scene that you can see out there.

15 Alright, so let's turn to the witnesses that saw what
16 happened. First of all, there's Joe Thomas. Mr. Thomas is
17 a Fifty-four year old mechanic. I believe he testified that
18 he had seen the defendant around for five to seven months,
19 knew him by face, but not by name. Alright, which yet again
20 goes to why he wouldn't have told Lieutenant Davis Romeo
21 Brown's name. What does he say he saw? You know, he's
22 sitting, talking, he doesn't see the defendant come walking
23 up. The first thing he remembers is, (bang), Alex slapping
24 his hands on the table and jumping up, and jumping up and
25 coming around, and he gets shot. And I submit to you, when

1 Alex has jumped off that table and come around, that gun
2 comes up is when that first shot is going to hit him in the
3 right back, right here. Alright. And then they jump on
4 each other and they end up falling, and there's tussling on
5 the ground. And you heard Joe testified, initially, you
6 know, he didn't quite know what to do, do I go towards them
7 and try to stop them, oh, wait a minute, there's a gun, do I
8 not? And he's kind of back and forth. I believe he
9 testified that ultimately he was maybe Fifteen feet away,
10 there was nothing obstructing his view, nothing obstructing
11 his view. No doubt about it, that man that he saw with that
12 gun, I submit to you, was closer than that initially when he
13 came up and he turned around initially. But then what else
14 did he say? That, you know, they're on the ground, and a
15 gun shot. Alright? And I'm going to talk about that right
16 hand in a little while at the end, alright, just bare with
17 me for a second. Alright. And he illustrated, over the top
18 of him, you know, shooting him one time in the side. Okay?
19 He's there when law enforcement shows up, separated from the
20 other witnesses, but he ultimately gives a statement and he
21 is brought down to the sheriff's office, and picks Romeo
22 Brown out of this lineup shown by Lieutenant Shumpert.
23 Indicates, I was sitting and Alex, when I heard Alex said to
24 him, man don't shoot me again, and he shot him again and
25 ran. No doubt about it, he picked out Photograph Number One

1 out of this lineup at about Eleven o'clock or so in the
2 evening. Alright. Let me ask you this, why on earth, why
3 on earth would Joe Thomas -- you know, you look at these
4 credibility factors, he's a Fifty-four year old man, he's
5 got a job, no criminal convictions, he's going to come in
6 here, why on earth is he going to blame, you know, one of
7 his friend's brother-in-law for doing this unless he saw it
8 happen? I mean, what possible -- I mean, does that make any
9 sense whatsoever?

10 Alright, let's move on to Vandy Morgan. Alright, as I
11 said, remember Vandy was walking to his car, getting ready
12 to leave, alright, heading over to his vehicle parked
13 basically outside of the diagram here. And he says that he
14 passes a person that he's known Ten to Fifteen years. No
15 doubt about it, it was him. You've got the street light
16 right there, he passes him. Now, at the time, he's not
17 thinking anything about it, I mean, he knows that's his
18 sister that lives right there. Alright, then also he hears
19 a gun shot. Alright, he starts ducking, starts running, and
20 ultimately ends up running for cover, I believe he testified
21 basically across the street over here. Alright, he didn't
22 see the shooting. And I submit to you, that is reasonable.
23 If you want to talk about the lighting out there. Now, if
24 he had come in and said he saw what was going on from over a
25 yard away, I submit to you that would be questioning whether

1 he saw that or not. But he didn't say that, he didn't say
2 that. But you know, if he's somehow out to get, out to get
3 Romeo Brown with everybody else, don't you think he's going
4 to say, you know, I saw him with a gun, I saw him with a gun
5 walking, or I heard him over here when he was shooting? But
6 he doesn't say that. I submit to you, they're telling you
7 the truth. Yet, for some reason Mr. Gipson,-- I told you I
8 was going to get back to the statements, you know, he
9 started cross-examining Mr. Morgan about this statement
10 that he gave at Eleven:sixteen that night, still out there
11 on Wingfield, still out there at the scene, and the fact
12 that, you know, he doesn't mention Romeo Brown in here. And
13 he basically, at one point in time Mr. Gipson is questioning
14 him, well, you know, this is basically a lie to the
15 sheriff's office. I put this in evidence, then, for one
16 reason, so you would be able to look at this back in your
17 jury room, and you had a chance, I believe we passed it
18 around in the jury box upstairs. There's nothing in this
19 statement that he didn't tell you from that witness stand.
20 I submit to you, as I told you, nobody had sat down with him
21 and told him how to be a professional witness and what he
22 was going to be subject to while being cross-examined. It
23 doesn't have all of the details in it, and it doesn't have
24 Romeo Brown's name in it because he didn't know who the
25 shooter was. He didn't see the shooting. I submit to you,

1 that shows that they're not sitting around all talking about
2 it, the fact that he doesn't put Romeo Brown in here. Now,
3 of course, after time goes by and he gets arrested and we
4 start talking to him, preparing for trial, yeah, I saw him
5 walking up. But that wasn't a detail that he thought had
6 anything to do with the crime. Also keep in mind, when you
7 saw him testify up on the witness stand, I mean, this isn't
8 in his handwriting, it isn't something he sat down and
9 wrote, the investigator wrote it for him. And you saw his
10 demeanor, he wasn't happy. He wasn't happy to have to sit
11 around there that night. He had just watched a friend of
12 his that he had known for years die in front of him, die in
13 front of him, and this is the last thing he wanted to be
14 doing at that point in time was sitting and giving a
15 statement.

16 And Isaac Morgan basically corroborates Vandy. The
17 same thing, you know, he is walking, he says, you know, the
18 next thing I know I hear a gun shot. I don't know who it
19 was that was shooting, I'm ducking for cover, looking for
20 where my cousin is, looking for where my dad is. You
21 remember, Joe Thomas is his dad, you know. And yet again,
22 if this is some grand conspiracy to get Romeo Brown don't
23 you think he would have said, you know, I was looking over
24 and I was ducking down over here looking to see where my dad
25 was, and I saw Romeo Brown standing over Alex Harrison.

1 pulling the trigger? I submit to you he didn't say that
2 because he didn't see that. Okay? Yet again, it shows that
3 it's not some grand conspiracy by all of these witnesses
4 that are sitting out there hatching a story that night in
5 the moments after their friend's death to get that man right
6 there. Alright, don't you think, you know, yet again, if
7 it's this grand conspiracy he's going to come in here and
8 corroborate his cousin and say that I saw Romeo Brown
9 walking down the street over by our vehicle? Even more
10 importantly, don't you think he's going to corroborate his
11 own father and say that I saw Romeo Brown shoot him?
12 Because after all I spent time with his father who has
13 identified him and come in and testified. It just shows, it
14 goes to the credibility of these young men, that they're not
15 going to come in here and tell you something they didn't
16 see. They're not somehow out to get him.

17 Alright, the next witness is Ulysses Daniels, and I'm
18 going to start off kind of talking about, you know, Mr.
19 Gipson made a big deal about this plea agreement that he
20 signed. Alright, keep in mind, that plea agreement, as you
21 heard, was signed on December Thirtieth of Two thousand ten,
22 two months, two months after the shooting, two months after
23 he had talked to law enforcement that night, two months
24 after he had given a statement on November First, two months
25 after he had picked Romeo Brown out of a lineup. I submit

1 to you, that plea agreement has nothing to do with his
2 testimony. Now, I'm sure he would love to have his sentence
3 reduced. There's not an inmate incarcerated in the United
4 States that wouldn't love for that to happen, but I submit
5 to you, it has nothing to do with what he saw that night, it
6 has nothing to do with what he told law enforcement that
7 night, it has nothing to do with what he told you from this
8 witness stand Wednesday morning. Alright. Let's look at
9 that, alright, he knows the defendant, he was the one that
10 knew him by his full name, he knew he was related, he was
11 Samantha Ryant's brother, knew that he had lived at that
12 incident location for a period of time, and he actually sees
13 him coming up. He hears him say, what's he doing here,
14 what's he doing here? The same person that he had had the
15 altercation with several months earlier. What's he doing
16 here? And he's looking right at him, looking right at him.
17 The victim gets up to rush him, there's a gun shot. He at
18 that point in time was kind of scrambling for cover, which I
19 submit to you is a reasonable thing for somebody to be doing
20 at this point in time. He ultimately ends up looking back,
21 I think he's the one that testified that he had kind of
22 scrambled over and looked by up through the windows of this
23 Lincoln Town Car down here and observed the defendant
24 standing over the victim and the second gun shot being
25 fired. Alright. And there's no doubt about it, he leaves

1 the scene that night, he leaves the scene that night. And
2 that's kind of important because yet again, he wants you to
3 believe these witnesses are all out there kind of hatching
4 this story. Well, one of them isn't even there, he's gone,
5 he's gone. But what does he do? Alright, he tells you why
6 he left. He's out on bond and at that point in time doesn't
7 quite know if he's going to get himself into more trouble.
8 But to his credit, to his credit for all the trouble he had
9 gotten himself in with his drugs, to his credit -- he didn't
10 have to contact anybody, but he did. He contacted the agent
11 with the DEA that he was working with who got him in touch
12 with the sheriff's office that night. And he told you, he
13 talked to her on the phone and told her what he had seen,
14 and at that point in time they scheduled an appointment for
15 him to come in several days later. Alright, it wasn't his
16 choice to wait until November First, he had already told
17 them what he had seen that night on the phone. Alright, but
18 he comes in and yet again, is shown a lineup, he's in Number
19 Three position this time, and he picks him out and IDs him
20 in Court, no doubt about it, the person that I saw shoot
21 Alex Harrison. So, how was he involved in the conspiracy?

22 Alright, the next witness is Brandy Mack. Alright, and
23 Ms. Mack, and I've kind of addressed her a little bit
24 earlier. You know, she's basically hanging out, I mean,
25 she's one of these ones, she's not really friends with any

1 of the people that are out there, she's got a cousin that
2 lives next door. She testified that she had been kind of
3 back and forth, had a few drinks throughout the night, kind
4 of wondering back and forth. Well, what did she tell you
5 she saw, you know? She's Ten to Twelve feet away, and she
6 doesn't -- the first thing that draws her attention is, she
7 hears a gun shot. She looks and sees that man, she doesn't
8 know him, has seen him around there a couple of times,
9 otherwise doesn't know who he is, and yet again, if they're
10 trying to get their stories straight, how are they going to
11 describe to her who to pick out of a lineup that she
12 ultimately picks out? Alright. But she doesn't really know
13 who he is, she's just seen him a couple of times out there.
14 Alright. But yet again, she sticks around, she sticks around
15 and tells you she's from Ten to Twelve feet away, she saw,
16 with no obstructions, no doubt about it, who she saw
17 shooting. They get her down to the sheriff's office also
18 that night, along with Shawn Guinyard who I'm going to talk
19 about in a second, and Joe Thomas, and they show her this
20 picture, which was Number Three. And I'll get to Mr.
21 Guinyard's here in a minute, you know, he was Number Six in
22 this photo. So, you've got them showing three different
23 lineups, with him in Number One, Number Three, and Number
24 Six. And she testified that, you know, we got down there,
25 they separated us, just like they had separated us in the

1 beginning, and nobody told her who to pick out, and she
2 ultimately ended up identifying Photograph Number Three, saw
3 him shoot Mr. Alex two times. He shot one time, chopped the
4 gun and shot again. She IDed him in Court, no doubt about
5 it, the person that I saw shoot Alex from Ten feet away that
6 night. Yet we're supposed to believe that they are somehow,
7 you know, not only are all these witnesses isn on framing,
8 on framing Romeo Brown, but now Lieutenant Shumpert's got to
9 be involved in it also, because you've got three witnesses
10 that are separated, that are separated, taken back to the
11 sheriff's office after giving statements at the scene
12 indicating that they had seen who shot which is why they got
13 show the lineups, shown three different lineups that they
14 have all picked the person out, while separated. Either
15 they saw him shoot, or else this is some grand conspiracy to
16 get Romeo Brown. Yet again, the brother-in-law of their
17 friend, which I submit to you makes no sense.

18 Alright, and the last kind of scene witness out there
19 is Shawn Guinyard. What does Mr. Guinyard tell us? Alright,
20 he had sensed somebody coming up, turned, saw the defendant,
21 a person that he has known for a few years, same thing,
22 what's he doing here? What's he doing here? And then he
23 starts -- shoots. Alright. And he tells you that he
24 basically took off, if you remember, basically kind of
25 running that way. Alright, now, if he's running over here

1 and turning back he ultimately looks back and sees, sees the
2 second shot, with him over, standing over Alex. Alright.
3 Yet again, he's talked to out at the scene, indicates that
4 he had seen what happened, and he is brought back to the
5 sheriff's office and shown State's Exhibit Number Ten where
6 he picks him out, where he picks him out. And I want to
7 address something real quick. You know, Mr. Gipson didn't
8 say anything about it but I still think it bears kind of
9 addressing. Now, he spent a bunch of time cross-examining
10 Mr. Guinyard about the time difference, the times on this
11 lineup here, and the affidavit, alright, and the fact that
12 they're not in the right order. Alright, I submit to you, I
13 don't know how that happened. Nineteen months later I
14 submit to you it would be unreasonable for Shawn Guinyard to
15 remember how that happened. Yet again, keep in mind that he
16 had just gone through. Alright? Is it reasonable, you
17 know, he picks him out of this lineup and fills out the
18 affidavit, and then afterwards is told to go back, no, wait
19 a minute, I need you actually to date and sign and initial
20 this, and time this? Is that reasonable? You know, he
21 showed that to Investigator Eikhoff up on the witness stand
22 and she, having never even realized that discrepancy, came
23 up with that, after looking at it for five seconds.
24 Alright. I mean, it's just a mistake, one of these, in the
25 times. I submit to you, there's no way to know that

1 Nineteen months later, because he wouldn't have realized he
2 made a mistake in the times. But Mr. Gipson wanted, in
3 cross-examining him for that suddenly to believe, think you
4 would find that everything he has told you is a lie, just
5 because of the discrepancy in the time on two pieces of
6 paper. I submit to you, Ladies and Gentlemen, use your
7 common sense. I mean, his description, I think the word he
8 used about when he got down there to the sheriff's office,
9 keep in mind, he has just been taken from the scene where
10 one of his best friends is dead, he was discombobulated,
11 which I'm not even sure is a word, but which pretty much
12 describes probably what was going on in that young man's
13 mind.

14 Alright, I want to talk to you about some of the SLED
15 witnesses, and I'm going to try to group them altogether,
16 Nine, Eleven and Twelve. Alright, Agent Fellers, you
17 remember she's the young lady that came out to the crime
18 scene and processed the scene. Alright, and during Mr.
19 Gipson's opening, you know, he's talking about things you
20 expect to find, DNA, fingerprints, footprints, blood
21 spatter, hair. I submit to you, Ladies and Gentlemen, this
22 isn't CSI, this isn't television. I submit to you this is a
23 scene where a young man was killed in a front yard, a grassy
24 front yard. There's not going to be footprints or
25 fingerprints in the grass. There's, I mean, multiple

1 witnesses around t hat are basically trampling for another,
2 for lack of a better word, around where the victim is found.
3 You've got, obviously, officers that come in, you've got
4 EMTs that come in, you've got, like I said, multiple of
5 these witnesses that are around the victim. But what does
6 she find, what does she find? You know, we've got two shell
7 casings that I submit to you come from a Forty-five caliber
8 semi-automatic pistol as you heard from Agent Cromer. What
9 else does she find? And I'm going to talk to you about them
10 in a little while, a hat and a shirt, which I submit to you,
11 Shawn Guinyard told you whose hat and shirt that was, they
12 were his, a mouth grill that came from the victim while they
13 were trying to do CPR on him. They found a cigarette butt.
14 Alright, and I submit to you, this right here is part of,
15 you know, part of what a defense attorney's job is, is to
16 try to make you take your eye off of, kind of eye off of the
17 ball, so to speak, to use a sports metaphor. I submit to
18 you that's what this is, it's a prime example of that. You
19 know, he made a big deal about, you know, there's a
20 cigarette out there and y'all didn't collect that, you
21 could have done DNA on that, whatever. I submit to you, at
22 no point in time was there any witness that ever said the
23 shooter was smoking, at no point in time was there any
24 witness that said the shooter, you know, had a cigarette in
25 his mouth. So, if they collect this and we test it, say it

1 comes back that it's Romeo Brown's cigarette. It doesn't
2 prove anything. Yet again, there's no witness that says the
3 shooter was smoking. It's his sister's house, a yard that
4 he goes over. But this is the kind of thing that he throws
5 out there hoping to get you to take your eye off of the
6 ball, off of the witnesses that I submit to you prove his
7 guilt beyond any doubt.

8 Another one, you know, he made a big deal about these
9 two sets of car keys, two sets of keys. You know, one set
10 found in Alex's pocket, another set found a couple of feet
11 from his hands. You heard Lieutenant Shumpert, ultimately
12 them being turned over to Alex's wife. He had keys in his
13 pocket, and I guess, motorcycle keys in his hand. He had
14 just gotten there and was sitting basically hanging out
15 before this happened. Yet again, something, trying to get
16 you to take your eye off of the credible evidence.

17 And what's the next thing? You know, the shell
18 casings. Alright, and he made a big deal about this. You
19 know, Agent Fellers took these back to SLED. You know,
20 she's the expert, I mean, she is the one that's her job.
21 Alright, she got called out there to process this crime
22 scene, to collect things from this crime scene. Okay? And
23 he beat up on Detective Eikhoff, or former Detective Eikhoff
24 for an hour and a half yesterday morning, or Friday morning.
25 But I submit to you, that wasn't her job. Okay? Alright.

1 But Agent Fellers responds out there, collects these two
2 shell casings, and what did she tell you she did with them?
3 Alright, in her expertise she went back and attempted to get
4 fingerprints off of these two shell casings, and
5 unfortunately was unable to get fingerprints off of either
6 one. Now suddenly he wants to, well, why didn't she test
7 them for DNA? Alright. You know, we'd be having this same
8 -- let's say they tested them for DNA and it comes back
9 negative, we'd be having this exact same argument the other
10 way, well, why didn't she test them for fingerprints? You
11 remember, she testified, you can only do one or the other,
12 and that point in time that was just what they, their
13 preferred manner of treating shell casings was to try to get
14 fingerprints off of them, and unfortunately didn't get any,
15 which she also says unfortunately is not uncommon.

16 Alright. And now you also heard from the firearms
17 expert that, you know, testified, you know, you've got two
18 bullets, Forty-five caliber bullets that were taken out of
19 Alex, consistent with being fired from these two shell
20 casings, all consistent with being fired from a semi-
21 automatic pistol. Okay? Shawn Guinyard told law
22 enforcement an hour after this happened, after his friend
23 was killed that he thought it was a revolver. I submit to
24 you, that was a mistake. Alright, I submit to you, there's
25 no other evidence of a revolver being out there, there's no

1 other evidence of a revolver being fired. If you look back
2 at the witnesses that testified about how many shots they
3 heard, the only person that said it could have been more
4 than two shots was Shawn, and he said it was at least two,
5 could have been a couple more. Okay? Every other witness,
6 every other witness, including his sister inside the house,
7 who I'm going to talk about in a minute, said, no doubt
8 about it, it was two shots that were heard. Most of them
9 actually saw the two shots. Okay? One shot, two shots, one
10 shot, two shots. Yet again, you know, this bringing up this
11 revolver, yet again trying to get you to take your eye off
12 of, I submit to you, the credible evidence in this case.

13 And Agent Roberts, just real briefly, as to the gun
14 shot residue, you heard him testify that there's basically
15 three ways you can get gun shot residue, you can either
16 handle a gun, fire a gun, and be in close proximity to a gun
17 being fired. I submit to you, there's no doubt as to how
18 Alex Harrison got that gun shot residue on his right hand.
19 It's not all over the back of his hand like if he had fired
20 a gun and it went out of the barrel, it was just on the
21 palm. And I submit to you, as I told you earlier, when he
22 got up that initial time and that gun came up when he
23 pointed that gun, and he's turning, you're going to get shot
24 and get gun shot residue. You're laying on the ground
25 tussling and you get shot right there, you're going to get

1 gun shot residue on your right palm. I submit to you,
2 there's no evidence that there was another gun involved, no
3 evidence that Alex Harrison had a gun. Yet again, it's just
4 his way of trying to get you to take your eye off the ball.

5 Alright, let's look at Dr. Ross, the pathologist.

6 Alright, basically, three different wounds she testified
7 about. If you remember, I had her illustrate on me, there's
8 one kind of in the right back area, kind of right up in
9 here, that one went through both lungs and was recovered
10 over on his left side, hadn't quite exited the skin in
11 between the two ribs, going through both lungs. He's got a
12 contusion or a bruise to his back, which I submit to you is
13 consistent with when he got slammed down on that ground on
14 his back. And then the third wound is a gun shot wound to
15 his abdomen which you'll remember he described as a contact
16 wound, a little bit to the right of center, lodging in his
17 backbone. And I'm going to talk to you in a few minutes
18 about, a little bit more about that wound. Alright. He
19 bleeds out minutes later, almost half of his blood basically
20 found within his abdominal and chest cavities. That's what
21 Dr. Ross told us. As I said, I'm going to come back to this
22 wound in one second because it's pretty important.

23 Alright. Then we heard from Dennis Jones, his cousin,
24 called him cuz up on the witness stand, known him for Twenty
25 some odd years. Alright. Not uncommon for him to give the

1 defendant rides. And what does he tells us? You know, he
2 goes through this, what happens that. You know, I get a
3 call between nine and nine:thirty, I get a call between nine
4 and nine:thirty, I need a ride, consistent with, you know,
5 the murder happens right, shortly before nine o'clock. Ten
6 to ten:thirty, picks him up at the Four Way, the gas station
7 that we've heard all about at the intersection of Chestnut
8 and Six O One, three miles or so from his home. He puts
9 Thirty Dollars worth of gas in his car and he drops him off
10 on the interstate west bound rest stop between here and
11 Columbia. And his cousin wants you, kind of has this
12 attitude that, you know, that was really not that big a
13 deal, not that big a deal. I submit to you, does that make
14 sense, that you would drop somebody off at ten:thirty or so
15 at night, basically in the middle of nowhere, after he puts
16 Thirty Dollars worth of gas in your car and you've driven
17 him, you know, Five or Ten miles down the road, does that
18 make any sense? Alright, I submit to you, it was a big deal
19 because he had to get out of town. That's how desperate he
20 was to get out of town. But what else does he say? And he
21 says this actually under cross-examination, how are you so
22 sure about what night it was? How are you so sure about
23 what night it was? Could it have been a different night,
24 could it have been a different night? And keep in mind, the
25 sheriff's office talked to him within a couple of days of

1 this incident when they were talking to family and friends
2 of Mr. Brown trying to find him. He said, no, no, you know,
3 because remember he testi -- what did he tell you he was
4 doing when he got the call? He was cleaning an office up on
5 Cannon Bridge Road when he gets that call. And he said he
6 finished cleaning before he went and picked him up. That's
7 why you've got the hour or so time frame, time difference
8 there. I only clean that office on Wednesdays and Sundays,
9 and I know it wasn't a Sunday. So, in the process of
10 elimination it had to be Wednesday. And we know that the
11 incident happened on Wednesday, October Twenty-seventh, of
12 Two thousand ten, not on Thursday, October Twenty-eighth of
13 Two thousand ten, as he wants you to believe that ride, I
14 mean, just occurred. That's his own cousin, I submit to
15 you, that's doing him in. And the problem is, there's
16 nothing they can do about it, because he can't come in and
17 change his testimony now even if he wanted to, because he
18 had spoken to law enforcement and told them that already.
19 But we're supposed to believe that he was just picking him
20 up and giving him a ride to the rest area, I guess to go up
21 to Anderson to visit his wife. Does that make any sense,
22 that you know you have a friend pick you up at a gas station
23 three and a half miles from your house at ten:thirty at
24 night to drop you off at an interstate rest stop so you can
25 go visit your wife three hours away, does that make any

1 sense? Or does it make sense that, you know, he knew he had
2 to get out of town. He knew what he had done, he knew the
3 police were around -- and I'm going to talk to you about how
4 he knew about the police being around in a minute. Alright.
5 Because we know from Lieutenant Shumpert ultimately that,
6 you know, they spent the next week looking for him, you
7 know, looking up in Anderson and looking here, talking to
8 friends, talking to family, and ultimately ended up catching
9 him November Fourth, hiding under a pile of clothes, not at
10 his house. I mean, he wants you to believe he wasn't hiding
11 out, you know, but he's in a one bedroom house somewhere
12 with his wife, with another couple, hiding in their bedroom
13 under a pile of clothes. But yet, oh, now, I was just about
14 to go turn myself in, just about. Does that make sense?

15 Alright, and I'm almost done here. Alright, I'm going
16 to talk to you a few minutes about, about the witnesses the
17 defense called on Friday. And as you've been told, you
18 know, he's got no burden, he can sit there and not do a
19 single thing, he doesn't have to ask a single question, he
20 doesn't have to obviously call a witness, the defendant
21 doesn't have to testify. But when he takes that stand,
22 Ladies and Gentlemen, I submit to you, when he takes the
23 stand and when those witnesses take the stand, you know,
24 they're subject to that same, weighing their credibility as
25 any other witness. So, let's go through them.

1 Alright, the first witness, Tammy Ryant, they called,
2 defendant's sister. To be honest with you, you've got no
3 reason to doubt anything that she testified about. Didn't
4 hear any loud noises or arguing going on beforehand, heard
5 two shots. I submit to you, she was not drinking, she's
6 inside watching T.V., hears a gun shot, obviously, the first
7 concern a mother is going to have is her child. She goes to
8 check on her child and hears a second gun shot. And Ulysses
9 Daniels is knocking on the door and she's calling Nine One
10 One. Those witnesses aren't, you know, they're not waiting,
11 you know, they're not waiting for some time to go by so they
12 can sit and get a story together. You know, they're getting
13 somebody to call for help as soon as they can. Alright,
14 what else did she tell us? Alright, you know, her brother
15 who used to come by all the time, even she told us that she
16 didn't even know exactly where he was staying back in
17 October of Two thousand ten. Yet law enforcement is
18 supposed to have this magic, you know, crystal ball to know
19 where to go look for things. You know, they could have
20 started just tearing apart every house that they have some,
21 I mean, every relative of Romeo Brown's looking for a gun.
22 And his own sister didn't even know exactly where he was
23 staying. She did testify, however, that he used to come
24 around all the time to visit, you know, and the week after
25 this happened leading up to his arrest on November Fourth,

1 she didn't see him again. Yet we're supposed to believe he
2 wasn't on the run.

3 Alright. The second witness was his nephew, Snook.
4 Alright, what did we learn about Snook? Alright, a Two
5 thousand eight conviction for giving false information to
6 the police. Alright, so, you know, four years ago he got
7 convicted for lying to the cops. Has not been truthful in
8 the past when asked by the police about his uncle, Romeo
9 Brown, admitted that on the stand. Alright. We know that he
10 spoke to Lieutenant Shumpert within a day or two after the
11 homicide, and I submit to you, told him he hadn't seen his
12 uncle in a while. If he had told him that he had been with
13 him that night, I mean, his butt would have been down at the
14 sheriff's office, because that would have been important
15 information to try to figure out, obviously trying to track
16 his steps. So, if they had a witness that says he was with
17 him that night that's somebody they would have wanted to
18 talk to. So, that's how we know that that's not what he
19 told Lieutenant Shumpert in the days after. I don't know
20 whether he was with him or not. I know that he told him
21 that he wasn't. I suspect he may have been with him, and I'm
22 going to get to that in a second. Alright, but what else
23 did we learn from Snook? Alright. He's not a baseball fan,
24 but for somebody who's not a baseball fan he seemed to know
25 an awful lot about a World Series game that happened

1 Nineteen months ago. Let's see what he tells us. He knew
2 San Francisco beat Texas. You know, he didn't know anything
3 about any other games in that World Series. He claims that
4 he had not really been paying attention, that the only
5 reason the game was on was because Mr. Brown was a baseball
6 fan, but yet he knows who won, and they weren't even there
7 when the game finished, according to his testimony, because
8 he had left to take him home, according to his testimony.
9 So, I asked him, well, how do you know who the game? I read
10 about it in the newspaper. Nineteen months ago, Nineteen
11 months ago, and we're supposed to believe that that's a
12 reasonable answer. I submit to you, what's reasonable is
13 that they got to talking in the months after his arrest, and
14 had to figure out a way to come up with an alibi. And
15 what's the easiest thing to do? Well, it was on T.V., you
16 know, was it a basketball game on, a football game on? The
17 World Series was on. I submit, they probably did look in
18 the newspaper or on line to see who won that game. This
19 just makes no sense that somebody who is not a baseball fan,
20 who was paying no attention to the game going on can come in
21 here Nineteen months later and tell you who was playing and
22 who won that game. That right there shows that he's not
23 telling you the truth.

24 Alright, and then Erica Smith. Alright, remember this
25 is a good friend of his wife, not his, of his wife, that

1 lives next door. Here are their two trailers. And she
2 somehow wants you to believe that their front doors are like
3 five feet apart is what she said. You can tell just by
4 looking at this diagram that, I mean, that's a little bit of
5 an exaggeration. But what does she tell you? You know,
6 she says that the defendant comes by sometime between ten
7 o'clock and eleven. Alright. And you know, I started
8 thinking about this, wondering, you know, is she making this
9 up? And you know, I actually think she's probably not.
10 Okay? When you think about what she says, and it kind of
11 squares with everything else. Alright, a homicide happens
12 at nine o'clock. Alright. He doesn't go home, but he needs
13 to get a ride. Okay? He goes to the neighbor's house. You
14 know it could be ten o'clock, eleven o'clock in the evening,
15 you never know. Alright. But what's more challenging? You
16 know, she says that, you know, she asks to borrow some milk.
17 Alright, now keep in mind, you know, she's been drinking a
18 little bit also. Alright. But she says that she gets the
19 keys. He doesn't offer to go get the milk. Alright, so she
20 gets the keys and goes over to his place and comes back and
21 tells him, you know, about all the police lights going on,
22 alright, about all the police lights going on over here, you
23 know. He's not concerned. He's not concerned. That's his
24 sister, that's his nephew that lives over there that he goes
25 to visit all the time. And he's not concerned about them?

1 He's not concerned about them because he knows why they're
2 there. Alright. But at that point in time he realizes now,
3 you know, I've got to get out of here, and he ultimately
4 ends up leaving. And I submit to you, that's when he got
5 that ride down to the Four Way to get picked up by Dennis
6 Jones. And I don't know if it's Snook that came and got him
7 and took him down there or who got him there. You know,
8 because what does Ms. Smith tell us? You know, it was
9 unusual, not unusual for him to stop by, but it was unusual
10 for him to stop by by himself and definitely unusual for him
11 to stop by that late at night. Alright, this is somebody
12 that according to his nephew was so tired that he was
13 nodding off and going to sleep that he had to take him home,
14 alright, but yet he doesn't go home, he goes to a neighbor's
15 house. I submit to you, yet again, it doesn't make sense.
16 He goes there not because he just got dropped off, but
17 because he knew he couldn't go home. And yet again, she
18 doesn't see him again, she doesn't see him again that whole
19 next week, that whole next week. Alright, and this is
20 somebody who was supposed, who we're supposed to believe,
21 you know, is to attuned to what's going on that she knows
22 for a fact there's no way the police were at his house that
23 night. Alright. But she says she doesn't see the defendant
24 for a whole week, but yet according to the defendant's
25 testimony he was home that next day.

1 Alright, and the last witness is Mr. Brown. And the
2 first thing I want to talk about is his medical records.
3 Alright. Nobody is questioning the fact that he had an
4 injury to his leg back on September Fifteenth of Two
5 thousand ten, Forty-two days prior to this incident. Okay?
6 But I submit to you, you're going to have these back there,
7 you're going to have the records he put in and the nurse's
8 notes that I put in. And nowhere in here does it say that
9 he had to walk with a cane, nowhere in here. Nowhere in here
10 I submit to you is there anything that says he couldn't have
11 done what he's accused of doing on October Twenty-seventh of
12 Two thousand ten. Let's talk about what is in here.
13 Alright, you've got these follow-up notes. September
14 Twenty-eighth of Two thousand ten, you know, he's described
15 as having full range of motion to his leg. On October Fifth
16 of Two thousand ten, you know, the wound is almost
17 completely healed up. I recommend he put a band-aid on
18 that. So, I mean, that's basically his diagnosis as October
19 Fifth. So, you know, three weeks before, you know. So, the
20 lack of healing, you know, put a band-aid on it. We do know
21 that he's asking for a bunch of pain meds, and also if you
22 read through these and you'll have them back there, that the
23 doctor's got some concern about how many he's asking for.
24 Alright. October Nineteenth, patient's wound of his right
25 leg is healed. He was given a prescription, he will be

1 given no further prescriptions. He is referred to physical
2 therapy. So, that is on October Nineteenth of Two thousand
3 ten. Patient's wound has healed. Yet again, nowhere in
4 here is it saying that you've got to walk with a cane.
5 Nowhere in here is there anything saying that basically he's
6 not mobile. Alright? It's not in here, it's not in these
7 nurse's notes where he's telling the nurse that he's
8 basically in no pain, and he's getting ready to be released
9 from the hospital. Eighty-six days later, on January
10 Thirteenth of Two thousand eleven is when he's finally
11 asking for physical therapy. I submit to you, several
12 months after this, after he's consulted with a lawyer, is
13 planning his defense is when he's finally realizing, you
14 know, I've got to make things look a whole lot worse than
15 they are. You know, he wants you to basically believe he's
16 a cripple. I submit to you, for a cripple he's getting
17 around an awful lot, getting around an awful lot, between
18 going and hanging out at the Four Way, and just, you know,
19 it just so happens, you know, the place where he says he's
20 hanging out the day after with some guy that he only knows
21 his nick name that just happens to not be alive anymore
22 also.

23 Alright, I talked about his flight a little bit. You
24 know, he testified that he learned the warrant was out for
25 him on the Twenty-ninth, so that would be Friday when he's

1 up in, up in Anderson. And the fact of the matter is, I
2 mean, he doesn't not turn himself in. He doesn't go to the
3 Anderson Police Department. You know, we know they're
4 looking for him up there. So, he gets out of there and
5 comes back to Orangeburg, and yet again, doesn't turn
6 himself in. As I said, ultimately caught, you know, hiding
7 under a pile of clothes in somebody else's bed room. I
8 submit to you, if he wasn't guilty, if he wasn't guilty, if
9 he was with Snook and with Erica that night, back in October
10 of Two thousand ten, don't you think he would have drove the
11 two of them into the sheriff's office? After all, he knew
12 what this was about, it was at his sister's house. Do you
13 think he would have drove the two of them into the sheriff's
14 office, have them screaming at the top of their lungs, he
15 was with us that night, he was with me that night, I know he
16 couldn't have done that, instead of us hearing from them for
17 the first time Nineteen months later? I submit to you, does
18 that make sense? Does that appeal to your common sense?

19 And what else did I ask him about? You know, we went
20 through kind of how he knew them, and you know, ultimately,
21 I guess what it boiled down to after we got over the, got
22 through whether you know or are familiar with him, you know.
23 You know, he doesn't know but he's familiar with Joe Thomas
24 and Brandy Mack. I submit to you, it jives perfectly with
25 their testimony and why they didn't know his name and

1 wouldn't have told Lieutenant Davis that night. He kind of
2 knew Vandy and Isaac Morgan and Shawn Guinyard, yet again,
3 consistent with why and how Vandy would know who he was, and
4 know who he was when he saw him walking on the street, and
5 how Shawn Guinyard would know him to ID him, and not only
6 tell the sheriff's office when he gave his statement who did
7 it but then ID him in this lineup. He says he's only
8 familiar with Ulysses Daniels. I submit to you he can't be,
9 he can't admit to knowing him too well because he's the one
10 that sees the whole thing. He sees him when he comes
11 walking up. But what's more important, what does he say
12 when I asked him about Alex Harrison? You know, initially
13 he starts off with, I don't know him, don't know him.
14 Alright. Then I asked him the question about the prior
15 incident out there. No, don't know anything about that,
16 don't know anything about that. You know, he doesn't say,
17 you know, oh, yeah, that happened but Alex was the one that
18 had the gun, not me. He doesn't say, you know, -- he denied
19 that incident entirely. Okay? Because he doesn't know that
20 brother-in-law is going to end up on the stand here this
21 morning. And what possible motive does he have to lie about
22 that?

23 Now, the last thing I want to address before I close,
24 Mr. Gipson made a big deal, made a big deal about the fact
25 that Romeo Brown is left handed. And I submit to you, some

1 of this just comes down to common sense also. You know, we
2 all know that most people are right handed in this world. If
3 somebody comes up and asks me, you know, to describe, you
4 know, if I saw somebody shooting a gun, and to describe him
5 shooting a gun, I'm right handed, you know, I'm not going to
6 start shooting with my left hand, I'm going to shoot with my
7 right hand. That's just common sense, most people are right
8 handed and that's how you're going to describe it. Yet
9 again, this is minor details, I submit to you that those men
10 that evening, I mean, are not paying attention enough to see
11 what hand that gun was in. When Joe Thomas gets down on the
12 ground on top of Mr. Gipson, and is illustrating to him how
13 that shooting took place and fires with that right hand,
14 that contact wound to Alex's mid-section, to his abdomen, I
15 submit to you, we know, we know that gun was fired by
16 somebody who was holding it in his left hand. Think back to
17 Dr. Ross's testimony, alright, look at the witnesses, they
18 put Romeo Brown on top of Alex Harrison, firing into him.
19 We know from Dr. Ross that there was a contact wound, so the
20 barrel of that gun was up against Alex's abdomen. She
21 described where it was, she pointed right there on me. The
22 bullet lodged in his back so it's traveling at that angle.
23 Put me on the ground and put somebody on top of me, firing
24 into me, what hand is right here? Left hand. The only way
25 that right hand fires it is if he is contorting it around

1 like t hat, or if it's shooting this way. But we know the
2 bullet lodges in his mid -- the middle of his back, in his
3 backbone. It doesn't wing an then come out over here. I
4 submit to you, none of those witnesses that night, I mean,
5 that wasn't a detail unfortunately that was registering with
6 them. But the stubborn cold hard facts don't lie. I submit
7 to you, there's no doubt that a left handed person shot and
8 killed Alex Harrison.

9 Now, as I told you when I started this morning, thank
10 you, and I'm going to do it one more time, because without
11 the Twelve of you our system doesn't work. It doesn't work.
12 The only what that matters such as this are ever settled is
13 to have Twelve fair, impartial, conscientious jurors such as
14 yourself in here. I don't have any proverbs or any Eight
15 hundred year old sayings to say to you, but the one thing
16 I'm going to ask you, Ladies and Gentlemen, alright, when
17 you get back to that jury room, and you go through all of
18 this evidence, as I said, the only thing I ask is that you
19 return a verdict that speaks the truth, speaks the truth.
20 On behalf of the citizens of Orangeburg County, on behalf of
21 Alex's family and friends, I ask you to return that truthful
22 verdict, and I submit to you the only truthful verdict is
23 one that holds Romeo Brown, holds him accountable, holds him
24 responsible for the cold blooded murder of Thirty-six year
25 old Alex Harrison back on October Twenty-seventh, Two

1 thousand ten.

2 Thank you.

3 THE COURT: Thank you, Mr. Sorenson.

4 Ladies and Gentlemen, just stand up where you are, and
5 how good does that feel, huh? I ask jurors to do this
6 before I deliver the charges and really for two reasons:
7 Number One, is just to get the oxygen flowing just a little
8 bit and let you stretch for just a moment. It's not going
9 to take me long to deliver the charge to you, but I don't
10 want anybody uncomfortable. Does anyone need a comfort
11 break at this point or do you think you can make it for
12 about Fifteen or Twenty minutes more? Everybody is okay?
13 Just move a little bit. There you go, just move around a
14 little bit, yes. And when -- it feels great to me. When
15 you're ready to be seated, be seated.

16 BAILIFF: Your Honor, may I approach?

17 THE COURT: Yes.

18 (Whereupon, a bench conference
19 is had with the bailiff out of
20 the hearing of the jury and
21 court reporter.)

22 CHARGE BY THE COURT:

23 Alright, Ladies and Gentlemen, when we began jury
24 qualification lo, so many days ago, I guess it seems now,
25 but really not so long ago, I told you that there were two

1 indictments in this case. And each one of these indictments
2 in this case has a charge, and the two indictments in this
3 case charge the defendant, Romeo Anthony Brown, one
4 indictment charges him with murder, and the other with
5 possession of a firearm by a person convicted of a violent
6 crime. Now, I have those indictments here and I'm going to
7 go over them with you in just a moment, but I want to remind
8 you that the fact that the defendant -- and when I say the
9 defendant I mean Mr. Brown -- the fact that Mr. Brown was
10 arrested, charged and indicted in this case is not evidence
11 in this case and cannot be considered by you as evidence in
12 this case, nor does it create any presumption or inference
13 of guilt. These documents are simply the formal written
14 instruments which contain the charges made against the
15 defendant. They are the formal documents by which this case
16 is brought in to this Court.

17 As I say, these indictments allege two different
18 offenses against the defendant. One indictment alleges
19 murder, the other possession of a firearm by a person
20 convicted of a violent crime. Each indictment charges a
21 separate and distinct offense. You must decide each
22 indictment separately on the evidence and the law applicable
23 to it, and you will be asked to write a separate verdict of
24 guilty or not guilty for each of these two indictments. And
25 we're going to go over that specifically.

1 Now, the indictments, let me read them to you, on
2 Indictment 2012-GS-38-792, which is the indictment which
3 alleges possession of a firearm by a person convicted of a
4 violent crime, alleges that in Orangeburg County, on or
5 about October Twenty-seventh, Two thousand ten, the
6 defendant, Romeo Anthony Brown did unlawfully possess a
7 Forty-five caliber hand gun. This offense occurred after
8 the conviction of a crime as defined by South Carolina Code
9 Sixteen-One-Sixty, to-wit, a Nineteen ninety-nine
10 conviction for armed robbery, in violation of Code Section
11 Sixteen-Twenty-three-Five hundred of the Code of Law of
12 South Carolina. That is what Indictment 2012-GS-38-792
13 alleges.

14 Indictment 2011-GS-38-12 alleges that in Orangeburg
15 County, on or about October the Twenty-seventh, Two thousand
16 and ten, with malice aforethought the defendant, Romeo
17 Anthony Brown, did kill one Alexander Harrison by means of
18 shooting the victim and the victim did die as a proximate
19 result, this offense being in violation of the common law
20 and Section Sixteen-Three-Ten of the South Carolina Code of
21 Laws, as amended.

22 Now, Ladies and Gentlemen, the defendant, Mr. Brown,
23 has pled not guilty to these indictments, to each of them,
24 to both of them, and that plea puts the burden on the State
25 to prove the defendant guilty of each indictment. A person

1 charged with committing criminal offenses in South Carolina
2 is never, never, is never required to prove himself or
3 herself innocent, the burden is, and remains on the State of
4 South Carolina to prove guilt beyond a reasonable doubt.

5 I charge you that it is an important rule of law that
6 the defendant in a criminal trial, no matter what the
7 seriousness of the charges may be, will always be presumed
8 to be innocent of the crimes for which the indictment or
9 indictments were issued unless guilt has been proven by
10 evidence satisfying you of that guilt beyond a reasonable
11 doubt. This presumption of innocence does not end when you
12 begin your deliberations, but it accompanies the defendant,
13 it accompanies Mr. Brown throughout the trial, until you
14 should reach a verdict of guilt based on evidence satisfying
15 you of that guilt beyond a reasonable doubt. The
16 presumption of innocence is like a robe of righteousness
17 placed about the shoulders of Mr. Brown which remains with
18 him until it has been stripped from him by evidence
19 satisfying you of his guilt beyond a reasonable doubt. The
20 presumption of innocence is not a mere legal theory, it
21 isn't just a legal phrase, but it is a substantial right to
22 which every defendant is entitled, unless you, the jury, are
23 satisfied from the evidence of the defendant's guilt beyond
24 a reasonable doubt.

25 Ladies and Gentlemen, I remind you that you will, of

1 course, go through the analysis for each of these two
2 charges independently.

3 Now, what is reasonable doubt in the law? What do we
4 mean by reasonable doubt? A reasonable doubt is the kind of
5 doubt that would cause a reasonable person to hesitate to
6 act.

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

25 Now, I remind you that during this trial you and I have

1 had certain duties to perform. As the trial judge it is my
2 responsibility to preside over the trial of this case, and I
3 also have the duty to rule on the admissibility of the
4 evidence offered during this trial. We talked about that
5 before we began and you saw it occur during the trial. You
6 are to consider only the testimony which has been presented
7 from this witness stand and any exhibits which have been
8 admitted into evidence and made a part of the record in this
9 case, and that matter of which the Court took judicial
10 notice. I have the additional duty to charge you of the law
11 applicable in this case. As the presiding judge I'm the
12 sole judge of the law of this case and it is your duty as
13 jurors to accept and apply the law as I now state it to you.
14 If you already have any idea as to what the law is or what
15 it should be, maybe that's for discussion one day with your
16 legislature, but for our system to work correctly you are,
17 by your oath, obligated to accept and apply the law exactly
18 as I state it to you.

19 Now, in every case tried in this Court before a jury,
20 the jury, you become the sole, the only, the exclusive
21 judges of the facts in this case. A trial judge cannot
22 intimate, state, comment on, or make any statement to a
23 trial jury about the facts in this case. Since you, the
24 jury, are the sole judges of the facts in this case you are
25 not to infer from what I have said during the process of

1 this trial in ruling on the admissibility of evidence or
2 otherwise, or anything that I say to you now during the
3 court of this instruction given to you that I have any
4 opinion about the facts in this case, the law doesn't allow
5 me to have a fact, or an opinion regarding the facts in this
6 case. I have no opinion. This is a matter solely for you,
7 for you to determine. As jurors it is your duty to
8 determine the effect, the value, the weight, and the truth
9 of the evidence presented during this trial.

10 Now, Ladies and Gentlemen, there are two types of
11 evidence which are generally presented during a trial,
12 direct evidence and circumstantial evidence. Direct
13 evidence is the testimony of a person who claims to have
14 actual knowledge of a fact, such as an eye witness. It is
15 evidence which immediately establishes the main fact to be
16 proved. Circumstantial evidence is proof of a chain of
17 facts and circumstances indicating an existence of a fact.
18 It is evidence which immediately establishes collateral
19 facts from which the main fact may be inferred.
20 Circumstantial evidence is based on inference and not on
21 personal knowledge or observation. I'm going to give you an
22 example. I wish it was the winter time because this is
23 always better. I'm going to come up with one for baseball,
24 I know I am one day, but I haven't perfected it yet, so I
25 don't want to try it out until it's perfect. But it's

1 winter, it's February, it's cold outside, the sky is gray,
2 and guess what? Snow is forecast. You go outside your
3 house after supper, and this actually happened about three
4 years ago, but after supper you go outside and, oooh, you
5 look up and guess what? It's snowing. You're an eye
6 witness to the snowing, you're looking at it, it's snowing.
7 That is direct evidence, direct evidence. It is evidence
8 which immediately establishes the fact to be proved. I saw
9 it snowing, direct evidence that it's snowing. Now,
10 circumstantial evidence, it's February, it's cold outside,
11 and snow is forecast. Before you go to bed you go outside,
12 you look around, and what you see is brown crunchy grass.
13 It looks rough, it looks like February grass. Well, you go
14 to sleep, you wake up in the morning, and everywhere that
15 you can see is covered by snow. Well, here's are the
16 collateral facts, it's cold, it's February, snow is
17 forecast, but when you went to bed it was brown crunch
18 grass. When you woke up snow covered everything. Those are
19 collateral facts that point to the fact that it snowed
20 overnight. You didn't see it snow overnight but you do
21 know the collateral facts which point to the main fact to be
22 proved which is, it snowed overnight. That's circumstantial
23 evidence. The law makes absolutely no distinction between
24 the weight or value to be given to either direct or
25 circumstantial evidence, nor is a greater degree of

1 certainty required of circumstantial evidence than of direct
2 evidence. You should weigh all the evidence in the case,
3 and after weighing all the evidence, if you are not
4 convinced of the guilt of the defendant beyond a reasonable
5 doubt you must find the defendant not guilty.

6 Now, necessarily, you must determine the credibility of
7 the witnesses who have testified in this case. What do we
8 mean by credibility? Believability means the same thing.
9 It becomes your duty as jurors to analyze and to evaluate
10 the evidence and determine which evidence convinces you of
11 its truth regardless of from whom or what source it comes.
12 In determining the believability of witnesses who have
13 testified in this case you may believe one witness as
14 against several witnesses, or several witnesses as against
15 one witness. You may believe a part of the testimony of a
16 witness and reject the remaining part of the testimony of
17 that same witness. You may believe the testimony of a
18 witness in its entirety, or you may reject the testimony of
19 a witness in its entirety. You may consider whether any
20 witness has exhibited to you any interest or bias, prejudice
21 or the motive in this case. You may also consider the
22 appearance and the manner of the witness while on the
23 witness stand. You may consider the ability of the witness
24 to have seen or heard the things about which the witness may
25 have testified to. And of course, you may consider the

1 manner, the way that the witness acts while on the witness
2 stand.

3 Now, Ladies and Gentlemen, in this case there was some
4 discussion with regards to a conviction for armed robbery.
5 That testimony in this case can be considered only in two
6 ways, only in two ways. The first one is, it only has
7 relevance with regards to credibility, credibility, and only
8 as to that issue. Whether or not that has any play with
9 regards, or any consideration by you with regards to
10 credibility is a matter solely for you to determine. The
11 other way that the conviction for armed robbery may be
12 considered is as an element of the offense, and I'm going to
13 talk about that in just a little bit. You cannot consider a
14 conviction for armed robbery in any other manner. It
15 certainly cannot be considered in any way as any sort of
16 propensity, it may only be considered on the issue of
17 credibility, believability, and with regards to being an
18 element of the offense of which we will talk about in just a
19 little bit. You cannot use that conviction for any other
20 purpose and you may not consider it for any other purpose.

21 Now, Ladies and Gentlemen, in this case you have heard
22 the evidence of individuals who have been deemed to be
23 expert witnesses. Now, our rules of evidence ordinarily do
24 not permit witnesses to testify regarding their opinions or
25 conclusions. An exception to this rule exists or witnesses

1 who we call expert witnesses. Witnesses who by virtue of
2 their education, their knowledge, their training, their
3 profession, experience and they have become an expert in
4 some art or science, professional calling, and they may
5 state their opinion as to relevant and material matter in
6 which the witness claims to be an expert. And they may also
7 state their reasons for their opinions. You should consider
8 expert opinion testimony received into evidence in this
9 case, and like any other evidence, you give it the weight
10 that you think it deserves. If you decide that the opinion
11 of an expert witness is not based on sufficient education
12 and experience, or if you conclude that the reasons given in
13 support of the opinion are not sound or that the opinion is
14 outweighed by other evidence, you may disregard the opinion
15 in it's entirety. An expert witness's testimony is to be
16 given no greater weight than that of other witnesses simply
17 because the witness is an expert. Further, you are not
18 required to accept an expert's opinion even though it is not
19 contradicted. Ladies and Gentlemen, expert testimony is
20 given for the purpose of helping you understand the evidence
21 and not for the purpose of controlling your judgement.

22 Now, Ladies and Gentlemen, there is an issue in this
23 case, and it is the identification of the defendant as the
24 person who committed the crimes charged. State has the
25 burden of proving identity beyond a reasonable doubt. You

1 must be satisfied beyond a reasonable doubt of the accuracy
2 of the identification of the defendant before you may
3 convict the defendant. Identification testimony is an
4 expression of belief or impression by a witness. You must
5 determine the accuracy of the identification of the
6 defendant. You must consider the believability of each
7 identification witness in the same way as any other witness.
8 You may consider whether the witness had an adequate
9 opportunity to observe the offender at the time of the
10 offense. This will be affected by things like how long or
11 how short a time was available, how far or how close the
12 witness was, the lighting conditions, and whether the
13 witness had a chance to see or know the person in the past.
14 Once again, I instruct you, the burden of proof is on the
15 State, and it extends to every element of the crimes
16 charged. And this specifically includes the burden of
17 proving beyond a reasonable doubt the identity of the
18 defendant as the person who committed each of the crimes.
19 If after examining the testimony you have a reasonable doubt
20 as to the accuracy of the identification you must find the
21 defendant not guilty. Once again I'll tell you, you're
22 going to do this analysis for both charges.

23 Now, I'm going to talk about the charges. First I'm
24 going to talk about the murder charge, and then -- I'm going
25 to talk about that and then I'm going to talk about the

1 second charge. The defendant, Mr. Brown, is charged with
2 murder. The State must prove, the State must prove beyond
3 a reasonable doubt that the defendant, Mr. Brown, killed
4 another person with malice aforethought. What is malice?
5 Malice is hatred, ill will or hostility towards another
6 person. It is the intentional doing of a wrongful act
7 without just cause or excuse and with an intent to inflict
8 an injury or under circumstances that the law will infer an
9 evil intent.

10 Now, malice aforethought, malice aforethought, what
11 does that mean? Malice aforethought does not require that
12 malice exist for any particular time before the act is
13 committed but malice must exist in the mind of the defendant
14 just before and at the time that the act is committed.
15 Therefore, there must be a combination of the previous evil
16 intent, the malice aforethought, and the act. Now, malice
17 aforethought may be expressed or inferred. These terms,
18 express and inferred do not mean different kinds of malice
19 but they're merely the manner in which malice may be shown
20 to exist. That is either by direct evidence or by inference
21 from the facts and circumstances which are proved. Express
22 malice is shown when a person speaks words which express
23 hatred or ill will for another, or when the person prepared
24 beforehand to do the act which was later accomplished. For
25 example, lying in wait for a person, or any other acts of

1 preparation going to show that the deed was within the
2 defendant's mind. That would be express malice.

3 Malice may be inferred from conduct showing a total
4 disregard for human life. Inferred malice may also arise
5 when the deed is done with a deadly weapon. A deadly weapon
6 is any article or instrument or substance which is likely to
7 cause death or great bodily harm. Whether an instrument has
8 been used as a deadly weapon depends on the facts and
9 circumstances of each case. The following are examples,
10 Ladies and Gentlemen, and merely examples, these are just
11 examples of instruments which may be deadly weapons. This
12 is not an exhaustive list, this is simply examples: a shot
13 gun, a rifle, a dirk, a dagger, a knife, a slingshot, metal
14 knuckles, a razor, gasoline, a fire bomb or Molotov
15 cocktail, and liter fluid. A gun may be a deadly weapon
16 even if it isn't operating.

17 I've finished talking about murder, I'll now talk about
18 Section Sixteen/Twenty-three/Five hundred, which states --
19 just bear with me -- yes, Sixteen/Twenty-three/Five hundred
20 states, "It is unlawful for a person who has been convicted
21 of a violent crime as defined by Section Sixteen/One sixty
22 to possess a firearm or ammunition within this State."
23 Armed robbery is classified as a violent crime pursuant to
24 Sixteen, dash, One, dash, Sixty. That is the other way that
25 you may consider armed robbery, and that, again, those are

1 the only two ways that you may consider a conviction for
2 armed robbery. The first we talked about went to the issue
3 of credibility, this one, which only goes to show an element
4 of the offense. That conviction can be used for no other
5 purposes in this case.

6 Now, Ladies and Gentlemen, I'm now going to go over the
7 verdict forms with you. And to do that I'm going to come
8 down there. I just did these on two pieces of paper, just
9 because I did them on two pieces of paper. There are two
10 indictments and there are two charges, and there are two
11 verdict forms. Now, before we go over the verdict forms,
12 two things: Number One, your verdict must be unanimous.
13 This must be the verdict of each and every one of you. The
14 majority doesn't really rule, not a verdict of the majority
15 of you or any one of you. This must be the verdict of each
16 and every one of you.

17 My alternate, the next time my jury leaves, you can
18 just stay with me. Alright? Thank you, thank you.

19 Now, so first of all, it must be unanimous, it must be
20 the verdict of each and every one of you. And secondly,
21 secondly, one each of these two verdict forms there are two
22 possible verdicts with regards to the murder and the
23 possession of a firearm charge, there are two possible
24 verdicts. One is not guilty, and the other is guilty. Now,
25 I've written those possible verdict forms on this piece of

1 paper, or these two pieces of paper. Don't you take any
2 hidden meaning from the order in which these matters have
3 been placed on paper. It's just reality, if you're going to
4 put two possible verdicts on a piece of paper one has to be
5 first and one has got to be second. So, please take no
6 hidden meaning in the order in which these matters have been
7 placed on paper. I could have just as easily and just as
8 legitimately reversed them. So, please take no hidden
9 meaning. Now, Ladies and Gentlemen, here's the verdict
10 form, and it has the caption, which is the title of each
11 case, and this says, "Please select the appropriate verdict
12 below and follow the accompanying instructions carefully.
13 Number One, as to the charge of murder, we, the jury,
14 unanimously -- see unanimously? My children think I'm a
15 nag, y'all are going to think I'm a nag, too -- unanimously,
16 just as a reminder, unanimously find the defendant, Romeo
17 Anthony Brown," and there are two possible verdicts, one is
18 guilty and one is not guilty. I could just have said not
19 guilty first and guilty second. I want you to check and
20 circle whichever is the unanimous verdict of this jury once
21 the jury has completed its deliberation, and I want to be
22 very clear with you, these two possible verdicts is the
23 verdict of this jury. And then it says, please sign and
24 date it. You know who you are, although I've got your name
25 down here. And, of course, today is May the Twenty-ninth,

1 Two thousand and Twelve. It just says a reference date.

2 Alright, now the other verdict form deals with the
3 other charge, and it is State's, again, this is the title of
4 the case, it's also known as the caption of the case, and it
5 says, Number One, "As to the charge of possession of a
6 firearm by a person convicted of a violent crime we, the
7 jury, unanimously find the defendant, Romeo Anthony Brown,"
8 and then again there are two possible verdicts, guilty or
9 not guilty, whichever is the unanimous verdict of this jury.
10 Once the jury has completed its deliberation you will
11 indicate that verdict, check it and circle it, just so it's
12 clear which of these two verdicts is the unanimous verdict
13 of this jury, and you sign and date the verdict form.

14 Very well. Now, in just a moment I'm going to be
15 sending you back to your jury room, and I'm going to give
16 you this instruction, do not discuss this matter or allow
17 anyone to discuss it with you. Now, you really should be at
18 this point, going, what? You've been telling us now for a
19 week and now is when we would begin our deliberation. So,
20 I'm going to tell you exactly what's going to happen. When
21 you go to your jury room on this next occasion I'm going to
22 turn to these lawyers and I'm going to ask them two
23 questions, have I given this jury all of the law that they
24 may need in their deliberations; and have I stated it for
25 them correctly? Now, Ladies and Gentlemen, sometimes,

1 sometimes I fail to give a jury all of the law that they may
2 need for their deliberations, and sometimes I need to bring
3 juries back out because I failed to give them all of the law
4 that they may need, and these lawyers help me know that. In
5 the event that I need to bring you back out because I have
6 failed to give you all of the law that you may need for your
7 deliberations, I ask you in advance, please do not consider
8 that part of the law with any emphasis. Just know, I've got
9 to get this right, I've got to give you all that you might
10 need for your deliberations. Sometimes I need to bring
11 juries back out because has just come out wrong. I didn't
12 mean it to, goodness knows, but sometimes that happens, and
13 sometimes I need to bring juries back out because I need to
14 correct something that I have stated incorrectly. In the
15 event that I need to bring you back out for that reason I
16 ask you in advance to please allow me to correct my error in
17 your minds. This is my one chance to get this right, to
18 give you all of the law that you may need for your
19 deliberations and to state it for you correctly.

20 Now, in the event that I do not need to bring you back
21 out you will be brought the verdict forms and the exhibits,
22 and Ms. Jamison will tell you it is now time to begin your
23 deliberations. Now, there is no doubt in my mind that Ms.
24 Jamison's going to remember to do that, but you will not
25 have the verdict forms and exhibits unless it is time to

1 begin your deliberations.

2 Now, once you begin your deliberations, all Twelve of
3 you must be together to deliberate. So, if anybody needs to
4 take a little comfort break, stop your deliberations, take
5 your comfort break, and just reconvene your deliberations
6 when all Twelve of you are together again. Just remember,
7 everybody's got to be together for you to deliberate. So,
8 if anybody needs to take a comfort break, or for whatever
9 reason, just stop your deliberations, take your comfort
10 break, and then you can reconvene your deliberation when
11 all of you are together again.

12 Now, when you have concluded your deliberations and you
13 have filled out your verdict forms, then you will return to
14 -- knock on the door, you will return to the courtroom, and
15 then you will take the verdict forms and you will pass them
16 to Ms. Jamison, who will pass them to me. Do not publish
17 the verdicts.

18 Now, Ladies and Gentlemen, I want to leave you with one
19 concluding thought, and it's this, the word, verdict, the
20 word, verdict comes from the Latin phrase, vere dicto, which
21 means to speak the truth, to speak the truth, which is now
22 your path.

23 Please step to your jury room, do not discuss this
24 matter or allow anyone to discuss it with you and we will be
25 with you shortly, except, of course, for my esteemed

1 alternate.

2 (Whereupon, the jury retires
3 to the jury room and the following
4 takes place out of the presence
5 of the jury.)

6 THE COURT: Alright, let me tell you what I'm going to
7 ask you to do. Will you place our alternate in a different
8 place, and the reason is, let me tell you why. I think if
9 something should happen to one of our jurors in the next
10 Fifteen minutes I could stop the deliberations, seat you,
11 start them, and save the trial. But you watch your watch,
12 okay? Okay, and I think lunch is here, so she'll get your
13 lunch.

14 (Whereupon, the alternate
15 leaves the courtroom.)

16 THE COURT: Alright, any exceptions or additions?

17 SOLICITOR SORENSON: Nothing from the State, Your
18 Honor.

19 THE COURT: From the Defense?

20 MR. GIPSON: No, ma'am, nothing from the Defense.

21 THE COURT: Counsel, please do this for me, I want you
22 to actually look at the verdict forms, please, and look at
23 the exhibits that are going back to the jury, and be sure
24 that what is going to this jury is what is supposed to be
25 going to this jury. And then, there are no exceptions so

1 you're going to gather these things and take them to our
2 jurors. Okay? And then tell them to begin.

3 BAILIFF: Do you want them to eat first or deliberate?

4 THE COURT: I want them to do both, I want them eat and
5 deliberate, okay, at the same time. They can deliberate
6 while they eat. They can multi-task, they can eat and they
7 can deliberate.

8 (Whereupon, the jury begins
9 deliberations at 1:05 p.m.)

10 (Recess)

11 THE COURT: Wait until we get Mr. Brown.

12 (Whereupon, the defendant
13 enters the courtroom.)

14 THE COURT: Alright, bring our jury out.

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

17 THE COURT: Ladies and Gentlemen, the reason I brought
18 you out, the reason that I have done that is that tomorrow,
19 or this afternoon I had a previously scheduled medical
20 appointment, not just an appointment but a procedure as
21 well, and I thought surely the doctor would understand that
22 I've go a jury out, and that would be fine. Well, it wasn't
23 fine, and I am unable to reschedule, and my doctor is pretty
24 adamant that I've got to come on and get this done this
25 afternoon. So, we are going to have to stop our

1 deliberations at this point, and we're going to have to
2 renew them in the morning. I told him, I said, do you know
3 how upset this jury is going to be, and how concerned we're
4 all going to be? But, in fact, this action has never
5 happened to me in Fourteen years of being a judge, but there
6 comes to be a time when sometimes you've got to listen to
7 your health care provider. So, I am going to have to stop
8 at this point.

9 Now, we've got a graduation tomorrow, now who's got the
10 graduation tomorrow? No, we're okay, that's right, that was
11 my alternate that had the graduation. Very well.

12 I hate to do this, Ladies and Gentlemen, and again this
13 is new territory for me, and I apologize to you but it
14 simply cannot be, it simply cannot be -- wait a minute, just
15 hold, everybody just hold on a second. I just cannot, it
16 cannot be avoided. Now, if that causes y'all some
17 additional concerns what I'm going to ask you to do is
18 retire to your jury room, put down on a sheet of paper, you
19 know, what concerns anyone has got, and I will certainly
20 handle those before I leave, but I will need you to do that.
21 What I would like you to do is to stop your deliberations at
22 this point, we will take possession of the verdict forms and
23 your exhibits, and then reconvene your deliberations in the
24 morning. It's up to you all if you want to do nine or
25 nine:thirty. So, why don't y'all make that decision and let

1 me know. I will remain here on the bench for a little bit
2 just -- Mr. Presiding Juror, if you've got some jurors with
3 some concerns you can put that down in writing and we'll
4 make that a part of the Court's exhibit. So, if you all will
5 retire to your jury room I'm going to ask you to stop your
6 deliberations at this point, though if there are special
7 concerns if you'll put those in writing, and then we can
8 address those, and let me know if you want to start at nine
9 or nine:thirty, if you'll do that for me now. Thank you.
10 And, of course, we'll talk about, when you go home not
11 discussing this matter or allow anyone to discuss it with
12 you.

13 (Whereupon, the jury retires
14 to the jury room and the following
15 takes place out of the presence
16 of the jury.)

17 (Recess)

18 THE COURT: I don't think there are any particular
19 concerns, I'm just going to again admonish them about not
20 discussing the matter. Alright, bring the jury out.

21 (Whereupon, the jury enters
22 the courtroom.)

23 THE COURT: Alright, I understand nine o'clock, nine
24 bells. Very well. Ladies and Gentlemen, this is what the
25 procedure will be. In just a few minutes, of course, the

1 verdict form and the exhibits will be secured by our clerk
2 for the night, and then they will be replaced in your room,
3 and we will be waiting on you, but the verdict forms in your
4 exhibits as you arrive in the morning, it will be there
5 before you are there. When you arrive at nine o'clock you
6 will go directly to your jury room, when all Twelve of you
7 are present then begin your deliberations. You don't need
8 to wait for me to drop a flag or anything like that, just
9 when all Twelve of you are there you begin your
10 deliberations.

11 Now, of course, when you go home this evening the same
12 instructions will apply, do not discuss this matter or allow
13 anyone to discuss it with you. Don't read anything or
14 listen to anything, radio, television, newspaper, internet,
15 no social media about this matter, do not do any research,
16 don't do any research on the internet. You must have
17 received all of the information from which you will make up
18 your mind here in Court while Court was in session. So,
19 without further ado again I can assure you I would a whole
20 lot rather be here with you this afternoon than being with
21 some doctor, but alas, there you have it.

22 Ladies and Gentlemen, I look forward to seeing --
23 actually, I won't see you in the morning at nine o'clock
24 because you'll go right to your business, but I will
25 certainly be present, and I will see you sometime tomorrow,

1 I am quite confident. Very well, if you will please go with
2 our bailiff.

3 (Whereupon, the jury leaves
4 the courtroom for the day and
5 the following takes place
6 out of the presence of
7 the jury.)

8 THE COURT: Anything from the State before we leave
9 each other?

10 SOLICITOR SORENSON: No, ma'am.

11 THE COURT: From the Defense?

12 MR. GIPSON: No, ma'am.

13 THE COURT: See you in the morning. Thank you,
14 Gentlemen.

15 (Recess for the day.)

16 DATE:

17 MAY 30, 2012

18 (Whereupon, the jury continues
19 their deliberations at 9:24 a.m.)

20 THE COURT: Can y'all get Mr. Brown?

21 MR. GIPSON: Yes, ma'am.

22 THE COURT: Okay. And Mr. Sorenson, are y'all getting
23 him, too?

24 SOLICITOR SORENSON: Yes, ma'am.

25 THE COURT: Okay, good.

1 (Whereupon, the defendant
2 enters the courtroom.)

3 THE COURT: Good morning. Alright, it's my
4 understanding that the jury has reach its verdict, and so,
5 I'll invite them out in just a moment. I know that we have
6 family members and folks who are interested in these
7 proceedings. Obviously, I don't know what the verdict is,
8 but it is important that we maintain the decorum of the
9 Court particularly for our jurors. If you believe that
10 irrespective of what the verdict is that you cannot keep
11 yourself contain emotionally, and I think that's certainly
12 understandable, I would ask that you take your leave now
13 from the courtroom, and then certainly you can return once
14 the jury is dismissed. I just cannot have outbursts in the
15 courtroom while the jury is present. So, if anyone is
16 concerned please take your leave now if you do not believe
17 that you can keep your decorum irrespective of what the
18 jury's verdict would be.

19 Very well, no one is leaving, so I will trust that
20 everyone will be able to maintain their decorum.

21 Alright, anything before we bring the jury out from the
22 State?

23 SOLICITOR SORENSON: No, Your Honor.

24 THE COURT: From the Defense?

25 MR. GIPSON: No, ma'am.

1 THE COURT: Very well, let's have our jury.

2 (Whereupon, the jury returns
3 with verdicts at 10:15 a.m.)

4 THE COURT: Alright. It is my understanding that the
5 jury has reached its verdict, Mr. Bishop, is that correct?
6 Yes or no?

7 FOREMAN BISHOP: Yes.

8 THE COURT: If you'll pass it please to Ms. Jamison.

9 BAILIFF: Your Honor, may I approach?

10 THE COURT: Yes, ma'am.

11 (Whereupon, the Court
12 examines the verdicts.)

13 THE COURT: I find that the verdict forms are in due
14 form. If you would publish them, please.

15 VERDICTS OF THE JURY:

16 CLERK: May I bring the Court's attention to Indictment
17 Number 2011-GS-38-0012, as to the charge of murder, we, the
18 jury, unanimously find the defendant, Romeo Anthony Brown,
19 guilty.

20 Indictment Number 2011-GS-38-0792, as to the charge of
21 possession of a firearm by a person convicted of a violent
22 crime, we, the jury, unanimously find the defendant, Romeo
23 Brown, guilty.

24 These are signed by Stafford L. Bishop, Junior,
25 Presiding Juror, May Thirtieth, Two thousand twelve.

1 THE COURT: Very well. Ladies and Gentlemen, if this
2 was your verdict in your jury room and continues to be your
3 verdict here in the courtroom, if you would indicate by
4 please raising your right hand. Let me observe for the
5 record, all of our jurors have their hands raised, their
6 right hands raised.

7 Very well, anything further from the State before we
8 dismiss the jury?

9 SOLICITOR SORENSON: Nothing, Your Honor.

10 THE COURT: From the Defense?

11 MR. GIPSON: No, ma'am, not at this time.

12 THE COURT: Very all. Alright. Ladies and Gentlemen,
13 I want to thank you for your service on this jury and on the
14 jury panel. We have taken so very much of your dear and
15 precious time that you all have given so generously and I am
16 so grateful to you for your time.

17 A couple of things I do want to discuss with you,
18 because each time we've left each other I have told you do
19 not discuss this matter or allow anyone to discuss it with
20 you. I would tell you now, you are at liberty to discuss
21 this matter if you wish to discuss it, it is up to you, it
22 is completely up to you. You know, the practice of law is
23 an art and not a science. Sometimes the lawyers are curious
24 as they try to get better, and if jurors are willing to
25 discuss with them what was helpful, what's not helpful in

1 terms of their trial skills, or do they have any matters
2 that you noticed that they could improve on, sometimes they
3 call jurors for no more reason than just to be better at
4 what they do. If you are comfortable discussing with them
5 those issues, fine. If you're not just tell them, I don't
6 want to talk about it, and these lawyers will not persist.

7 I always, Ladies and Gentlemen, tell the jurors that I
8 have the opportunity to serve with what I'm about to tell
9 you, but I want you to know that this hasn't happened, so
10 I'm scared not to tell jurors this, and it's this, should
11 anyone impose upon you and insist and urge you to talk about
12 this particular case and you've told them that you don't
13 want to talk about it, yet they persist, your remedy is to
14 call your Clerk of Court who will contact me and I will
15 intercede on your behalf. Now, I've not had that happen, so
16 the reason I tell jurors that is so that it won't happen,
17 because I'm confident if I don't tell you that, that's when
18 it's going to happen. So, I always tell jurors that just to
19 keep it from happening, I'm confident.

20 Now, I must tell you that -- well, what I used to tell
21 people in Dorchester County was that your check for your
22 jury service, and folks are kind of curious about that, was
23 in the mail. And then, Sheryl Gramling, who is my clerk,
24 said, don't tell them that, that's not true, you can't tell
25 jurors that. So, I will tell you, it's not. But given the

1 case management system, it will be with you shortly, and of
2 course, it is a very small token of all that you have given
3 to our system. And again, I express my gratitude on my
4 personal behalf and on behalf of all of those involved with
5 our judicial system.

6 Let me share with you that you must be mindful that you
7 are now not eligible to serve on a jury in a court of record
8 for the balance of Two thousand and twelve. I know you're
9 upset, but there's hope for you in Magistrate's Court and in
10 Municipal Court, but certainly not in a court of record.
11 And remember, you have an exemption for your jury service
12 for Two thousand and thirteen and Two thousand and fourteen,
13 should you choose to exercise it. So, you might actually
14 want to make a little note. Time passes very quickly, and
15 so you may want to keep up with those dates somewhere, maybe
16 put it in a day timer or in some place where you keep those
17 dates, that you did serve in Two thousand twelve, which also
18 gives you the exemption in Two thousand thirteen and
19 fourteen.

20 Now, those of you who need something today to take to
21 your employer about where you have been and what you have
22 been up to, we are delighted to get that for you down in the
23 clerk's office. Again, should your boss have any questions,
24 which I certainly don't think he's going to have, please, if
25 you will contact the clerk I will be delighted to send a

1 letter as further verification of your jury service. I
2 certainly don't want anybody upset with you and I am happy
3 to intercede on your behalf, and I want you to know that.

4 I want you lastly to know that it has certainly been an
5 honor and privilege of mine to serve with you in this
6 capacity, and should our paths ever cross again in this way
7 I would like you to know that it would likewise be an honor
8 and a privilege yet again.

9 I will tell you now that you are free to go. If you
10 need anything for your employer please know we will be
11 excited to get that for you downstairs in the clerk's
12 office. And without further ado, you are free to go.
13 (Whereupon, the jury leaves
14 the courtroom.)

15 THE COURT: If you are prepared with your sentencing
16 sheet, if you all would come forward.

17 SOLICITOR SORENSON: Yes, Your Honor.

18 MR. GIPSON: Yes, ma'am.

19 SOLICITOR SORENSON: If I could have one moment, Your
20 Honor.

21 THE COURT: I was going to say, now, you know, if there
22 are any family members that wish to speak I am more than
23 happy to hear from them.

24 SOLICITOR SORENSON: Your Honor, there are a couple of
25 family members that do wish to address the Court.

1 THE COURT: Surely.

2 SOLICITOR SORENSON: Do we need to handle any kind of
3 post trial matters from Mr. Gipson first before we go into
4 that?

5 THE COURT: It's up to Mr. Gipson, he may wish to wait
6 until after sentencing or prior to.

7 MR. GIPSON: And I'd like to wait until afterwards if
8 the Court will allow me.

9 THE COURT: I think that's actually appropriate.

10 MR. GIPSON: Yes, ma'am.

11 SOLICITOR SORENSON: Okay, fine.

12 THE COURT: Very well. Now, I know he's got armed
13 robbery.

14 SOLICITOR SORENSON: Yes, Your Honor.

15 THE COURT: And I know that that is a most serious
16 offense.

17 SOLICITOR SORENSON: Yes, Your Honor.

18 THE COURT: And you need to send any notice, that that
19 needs to be made a part of the record.

20 SOLICITOR SORENSON: Okay. And it should be probably
21 in the Clerk's -- because I would have filed a copy in the
22 Clerk's file. If not I have my copy that I can hand up to
23 Your Honor, but there should be -- well, I'll keep my copy.
24 It was clocked in the Clerk's office in March of Two
25 thousand -- March Twelfth, Two thousand twelve. I believe

1 it was actually served on Mr. Gipson and his client I think
2 in April when we served the direct presentment indictment on
3 the possession of a weapon by a person convicted of a
4 violent crime. They were both served in April because we
5 were at that point in time intending on going to trial, you
6 know, initially in the month of May, oh, I'm sorry, in the
7 month of April.

8 THE COURT: In the month of April. Now, was service
9 done on the record, in open Court?

10 SOLICITOR SORENSON: Okay, it was, it was, and I wish,
11 for some reason I can't find where I documented who I did
12 that in front of. I know it was done, and obviously, if
13 that's something we need to go bak and put our fingers
14 directly on I can do that to supplement the record, but it
15 was done - - -

16 THE COURT: Here's what I think, - - -

17 SOLICITOR SORENSON: --- and, I mean, I think Mr.
18 Gipson would, I mean,...

19 MR. GIPSON: Your Honor, and I can tell you, it was
20 done right here in open Court during that Twenty-first term
21 of Court, I believe it may have been with Judge Dickson, but
22 it was done during that point in time, Your Honor.

23 THE COURT: Alright, and that would have been the
24 Twenty-first of April?

25 MR. GIPSON: No, it would have been the Twenty-first of

1 March, I'm sorry.

2 THE COURT: Of March, I'm so sorry.

3 MR. GIPSON: The Twenty-third, it was in that time
4 frame, Your Honor, during that week of Court.

5 THE COURT: In that time frame. Very well. Yes, and
6 it was filed, it was clocked in on March the Twelfth, is
7 what it says, Two thousand twelve, March the Twelfth, at
8 nine:twenty-nine is when it was filed, but served later.

9 MR. GIPSON: Yes, ma'am, in person, it was served.

10 THE COURT: And probably, obviously, I would take that
11 representation from counsel that it was in fact served, but
12 you may wish to, before too much time passes, just get a
13 copy of that part of the transcript - - -

14 SOLICITOR SORENSON: Okay.

15 THE COURT: --- where it was served.

16 SOLICITOR SORENSON: Yes, ma'am.

17 THE COURT: Do, alright, now, having seen this, I
18 intend to return that to the Clerk's file.

19 SOLICITOR SORENSON: Okay. Your Honor, obviously,
20 you've heard the facts of the case so I'm not going to go
21 into really any of those details. I would point out just
22 kind of, as far as, you know, that armed robbery is not Mr.
23 Brown's only prior record. His prior criminal history
24 actually goes back to the Eighties. He's got for counts of
25 forgery in Nineteen eighty-eight, carrying a pistol in

1 Nineteen eighty-nine, a strong arm robbery in Nineteen
2 ninety-two, a burglary, second degree, in Nineteen ninety-
3 five, and he also had a burglary, violent during that time
4 period also, and then ultimately the armed robbery in
5 Nineteen ninety-nine for which he did pick up, or receive a
6 Ten year sentence on, which would put him, you know, into
7 the late Two thousands getting out of prison. So, I mean,
8 he's been, hasn't been out on the street a whole lot of his
9 adult life. I'm going to let -- because obviously, a part
10 of this, you know, you don't, you get to hear about the
11 facts but don't get to hear a whole lot about the victim,
12 Alex Harrison, so I would like you to just briefly hear from
13 his wife, Faye, and his mom.

14 THE COURT: I really want to do that, and you're so
15 right. And you know, there's a part of our system that --
16 and I'm satisfied that as you try defendants the focus is
17 there, and to be sure the Constitutional rights in terms of
18 convictions are served, that is where the focus lies, and I
19 think that is appropriate. But at this point, at this point
20 in the process is where we all need to pause and we need to
21 remember that there was someone's loved one that was lost.
22 And so, I'm always mindful when we have victims' families
23 here that their focus is on their loved one, and somehow it
24 is, must be heartbreaking as you sit there loving your loved
25 one, the victim, and yet, see the focus on the terrible

1 part. And this is the time when I get to hear from loved
2 ones about a real live, breathing, loving, active, real live
3 person who was loved and who touched the lives, and whose
4 lives he touched. So, I'm not rushed, I don't want you to
5 be rushed, I want to hear about your loved one, whether you
6 called him Alex or what his nickname was, I want to hear
7 about your loved one. You take your time because I really
8 do want to know something about Mr. Harrison. And all I
9 need you to do is to just identify yourself for our record.

10 FAYE HARRISON: My name is Faye Harrison.

11 SOLICITOR SORENSON: This is Alex's wife.

12 FAYE HARRISON: You are right, he was loved, and he
13 made friends with everybody, you know, anybody he come in
14 contact with, he would be friends with them. For one, he
15 had six kids which, one of mine is four right now, and two.
16 My two year old didn't never know his father. My three year
17 old, it hurts when he asks about his father or walks up to a
18 stranger who has dreadlocks that looks like his father. I
19 can't ...

20 SOLICITOR SORENSON: I'm just going to let her, kind of
21 ...

22 THE COURT: Sure, absolutely.

23 SOLICITOR SORENSON: This is Ms. Janie Harrison, this
24 is Alex's mother.

25 JANIE HARRISON: Yes. He will dearly be missed. And I

1 will never, ever find another son like my son. We did
2 everything together. I mean, he start out working when he
3 was in school, he start out working like at a young age,
4 like Fifteen years old, and after that - - -

5 THE COURT: Doing what, tell me what he was doing?

6 JAMIE HARRISON: He was working at, what, Burger King.
7 He was, as a cook and then they move him up, you know,
8 higher, - - -

9 THE COURT: yes.

10 JAMIE HARRISON: --- and after that, he didn't finish
11 school, but he did went to vocational school, but that, I
12 think he went as far as the Eleventh grade. He didn't
13 finish to Twelve. Then he went to, I sent him to driving
14 school, so he went there for a month, and so he got his
15 license.

16 THE COURT: The CDL?

17 JAMIE HARRISON; CDL license.

18 THE COURT: Fantastic.

19 JAMIE HARRISON: And then he passed the test for
20 driving, then he got a job. When he went to school, and
21 after that, you know, he just went off and start looking for
22 a job, and then he said, Mama, you know, I miss him when he
23 just got out there and, you know, and start looking for a
24 job after he went to school. And then he said, Mama, you
25 know, he write me a letter and he send me, I think it was a

1 dollar, he said, Mama, that's all I have, that's all I have,
2 but he said, if I get a job I'm going to send you more. You
3 know, and after that he just passed the test and he got his
4 driving, he got his CDL.

5 THE COURT: CDL.

6 JAMIE HARRISON: And then he got a job and he bought
7 his truck, I mean, and then he bought a house, and then he
8 was telling me, he saying, Mama, you know, I never had
9 nothing when I was coming up, you didn't have anything. He
10 said, when I get a job I'm going to take care of, you know,
11 when I have children I'm going to take care of my children,
12 Mama, I'm going to take care of my children. And he said,
13 because I never had nothing, and I'm going to take care of
14 them. You know, and after that he did, you know, have
15 children, and he took care of them all he know to do. You
16 know, he got out there and worked, you know, he worked. He
17 worked. And then he had something of his own, you know.
18 And then, you know, I mean, he was a loving son and he
19 always remind me of my birthday and when I don't remember he
20 just call me and say, Mama, happy birthday, or Mother's Day
21 he just, you know, when he on that road he call me. You
22 know, I miss all of that. I miss, I love my son, you know,
23 and just like I say, he love everybody and he can get along
24 with everybody, and if he can help he will help. And I'm
25 going to miss him. You know, I don't cry til I can't cry no

1 more, so -- I can't bring him back. He's gone, he's gone,
2 and I'm going to miss him.

3 THE COURT: And did you, do you live in Orangeburg
4 County?

5 JAMIE HARRISON: I live in Orangeburg County, this is
6 my home.

7 THE COURT: This is your home?

8 JAMIE HARRISON: Yeah.

9 THE COURT: And he was born here?

10 JAMIE HARRISON: He was born, I had two sons, you know,
11 I lost my other son at the age of Twenty-one, you know.

12 THE COURT: Oh, I'm so sorry.

13 JAMIE HARRISON: Yeah, he got shot, somebody shot him,
14 too, you know, and so, I lost him, and now this one. And I
15 been through a lot, you know, I lost, and now I don't have
16 any. So, this hurts.

17 THE COURT: Yes, of course, it hurts, of course it
18 does. And your grandchildren, his children, do you have a
19 chance to have a relationship with them?

20 JAMIE HARRISON: Yeah, all of them, all of them. I
21 love them.

22 THE COURT: And that's got to be some source of joy?

23 JAMIE HARRISON: It is, it is. I have a relationship
24 with all of them, and I even talked to the last two that he
25 had, well, the baby is two years old and the other one is, I

1 think, what five, four or five now, and he always asking
2 about his daddy, you know. I mean, I picked him up, you
3 know, last week and he just, he's still talking about his
4 daddy, you know. His daddy is gone and he is not going to
5 say -- I don't know why but he just ...

6 THE COURT: You know, it's interesting, and the reason
7 that that happens, for what this is worth, as children
8 develop and as they grow and they go through different
9 periods in their life, they have to reprocess that trauma,
10 if you will. And so, as the children, as they grow, four
11 years old is different than a two year old, it's very
12 different than a two year old. And then, when he starts to
13 school that will be a different stage. And then when he
14 goes through puberty that's going to be a different stage.
15 And when he, you know, becomes Eighteen that's going to be a
16 different stage. And what, what the people that study grief
17 and tragedy and the development of children will tell you is
18 that they have to reprocess that information, because they
19 are at a different point in their lives, and they are, they,
20 as they go through that developmental stage they have to
21 also reprocess because they're at a different place. And
22 so, what breaks your heart and brings you to your knees,
23 what they are actually doing is trying to understand at that
24 level of maturity what has happened to them.

25 JAMIE HARRISON: Right.

1 THE COURT: And so, you know, the fact that you say
2 he's now, it's been since Two thousand ten, and yet he's
3 reprocessing that information, is because he's at a
4 different stage in his development as a little person is, he
5 grows up. So, you know, and they say that what you must do
6 is, you just must go with them down that path, and you have
7 to explain to them as they grow up what happened and why
8 they have this loss. And always tell them that their daddy,
9 how much their daddy loved them, you know, because that's
10 the most important thing is for them to know how much their
11 daddy loved them.

12 JAMIE HARRISON: Right.

13 THE COURT: And their daddy didn't want to leave them -

14 - -

15 JAMIE HARRISON: Huh-uh.

16 THE COURT: --- but that their daddy loved them so much

17 - - -

18 JAMIE HARRISON: Right.

19 THE COURT: --- and will be there waiting on them one
20 day.

21 JAMIE HARRISON: Yes, yes.

22 THE COURT: You know. And yet can be a guiding light
23 shining from above, you know.

24 JAMIE HARRISON: Yes.

25 THE COURT: So, absolutely. You know, so he was a CDL,

1 was he a long distance truck driver?

2 JAMIE HARRISON: Yes, yes. Yes, he goes out there,
3 Alabama and all over.

4 THE COURT: Alright, so he made a good living?

5 JAMIE HARRISON: He made a good living.

6 THE COURT: He was a good provider.

7 JAMIE HARRISON: That's right, he had his own home, had
8 his own land, and had, I mean, he worked for it, he worked
9 hard for it.

10 THE COURT: In other words, he was actually living the
11 American dream, what everybody - - -

12 JAMIE HARRISON: That's right.

13 THE COURT: --- what we all want.

14 JAMIE HARRISON: Yeah.

15 THE COURT: And obviously, he was married to a
16 beautiful woman.

17 JAMIE HARRISON: Yes, yes, he loved his wife, too, he
18 loved his wife and children.

19 THE COURT: Okay. Well, he was definitely focused on
20 the important things in life.

21 JAMIE HARRISON: That's right, that's right.

22 THE COURT: No question. I am so sorry for your loss,
23 because it's senseless. You ought not to be here, you
24 ought not to be here. You ought not be here for two
25 children.

1 JAMIE HARRISON: That's right.

2 THE COURT: You ought not be here. And Ms. Faye, I
3 know, it's just two years, and you know, what you must try,
4 you know, I, myself, have been through a tragedy where a
5 loved one was lost, and I would share this with you, I would
6 tell you that two years it's still so painful. This will
7 bring closure, this really will bring closure for you. And
8 what you must trust in, -- and people used to tell me all
9 the time, time will make it better, time will make it
10 better, you know, and I got so sick and tired of people
11 telling me that, you know. And I find myself telling you
12 that having lived it, the only thing that makes it better is
13 time. And what ends up happening is that you know when you
14 think of him now, and you'll think, I don't know, you'll
15 think, he'll be home from work at such and such a time,
16 because that's what happened. And then you have that
17 crushing pain because following up that thought is the
18 crushing pain that he's not going to be coming home. What
19 time does is that time quiets that, and allows the joyful
20 memories and the loving memories to rise above, and what
21 ends up happening over time is that instead of that crushing
22 pain being there always, the love, the love and the joy,
23 those seem to be the ones, the emotions that survive over
24 time. And in that you are so young and your babies are so
25 young, what is joyful in that is that as they grow what

1 you're going to be able to share with them is the sweetness
2 of their daddy, and the love of their daddy, and the joy of
3 their daddy. And so that it will, you will be the keeper of
4 those memories for them, and you will be able to tell them
5 how much he loved them and how he is their shining light
6 from above, and you'll be the arbiter of that. You didn't
7 ask to be here, you ought not be here. This is a burden you
8 ought not have, and if I could take that from you I would.
9 But what I can promise you is this, this will begin to bring
10 peace, this part you saw through, you saw it through. And
11 from this point forward you will learn that healing process
12 will truly begin that's sort of been on hold because this is
13 so painful, and this process is so painful. But what you
14 will learn is that the healing will now truly begin for you
15 and for those babies. And that is certainly what I wish for
16 you. And I get that he was extraordinary and he was loving
17 and caring, and had his eye on the ball for what was
18 important in this world, and I get that. And thank you so
19 much for your words.

20 Alright, now, y'all can stay here if you wish to be
21 closer, or you can go back to your seats with your family,
22 whatever pleases you.

23 Mr. Gipson.

24 MR. GIPSON: If it please the Court, Your Honor.

25 THE COURT: Yes.

1 MR. GIPSON: And first and foremost, and I say this, I
2 mentioned it in my opening is, I know the reason why we're
3 here is because of a tragic situation, Your Honor. And my,
4 as I said before, heart goes out to the family, and I give
5 all deference in respect to the family. It's obvious that
6 they are good people and they raised a good son. It's
7 obvious about those things.

8 And what's brought us into Court is, is an allegation
9 that now this jury has come back and they have confirmed
10 that allegation and they have now spoken, and they have said
11 that Mr. Brown is guilty of the crimes for which he was
12 charged. And I'd say in that sense, Your Honor, of course,
13 we always give deference and respect to the jury, and I
14 would ask that as you do those things that you consider as
15 well that the evidence that we were brought forth to, and I
16 guess -- well, I'll save my post trial motions if the Court
17 will allow me to save those, but I do understand that the
18 Court at this point is constrained with what it has to do
19 because of the Nineteen ninety-nine conviction, which is, as
20 the Court is aware, and as we are aware, is characterized as
21 a violent crime. And the Court is constrained in those
22 matters, and I understand that the sentence of life without
23 parole is what the Court has to do based on the prior
24 conviction that was served on us back in March, and I
25 understand the Court is constrained. I'd just ask for any

1 mercy that the Court can give at this point in time. Romeo
2 Brown does come from a very good family. He's got a sister
3 and he does have some family that's been in the courtroom
4 throughout the week, throughout, you know, this entire trial
5 process. I again suggest to the Court, and what, in our
6 dealings and our meetings he's always maintained exactly
7 what we maintained at trial, which is that he was not that
8 person. I understand at this point that is not for the
9 Court's hearing because the jury has come back with a
10 verdict of guilty. I'd ask that the Court just consider the
11 person, that he has been a good person, at this point in
12 time he was working, and was providing for his family, Your
13 Honor, and would ask that any deference that the Court is
14 allowed, even based on the constraints that it has, that the
15 Court would give.

16 THE COURT: Thank you so much, Mr. Gipson.

17 MR. GIPSON: Yes, ma'am.

18 THE COURT: Alright, Mr. Brown, at this time I would
19 ask whether or not you or counsel or the State, does anyone
20 have any other statement they wish to make prior to the
21 Court passing sentence?

22 SOLICITOR SORENSON: Nothing from the State, Your
23 Honor.

24 MR. GIPSON: Nothing further from me, Your Honor.

25 THE COURT: Very well. Alright.

1 SENTENCE OF THE COURT:

2 With regards to 2011-GS-38-0012, which is the
3 indictment for murder, having been found guilty by this jury
4 of murder, Mr. Brown, and given that you have a previous
5 conviction for a most serious offense, which offense was
6 armed robbery in Nineteen ninety-nine, and further
7 considering that the notice pursuant to Seventeen/Twenty-
8 five/Forty-five was duly and properly served upon you and
9 upon your counsel by the State, your sentence pursuant to
10 Seventeen/Twenty-five/Forty-five will be an is life in
11 prison without the possibility of parole.

12 With regards to 2011-GS-38-792, which is the indictment
13 for possession of a firearm by a person convicted of a
14 violent crime, the Court makes a specific finding that your
15 conviction for armed robbery in Nineteen ninety-nine was a
16 conviction for a violent crime pursuant to Sixteen/One/sixty
17 of the South Carolina Code of Laws, Nineteen Seventy-six, as
18 amended, and thus I sentence you to the State Department of
19 Corrections for a period of five years.

20 The sentences may run concurrent.

21 Very well, Mr. Brown, that will conclude the
22 sentencing.

23 SOLICITOR SORENSON: Thank you, Your Honor.

24 MR. GIPSON: Thank you, Your Honor.

25 THE COURT: Alright. Now in regards to your post trial

1 motions, do you wish to make those now?

2 MR. GIPSON: I will, just for the record, and I reserve
3 the right to make additional within the next ten days, - - -

4 THE COURT: Surely.

5 MR. GIPSON: --- but I, consider -- that the Court
6 consider acting as its ability as a Thirteenth juror in this
7 case, Your Honor. It's clear that there was testimony from
8 folks who purported, who were eye witnesses to this, and
9 their statements at points in time were inconsistent with
10 one another and it was inconsistent with that evidence that
11 the experts presented as well. And I'd say based on that
12 fact that the inconsistencies, that could have led the jury
13 to act on something other than a reasoned review of the
14 facts, and it could have led them to act based on passion
15 and based on some other stimuli that had something to do
16 with other than what it heard from this jury chair, or
17 excuse me, from this witness chair. And then, based on that
18 I'd ask that the Court consider granting a new trial just
19 based on the fact that the jury could have relied on
20 information that did not come from this courtroom.

21 THE COURT: Thank you so much, Mr. Gipson. Having
22 listened to all of the testimony that was presented during
23 this trial and having listened to both Mr. Sorenson in his
24 examination, and your examination, and both your openings
25 and your closings, it is in my mind without question that

1 the defense that you provided for your client was as
2 complete and replete as a defense has ever been in any case.
3 Any and all inconsistencies that are always attendant to
4 statements and always exist within a trial, you pointed them
5 out as artfully and as completely and as professionally as
6 could be done, in my mind. Your arguments, your closing
7 arguments was nothing short of extraordinary. Your defense
8 was extraordinary. The issues before this jury were as they
9 always are. Mr. Sorenson was able to put forth eye witness
10 testimony, he was able to put before this jury evidence,
11 very strong evidence and at the end of the day it was for
12 the jury to determine and make those findings of facts.
13 This is as well tried a case as there can be anywhere in
14 this country, both on behalf of the State and on behalf of
15 the Defense, and at the end of the day it was for the jury
16 to make the findings of facts as they have made them. I say
17 these words because it is with the greatest of respect that
18 I deny your motion, noting your exception thereto. It
19 simply was a case for this jury to determine, and they have
20 done so.

21 MR. GIPSON: Thank you, Your Honor.

22 THE COURT: And I note your exception thereto.

23 MR. GIPSON: Thank you, Your Honor.

24 THE COURT: Very well. Alright, I believe that will
25 conclude this matter.

CERTIFICATE

I, the undersigned, Mrs. Harry A. Walker, of
Rowesville, South Carolina, Official Court Reporter for the
First Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate, and
complete transcript of record of all the proceedings had and
evidence introduced in the captioned cause, relative to
appeal, in the Court of General Sessions for Orangeburg
County, South Carolina, on the 22nd, 23rd, 24th, 25th, 29th
and 30th days of May, 2012.

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

DATE: December 13, 2012

Harry A. Walker
(MRS.) HARRY A. WALKER

COUNTY: ORANGEBURGDATE: MAY 22, 2012Case No.: 2011-GS-38-0012, 2012-GS-38-0792VOIR DIRE (PAGE 1 OF 2)Judge: DIANE GOODSTEIN

Pl./State:

State/Pl's.Atty:

STATE OF SOUTH CAROLINADONALD N. SORENSON

Defendant:

Defense Atty:

ROMEO ANTHONY BROWNBYRON E. GIPSONCourt Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Pl.	Strikes:		Accept
					Def.		
136	SHOSHAWNA NEAL	B	F				X
75	RICHARD GOVAN	B	M		X		
	LISA CURLES	W	F		X		
23	BARBARA BUTLER	B	F				X
117	JEANETTE LUCAS	B	F				X
34	REGINA CASON	W	F				X
110	ALBERT KELLY	B	M				X
165	ALVETA SEAWRIGHT	B	F	X			
152	DELORIS PEEPLES	B	F		X		
183	TABITHA WEATHERFORD	W	F				X
26	TERRELL BYRD	B	M	X			
96	JAMES IRICK	W	M				X
69	JOSEPH GARRICK	W	M		X		
113	JAMES KOGER	B	M	X			
132	MICHAEL MOORE	W	M		X		
40	MALCOLM COKLEY	B	M	X			

COUNTY: ORANGEBURGDATE: MAY 22, 2012Case No.: 2011-GS-38-0012, 2012-GS-38-0792VOIR DIRE (PAGE 2 OF 2)Judge: DIANE GOODSTEIN

Pl./State:

State/Pl's Atty:

STATE OF SOUTH CAROLINADONALD N. SORENSON

Defendant:

Defense Atty:

ROMEO ANTHONLY BROWNBYRON E. GIPSONCourt Reporter: (Mrs.) Harry A. Walker

Juror No.	Name	Race	Sex	Pl.	Strikes:		Accept
					Def.		
120	JAMES MARLE	W	M			X	
22	TIMOTHY BRYCE	W	M				X
54	GEORGE EARLY, III	W	M	X			
9	STANFORD BISHOP	B	M				X
157	CYNTHIA RITTER	B	F				X
129	DOROTHY MILLER	B	F				X
52	CAROL DUKES	W	F				X
ALTERNATE NO. 1:							
172	VANDY STEPHENS	B	M				X
ALTERNATE NO. 2:							
99	IMAN JENKINS	B	F				X

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROMEO BROWN,

APPELLANT

APPELLATE CASE NO. 2012-212217

INITIAL BRIEF OF APPELLANT

KATHRINE H. HUDGINS
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STATEMENT OF ISSUES ON APPEAL

1. Did Appellant's testimony that he did not "know" the deceased open the door to allow the State to question Appellant about a prior altercation with the deceased that the trial court previously ruled inadmissible pursuant to Rule 404(b)?
2. Did the trial court err in allowing the State to present reply testimony about a prior altercation between Appellant and the deceased as impeachment evidence when the prior altercation was a collateral matter to the case at trial and the trial court erred in allowing the State to question Appellant about the prior altercation?

STATEMENT OF THE CASE

In March of 2011, the Orangeburg County Grand Jury indicted Brown for murder, indictment #2011-GS-38-0012. In April of 2012, the Orangeburg County Grand jury indicted Brown for possession of a firearm by a person convicted of a violent crime, indictment #2012-GS-38-0792. On May 22, 2012, Brown proceeded to jury trial before the Honorable Diane Schafer Goodstein. Byron Gipson represented Brown at trial. Donald Sorenson prosecuted the case. On May 30, 2012, the jury found Brown guilty as charged. Judge Goodstein, pursuant to S.C. Code §17-25-45, sentenced Brown to life without parole for murder and five years concurrent on the firearm charge. A timely notice of intent to appeal was served on June 1, 2012. This appeal follows.

STATEMENT OF FACTS

On October 27, 2010, at approximately 8:57 PM Alexander Travis Harrison was fatally shot two times in Randy Ryant's front yard. Randy Ryant is married to Appellant's sister Tammy Ryant. The Ryant front yard was a gathering place and several people were in the yard at the time of the shooting. Lieutenant Craig Davis with the Orangeburg County Sheriff's Office was the first officer on the scene. (Tr. pp. 80-81; p. 99, lines 5-8). Witnesses Vandy Morgan, Joe Thomas, Isaak Morgan and Brandy Mack told Lt. Davis that the shooter was an unknown black male who was six feet to six feet two inches tall and weighed between two hundred (200) and two hundred and twenty (220) pounds. (Tr. p. 102, line 10 – p. 103, lines 1-25). At trial Joe Thomas and Brandy Mack testified that Appellant Romeo Brown was the shooter. (Tr. p. 152, lines 1-15; p. 291, lines 13-25). Two additional witnesses who were not interviewed by Lt. Davis on the night of the shooting, Ulysses Daniels and Shawn Guinyard, testified at trial that Brown was the shooter. (Tr. p. 252, lines 1-13; p. Tr. p. 318, line 21 – p. 319, lines 1-5). Guinyard, Thomas and Mack identified Brown in photo line-ups¹ shown to them by Lieutenant James Shumpert of the Orangeburg County Sheriff's Office. (Tr. pp. 457-463). Daniels also identified Brown in a photo line-up. (Tr. p. 256, line 11 – p. 257, 258, lines 1-25). Thomas testified that after the shooting the shooter ran away. (Tr. p. 166, lines 21-25).

Appellant presented an alibi defense. Appellant testified that on October 27, 2010, the day of the shooting, he spent the afternoon in Mr. Napp's yard next to the Four Way Convenience Store. (Tr. p. 704, lines 1-7). As it got dark, Appellant's nephew, Tedriks Green, picked him up, drove to the Biddie Banquet where they got some food and then went back to Green's house to watch the World Series. (Tr. pp. 704-706). Appellant testified that

he fell asleep watching the baseball game. (Tr. p. 707, lines 11-19). Appellant's nephew woke him up and took him home before the game was over. (Tr. p. 707, line 17 – p. 708, lines 1-10). The nephew, Tedriks Green's testimony at trial was consistent with Appellant's testimony. (Tr. p. 619, line 6 – p. 620, 621 lines 1-23). The nephew testified that he took his uncle home around 11:00 PM.

Appellant testified that after his nephew dropped him off he went next door to check on his neighbor, Erika Smith. (Tr. p. 708, line 7 – p. 709, lines 1-11). Appellant arrived at his neighbor's house around 11:00 PM. (Tr. p. 745, line 18 – p. 746, lines 1-8). Appellant testified that his neighbor and her friend were playing cards and they tried to teach Appellant how to play. (Tr. p. 709, lines 12 – 22). Appellant eventually went home and went to bed. (Tr. p. 710, lines 23 – p. 711, lines 1-25). The neighbor, Erika Smith's testimony at trial was consistent with Appellant's testimony. (Tr. p. 643, line 23 – p. 644, 645, 646, lines 1-25). The neighbor testified that Appellant stayed at her house for about thirty minutes before he went home. (Tr. p. 645, lines 16-23).

Appellant testified that on September 15 – 18, 2010, he was treated for a significant injury to his leg requiring seventeen staples to close the wound. (Tr. pp. 685-696). Appellant was released from wound care on October 19, 2010, but still required the use of a cane to walk. (Tr. p. 699, line 2 – p. 700, lines 1-18). Appellant's sister, Tammy Ryant and his neighbor, Erika Smith both testified that in October of 2010, Appellant required the use of a cane. (Tr. p. 599, line 6 – p. 600, lines 1-23; p. 645, line 24 – p. 646, lines 1-6).

The State presented no forensic evidence linking Appellant to the shooting of Harrison. The State's case against Appellant was based solely on eye-witness identifications. Appellant was arrested on November 4, 2010.

¹ No objection was made to the identifications. 6

ARGUMENT

1. The trial court erred in finding that Appellant's testimony that he did not "know" the deceased opened the door to allow the State to question Appellant about a prior altercation with the deceased that the trial court previously found inadmissible pursuant to Rule 404(b)?

During the trial the State, *in camera*, proffered the testimony of Ulysses Daniels in regard to an altercation between Appellant and the deceased in the Ryant yard about four months earlier. (Tr. pp. 233-239). Daniels testified, "And that's when the two of them hooked up, and Romeo pushed Alex back toward the car that was parked, an old car that was parked not too far from them. And that's when he took the gun and hit him across the head with it." (Tr. p. 235, lines 13-17). Daniels testified that the two of them continued to struggle over the gun until Randy Ryant came out and told them he was going to call the police. (Tr. p. 235, line 17 – p. 236, lines 1-2). The fight ended, another person took the gun and the two men left. (Tr. p. 236, lines 2-7). Daniels testified that the fight was the result of Alex taking a bag of marijuana from Appellant's nephew. (Tr. p. 236, lines 13-18).

The State argued that the testimony about the prior altercation was admissible to show identity and motive pursuant to Rule 404(b), SCRE. Alternatively, the State argued that the testimony was proper to show animosity between the parties. (Tr. p. 239, line 5 – p. 240, lines 1-10). The judge found the testimony inadmissible as it failed to prove identity or motive. (Tr. p. 241, line 9 – p. 242, lines 1-20).

During cross examination Appellant denied knowing the deceased. (Tr. p. 737, lines 20-25). The State, outside of the presence of the jury, argued that Appellant's testimony that he did not know the deceased opened the door to allow questioning about the alleged prior altercation. (Tr. p. 738, lines 1-22). Appellant objected and argued:

Your Honor, in each of those questions he asked a follow up question. He asked, you know, did you know Isaac Bernard, and he said, well, I don't really know him. He said, well did you know – and he ask him a follow up question, and he'd have an opportunity to answer that follow up question. I mean when you talk about know, some people talk of know as, have you had conversations with him, do you sit down and talk to him, do you all break bread together. I mean he didn't ask him if he'd ever had a conversation with him, he didn't ask him that question which is a follow up he asked of the others when he gave a similar answer. So, I think he's entitled to follow that question up and, from that point and see if there's an answer that he gives other than no, or at least define what he means by no. That would be my position Your Honor.

(Tr. p. 738, line 24 – p. 739, lines 1-13). The trial court, noting appellant's exception, allowed the State, for impeachment purposes, to question Appellant about the prior altercation. (Tr. p. 740, line 11 – p. 741, lines 1-4). The trial court erred. First, the trial court should have allowed the Appellant to explain his answer. Second, even without Appellant's explanation, any impeachment should have been limited to establishing that Appellant "knew" the deceased without reference to the prior altercation ruled inadmissible by the trial court. The State should not have been permitted to ask Appellant about the prior altercation.

After the ruling the State asked Appellant, "Mr. Brown, I think my last question where I left off is, I had asked you whether you knew Mr. Harrison, Alex Harrison, the victim in this case, and I believe your was that no you did not know him, is that correct?" (Tr. p. 741, lines 11-14). The following then took place in response to the State's question:

A. Yes, sir.

Q. Okay.

A. Um, can I say something, sir?

Q. Well, I have one other question, I was getting, kind of just getting us back on track of where we were ok?

A. Okay.

(Tr. p. 741 lines 15-20). Counsel for Appellant again asked that Appellant be allowed to explain his answer stating, "Well, could he clarify, I guess, what he was about to say? I'm not sure he's going to say it." (Tr. p. 741, lines 21-22). Appellant was not allowed to explain his answer. (Tr. p. 741, line 23 – p. 742, lines 1-4).

The State then asked Appellant, "Alright, Mr. Brown, let me ask you then, back on June the sixth of Two thousand ten, so some four and a half months prior to this, out at the same address, your sister and brother-in-law's house on Wingfield, did you on that date hit Mr. Harrison up side the right side of his cheek with a hand gun?" (Tr. p. 742, lines 5-10). Appellant replied, "No." (Tr. p. 742, line 11). The State then asked Appellant if he denied having an altercation with Harrison about a bag of marijuana belonging to Appellant's nephew. Appellant denied the altercation. (Tr. p. 742, lines 14-17).

The State should not have been permitted to question Appellant about the prior altercation. During the re-direct examination Appellant provided the explanation that he was not allowed to provide before the State asked about the prior incident. Appellant admitted that he was familiar with the deceased but did not know him well. (Tr. p. 763, line 11 – p. 764, lines 1-10). Appellant testified, "That's the kind of knowing I was thinking that he was talking about, knowing as far as knowing him like that, like knowing their family, know that they got three kids or they got two kids, or what . . ." (Tr. p. 764, lines 11-14). If Appellant had been allowed to explain his answer, as requested, admitting that he was familiar with the deceased but did not know him well, the door the State argued had been opened would have remained closed.

The trial court erred in not allowing Appellant to explain his answer. The trial court further erred in allowing the State to question Appellant about the prior altercation. Any impeachment testimony offered by the State should have been limited to whether appellant “knew” the deceased without reference to the prior altercation as previously ruled inadmissible by the trial court. Although Appellant denied the prior altercation, the questioning suggests that Appellant committed a prior bad act that was found inadmissible pursuant to Rule 404(b).

The trial court correctly found that evidence of the prior altercation was inadmissible pursuant to Rule 404(b), SCRE. (Tr. p. 214, line 9 – p. 242, lines 1-17). The trial court specifically found that evidence of the prior altercation did not show identity or motive. Once Appellant denied knowing the deceased, which he later explained as discussed above, the State could have presented testimony, without reference to the prior incident, that Appellant knew the deceased. Questioning Appellant about the prior incident is not impeaching of whether Appellant knew the deceased.

Testimony about the prior incident constitutes improper character evidence pursuant to rule 404(b), SCRE. Evidence of other crimes or bad acts is not admissible to show criminal propensity to commit the crime charged or to demonstrate the bad character of the accused. Rule 404(b), SCRE; State v. Nelson, 331 S.C. 1, 6–7, 501 S.E.2d 716, 718–19 (1998); State v. Lyle, 125 S.C. 406, 415–16, 118 S.E. 803, 807 (1923). However, such evidence may be admissible to show motive, identity, the existence of a common scheme or plan, the absence of mistake or accident, or intent. Rule 404(b), SCRE. “To be admissible, the bad act must logically relate to the crime with which the defendant has been charged.” State v. Fletcher, 379 S.C. 17, 664 S.E.2d 480,

483. “If the defendant was not convicted of the prior crime, evidence of the prior bad act must be clear and convincing.” *Id.* “Even if the prior bad act evidence is clear and convincing and falls within an exception, it must be excluded if its probative value is substantially outweighed by the danger of unfair prejudice to the defendant.” *Id.* (citing Rule 403, SCRE).

The trial court properly ruled that testimony about the prior incident was inadmissible pursuant to rule 404(b). (Tr. p. 241, line 9 – p. 242, lines 1-20). Appellant’s initial statement that he did not “know” the deceased did not open the door to allow the State to question Appellant about the prior incident. The trial court erred in allowing the State to question the Appellant about the prior violent altercation. The error was not harmless because it was highly prejudicial and was further compounded by the fact that the State was allowed to impeach Appellant’s testimony denying the prior altercation as discussed in issue two.

2. The trial court erred in allowing the State to present reply testimony about a prior altercation between Appellant and the deceased as impeachment evidence when the prior altercation was a collateral matter to the case at trial and the trial court erred in allowing the State to question Appellant about the prior altercation.

In reply the State called Randy Ryant, Appellant’s brother in law. Appellant objected to the reply testimony of Ryant. (Tr. p. 776, line 9 – p. 777, 778, lines 1-2). Counsel for Appellant stated, “I think he, I think the question was, had her ever hit Mr. Harrison [the deceased] with a pistol, and he said, no, he hadn’t.” The judge responded, “And did you all

have a fight? No. Did you have an altercation? No. Did y'all have an altercation over pot that belonged to your nephew, I think, and he said, no. And as I recall, his answers to everything that had to do with the alleged incident four months earlier was, no." (Tr. p. 778, lines 10-14). The judge went on to state, "And this is not character, what we're not, we're not cross-examining on the issue of character, this is plain old garden variety impeachment. Opened the door, I don't know him, yes, you do." (Tr. p. 778, lines 22 – 25). The judge then quoted the Oxford English dictionary for the definition of "know" and then found the rebuttal testimony of Randy Ryant proper. The trial court erred.

In State v. Dubose, 288 S.C. 226, 231-232, 341 S.E.2d 785, 788 (1986) the South Carolina Supreme Court wrote:

We held in State v. Brock, 130 S.C. 252, 126 S.E. 28 (1924) that whether a matter is collateral to the issues involved is determined by the answer to this question:

Would the cross-examining party be entitled to prove the fact as a part of, and as tending to establish, his case? If he would be allowed to do so, the matter is not collateral; but, if he would not be allowed to do so, it is collateral. Collateral matters, in this sense, are such as afford no reasonable inference as to the principal matter in dispute. 130 S.C. at 254, 126 S.E. at 29.

Here, by Chandler's own admission, the statement attributed to DuBose was made at least 11 years prior to trial. It alleges the commission of a prior bad act not recognized as an exception in Lyle. See also State v. Byers, 277 S.C. 176, 284 S.E.2d 360 (1981).

Therefore, the State, in its case in chief, could not have presented this evidence against DuBose.

Moreover, where, as here, a witness denies an act involving a matter collateral to the case in chief, the inquiry ends. The inquiring party is not permitted to introduce evidence in contradiction or impeachment. State v. Hale, 284 S.C. 348,

326 S.E.2d 418, 421 (Ct.App.1985); State v. Allen, 266 S.C. 468, 482, 224 S.E.2d 881, 886 (1976).

Finally, in its brief the State contends the Chandler testimony was admissible to impeach DuBose's credibility as to his testimony denying knowledge of "what marijuana was and looked like."

We disagree. DuBose did not so testify specifically, and nothing in the record infers the State's characterization of his testimony.

Clearly, the testimony of Chandler should have, upon objection, been excluded. Its devastating prejudicial effect requires no comment.

As in Brock, the prior altercation constituted a prior bad act not recognized as an exception pursuant to Rule 404(b) and State v. Lyle, 125 S.C. 406, 118 S.E. 803 (1923).

The State should not have been allowed to question appellant about the prior altercation, as discussed in issue one. The prior altercation is collateral to the case at trial. Once appellant denied the prior altercation, the inquiry should have stopped because the prior altercation was a collateral matter and the State should not have been allowed to introduce testimony in contradiction or impeachment.

In Dubose the defendant was on trial for manufacturing and trafficking marijuana. At trial Dubose denied making a statement to a neighbor, eleven years earlier, about growing marijuana. In reply, the State, over objection, called the neighbor who testified that Dubose admitted, eleven years earlier, growing marijuana. The South Carolina Supreme Court found that the neighbor's testimony was improper as it was collateral to the case in chief and did not meet an exception under Lyle. The Court reversed finding the testimony devastatingly prejudicial.

In Hale, 284 S.C. 348, 352-353, 326 S.E.2d 418, 421 (Ct.App. 1985) the South Carolina Court of Appeals wrote:

There are three ways to impeach the credibility of a witness by collateral evidence. The first is by showing he has been convicted of a crime involving moral turpitude, not too remote in time. State v. Harvey, 275 S.C. 225, 268 S.E.2d 587 (1980). The second is by showing he has been guilty of bad conduct that was not the subject of a conviction. This inquiry into matters collateral to the case in chief is limited to cross examination of the witness sought to be impeached; if the witness denies the act, the inquiry ends. State v. Allen, 266 S.C. 468, 224 S.E.2d N.E.2d 529 (1970); C. McCormick, EVIDENCE, Section 42, at 92 (3d ed. 1984). Finally, testimony bearing on the witness's general reputation for truth and veracity may be introduced. In South Carolina this testimony must take a peculiar form first prescribed in 1826. Dollard v. Dollard's Executor, 16 S.C.L. (Harp.) 564 (1826). Its admissibility was last challenged nearly a century ago in State v. Murphy, 48 S.C. 1, 25 S.E. 43 (1896), and today its propriety is not questioned. See, e.g., State v. McClellan, 323 S.E.2d 772 (S.C.1984).

As discussed in issue one, the State should not have been permitted to ask Appellant about a prior altercation with the deceased. Once the State was improperly allowed to ask about the prior altercation, as discussed as the second way to impeach in Hale – by showing guilt of bad conduct not the subject of a conviction – the inquiry should have ended once Appellant denied the prior altercation. The judge erred in allowing the reply testimony of Randy Ryant in regard to a prior altercation between Appellant and the deceased. The testimony was highly prejudicial and requires reversal.

CONCLUSION

Based on the above argument, Brown's convictions should be reversed and the case remanded for a new trial.

Respectfully submitted,


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

This 2nd day of August, 2013.

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Orangeburg County

Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ROMEO BROWN,

APPELLANT

APPELLATE CASE NO. 2012-212217

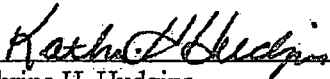
**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments and sentencing sheets;
- (2) Trial transcript pages 39 – 169; 177 – 492; 496-768; 776-944.

I certify that this designation contains no matter which is irrelevant to this appeal.

August 2, 2013


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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Orangeburg County
Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

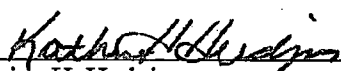
ROMEO BROWN,

APPELLANT

APPELLATE CASE NO. 2012-212217

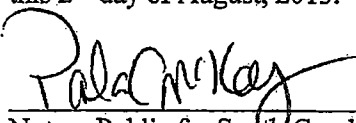
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true copy of the Initial Brief of Appellant and Designation of Matter in the above referenced case has been served upon Donald J. Zelenka, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201 and also served upon Mr. Romeo Brown, #185544 McCormick Correctional Institution 386 Redemption Way McCormick, SC 29899, this 2nd day of August, 2013.


Kathrine H. Hudgins
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me
this 2nd day of August, 2013.


_____(L.S.)
Notary Public for South Carolina
My Commission Expires: July 24, 2022.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of General Sessions.
Diane Schafer Goodstein, Circuit Court Judge

The State, Respondent,
v.
Romeo Brown, Appellant.

Appellate Case No. 2012-212217

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APPELLANT'S STATEMENT OF ISSUES ON APPEAL

1. Did Appellant's testimony that he did not "know" the deceased open the door to allow the State to question Appellant about a prior altercation with the deceased that the trial court previously ruled inadmissible pursuant to Rule 404(b)?
2. Did the trial court err in allowing the State to present reply testimony about a prior altercation between Appellant and the deceased as impeachment evidence when the prior altercation was a collateral matter to the case at trial and the trial court erred in allowing the State to question Appellant about the prior altercation?

(FBOA, p. 3).

RESPONDENT'S COUNTER STATEMENT OF ISSUE ON APPEAL

Did the trial judge fairly allow the State to impeach the defendant with evidence of a prior altercation with the victim after Appellant testified and denied knowing the victim or having the altercation as the impeachment was not that the prior altercation occurred, but the fact that Appellant's testimony conveyed a false impression that he never knew or had any difficulties with the victim. [Appellant's Issues I and II].

STATEMENT OF THE CASE

An Orangeburg County grand jury indicted Appellant in March 2011 for the murder of Alexander Harrison. (R. pp. *). The grand jury also indicted Appellant in April 2012 for possession of a firearm by a person convicted of a violent crime. (R. pp. *). In March 2012, the State filed and served a notice of intent to seek a life without parole sentence pursuant to the recidivist statute, S.C. Code § 17-25-45. (Tr. p. 926, line 18 – p. 928, line 9). Byron E. Gipson, Esq., represented Appellant on the charges. A jury trial was held May 22-25 and 29-30, 2012, before the Honorable Diane Schafer Goodstein. The jury convicted as charged. (Tr. p. 921, lines 16-25). Judge Goodstein sentenced Appellant to life imprisonment without the possibility of parole pursuant to the recidivist statute, and five (5) years, concurrent, for the possession of a firearm conviction. (Tr. p. 941, lines 2-20). This appeal follows.

RESPONDENT'S STATEMENT OF FACTS

The victim, Alexander Harrison (hereinafter "victim" or "Alex"), was shot to death in the front yard of Randy Ryant's home on Wednesday, October 27, 2010 at approximately 8:30 pm.

Mr. Ryant's front yard had developed into a gathering place for people to mingle, play cards, socialize and drink. Mr. Ryant is married to Appellant's sister, Tammy Ryant. Appellant was often at the Ryant home to visit his sister and her children, but did not generally stay outside. (Tr. p. 116, line 1-p. 120, line 2). Mr. Ryant testified that on the night of the murder, he saw "Bernie, Vandy, Ricco, Brandy, Eric, Alex," and several others, but he did not recall seeing Appellant in the yard. Mr. Ryant was absent from the home at the time of the murder having left to go to a local store for more beer. (Tr. p. 121, line 12 - p. 123, line 4).

Joe Thomas, Sr., testified that he knew victim and had seen Appellant several times at the Ryant's home. (Tr. p. 140, line 19- p. 141, line 10). At the time, he did not know Appellant by name, but recognized his face. (Tr. p. 141, line 11 - p. 142, line 8). Mr. Thomas testified that victim was at his table in the yard when he heard a shot. He looked toward victim. Appellant "was kneeling on top of him with the gun pointed" at him. Mr. Thomas testified, "Alex said, please don't shoot me again. And he shot him and got up and ran." (Tr. p. 151, line 9 - p. 152, line 15). Mr. Thomas was positive that the shooter was Appellant. (Tr. p. 152, lines 16-22). He also identified Appellant in a photo lineup and in court. (Tr. p. 156, line 16 - p. 157, line 21).

Vandy Morgan testified he saw Appellant approach the yard as he was walking to his car, and subsequently heard a shot. He did not, however, see the actual shooting. (Tr.

p. 189, line 16 – p. 191, line 24). Mr. Morgan did hear, however, victim say, “you shot me one time, please don’t shoot me no more,” then Mr. Morgan heard a second shot. (Tr. p. 200, line 24 – p. 201, line 4).

Issac Morgan (son to Joe Thomas and cousin to Vandy Morgan) also testified that he was in the yard with victim and several friends. Morgan testified he had known the victim for years and had known Appellant for a “couple of months” before the shooting. (Tr. p. 225, line 24 – p. 227, line 16). He heard the two shots, and eventually ran to his friend, Alex, but Alex was already gone. (Tr. 229, line 2 – p. 231, line 7).

Ulysses Daniels testified that while sitting at a table in the Ryants’ front yard, he noticed Appellant at a short distance, standing, with a gun clearly visible. (Tr. p. 252, lines 1-5). The people at the table scattered. Alex ran toward Appellant. Mr. Daniels did not see but heard the first shot. Mr. Daniels looked back and saw Appellant “standing over Alex and [he] fired the last shot.” (Tr. p. 252, lines 11-13; p. 253, lines 14-19). Mr. Daniels recalled that, when Appellant initially approached, he asked Donell Ryant “what was he doing over there,” referencing victim. (Tr. p. 253, line 22- p. 254, line 2).

Brandy Mack testified that she was also at the Ryant’s house on the night of the murder. She did not know Appellant by name, but did recognize him from seeing him earlier. (T. p. 286, lines 2-21; p. 292, lines 15-23). She also casually “knew of” Alex and saw him arrive that evening. (Tr. p. 288, lines 3-14). She subsequently heard a gunshot and fell to the ground. She looked up and saw Appellant fire the second shot. (Tr. p. 291, lines 13-25). She also identified Appellant from a photographic lineup and in court. (Tr. p. 293, line 22 – p. 296, line 20).

Shawn Guinyard similarly testified to Appellant's expressed animosity. Mr. Guinyard testified that he noticed Appellant approaching and spoke to him. Appellant "said, what is he doing over here? He said, ain't I told you? That's when Alex stood up" and "[w]hen Alex stood up he shot him." (Tr. p. 318, lines 21-25). (See also Tr. p. 333, lines 9-21, Appellant stated "I'm going to show you," just before shooting victim).

Investigators recovered two bullet casings from the yard near victim's body. (Tr. p. 350, lines 1-3). Subsequent testing indicated they were both fired from the same gun. (Tr. p. 417, lines 16-23). Forensic pathologist Dr. Janice Edwards Ross testified that Alex died due to loss of blood from two gunshot wounds, one to the back and one to the abdomen. (Tr. p. 404, lines 8-10). One bullet entered the right back area and traveled through the left side of the chest. The other entered the abdomen and lodged in the backbone. (Tr. p. 397, lines 6-20). The abdominal wound was a contact wound. (Tr. p. 400, lines 5-22).

The State presented testimony from Appellant's cousin, Dennis Jones, that Appellant left the Orangeburg area on the night of the murder, October 27, 2010. Mr. Jones testified that Appellant called him and requested a ride at approximately 9:30 pm. Mr. Jones was cleaning an office and waited to that was completed. Mr. Jones testified he picked Appellant up at the "Four Way" at approximately 10:30 pm (Tr. p. 438, line 14 – p. 441, line 22).¹ Mr. Jones further testified that Appellant asked to be taken to a rest area on Interstate 26 toward Columbia, and that Mr. Jones dropped him off as requested. (Tr. p. 442, line 9 – p. 443, line 5).

¹ Appellant admitted in his testimony that the "Four Way" convenience store was within walking distant from his trailer.. (Tr. p. 703, lines 1-12). Further, his trailer was just beyond the Ryant home, and the Ryant home could be seen from his neighborhood. (See Tr. p. 658, lines 7-13).

Appellant presented a defense. Appellant called his nephew, Tedriks Green, who testified that on the night in question the two went to a local restaurant, then watched baseball at Mr. Green's house. Mr. Green testified that he took Appellant to Appellant's home at approximately 11:00 pm. (Tr. p. 617, line 16- p. 622, line 20). Appellant also called his neighbor, Erica Smith, who testified Appellant came by her house late at night, somewhere around ten or eleven o'clock, on the night of the murder. Ms. Smith testified she heard a car door shut just prior to his arrival. She also testified that they played cards. (Tr. p. 643, line 23 – p. 647, line 16; p. 664, lines 6-8). Appellant testified similarly, adding that he went home after leaving Ms. Smith's trailer, and went to bed. (Tr. p. 704, line 1 – p. 711, line 23).

Appellant admitted that he had gone to Anderson shortly after the murder, but testified that he returned upon hearing about a warrant for his arrest on October 29, 2013. (Tr. p. 714, lines 11-22). Appellant also admitted he did not turn himself in (though he testified he was in the process of getting money together for a lawyer before doing so). (Tr. p. 715, lines 16-25). Appellant was arrested on November 4, 2013, hiding in a friend's home. (Tr. p. 716, line 8 – p. 717, line 2; p. 750, line 13 – p. 756, line 22).

ARGUMENT

The trial judge fairly and properly allowed the State to impeach the defendant with limited evidence of a prior altercation with victim after Appellant testified that he neither knew the victim nor had the altercation. Appellant's testimony opened the door to the evidence as Appellant's testimony conveyed a false impression to the jury that he never knew or had any specific difficulties with the victim. The trial judge did not abuse her discretion in allowing the State to address the false impression on cross-examination and to present reply testimony as the false impression went directly to a critical point of proof – identification of the Appellant as the shooter.
[Appellant's Issues I and II].

Appellant contends the trial judge erred in finding the Appellant's testimony that he did not know the victim opened the door to both questions on a prior incident between Appellant and victim, [Appellant's Issue I, FBOA, p. 7], and limited reply testimony on the prior incident, [Appellant's Issue II, FBOA, p. 11]. The record shows no abuse of discretion.

Relevant Facts:

The facts of the prior incident at issue were initially presented to the trial judge by the State in an *in camera* request to present testimony under Rule 404(b), SCRE. The State sought to offer the evidence in proof of identity, motive and/or intent. (Tr. p. 239, line 9- p. 240, line 10). The State presented one witness, Ulysses Daniels. Mr. Daniels testified that he knew both Appellant and the victim. (Tr. p. 234, lines 2-25). He testified that, several months before the murder, he was sitting in the Ryants' front yard (the same yard where the murder would later occur) with victim. Appellant approached victim and questioned him about taking marijuana from Appellant's nephew. According to Mr. Daniels, Appellant pushed victim, then pulled out a gun and "hit him across the head with it." (Tr. p. 235, lines 14-17). The two fought over the gun. Mr. Daniels testified that he asked Randy Ryant to intervene and Mr. Ryant "told the two of them ... if they didn't cut

it out he was going to call the police....” (Tr. p. 235, line 13- p. 236, line 1). The police were called and someone came by and took the gun after which both Appellant and victim left. (Tr. p. 237, lines 1-7; p. 238, lines 3-9). When asked whether the animosity between the two would have continued, Mr. Daniels testified:

... I would think so, because, you know, Alex stopped coming over there and Romeo did, too, you know, but that night, you know, Alex came back over there, you know, because, you know everything had done been, you know, well, I guess everybody thought that it was done resolved, you know, gone away, or whatever.

(Tr. p. 236, line 22 – p. 237, line 2).

The trial judge found the fact the witness testified the matter had been resolved cut against finding the testimony of the prior evidence admissible under Rule 404(b). However, the judge cautioned “it may become relevant at some other point, perhaps in rebuttal....” (Tr. p. 241, line 9 – p. 242, line 17).

Mr. Daniels then testified before the jury only as to the facts surrounding the murder. Mr. Daniels testified that while sitting at a table in the Ryants’ front yard, he noticed Appellant at a short distance, standing, with a gun clearly visible. (Tr. p. 252, lines 1-5). The people at the table scattered. Victim ran toward Appellant. Mr. Daniels did not see but heard the first shot. Mr. Daniels looked back and saw Appellant “standing over Alex and [he] fired the last shot.” (Tr. p. 252, lines 11-13; p. 253, lines 14-19). Mr. Daniels recalled that when Appellant initially approached, he asked Donell Ryant “what was he doing over there,” referencing victim. (Tr. p. 253, line 22- p. 254, line 2).

Shawn Guinyard similarly testified to Appellant’s expressed animosity. Mr. Guinyard testified that he noticed Appellant approaching and spoke to him. Appellant “said, what is he doing over here? He said, ain’t I told you? That’s when Alex stood up”

and “[w]hen Alex stood up he shot him.” (Tr. p. 318, lines 21-25). (See also Tr. p. 333, lines 9-21, Appellant stated to victim, “ain’t I told you” and further stated, “I’m going to show you,” just before shooting victim).

In all, three individuals specifically identified Appellant as the shooter: Ulysses Daniel, (Tr. p. 252, lines 11-13); Brandy Mack, (Tr. p. p. 291, lines 13-25); and, Shawn Guinyard (Tr. p. 318, lines 21-25). Two of the three, Daniel and Guinyard, specifically testified to words between the two indicating an existing history. (Tr. p. 253, lines 22 – p. 254, line 2; p. 333, lines 9-21). Appellant’s defense was he was with his nephew and a neighbor on the night of the murder. Appellant’s nephew and neighbor testified to same. (Tr. p. 617, line 16- p. 622, line 20; p. 643, line 23 – p. 647, line 16; p. 664, lines 6-8). Appellant also testified in his defense. Appellant testified similarly to the nephew and the neighbor, adding that he went home after leaving Ms. Smith’s trailer, and went to bed. (Tr. p. 704, line 1 – p. 711, line 23). He also specifically denied the murder, denied having a “fight” with victim on October 27, 2010, and denied being at the Ryants’ home on October 27, 2010. (Tr. p. 717, line 21 – p. 718, line 8; p. 720, lines 21-22).

On cross-examination, the assistant solicitor asked about a number of people that were in the yard at the Ryant home, including Joe Thomas, Vandy Morgan, Issac Bernard, Ulysses Daniels, Brandy Mack, and Monique Shawn Guinyard. Appellant qualified how he knew or didn’t know these individuals. (See Tr. p. 734, line 2 – p. 737, line 20). However, when asked if he knew the victim, he simply said, “No, sir,” that he “d[id]n’t know him at all.” (Tr. p. 737, lines 20-25). The assistant solicitor then asked to be heard outside the presence of the jury.

After the jury retired to the jury room, the assistant solicitor requested permission to ask about the prior incident. (Tr. p. 738, lines 13-22). Defense counsel complained that the solicitor failed to ask a "follow up question" as he had with other witnesses, such as would elicit whether or how Appellant knew the individual. (Tr. p. 738, line 24 – p. 739, line 13). The trial court granted the solicitor's request over defense counsel's objection. (Tr. p. 740, lines 11-22).

Upon resuming cross-examination, the assistant solicitor asked again if Appellant's answer was "no" that he did not know the victim, to which Appellant responded affirmatively. (Tr. p. 741, lines 11-15). Appellant then asked to "say something," to which the solicitor replied that he had one other question to "get[] us back on track of where we were...." (Tr. p. 741, lines 18-19). Defense counsel asked: "Well, could he clarify, I guess, what he was about to say? I'm not sure he's going to say it." (Tr. p. 741, lines 21-22). The assistant solicitor offered that he was merely bringing the jury back to the relevant point after a fifteen minute break to which the judge replied, "I understand. ... I think you that you can bring him back to that point, and you've done that." (Tr. p. 741, line 23 – p. 742, line 2). The solicitor then asked Appellant if he struck the victim on the right side of his cheek with a hand gun in the Ryants' front yard in June 2010, to which Appellant responded, "No." (Tr. p. 742, lines 5-11). The following exchange occurred:

Q. You deny that?

A. Yes, sir.

Q. Okay. Do you deny having an altercation with him on that day in reference to a bag of marijuana belong to your nephew, Snook?

A. Yes, sir.

Q. And do you deny that Mr. Daniels observed, Ulysses Daniels observed that altercation.

A. No, I don't know Ulysses.

Q. You don't know him?

A. What I'm saying, when I say - - excuse me, sir, but when I say I don't know a person as far as, you know, I been to your house and, you know, we ride together and, you know, etcetera, things like that, I don't know nobody personally like that. You know, I seen people, you knew we may speak to each other or something and, you know, as a pass by, you know like that.

Q. Okay.

A. But as far as knowing them like - - no.

Q. Let me ask you this, I asked you the question earlier about Ulysses Daniels, the guy that testified in the orange jump suit, did you know him before the other day, had you seen him before?

A. Yes, I seen him before.

Q. Okay. But you didn't know him?

A. I don't know him.

Q. Okay. Alright. But you would deny that you had that altercation with Mr. Harrison back in June of Two thousand ten, is that correct?

A. Yes, sir.

Q. And that your brother-in-law actually had to call the police to get y'all to break that up out in his yard?

A. Yes, sir.

(Tr. p. 742, line 12-p. 743, line 20). That exchange concluded the questions on cross about the June 2010 incident.

On re-direct, defense counsel asked Appellant to explain the difference in what it means to "know" someone. Appellant was allowed to explain his understanding of knowing someone either by sight or to know something more about them. Defense counsel then asked if Appellant was "familiar" with the victim, to which Appellant replied, "yes, sir." (Tr. p. 763, line 11 – p. 764, line 14). But when asked, "did you know him, meaning have conversation with him and know him," Appellant responded, "Oh, no sir, no, sir." (Tr. p. 764, lines 17-19).

Prior to the reply, Appellant argued that either the Court or defense counsel could ask additional questions of Appellant and there may not be a need to present evidence on the June incident. (Tr. p. 776, line 13 – p. 778, line 2). The trial judge reviewed the questions previously asked on cross:

And did you all have a fight? No. Did you have an altercation? No. Did y'all have an altercation over pot that belonged to your nephew, I think, and he said, no. And as I recall, his answers to everything that had to do with this alleged incident four months earlier was, no.

He didn't know about it, he didn't have any information about, he didn't participate in it ... as I recall, those were his responses.

(Tr. p. 778, lines 10-20).

Defense counsel agreed with the judge's summary. (Tr. p. 778, lines 15-21). The judge found:

... this is not character, what we're not, we're not cross-examining on the issue of character, this is plain old garden variety impeachment. Opened the door, I don't know him, yes, you do...

(Tr. p. 778 lines 22-25).

In reply, the State presented one witness, Randy Ryant, Appellant's brother in law and owner of the property where the murder occurred, to testify about the prior June

altercation. When asked if Appellant and victim knew each other, Mr. Ryant testified: "They know each other as being in the yard, yeah, sure, as being in the yard, but knowing each other by talking around the table, no." (Tr. p. 792, lines 22-24). He clarified they did not socialize together. (Tr. p. 792, line 25 – p. 793, line 6). Mr. Ryant testified in June 2010, after a fish fry at the Ryant house, it was brought to his attention that an altercation was occurring in the front yard. As a result, he went to the yard and saw Appellant and victim Alex "tussling." (Tr. p. 793, line 7 – p. 794, line 16). During the "tussle," Appellant called to Ryant's son, D.T., to "come get the gun." (Tr. p. 794, lines 23-34; p. 795, lines 4-6). Ryant instructed his son not to go. (Tr. p. 794, line 24 – p. 795, line 1). Ryant instructed Appellant and victim to stop the fight, and, when the fight continued, Ryant called the sheriff's department. Both Appellant and victim left before the responding officers arrived. Ryant declined to name either Appellant or victim at that time. (Tr. p. 795, line 9- p. 796, line 10). Ryant noted that victim had an injury to his right cheek after the fight had occurred. (Tr. p. 796, lines 11-25). In cross-examination, defense counsel underscored that after the June fight, "they were in one another's presence on multiple occasions" again in the Ryants' front yard. (Tr. p. 799, lines 12-24; p. 802, lines 4-6). No other testimony was presented on reply concerning the incident.

Discussion:

"The [a]dmission of evidence falls within the trial court's discretion and will not be disturbed on appeal absent abuse of that discretion." *State v. Colf*, 337 S.C. 622, 625, 525 S.E.2d 246, 247 - 248 (2000) (citing *State v. Huggins*, 325 S.C. 103, 481 S.E.2d 114 (1997)). Likewise, "[t]he scope of cross-examination is within the discretion of the trial judge, whose decision will not be reversed on appeal absent a showing of prejudice." *Id*

(citing *State v. Sherard*, 303 S.C. 172, 399 S.E.2d 595 (1991)). The same is true for the admission of reply testimony. *State v. Todd*, 290 S.C. 212, 214, 349 S.E.2d 339, 340 - 341 (1986) (“admission of reply testimony is within the sound discretion of the trial judge”). “An abuse of discretion occurs when the trial court’s ruling is based on an error of law,” *State v. Cope*, 405 S.C. 317, 335, 748 S.E.2d 194, 203 (2013) (citing *State v. Washington*, 379 S.C. 120, 124, 665 S.E.2d 602, 604 (2008)), or when the ruling lacks factual support in the record, *Wilder v. State*, 388 S.C. 282, 285, 696 S.E.2d 587, 588 (2010). See also *State v. McEachern*, 399 S.C. 125, 137, 731 S.E.2d 604, 609 (Ct. App. 2012) (same).

In allowing cross-examination on the June 2010 incident, the trial judge found that, while evidence of the prior incident had been previously disallowed, based on Appellant’s own testimony, the assistant solicitor could ask questions about the incident, noting, “I do not believe at this point that I can limit that cross-examination. I think for impeachment purposes I can’t limit that any longer. I know I have done it throughout this trial but I do not think at this point that I can.” (Tr. p. 740, lines 11-15). In allowing reply, the trial judge found this was not impeachment by a prior bad act to reflect on character, but “this is plain old garden variety impeachment. Opened the door.” (Tr. p. 778; line 22 – p. 779, line 21). The trial judge’s ruling is well supported by the facts and the relevant law. As the record shows the trial judge did not abuse her discretion, this Court should affirm.

Appellant’s argument the trial judge erred is centered on the principle that when a witness denies a prior bad act which is collateral to the charge at bar, “[t]he inquiring party is not permitted to introduce evidence in contradiction or impeachment.” *State v.*

DuBose, 288 S.C. 226, 231, 341 S.E.2d 785, 788 (1986); *State v. Beckham*, 334 S.C. 302, 320-321, 513 S.E.2d 606, 615 (1999) (citing *State v. DuBose*). See also Rule 608(b), SCRE (“Specific instances of the conduct of a witness, for purpose of attacking or supporting the witness’ credibility, other than conviction of a crime..., may not be proved by extrinsic evidence.”). However, the factual situation at issue shows that principle does not apply. Simply, the State’s impeachment was on contradiction not character. Further, the contradiction was on a fact that was not collateral, but on-point relevant to proof of identification of Appellant as the shooter. *DuBose*, 288 S.C. at 231, 342 S.E.2d at 788 (“Collateral matters, in this sense, are such as afford no reasonable inference as to the principal matter in dispute.”) (quoting *State v. Brock*, 130 S.C. 252, 254, 126 S.E. 28, 29 (1924). See also 1 McCormick On Evid. § 45 (7th ed.) (database updated March 2013) (“A matter is deemed ‘collateral’ if the matter itself is irrelevant to establish any fact of consequence in the litigation, i.e., irrelevant for a purpose other than mere contradiction of the prior witness’s in-court testimony.”). Further, “there is no abuse of discretion” in allowing reply testimony, “if the testimony is arguably contradictory of and in reply to earlier testimony.” *State v. Todd*, 290 S.C. 212, 214, 349 S.E.2d 339, 340 - 341 (1986) (citing *State v. Stewart*, 283 S.C. 104, 320 S.E.2d 447 (1984)). When analyzed through the correct lens, the record demonstrates the questions were proper and the proof in reply was not barred by the collateral evidence prohibition.

As an initial matter, Respondent agrees that the prosecution could not have presented the evidence in its initial case. (See FBOA, p. 13). Indeed, the State requested to do so, and the trial judge denied admissibility at that time. (Tr. p. 241, line 9 – p. 242, line 17). Respondent notes, though, that the trial judge cautioned at the same time that

the testimony *could become relevant for reply* and it became so. (Tr. p. 242, lines 8-17). Thus, Appellant was well aware the State could not introduce the prior bad act under Rule 404 (b) when he made the decision to deny knowing the victim. Further, Appellant was aware he ran the risk of the prior act becoming admissible. He should not be entitled to any relief. *See generally State v. Faulkner*, 274 S.C. 619, 622, 266 S.E.2d 420, 422 (1980) (denying relief where, after defense alibi witnesses recanted testimony at trial, “Appellant sought to take advantage of the recanting witnesses’ testimony twice, once in support of his alibi defense and again as the basis for a motion for mistrial. We have held a criminal defendant should not be allowed to profit from his own mistakes.”). At any rate, the specific testimony at issue supports the trial judge’s ruling.

Appellant testified in his direct examination that he did not shoot the victim, did not fight with victim in the Ryant yard on October 27, 2010, and denied even being at the Ryant home on October 27, 2010. (Tr. p. 717, line 21 – p. 718, line 8; p. 720, lines 21-22). On cross-examination, as correctly prompted by this blanket denial, Appellant was asked, without objection, if he knew the victim. He denied knowing the victim. This created a false impression before the jury. Moreover, the false impression was on a critical point of proof – identification. *See State v. Lane*, 749 S.E.2d 165, 167 (Ct.App. 2013) (“The State has the burden of proving beyond a reasonable doubt the identity of the defendant as the person who committed the charged crime or crimes.”). Appellant’s knowledge of the victim was important for several points, not the least of which is because two of the three eyewitnesses testified to words exchanged that indicated prior knowledge. Here, Appellant’s own testimony – denying both knowledge of the victim or participation in the June incident – made the questions on cross appropriate. *See State v.*

Taylor, 333 S.C. 159, 175, 508 S.E.2d 870, 878 (1999) (“because appellant ‘opened the door’ about his relationship with his wife, the solicitor was entitled to cross-examine him about the relationship, even if the responses brought out appellant’s prior criminal domestic violence conviction”); *State v. Doby*, 273 S.C. 704, 710, 258 S.E.2d 896, 900 (1979) (finding no error in trial court allowance of cross-examination questions on “appellant’s two prior convictions for trespassing in public women’s restrooms” where “appellant opened the door to this cross examination by direct testimony regarding his passive character and lack of mature sexual desires.”); *State v. (Hollie) McEachern*, 399 S.C. 125, 731 S.E.2d 604 (Ct.App. 2012) (finding no error in cross-examination of defendant on forfeiture where in direct testimony in drug trial defendant “specifically proclaimed none of the money found in her pocketbook was drug money. Thus, Hollie opened the door to admission of evidence that she agreed to forfeit the money in question, and we therefore find no error in the admission of this evidence.”).

Further, because the reply directly contradicted Appellant on this specific point, it, too, was clearly proper and admissible. See *State v. Groome*, 274 S.C. 189, 191, 262 S.E.2d-31, 32 (1980) (finding proper the co-defendant’s reply supporting contact between co-defendant and defendant which contradicted the defendant’s testimony “he had not seen the witness for ‘a good substantial period of time, maybe two months, maybe three months,’ prior to his arrest, as an obvious attempt to disclaim any contact with his co-conspirator”). Accord *United States v. Leavis*, 853 F.2d 215 (4th Cir. 1988) (“The prosecution was entitled, as the district court held, to rebut the false impression Leavis was creating by his testimony.”); *People v. Hodges*, 99 A.D.3d 629, 630 (N.Y.A.D. 1

Dept. 2012) ("By creating an issue of alleged police brutality, defendant opened the door to rebuttal evidence tending to negate that claim.").

The fact that the evidence could also be considered character evidence is not a bar to admissibility. "While the State may not attack a criminal defendant's character unless he has placed it in issue, relevant evidence admissible for other purposes need not be excluded merely because it incidentally reflects upon the defendant's reputation." *State v. Faulkner*, 274 S.C. at 621, 266 S.E.2d at 421 (internal citations omitted). Because the cross and the reply testimony centered on impeachment by contradiction, the bar to character evidence did not apply. *Compare State v. Bolin*, 180 S.E. 809, 811 -812 (1935) (questions on prior incident of violence not involving victim constituted improper character evidence as "when a defendant becomes a witness in his own behalf, his character as to veracity is thereby uncovered, but not his general moral character."). While Appellant argues the State need not have presented testimony of the prior incident to prove Appellant "knew" the victim, (FBOA, p. 10), it would not account for the prior discord. Additionally, the information on reply was limited and did not encompass the detail in Mr. Grant's testimony demonstrated in the 404(b) proffer. For example, there was no proof offered to establish the nephew's connection, if any, to marijuana – a decidedly collateral issue.

Lastly, the record shows overwhelming evidence of guilt. Three eyewitnesses testified that Appellant shot Alex. Further, forensic evidence supported their account, including the recovered shells indicating one gun, (Tr. p. 417, lines 16-23), and the contact wound, (Tr. p. 400, lines 5-22). On this record, even if some error could be found, it would not be prejudicial. *See Wilder v. State*, 388 S.C. 282, 285, 696 S.E.2d 587,

589 (2010) (“In order for this Court to reverse petitioner’s convictions and sentences, however, we must find that the trial court’s error prejudiced petitioner. Since Murdaugh was merely one of six eye witnesses to identify petitioner as the shooter, there were other witnesses whose testimony was consistent with that of the identifying witnesses, and physical evidence linked petitioner in the murder, her testimony was merely cumulative to other overwhelming evidence of guilt. As such, reversal is not warranted here.”). Appellant is not entitled to any relief.

CONCLUSION

For all the foregoing reasons, Respondent, the State, submits that the judgment and conviction of the lower court should be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

November 25, 2013.
Columbia, South Carolina.

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORAGNEBURG COUNTY
Court of General Sessions
Diane Schafer Goodstein, Circuit Court Judge

The State,

Respondent,

v.

Romeo Brown,

Appellant.

Appellate Case No. 2012-212217

DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

In addition to the matter designated by Appellant, Respondent proposes the following be included in the Record on Appeal:

- (1) Trial Transcript pages:
 - 116-123;
 - 140-142;
 - 151-152;
 - 156-157;
 - 189-191;
 - 200-201;
 - 225-227;
 - 229-231;
 - 234-242;
 - 252-254;
 - 286;
 - 288;
 - 291-296;
 - 318;
 - 333;
 - 350;
 - 397;

400;
404;
417;
438-443;
617-622;
643-647;
658;
664;
703-711;
714-720;
734-743;
750-756;
763-764;
776-779;
792-796;
799;
802;
921;
926-928;
941.

(2) Indictments.

To facilitate the preparation of the Final Brief, Respondent requests that counsel for Appellant retain the page numbers of the trial transcript in the Record on Appeal, in addition to the new page numbers.

The undersigned hereby certifies this designation contains no matter which is irrelevant to this appeal.

ALAN WILSON
Attorney General

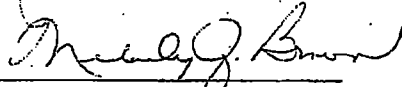
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STATE OF SOUTH CAROLINA
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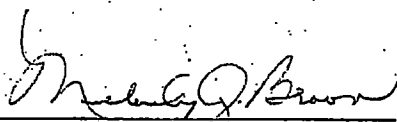
Appellate Case No. 2012-212217

PROOF OF SERVICE

I, Melody J. Brown, certify that I have served the *Initial Brief of Respondent* and
Designation of Matter on Appellant by depositing two (2) copies of same in the United
States mail, postage prepaid, addressed to his attorney of record:

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This 25th day of November, 2013.


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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Romeo Brown, Appellant.

Appellate Case No. 2012-212217

Appeal From Orangeburg County
Diane Schafer Goodstein, Circuit Court Judge

Unpublished Opinion No. 2015-UP-040
Heard December 10, 2014 – Filed January 21, 2015

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, and Senior
Assistant Attorney General Melody Jane Brown, all of
Columbia; and Solicitor David Michael Pascoe, Jr., of
Orangeburg, all for Respondent.

PER CURIAM: In connection with the shooting death of Alexander Travis Harrison, the State indicted Romeo Brown with murder and possession of a firearm by a person convicted of a violent crime. During a pretrial hearing, the trial court excluded evidence of a prior altercation between Brown and Harrison under Rule 404(b), SCRE. During cross-examination, however, Brown denied knowing Harrison. Over Brown's objection, the trial court allowed the State to cross-examine him about the prior incident because he "opened the door" by his denial. Subsequently, in its reply case, the State called a witness to testify regarding the prior altercation. The court admitted the reply testimony for impeachment purposes.

Brown first argues the trial court erred by refusing to let him explain his testimony—that he did not know Harrison—before allowing the State to cross-examine him about the prior incident. Before the court admitted this evidence, however, Brown had already provided an explanation regarding his definition of "know" when the State inquired into whether he knew the eyewitnesses who testified against him at trial. Furthermore, at this point in his testimony, Brown had denied knowing Harrison three times. We find the court acted within its discretion in allowing the State to continue questioning Brown. *See State v. Ham*, 259 S.C. 118, 135, 191 S.E.2d 13, 20 (1972) (stating the trial court "has broad discretion in determining the general range and extent of cross examination").

Brown next asserts the trial court should have limited the State's questions to whether Brown "knew" Harrison, without reference to the prior incident. We find the trial court acted within its discretion. *See State v. McEachern*, 399 S.C. 125, 137, 731 S.E.2d 604, 610 (Ct. App. 2012) (stating the scope of cross-examination is within the discretion of the trial court). Once Brown denied knowing Harrison, repeatedly, he opened the door for the State to contradict that testimony by inquiring into the extent of his relationship with Harrison. *See State v. Page*, 378 S.C. 476, 482, 663 S.E.2d 357, 360 (Ct. App. 2008) ("It is firmly established that otherwise inadmissible evidence may be properly admitted when [the defendant] opens the door to that evidence."); *see also State v. Taylor*, 333 S.C. 159, 175, 508 S.E.2d 870, 878 (1998) ("[B]ecause appellant 'opened the door' about his relationship with his wife, the solicitor was entitled to cross-examine him about the relationship, even if the responses brought out appellant's prior criminal domestic violence conviction.").

Additionally, whether Brown knew Harrison was relevant to the substantive issues at trial. *See* Rule 402, SCRE ("All relevant evidence is admissible, except as otherwise provided by . . . these rules . . ."); Rule 401, SCRE (stating evidence is

relevant when it "ha[s] any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence"). When Brown denied knowing Harrison, he created a false impression that they had no prior relationship, which the State was entitled to rebut for the purpose of proving facts material to the issues in the case. *See* Rule 611(b), SCRE ("A witness may be cross-examined on any matter relevant to any issue in the case . . ."); *State v. Sweat*, 362 S.C. 117, 127, 606 S.E.2d 508, 513 (Ct. App. 2004) ("Evidence is admissible if 'logically relevant' to establish a material fact or element of the crime."). This is especially true considering the State's burden to prove malice. *See* S.C. Code Ann. § 16-3-10 (2003) (defining "murder" as "the killing of any person with *malice* aforethought, either express or implied" (emphasis added)); *State v. Jackson*, 364 S.C. 329, 334, 613 S.E.2d 374, 376 (2005) (providing the State "has the right to prove every element of the crime charged").

Brown argues that because the trial court previously excluded evidence of the prior altercation pursuant to Rule 404(b), it was improper to allow the State to use this evidence to show Brown knew Harrison. The purpose for which the State offered the evidence during trial was not "to show action in conformity" with a prior bad act. Rule 404(b), SCRE. Instead, after Brown's denial, the evidence was offered to rebut this testimony, as well as to establish facts that became more relevant to the State's burden to prove Brown guilty. *See State v. Faulkner*, 274 S.C. 619, 621, 266 S.E.2d 420, 421 (1980) (stating relevant evidence on a material issue "need not be excluded merely because it incidentally reflects upon the defendant's [character]"). Moreover, under these facts, the State was under no obligation to present different evidence to prove Brown knew Harrison. *See Sweat*, 362 S.C. at 127, 606 S.E.2d at 513 (stating evidence, which "establish[es] a material fact or element of the crime," "need not be 'necessary' to the State's case" to be admissible).

While our courts have held the "general details" of a past altercation between the victim and defendant are inadmissible, *Taylor*, 333 S.C. at 168, 508 S.E.2d at 874, Brown did not object to the allegedly improper questions during cross-examination nor argue that the details of the altercation should be excluded. *See State v. Smith*, 200 S.C. 188, 199-200, 20 S.E.2d 726, 732 (1942) (affirming admission of testimony regarding a prior altercation based, in part, on defendant's failure to object to the questions or "raise[] the point that the details were involved").

Finally, Brown argues the trial court erred in allowing reply testimony about the prior incident because that evidence was collateral to the issues at trial. *See State*

v. Beckham, 334 S.C. 302, 321, 513 S.E.2d 606, 615 (1999) ("When a witness denies an act involving a matter collateral to the case in chief, the inquiring party is not permitted to introduce contradictory evidence to impeach the witness."); *State v. DuBose*, 288 S.C. 226, 231, 341 S.E.2d 785, 788 (1986) (stating collateral matters are those that "afford no reasonable inference as to the principal matter in dispute" (citation omitted)). We find the trial court acted within its discretion in admitting the reply testimony because it was not collateral. *See State v. Todd*, 290 S.C. 212, 214, 349 S.E.2d 339, 340 (1986) (stating the "admission of reply testimony is within the sound discretion of the trial judge"). As we previously found, evidence of the altercation concerned a matter directly relevant to the ultimate issue at trial—whether Brown killed Harrison—and the testimony established the extent of Brown's relationship with Harrison. *Cf. State v. Williams*, 409 S.C. 455, 469, 761 S.E.2d 770, 778 (Ct. App. 2014) (finding reply testimony inadmissible because it "was not directly relevant to the ultimate issue in the trial—[defendant]'s guilt or innocence").

AFFIRMED.

FEW, C.J., and THOMAS and LOCKEMY, JJ., concur.

Ronco A. Brown #185544
 McCormick 3-13
 386 Redemption Way
 McCormick, S.C. 29399

Date:

Melody J. Brown, Esq.
 Asst. Attorney General
 1000 Assembly St. Rm 519
 P.O. Box 11549
 Columbia, S.C. 29201-1549

Re: Post-Conviction Relief Application

Ms. Brown, Esq:

Enclose please find a summons and complaint has been served upon you and this office.

The reference post-conviction action also was served upon the Clerk of Orangeburg County Court.

If there is any question, please feel free to advise at the above address.

Best regards

Ronco Brown

Ronco A. Brown.

ATTORNEY GENERAL'S OFFICE

RECEIVED 3-19-15

ADMINISTRATIVE INSTRUCTIONS

FILE OPEN END

HAVE COPIES MADE

☒ ROUTE TO PCR MB 3-19

ORDER: TRANSCRIPT

FEN RECORDS CLERK RECORDS

OTHER: Scanned into
closed PCR file 20043896
3-20-15

STATE OF SOUTH CAROLINA
County of Orangeburg

IN THE COURT OF COMMON PLEAS
First Judicial Circuit
Case No.

Romeo Anthony Brown,
Plaintiff,

v.

MOTION FOR
EVIDENTIARY HEARING

State of South Carolina
Respondent(s).

Case No.

NOW COMES the Plaintiff in a claim that his conviction and sentence was in violation of the Constitution of the United States or the Constitution or Laws of this State, pursuant of South Carolina Code §17-27-20(a)(1), Rule 611, SERE, and that he can satisfy the requirement of the Strickland test, 466 U.S. 668, 104 S.Ct 2052 (1984).

Furthermore, the allegation of material facts and ineffective assistance of counsel probably raises questions of facts that the record does not conclusively refute. Accordingly, the plaintiff requests an evidentiary hearing to fully resolve these issues. See Sharper v State, 279 S.C. 264, 305 S.E.2d 241 (1983).

Romeo Brown

Romeo A. Brown, pro-se
McCormick F-3-B
386 Redemption Way
McCormick, S.C. 29899

STATE OF SOUTH CAROLINA
County of Orangeburg

IN THE COURT OF COMMON PLEAS

Romeo Anthony Brown
Plaintiff,

MOTION FOR PRODUCTION
OF DOCUMENTS

v.

STATE OF SOUTH CAROLINA
Respondent,

CASE NO.

NOW COMES the Applicant in request for Production of Documents pursuant to Rule 34, S.C.R. P. See also Evans v. State, 363 S.C. 495, 611 S.E.2d 510 (S.C. 2005). S.C. Code Ann. § 17-17-150 Discovery in Post-Conviction relief proceeding "Entitled to invoke the processes of discovery."

Applicant was charge in Orangeburg County on or about October 27, 2010, with Possession of firearm by person convicted of a violent crime, Indictment number 2012-GS-38-0792 and murder (Indictment number 2011-GS-38-0012). Therefore, Applicant request documents of the above indictment and files of the State grand jury.

1. Transcripts of witnesses testimony and
2. Documentary evidence presented to the State grand jury.

Romeo Brown

Romeo Anthony Brown #185544
McCormick 3-B
386 Redemption Way
McCormick, S.C. 29849

STATE OF SOUTH CAROLINA
County of Orangeburg

IN THE COURT OF COMMON PLEAS

Romeo Anthony Brown
Plaintiff.

Case No.

CERTIFICATE OF SERVICE

v.

State of South Carolina
Respondent.

X

I, Plaintiff/Applicant in the above action do certify that I have served the Defendant: Melody J. Brown, Esq. at Office of the Attorney General, Lembert C. Dennis Building - 1000 Assembly St. Rm. 519 / P.O. Box 1549, Columbia, South Carolina 29201-1549: Motion for Production of Documents by mailing a copy of the same by United States Mail, postage prepaid.

Romeo Brown

Romeo Anthony Brown "185544

McCormick F-3-B

386 Redemption Way

McCormick, S.C. 29879

McCormick, South Carolina

STATE OF SOUTH CAROLINA,	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF <i>Orangeburg</i>	)	
<i>Romeo Anthony Brown</i>	)	
	)	SUMMONS
Plaintiff.	)	
	)	
vs.	)	FILE NO.
	)	
<i>State of South Carolina</i>	)	
	)	
Defendant.	)	

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within ~~ninety~~ *(90)* days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Orangeburg, South Carolina

Dated:

Romeo Brown

Plaintiff/Attorney for Plaintiff

Address: *Romeo Anthony Brown*
McCormick - F-3-B
386 Redemption Way
McCormick, South Carolina 29899

- ~~(c)~~ _____
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
Yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ~~ii.~~ _____
- ~~iii.~~ _____
- (b) the result in each such Court to which you appealed:
- i. _____
- ~~ii.~~ _____
- ~~iii.~~ _____
- (c) the date of each such result:
- i. _____
- ~~ii.~~ _____
- ~~iii.~~ _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results: Appellate Case No. 2012-212217
- i. _____
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) _____
- (b) _____ N/A
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

a. That trial was ineffective for not objecting to Applicant being brought into the trial Court, in shackles, although not displayed, ~~but~~ the clanking noise of the restraints and the obviousness of Applicant's henderance in his walking was displayed before the juror, violated Applicant of the 14th Amendment Due Process protection; Fifth, Sixth and Eight Amendment Constitutional Rights.

b. That trial counsel was ineffective for not objecting to the prosecutorial violating Rule 803, South Carolina Rule of Evidence (SCRE), without the proper foundation being leaded for such testimony, from Joe Thomas.

c. That trial counsel was ineffective when he requested Joe Thomas to demonstrate — Rule 803(1)(2) and Rule 801(c) bolstered the State case on crucial testimony that may have effected the outcome of his trial.

d. That trial counsel was ineffective for not objecting to alleged hearsay statement of Donell Ryant and Applicant.

e. That trial counsel was ineffective for not objecting to the prosecutor violating Rule 803, SCRE, without the proper foundation being laid. for testimony by Monique Guinard.

f. That trials counsel was fatally defective when two (2) of Applicant's jurors failed asleep and trial counsel disregarded Applicant's concern.