

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

VOLUME I OF II

Appeal from Greenville County
Honorable Robin B. Stilwell, Circuit Court Judge

RECEIVED

AUG 04 2017

THE STATE,

SC Court of Appeals

RESPONDENT,

V.

BILLY LEMURCES TAYLOR,

APPELLANT

APPELLATE CASE NO. 2016-000549

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
Defendant's Exhibits No. 3 and 4 (Photographs)

1

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) COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) 2014-GS-23-11862-11864
)
)
)
STATE OF SOUTH CAROLINA)
) PLAINTIFF)
) vs.) TRANSCRIPT OF RECORD
)
BILLY LEMURCES TAYLOR)
) DEFENDANT)

February 29 - March 4, 2016
Greenville, South Carolina

B E F O R E:

THE HONORABLE ROBIN B. STILWELL, Judge; and a
jury.

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Attorneys for the Defendant

APRIL HERRON
Official Court Reporter

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1 March 1, 2016

2 (WHEREUPON, State's Exhibits Nos. 2-6 were
3 marked for identification only.)

4 THE COURT: All right. I have been advised the
5 jury panel is here. Are we prepared to receive the
6 jury?

7 MR. MOYER: We are, Your Honor.

8 MR. EPPES: Yes, Your Honor.

9 THE COURT: Okay. Good enough.

10 Bring them in, please.

11 (WHEREUPON, the jury came into open court at
12 approximately 10:00 a.m.)

13 THE COURT: All right. Good morning, ladies and
14 gentlemen, welcome back. I hope you had a good
15 evening. Thank you for being on time. I note that
16 and I appreciate it. And I'm glad that we were able
17 to start promptly at 10:00.

18 I gave you the opening charge yesterday. I gave
19 you an idea about what we're going to do. The first
20 thing that we're going to do is opening statements.
21 Again, opening statements is not evidence. Opening
22 statements is the opportunity for the attorneys to
23 introduce themselves and their theory of the case.

24 Now, something I told the lawyers yesterday
25 morning and I'm going to tell you now. During the

1 course of this case, you may see me moving around a
2 little bit, maybe standing up, stretching a little
3 bit, I am recovering from shoulder surgery that I had
4 two weeks ago. So just ignore me, just ignore me,
5 okay. I've just got to move around a little bit so
6 that I don't get too uncomfortable, okay.

7 Mr. Moyer.

8 MR. MOYER: Thank you, Your Honor. May it
9 please the Court?

10 THE COURT: Yes, sir.

11 OPENING STATEMENT

12 MR. MOYER: Good morning, ladies and gentlemen.
13 My name is Mark Moyer. I am an assistant solicitor,
14 I work here in Greenville County. I represent the
15 State, and I will be representing the State here in
16 this criminal case today. I am happy to take this
17 opportunity to make some opening remarks to you.
18 What I want to do is to familiarize yourselves a
19 little bit about the case that you're about to hear.
20 I want to give you a preview so you will be able to
21 know what to expect from the evidence that the State
22 is going to bring before you over the next couple of
23 days.

24 As you have heard, this is a murder case. It's
25 a murder and attempted murder case. The events

1 happened almost two years ago -- a little over two
2 years ago, the of 2014. You're going
3 to hear that on that date, a young man by the name of
4 Rodney Nesbitt, a 29-year-old man, in the prime of
5 his life was killed. He was an Army man. He had
6 actually served in Iraq. He was shot through the
7 head on that date, actually, on his birthday, while
8 he was in the back seat of a vehicle on Pelham Road
9 here in Greenville County.

10 You're going to hear about Ashley Hiott as well.
11 Ashley Hiott was a friend of his. Ashley Hiott was
12 driving that vehicle. Ashley was also shot in the
13 head actually close to the same location where
14 Jermaine was shot, in her right temple area.
15 Fortunately, she survived. The bullet tore through
16 the bone structures of both her orbital sockets and
17 actually lodged behind her left eye where that bullet
18 still remains to this day.

19 Another woman by the name of Brittany Jeter was,
20 also, in that vehicle. She survived unscathed, at
21 least, physically unscathed. She was also in that
22 vehicle in the front passenger seat.

23 Now, why did this happen? That is a logical
24 question. That's probably the first question that we
25 ask ourselves when we hear about something like that.

1 Sometimes we never know in cases like this, and we
2 may not know in this case. But, legally, we don't
3 have to know. Motive is never an element of a crime
4 for the type of charges that are before us today.

5 But the evidence is going to show, ladies and
6 gentlemen, that most likely this tragedy happened
7 merely as a result of a brief exchange of angry words
8 that took place between Jermaine and the occupants of
9 the car in which this Defendant was driving. That's
10 it. And this happened, a shot is fired, a man is
11 killed and lives are changed.

12 Now, I'm going to give you now just a brief
13 overview of the facts that you're going to hear in
14 this case. You're going to hear testimony from a
15 number of witnesses. You're going to hear from the
16 two female victims who were in the car where Jermaine
17 was killed. You're going to hear from some other
18 witnesses. You're going to hear from some officers
19 and some specialists. You're going to actually see a
20 couple of brief videos.

21 All of these pieces of evidence, all of these
22 witnesses are going to be little pieces of the puzzle
23 that will come together to give you the full picture
24 of what took place. I'm going to try to present
25 these witnesses to you in as logical an order as

1 possible, but due to people's schedules and so forth,
2 it's not necessarily always going to go in as logical
3 an order as we would like. So, if something seems a
4 little bit out of place or maybe doesn't seem to make
5 sense, give it some time, bear with it, because
6 further testimony will make it all fit together.

7 So, what happened in this case? You're going to
8 hear that on the of 2014, Jermaine and
9 Brittany went out to celebrate. It was about to be
10 Jermaine's birthday. He turned 29 at midnight, so
11 they went out. They actually went to a bowling alley
12 in Spartanburg. Everybody was from Spartanburg
13 County, the Woodruff area. Jermaine met and Brittany
14 met some friends in that area, went to this bowling
15 alley, celebrating, drinking with friends and so
16 forth. They were actually in Ashley's car, a Tahoe.

17 You're going to hear that after midnight, they
18 went back to Ashley's house. And they were still in
19 the mood to celebrate. Like I said, it's after
20 midnight at this point. Ashley, maybe not so much
21 was in the mood, but they were able to talk her into
22 going back out. So, they decided to go to a place
23 called Croc's. Croc's was a nightclub on Pelham
24 Road, actually near the intersection with I-85. It's
25 actually in the same building that an Atlanta Bread

1 Company was also in. The night club was in the back
2 of that vehicle -- I'm sorry, the back of that
3 building.

4 So, they all get to Croc's and they go inside
5 Croc's. And it's crowded. They hang around for a
6 little while. Jermaine and Brittany get something to
7 drink, get a couple of shots, get a couple of beers.
8 Tried to get Ashley to do a shot with him, Ashley
9 doesn't. Ashley, in fact, doesn't have anything to
10 drink all night.

11 So, they hang out there for an indeterminate
12 amount of time, an hour or two. A fight breaks out
13 in Croc's. By all appearances, it's not related to
14 any of the people involved in this case, either from
15 the victim's side or from the Defendant's side. But
16 this fight breaks out and it's big enough or
17 problematic enough that the bouncers have to actually
18 start spraying mace. So, they start spraying mace
19 around the club. Turn the lights on, shut it down,
20 everybody get out. You'll see a little bit of those
21 videos of people filing out of the night club.
22 Jermaine, Brittany and Ashley go out as well.

23 They get outside, hang around for a minute or
24 two. Bouncers say the cops are coming, everybody get
25 out of here. So, they make their way to their car.

1 As they make their way to the Tahoe to leave, some
2 gunshots are fired in the parking lot of Croc's.
3 Actually, they are in their Tahoe at this point. On
4 the way to get out, some gunshots are fired.

5 So, they're about to go home, however, they need
6 some gas before they go home. So, instead of turning
7 right out of the parking lot to go to the interstate
8 to go home, they turn left to go to this gas station
9 just a half mile or so down the road, the BP Spinx
10 gas station, maybe a half mile or so.

11 They go down to the gas station to pump gas.
12 Well, it turned out that a lot of people from the
13 club go there as well. Fights break out in the
14 parking of the Spinx. Again, apparently, not
15 involving any of the people associated in our case,
16 either the Defendant or from the victim's side. The
17 fights -- and you'll see this on video. As the
18 victim's vehicle is parked at the gas pump and
19 they're getting gas and waiting for Ashley to go in
20 and pay, some fights break out there in the club.

21 What you'll also see on this video, you will see
22 a bit of Pelham Road and the entrance of the gas
23 station. And you will see the victim's Tahoe come
24 driving down the road and turn into the gas station.
25 What you will also see is right behind it a red

1 Camero that drives past. It's slightly out of view
2 for a few seconds, obviously, does a U-turn and comes
3 back into the gas station parking lot. It stops, not
4 near a gas pump, but along the road, near the road.
5 And you'll see just the corner of the vehicle for
6 maybe a minute or so before it then moves a little
7 bit further out of view. Not seeing anybody in that
8 Cameron, not seeing anybody standing around that
9 Camero, but you will see it pass by and come back
10 into the parking lot.

11 About five minutes later, after gas is paid,
12 after the truck is -- the gas is pumped into the
13 truck, you will see both of these vehicles leaving
14 again. You will see both of these vehicles again.
15 And just again, in the top right corner of the video
16 and you won't see it very clearly or a whole of it,
17 but you will see the Tahoe on one side to get ready
18 to turn right and right to the left of that is the
19 Camero. It blocks the view of the Tahoe for just a
20 brief moment. You will see the Tahoe turn out onto
21 Pelham Road and get in the left lane. And the
22 Camero, instead of turning left as you would expect
23 from its position there, turns and follows the Tahoe
24 as well. It's in the right-hand lane of that and
25 then it's out of sight almost immediately.

1 The evidence is going to show that the shot that
2 killed Jermaine and struck Ashley came from that red
3 Camero. You're going to hear that by -- most likely,
4 the evidence is going to lead you to believe that it
5 was a single shot that hit them both. That the
6 bullet passed through Rodney's right forehead, out
7 the back of his head, went forward and struck Ashley
8 in the right temple as well.

9 You will hear that Ashley immediately blood
10 pouring down her face, she hears ringing. She's not
11 sure what happened. She pulls -- stops the vehicle.
12 You will hear testimony about how she gets out of the
13 vehicle, realizes something awful has happened,
14 cannot see. Feels her way back along the edge of the
15 Tahoe, gets to the back of the vehicle. You will
16 hear that Brittany in the front passenger seat gets
17 out of her vehicle, open the back door and sees her
18 boyfriend dead.

19 You will hear that the police are there very
20 quickly. The police actually were called to the area
21 because of the shots that were fired at the
22 nightclub, so they were in that area. In fact, they
23 were actually on the lookout for a red Tahoe. In the
24 confusion of what happened, someone said that the
25 shooter or someone who had shot the gun in the

1 parking lot may have actually gotten in the red
2 Tahoe. So, the officers leave Croc's, start driving
3 down Pelham Road. They see the Tahoe there stopped
4 in the middle of the road. They see the two female
5 victims out of the vehicle and they stop and the
6 officers are there with them almost immediately.

7 You're going to hear Brittany and Ashley tell
8 you from their perspective what happened when that
9 shot was fired. You'll hear them testify that Ashley
10 pulled out onto Pelham Road, this Camero that they
11 had seen there at the gas station parked near the
12 front of the road comes flying up to them. The back
13 rear passenger window is down. It's broken. Even
14 though it's February and chilly, the window can't go
15 up. So, that window is down.

16 So, they begin to hear some yelling. They hear,
17 Hey, girls, hey.

18 As if these guys in the Camero are trying to
19 talk to them or flirt with them or whatsoever. You
20 will hear that Jermaine has an exchange of words with
21 them, Hey, that's my girlfriend and my sister-in-law.
22 And then you hear then the "F" word. And I'll say
23 it, Fuck you.

24 No, fuck you, too.

25 And then boom, the gunshot is fired.

1 So, that's an overview of the testimony that
2 you're going to hear about the events. I'm not going
3 to go into the investigation, but the investigation,
4 obviously, centers on the red Camero. It had some
5 very distinctive rims on it. And the officers
6 through follow-up leads find out whose vehicle it
7 was. That it was this Defendant's vehicle. Find out
8 that he took the vehicle and hid it at someone's
9 house. And you will hear testimony they determined
10 there were two other people in the vehicle with the
11 Defendant, a guy by the name of Anthony Henderson and
12 a guy by the name of Deunte Jones. You will hear
13 from both of them in this trial.

14 That, I hope, gives you an overview of what
15 you're going to hear. For now, here's what I ask
16 you. I ask you to listen very closely. Pay close
17 attention to everything you hear from the witness
18 stand. Use your common sense and your good judgment
19 to weigh that evidence and that testimony. And then
20 at the end of this case, we just ask that you do
21 justice. Thank you.

22 THE COURT: Mr. Eppes.

23 MR. EPPES: Are you going to swear them?

24 THE COURT: I'm going to wait until both of you
25 argue before we introduce evidence to swear them.

1 OPENING STATEMENT

2 MR. EPPES: Well, the Judge told y'all he
3 wiggles around. And I'll tell y'all I'm big as a
4 house and I sweat. Please don't take me sweating to
5 mean I'm nervous or scared or anything else, I sweat.
6 Can't do anything about it. I keep a rag here for
7 it.

8 I introduced to y'all before, this is my client,
9 Billy Taylor.

10 Billy, stand on up.

11 He is on trial for his life. He is charged with
12 murder and attempted murder -- two attempted murders
13 and possession of a weapon.

14 Okay. You can sit down.

15 Mr. Carter Massengill, he's helping me. There's
16 a woman back here, Megan, she, likewise, is helping
17 me. You may see us interacting during the case.
18 Keeping me organized is a full time job.

19 There's things that we say that sound trivial in
20 other contexts. We say you're innocent until proven
21 guilty. We say to be found guilty, you have to be
22 proven guilty beyond a reasonable doubt. You're
23 going to hear the law on that from the Judge and
24 we'll argue about it later in the case. But a
25 reasonable doubt is different.

1 Some of y'all may have been on juries in other
2 context. And in a civil case, like if you have a car
3 wreck, the proof the jury has to decide about is the
4 preponderance of the evidence. Is it more likely
5 than not that something happened? That's a
6 preponderance of the evidence. It tips the scales
7 just a little bit in favor of one person, one side of
8 the story or the other, okay.

9 There's another standard in some other cases
10 where the Court has said that it's clear and
11 convincing evidence. Now, this evidence is just not
12 more likely than not, it is you've got to be pretty
13 doggone sure. Okay. But proof beyond a reasonable
14 doubt is just that. It's beyond a reasonable doubt.
15 It is all the way over here at the highest end of
16 proof. You can't go with your gut. You can't go
17 with your instincts. You have to say based on my
18 experience as a person, based on the genius that is
19 the jury -- I'm going to talk about that a little bit
20 more -- we know unanimously that this person did
21 this, in the case of murder, with malice
22 aforethought. We know that he did it and he intended
23 to do it. That is the standard, without any
24 reasonable doubt.

25 Now, I've been watching trials since I was a

1 little kid. And I hate jury trials. I tell people
2 this. Everybody wants to be a trial lawyer. I don't
3 want to be a trial lawyer because the stakes are so
4 high. I'm here -- this young man's life is at stake
5 and I'm responsible for trying to communicate to you
6 the evidence in this case.

7 Now, the Judge has already told you -- and this
8 is very important. You should look at Mr. Moyer and
9 I as like camera lens, where we focus you in on
10 different facts that you're going to hear from this
11 witness stand or that you're going to see on video.
12 But the evidence is what you see here. We're merely
13 lens for it. We tell you what we think is important
14 for you to think about.

15 And the great thing about jury trials is there's
16 a genius, there's a common genius to 12 people
17 listening to the evidence. And they do more often
18 than not reach a consensus. And they do more often
19 than not reach a consensus in my view that is just
20 and that is appropriate. But as you're looking at
21 this evidence, we, a lot of times, get caught up in
22 the ya-ya of it and we don't focus on the fact that
23 y'all have to hear the evidence from the witness
24 stand. So, if I ever get caught in arguing about
25 something, you just know that what you hear up there

1 is more important than anything I say.

2 Now, Mr. Moyer made a point early in what he was
3 saying of saying why this matter -- why this
4 happened. Nobody knows and it doesn't matter. My
5 old man used to say nothing good happens after
6 midnight. And this case, frankly, is living proof of
7 that. And if my father would have been confronted
8 with this case, he would have said, Why did this
9 happen? Because nothing good happens after midnight.
10 But why it happened is not important. Two things
11 that are important are what happened and how Billy
12 Taylor came to be here charged with this murder.

13 Now, you heard a lot from Mr. Moyer about the
14 things that they do know. Everybody was at Croc's,
15 everybody left Croc's, everybody went to the gas
16 station. There was, apparently, little or no
17 interaction between the people in either of these
18 vehicles or three people in each vehicle until a
19 stretch of Pelham Road that, honestly, is not as far
20 as from here to Main Street.

21 But I'll tell you, and they know categorically
22 that the shots were fired from the red Tahoe, but
23 that's where things gets dicey. And that's why he
24 went through this long story of how Jermaine Nesbitt
25 came to die and how Ashley Hiott and Brittany Jeter

1 came to fear for their lives and Ashley Hiott came to
2 be injured. But then he said, And there were two
3 other guys in the car and you're going to hear from
4 them.

5 How you get to that is the key to this case.
6 How you get to that is where the rubber hits the
7 road. And the evidence from these two fellows in
8 this car is not proof beyond a reasonable doubt.
9 You're going to hear other things that would lead you
10 to believe that it's more likely than not that Billy
11 Taylor was involved. You're going to hear that he
12 was driving the red Camero. No question about it, it
13 was his car. You're going to hear that he, like so
14 many people, immediately after he was involved in a
15 shooting incident, he ran. He hid his car. There's
16 no question about that.

17 You're going to hear about some communications
18 he had in the jail to try to resolve this incident
19 without him getting in trouble. You're going to hear
20 that Ant Henderson was part of those communications
21 and then you're going to hear how Ant Henderson came
22 here to testify, how Ant Henderson's friend,
23 life-long friend, who is related to the mother of Ant
24 Henderson's child came to testify as well against
25 Billy Taylor.

1 And you're going to have to decide if they have
2 proven the case beyond a reasonable doubt. And the
3 what in this case, the what that they cannot prove is
4 what happened in that red Camero. What happened, who
5 fired the shots, how they came to be fired. They
6 cannot prove that. And if they cannot prove that to
7 you beyond a reasonable doubt, then you have to find
8 Billy Taylor not guilty. Thank you.

9 THE COURT: All right. Ladies and gentlemen,
10 you have heard opening statements from the attorneys.
11 We are about to begin the introduction of evidence.
12 Before we do that, I'm going to ask the clerk of
13 court to swear you. Now, yesterday, you took an oath
14 to tell the truth during jury qualification and jury
15 selection. This is a different oath. This is an
16 oath to try the case in accordance with the law as I
17 give it to you and rely upon the evidence only that
18 is presented at trial of this case.

19 You may proceed.

20 THE CLERK: All right. If you please stand and
21 raise your right hand for the oath. The proper
22 response is, I will.

23 (WHEREUPON, the jury was sworn.)

24 THE CLERK: Thank you. Please be seated.

25 THE COURT: All right. Mr. Moyer, you may call

1 your first witness, sir.

2 MR. MOYER: Thank you, Your Honor, may it please
3 the Court?

4 THE COURT: Yes, sir.

5 MR. MOYER: The State calls Ashley Hiott.

6 THE CLERK: Ms. Hiott, if you will please pause
7 at the end of the bench. And if you will please
8 place your left hand on the Bible and raise your
9 right hand.

10 ASHLEY HIOTT, after being duly sworn,
11 testified as follows:

12 THE CLERK: Thank you. Would you please be
13 seated. Please state your name for the record.

14 THE WITNESS: Ashley Deanne Hiott.

15 THE CLERK: Thank you.

16 DIRECT EXAMINATION

17 BY MR. MOYER:

18 Q All right, Ms. Hiott, you are married now,
19 aren't you?

20 A Uh-huh.

21 Q How long you been married?

22 A A year in May.

23 Q Let me ask you, can you move that microphone
24 down just a little bit, maybe get a little bit closer to
25 it?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A A year in May.

2 Q So, you've been married -- okay. And you were
3 single back in 2014 when this incident happened, right?

4 A Yes, I was in an on/off again relationship with
5 my children's father.

6 Q And that --- who is he?

7 A He's actually Brittany's brother.

8 Q So, that's how you got to know Brittany?

9 A Uh-huh.

10 Q You have two children?

11 A Uh-huh.

12 Q And you have another one on the way?

13 A I do.

14 Q When is your child due?

15 A I have four to six weeks.

16 Q How old are your other children?

17 A I have a five-year-old and a four-year-old.

18 Q Now, back in 2014, where were you working at
19 that time?

20 A I worked at Machine Technologies.

21 Q Okay. When did you stop working there?

22 A When I got shot.

23 Q All right. Let's talk a little bit about that.
24 Where were you shot?

25 A I was shot in my right temple.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Can you just point to it?

2 A I was shot right here.

3 Q Where is that bullet now?

4 A It's in my left eye socket.

5 Q Can you actually feel it?

6 A Uh-huh.

7 Q How do you feel it?

8 A It pushes my left eye just a tad bit out more
9 and I can't look up at all.

10 Q Now, you were in the hospital about three days;
11 is that correct?

12 A Uh-huh.

13 Q Okay. Now, tell me about your recovery. After
14 you left the hospital, were you -- you have to stay in?

15 A Yes. I couldn't see or do anything on my own.

16 Q Tell me about your eyesight.

17 A I lost permanent vision on my right side and I
18 only have partial vision on my left. I have a shade over
19 my left eye now, so I don't see anything from the top up.

20 Q So, by shade, you mean --

21 A It's just dark. I have to look up to see
22 anything.

23 Q Could you see out of your left eye immediately
24 after?

25 A No.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q How long did it take for your vision to come
2 back?

3 A It took a few weeks. I had a lot of swelling
4 and blood, so it had to go down.

5 Q All right. Well, let me take you now back to
6 the of 2014?

7 A Uh-huh.

8 Q You went to a nightclub called Croc's that
9 night?

10 A I did.

11 Q Where were you living at that time?

12 A I lived in Woodruff, South Carolina.

13 Q How far, roughly, is that from Greenville, would
14 you say? How long does it take you to drive it?

15 A Thirty minutes.

16 Q Okay. Now, who did you go to Croc's with?

17 A I went with Brittany and Jermaine.

18 Q What are their last names?

19 A Brittany Jeter and Jermaine Nesbitt.

20 Q And you've already told us, but you knew
21 Brittany because you had been dating her brother?

22 A Uh-huh.

23 Q How did you get to know Jermaine?

24 A Through Brittany.

25 Q And they were dating at the time?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Uh-huh.

2 Q Okay. Now, so all three of y'all went to
3 Croc's. Do you remember around what time of day it was
4 when y'all went?

5 A It was after midnight.

6 Q Who drove?

7 A I drove.

8 Q What kind of vehicle?

9 A A Chevy Tahoe.

10 Q It was yours?

11 A Uh-huh.

12 Q Now, Brittany and Jermaine, they had already
13 been out that night; is that correct?

14 A Yes.

15 Q Where did they meet up with you?

16 A At my home.

17 Q So, they had been drinking at that time?

18 A Yes.

19 Q Had you been drinking?

20 A I had not.

21 Q Did you drink any alcohol after you left?

22 A I did not.

23 Q You don't have any alcohol that night?

24 A No.

25 Q Not even at Croc's?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A No.

2 Q Okay. So, was there a special occasion that led
3 you to go out with them that night?

4 A It was Jermaine's birthday.

5 Q So, this was actually -- when was his birthday?

6 A After 12:00.

7 Q After 12:00, it became his birthday?

8 A Uh-huh.

9 Q Do you remember what day of the week that was?

10 A It was a Friday.

11 Q Friday night and then -- so it was into Saturday
12 when this happened?

13 A Uh-huh.

14 Q Where was Croc's?

15 A It's off of Pelham Road.

16 Q And you been there before?

17 A Uh-huh.

18 Q It was in the same building as another, like,
19 restaurant, right?

20 A Atlanta Bread Company.

21 Q Do you remember, roughly, around what time you
22 got there?

23 A I guess late 1:00ish, like 1:45, 1:30, somewhere
24 in there probably.

25 Q So, y'all parked and then y'all three went into

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Croc's?

2 A Uh-huh.

3 Q How long would you say you stayed there?

4 A Roughly, an hour, hour or so.

5 Q Tell me what you remember about the night there
6 in the nightclub. What did y'all do?

7 A We went in. I seen a few people that I knew,
8 spoke to them. Went to the back. Jermaine and Brittany
9 actually bought a shot and a beer. Stood at the back.
10 They finished their drinks and we went to the upper part
11 of the club, which has like a dance floor and pool tables.
12 And we stood by the pool tables.

13 Q Okay. Did you have much interaction with other
14 people there?

15 A I really didn't. I really wasn't in the mood
16 that night. I had to be at work at 6:30.

17 Q Do you remember anyone trying to talk to you?

18 A Yeah. Of course, you're inside of a club, so
19 there was a lot of people that kind of bump you or grab
20 you, so. I didn't verbally talk to anyone except for a
21 couple of females that I knew.

22 Q Do you have any recollection of anyone being
23 more persistent?

24 A Yeah, there was a guy that kept like grabbing my
25 hand that night, but I don't recall his face or anything.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q So, you didn't pay him any attention?

2 A Huh-uh.

3 Q Did you ever speak to the guy?

4 A I didn't.

5 Q So, who did you spend your time with there?

6 A Brittany and Jermaine.

7 Q All right. So, what caused y'all to leave the
8 club?

9 A There was a big fight at the front of the club.
10 And they couldn't get it broke up. It was girls, guys.
11 And they ended up macing the whole inside of the club.
12 And they wouldn't let anybody back in because you couldn't
13 breathe or see inside of the club.

14 Q Were you involved in the incident?

15 A No, I was actually over by the pool tables.

16 Q Were Jermaine or Brittany involved in it?

17 A No, we were all over by the pool tables.

18 Q Okay. Did you know any of the people involved
19 in the fight?

20 A I did not.

21 Q Did you get maced at all?

22 A No, everybody kind of got a whiff of it because
23 it was heavy in there. We just breathed it in, that was
24 all.

25 Q Did they shut down the club?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A They did.

2 Q Did you -- so you left -- were there several --
3 was there more than one way to get in and out?

4 A Yes, there's a side door as well to the club.
5 We left out of the side door because the front was where
6 everybody got to fighting.

7 Q All right. What did you do when you got
8 outside?

9 A Brittany and Jermaine finished their beer
10 because you can't take your alcohol outside the club. And
11 we started walking to my vehicle.

12 Q Okay. What was it like outside the club?

13 A It was pretty chaotic. People were still
14 arguing. Security guards was trying to clear out the
15 parking lot because the police were coming in. It was
16 pretty chaotic.

17 Q Had it been pretty crowded in the club?

18 A Yes, very.

19 Q Did you take notice of another -- did any other
20 vehicles stand out to you at any point?

21 A Yeah, it was like an orange/red car that kind of
22 stood out to me in the middle toward the grass section of
23 the club.

24 Q Do you remember what kind of car it was?

25 A It was like a Mustang, Camero. It was parked in

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 the center.

2 Q Did you notice -- what drew your attention to
3 it?

4 A It was a girl that threw some bracelets or
5 something inside the car. She was arguing with a fellow,
6 you know, she threw something.

7 Q All right. Now, did anything happen there in
8 the parking lot of the club, either while you were walking
9 to your vehicle or when you were in it?

10 A Yeah, there was like some shots fired, sounded
11 like they were more so in the air.

12 Q Did you see who shot?

13 A No, I just assumed it was the security guards
14 trying to clear the parking lot.

15 Q But you don't know?

16 A No, I never seen anyone.

17 Q Okay. Was it just one shot or more than one
18 shot?

19 A It was like two, I think.

20 Q Definitely more than one, though?

21 A Yes.

22 Q All right. So, what did you do when you heard
23 the gunshots?

24 A Got out of the parking lot pretty quick.

25 Q Was that what most of the people were doing?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Uh-huh, they were clearing the parking lot.

2 Q Was it kind of a line to get out?

3 A Yeah, because there's only the little exit there
4 to get everybody out,

5 Q Okay. Now, where were you intending to go?

6 A To the gas station.

7 Q And then what were you going to do after you got
8 to the gas station?

9 A I was going home.

10 Q You just needed gas to get back?

11 A Uh-huh.

12 Q All right. Now, have you viewed the
13 surveillance video of the inside of Croc's that night that
14 shows you, Brittany and Jermaine?

15 A I have.

16 Q Okay. And is that a true and accurate
17 representation of the inside of Croc's that shows that
18 particular moment as y'all were leaving?

19 A Yes.

20 Q Now, I'm just going to show you at this time --
21 well, the video is already queued up in the computer,
22 State's Exhibit No. 2.

23 MR. MOYER: At this time, I would move to have
24 State's Exhibit No. 2 entered into evidence.

25 THE COURT: Objection, sir?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 MR. EPPES: No objection, Your Honor.

2 THE COURT: All right. Without objection, the
3 same is entered into evidence. It's already marked,
4 sir? It's already marked?

5 MR. MOYER: It is, Your Honor.

6 THE COURT: Thank you.

7 (WHEREUPON, State's Exhibit No. 2 was admitted
8 into evidence.)

9 BY MR. MOYER:

10 Q Now, Ashley, we're going to play it right behind
11 you, so let me ask you if you could, just step down. If
12 you would, just stand over here next to the court
13 reporter.

14 A (The witness complies.)

15 Q Ashley, does that show the inside of Croc's?

16 A Uh-huh.

17 Q Does that show the door from which you and
18 Brittany and Jermaine left?

19 A Yes.

20 Q Okay. I'm going to begin playing. I want you
21 to point out when we actually -- are you in the video
22 right now?

23 A No.

24 Q Okay. I want you to point out when we see you.

25 (WHEREUPON, State's Exhibit No. 2 was played for

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 the record.)

2 BY MR. MOYER:

3 Q Do you know what is taking place right now?

4 A Yeah, there's a fight going on at the front.

5 Q I'll move it about a minute forward. So where
6 are we going to see you, where in the video?

7 A I'm going to be walking out or going toward the
8 door.

9 Q You're going to be at the back on the left-hand
10 side of video?

11 A Yeah, near the pool table, uh-huh.

12 Q Okay. Do you recognize what I'm putting my
13 laser --

14 A Yeah, that's me.

15 Q Is that you right there?

16 A Yeah.

17 Q And can you tell us who this is right here?

18 A Brittany, I think.

19 Q Why you holding your hand to your nose?

20 A Because they just maced the whole club and you
21 couldn't really breathe good in there.

22 Q And --

23 A That's Brittany.

24 Q Can you tell me who this is?

25 A That's Jermaine.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q That's Jermaine Nesbitt?

2 A Uh-huh.

3 Q That's Jermaine right there?

4 A Uh-huh.

5 Q Okay. Thank you. So, shows y'all leaving the
6 club that night?

7 A Uh-huh.

8 Q Is that how Jermaine was dressed?

9 A Yes.

10 Q The entire night?

11 A Yes. He might have took the jacket off, I'm not
12 really sure.

13 Q Okay. Was he wearing a hat -- did he wear a hat
14 at all?

15 A Huh-uh.

16 Q Okay. You can have a seat.

17 MR. EPPES: Your Honor, if we may, just for the
18 record, I'd like to point out that the video that
19 Mr. Moyer played was from 6:05 to 9:14 on the tape
20 counter.

21 THE COURT: All right. I'll take notice of that
22 for the record. You're welcome to play the remainder
23 of it. I believe the entire tape has been admitted
24 into evidence.

25 MR. EPPES: It is, Your Honor. I just wanted a

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 record of what was played.

2 THE COURT: Good enough.

3 You may continue Mr. Moyer.

4 MR. MOYER: Thank you, Your Honor.

5 THE COURT: Yes, sir.

6 BY MR. MOYER:

7 Q Okay. So, he wasn't wearing a white ball cap or
8 a dew rag or anything that night?

9 A Huh-uh.

10 Q Okay. Now, I'm going to show you another
11 exhibit. Now, have you had a chance to look at the aerial
12 photograph that was made of Croc's?

13 A Yes.

14 Q Of this --

15 MR. EPPES: In anticipation of what he's going
16 to do, may I stand over there, Your Honor?

17 THE COURT: Yes, sir. Absolutely.

18 MR. EPPES: Thank you, Your Honor.

19 THE COURT: Yes, sir.

20 BY MR. MOYER:

21 Q I'm going to show you State's Exhibit No. 5.

22 Can you take a look at that exhibit?

23 A Uh-huh.

24 Q Can you recognize what that is?

25 A That's Pelham Road.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q That's Pelham Road. Does it show the nightclub
2 that you were at on , 2014?

3 A Yes.

4 Q Is that this marked on the right-hand side?

5 A Yes.

6 Q Is that a true and accurate representation of
7 the way the nightclub looked and the parking lot and its
8 relationship to the road --

9 A Yes.

10 Q -- on that date?

11 A Yes.

12 MR. MOYER: Your Honor, at this time, we would
13 move to have State's Exhibit No. 5 entered into
14 evidence.

15 THE COURT: Any objection?

16 MR. EPPES: No objection.

17 THE COURT: All right. Without objection, the
18 same is admitted into evidence.

19 (WHEREUPON, State's Exhibit No. 5 was admitted
20 into evidence.)

21 BY MR. MOYER:

22 Q I may have to ask you to step down again just so
23 everybody can see it, I'm sorry. Okay. If you would,
24 just step down and would you point out where -- actually,
25 step over here to the map and maybe stand over here on

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 this side of it over here out of the way of the jury.

2 Okay.

3 A (The witness complied.)

4 Q And can you just point to where Croc's nightclub
5 was?

6 A It's right here.

7 Q Would you point to Pelham Road?

8 A It's right here.

9 Q Now, would you show the jury where the main
10 entrance is to the nightclub?

11 A It's right here.

12 Q Would you show the jury where the door was that
13 you left?

14 A It's over here.

15 Q Would you show to the jury -- just trace the
16 route that you took to get back to your Tahoe?

17 A We went down this way right here.

18 Q Where were you parked?

19 A Up here.

20 Q So, you were on other side of that little road
21 that's marked as Interstate Court?

22 A Uh-huh.

23 Q That was -- was that like overflow parking for
24 the club?

25 A Yeah.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Now, you mentioned seeing a red vehicle that
2 caught your attention?

3 A Uh-huh.

4 Q Can you show us where that was?

5 A It was parked right here.

6 Q So, you walked past it as you were going to your
7 vehicle?

8 A Uh-huh.

9 Q Okay. And would you show us where you -- when
10 you left how you got out of the parking lot and which way
11 you went?

12 A I just went this way.

13 Q Make sure you speak up.

14 THE COURT: Speak up a little bit so the court
15 reporter can hear you and the jury can, too. Thank
16 you.

17 BY MR. MOYER:

18 Q When you got to Pelham Road, which direction did
19 you go?

20 A I went to the left.

21 Q Okay. I'm going to show you -- we're going to
22 take a look at another exhibit now. I'm going to ask you
23 to take a look -- I'm going to go on this side of you
24 right now. This is State's Exhibit No. 6. Do you
25 recognize what's shown in that photograph?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Yes.

2 Q What does that show?

3 A The gas station where I got gas, around the same
4 place we got shot and the nightclub.

5 Q The nightclub. Does it show Pelham Road?

6 A Yes.

7 Q Now, is that a true and accurate representation
8 of those locations you just told us about, the Spinx where
9 you ended up getting shot and where Croc's nightclub was?

10 A Yes.

11 Q On , 2014?

12 A Yes.

13 Q Okay.

14 MR. MOYER: Your Honor, at this time, we would
15 move State's Exhibit No. 6 into evidence.

16 THE COURT: Objection, sir?

17 MR. EPPES: Without objection, Your Honor.

18 THE COURT: All right. Without objection, the
19 same is admitted into evidence.

20 (WHEREUPON, State's Exhibit No. 6 was admitted
21 into evidence.)

22 BY MR. MOYER:

23 Q Once again, would you just point for the jury
24 now where Croc's nightclub is?

25 A It's right here.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Where it's marked. And could you point out
2 where the gas station was that you went to?

3 A It's right there.

4 Q In the far left side of the map?

5 A Yes.

6 Q And there's a road marked as Pelham Road, is
7 that the road?

8 A Yes.

9 Q Now, would you show us on this map the direction
10 of travel you took as you left? Just trace how you left
11 Croc's and where you went?

12 A I went out of here and I went down Pelham Road
13 to the gas station.

14 Q And you turned into the gas station?

15 A Yes.

16 Q Okay. Do you have any guess as about the
17 distance that is from Croc's --

18 A It's about a mile, mile and a half maybe.

19 Q Okay. Okay. All right. Let me ask you to have
20 a seat again.

21 A Okay.

22 Q Okay. Now, when you left Croc's, you said you
23 went down to the gas station, BP gas station, to get some
24 gas?

25 A Uh-huh.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Where was everybody positioned inside your
2 Tahoe?

3 A I was in the driver's seat, Brittany was on the
4 passenger side and Jermaine was in the back seat behind
5 the passenger side.

6 Q Okay. So, Brittany was in the front passenger
7 side?

8 A Uh-huh.

9 Q All right. So, did anything unusual happen on
10 the way from Croc's to the gas station that you noticed?

11 A No.

12 Q So, when you got to the gas station, tell us
13 what did you do when you pulled in?

14 A I got my wallet and I got my money out and I
15 went inside to pay for the gas.

16 Q So, did you park at a gas pump?

17 A Yes.

18 Q All right. And so, you went inside to pay for
19 the gas?

20 A Yes.

21 Q Were you going to pump the gas, too?

22 A No, Jermaine had got out to pump the gas.

23 Q Was it a quick ordeal to go in and pay for the
24 gas?

25 A No, there was people standing outside pouring

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 milk on their face, people buying milk. It was just
2 crowded.

3 Q Do you know why -- do you have any knowledge as
4 to what milk had to do with anything?

5 A When you get maced, milk, I guess, cools your
6 face down or your eyes if you've been directly sprayed
7 with mace.

8 Q So, people were there buying milk?

9 A Big gallons of milk, just pouring it on their
10 face.

11 Q When you got inside, were you able to go right
12 to the cash register?

13 A No.

14 Q Why was that?

15 A There was a lady and gentleman in front of me
16 and he was buying a beer -- or she was and she hands him
17 the beer and walks out, but he don't have any money. So
18 he's like standing there with no money and a beer and he's
19 waiting on her to come back in to purchase the beer. And
20 it was a fight going on outside as well. So the guy at
21 the register is looking over at that. And it's just kind
22 of chaotic.

23 Q Okay. Now, when you came -- when you finally
24 paid -- how much gas did you pay for?

25 A Fifteen dollars.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q After you paid for the gas, what did you do?

2 A I walked back outside to my car.

3 Q And when you were doing so, what was it like in
4 the parking lot?

5 A It was a big fight going on between a lady and a
6 gentleman in the parking area.

7 Q Okay. Did you have anything to do with the
8 fight?

9 A No.

10 Q In fact, this is actually on video, right?

11 A Yes.

12 Q So, we'll be able to tell. Did Jermaine or
13 Brittany, did they --

14 A No, he was standing at the pump the whole time.

15 Q Did you notice anything while you were walking
16 back to your car?

17 A Yeah, a lady, she was fighting a gentleman, but
18 a car had caught my eye at the top of the gas station
19 because it was just parked single-handedly, nothing was
20 there, and it had an odd color. And the rims perfectly
21 matched the car.

22 Q Okay.

23 A And it was the newer model Camero, so it kind of
24 just stood out, popped.

25 Q Was it parked at a gas pump?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A No, it was parked by itself at the top.

2 Q Could you see anybody in the vehicle?

3 A Huh-uh, not at the time. I just glanced over.

4 Q Did you hear anything from the vehicle?

5 A I didn't. There was a lot of hollering in the
6 parking lot between -- I had to walk right past the fight.

7 Q So, there was a lot of noise in the parking lot?

8 A Yes.

9 Q Okay. So, you never saw that Camero go get gas?

10 A No.

11 Q All right. People get in or out of it or
12 anything?

13 A No.

14 Q And what did you do when you got back to your
15 Tahoe?

16 A Well, the gas pump was going extremely slow,
17 like it was pumping gas real slow, so I stood right there
18 for just a second and then I got back in my vehicle.

19 Q Where did you get in the vehicle?

20 A Driver's side.

21 Q Was anybody else in the vehicle?

22 A Yes, Brittany.

23 Q Where was she?

24 A She had tried to get in the driver's side and
25 then I told her I would drive, so she got back in the

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 passenger side.

2 Q Did she get in the driver's side or --

3 A She tried to like cross over. Because there was
4 a lot of commotion going on in the parking lot, so she
5 tried to like cross over in the driver's seat, I guess to
6 hurry up and leave.

7 Q From the passenger --

8 A Uh-huh. And then I told her I'd drive and I got
9 back in the driver's side.

10 Q What about the windows of your Tahoe, were they
11 up or down?

12 A My back window was down. Actually, a motor had
13 just went out in it and it completely failed. It wouldn't
14 stay up at all.

15 Q Which side?

16 A The passenger side.

17 Q Okay.

18 A Back seat, not front seat.

19 Q How long had it been broken?

20 A Pretty much since I bought it.

21 Q Do you remember how long you had it?

22 A Not even two weeks probably.

23 Q Were you ever able to keep it up or was it
24 always down?

25 A Like we tried to stuff something down in there

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 and it would stay up for maybe a minute till you hit a
2 bump and plop.

3 Q Just fall down. So, was it down the entire time
4 you were at the BP gas station?

5 A Yes. We tried all night to keep it to stay up
6 because it was chilly outside and nothing kept it up.

7 Q When the gas was finished being pumped, where
8 did Jermaine go?

9 A He got back in the same position -- well, he was
10 kind of in between us, but more so over on Brittany's side
11 of the car.

12 Q Do you remember which door he got in when he got
13 done pumping gas?

14 A I don't remember. I think passenger side.

15 Q But you don't remember?

16 A Huh-uh.

17 Q So, he was in the back again?

18 A Yes.

19 Q So, where did you drive as you left the gas
20 pumps?

21 A I pulled to the driveway to leave out to get
22 back on Pelham Road.

23 Q While you were driving, did you hear anything?
24 While you were driving to the exit or, you know, the
25 entrance?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A No, not at that time.

2 Q Was your radio on?

3 A Yes.

4 Q Was it loud?

5 A Yes.

6 Q Were you able to pull right out onto Pelham or
7 did you have to stop?

8 A I had to wait. I've kind of got a fear of
9 pulling out in front of cars, so I wait until the whole
10 road is completely almost clear before I pull out.

11 Q Okay. Did you look back and forth while you
12 were waiting?

13 A I did.

14 Q Okay. Did you notice anything while you were
15 waiting?

16 A I did. I noticed the Camero was beside me, but
17 it was going left. Like, I'm going right and they were to
18 my left-hand side.

19 Q But you didn't see a turn signal or anything,
20 did you?

21 A No.

22 Q You just assumed it was going left?

23 A Yeah, we both can't pull out to go right.

24 Q Could you see into the Camero?

25 A Yes.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q What could you tell about the occupants?

2 A There was three males in vehicle.

3 Q Do you remember where they were in the vehicle?

4 A I remember one was in the passenger side, one
5 was the driver and there was one in the back seat.

6 Q Could you see any of their faces well?

7 A Yeah, I seen the passenger.

8 Q Okay. Anything you notice about him?

9 A He had dreads, little dreads.

10 Q When you say little, like how?

11 A Maybe about that long or so.

12 Q How about the other two guys?

13 A You could see a darker gentleman in the driver's
14 side. I couldn't really see anything after that. I
15 didn't pay too much attention to them.

16 Q So, you weren't able to get a good enough look
17 at any of these guys to identify them later?

18 A I was able -- the passenger looked like Anthony
19 Henderson later on after I had seen him.

20 Q Now, did you know him at the time?

21 A I did not.

22 Q As far as you know, had you ever met him before?

23 A Never seen him before.

24 Q How about the Defendant in this case, Billy
25 Taylor?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Never seen him.

2 Q As far as you know, you had never met him?

3 A No.

4 Q If he was at Croc's, you didn't notice him?

5 A Never noticed anyone.

6 Q You've heard about the guy in the back named
7 Deunte Jones?

8 A Yes.

9 Q As far as you know, had you ever met him or seen
10 him?

11 A No.

12 Q Okay. So, after waiting there, what direction
13 did you turn onto Pelham Road?

14 A I turned to the right. The Interstate is to the
15 right.

16 Q Did you notice anything regarding that Camero
17 after you turned out onto --

18 A As soon as I pulled to the right, you would
19 assume the Camero would go to the left because they were
20 in the left turning lane, but they turned to the right as
21 well.

22 Q Now, you say you got in the left-hand lane?

23 A Uh-huh.

24 Q What lane did the Camero get in?

25 A It got in the right lane.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Now, was that the same Camero you saw parked at
2 the BP gas station?

3 A Yes.

4 Q Do you know if it was the same Camero you saw at
5 Croc's or not?

6 A No, I'm not sure about that.

7 Q Did it look similar?

8 A Similar, yes.

9 Q But you say it's --

10 A I can't say yes or no.

11 Q All right. So, what did this Camero do then?

12 A It kind of got -- sped up and got -- not side by
13 side with the car, but kind of neck in neck almost with
14 the car --

15 Q Okay. Let me stop you right there. I'll get
16 into that in a minute. Now, at this point, let me ask
17 you, have you had the opportunity to look at the videotape
18 from the -- the surveillance video from the gas station?

19 A Yes.

20 Q I'm going to hand you what's marked as State's
21 Exhibit No. 3. If you would, just take a look at that.
22 Do you recognize that?

23 A Yes.

24 Q How are you able to recognize that?

25 A Those are my initials.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q So, this is the video that you watched of the BP
2 gas station?

3 A Yes.

4 Q Is it a true and accurate representation of your
5 time there at the gas station?

6 A Yes.

7 Q So, deletions or additions or omissions that you
8 --

9 A No.

10 MR. MOYER: Your Honor, at this time, we would
11 move State's Exhibit No. 3 into evidence.

12 MR. EPPES: No objection, Your Honor.

13 THE COURT: All right. Without objection, the
14 same is admitted into evidence.

15 (WHEREUPON, State's Exhibit No. 3 was admitted
16 into evidence.)

17 BY MR. MOYER:

18 Q I think I'm going to have to ask you to step
19 down again.

20 A (The witness complies.)

21 Q Yeah, stand in the same location you were. And
22 you're familiar with the fact that there are actually two
23 different camera angles from outside?

24 A Yes.

25 Q It will take me a minute to get this queued up.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 THE COURT: Don't let it beat you, Mr. Moyer.

2 MR. MOYER: Oh, it's not. I just have to get it
3 queued.

4 BY MR. MOYER:

5 Q All right. Brittany, what I'm going to do is
6 show you the video of the entrance and exit to the BP gas
7 station. And we're going to start at the three minute
8 44 -- I'm sorry, three hour, 44 minute, 17 second mark.
9 And I want you to tell the jury when we actually view your
10 vehicle.

11 A Okay.

12 (WHEREUPON, State's Exhibit No. 3 was played for
13 the record.)

14 MR. MOYER: Judge, I think it is beating me now.

15 THE COURT: Well, Mr. Moyer, all I can tell you
16 is that karma is working against you because so far
17 this morning, you've dropped the F bomb twice and
18 you've asked a pregnant lady to get up and down and
19 up and down. So, you better go to church tomorrow
20 night.

21 (WHEREUPON, there was an outburst of laughter.)

22 THE WITNESS: That's my vehicle.

23

24 BY MR. MOYER:

25 Q Was that your vehicle right there?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Yes.

2 Q Tell us when you see the Mustang.

3 A Right there.

4 Q Is that the Mustang -- I'm sorry, the Camero
5 right there?

6 A Yes.

7 Q I'm just going to back it up one more time.
8 Okay. I backed it up, so tell us again when we see your
9 Tahoe.

10 A This is my vehicle.

11 Q That's your Tahoe right there?

12 A Yes.

13 Q Is that the --

14 A Camero.

15 Q -- behind it? Does that show us where the
16 Camero stopped initially?

17 A Yes.

18 Q So, is it fair to say you were there about five
19 or six minutes before you all ended up leave; is that
20 correct?

21 A Yeah, around that time.

22 Q Okay. So, once again, this is still that Camero
23 right here?

24 A Uh-huh.

25 Q Is that it moving suddenly out of view?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Uh-huh.

2 Q Okay. I'm going to fast forward just a couple
3 of minutes now. Are you able to see your vehicle as you
4 leave?

5 A Yes, just the corner of each.

6 Q Okay. Okay. I fast forwarded it to three hour
7 and 50 minutes and 26 second mark. Where are we actually
8 going to see your Tahoe and the Camero leaving?

9 A Up here on the corner.

10 Q In this top right-hand corner?

11 A Yes.

12 Q You leave from that exit?

13 A Yes.

14 Q Okay. Is that your Tahoe leaving now?

15 A Yes.

16 Q Is that the Camero?

17 A Yes.

18 Q Okay. Now, you mentioned where you all stopped
19 to have your gas pumped, that's also captured on a
20 different video camera angle?

21 A Yes.

22 Q Okay. Let's take a look at that now. I fast
23 forwarded it to three hour, 44 minute mark. I'll ask you
24 once again to tell the jury when we see your Tahoe.

25 A Okay.

ASHLEY HIOTT-DIRECT BY MR. MOYER

- 1 Q I'm going to hand you this laser pointer. Use
2 that button right there to show us where.
- 3 A This is my car.
- 4 Q And point out yourself as you get out of the
5 car?
- 6 A Okay.
- 7 Q Who is that getting out of the car there?
- 8 A That's Jermaine. This is me going in the store.
- 9 Q Make sure you speak up.
- 10 A This is Jermaine and that's me going in.
- 11 Q Okay.
- 12 A This is Brittany exiting the car.
- 13 Q Do we see Jermaine and Brittany?
- 14 A Yes, they're right here.
- 15 Q And during this time, you're still inside the
16 gas station?
- 17 A Yes.
- 18 Q Can you point out the window that was broken,
19 that was --
- 20 A It's down right here.
- 21 Q The rear passenger side window?
- 22 A Uh-huh. This is me going back to the car.
- 23 Q Okay. Does that show you glancing over?
- 24 A Yeah, that's when I had looked at the car.
- 25 Q Is that when you're looking at the Camero?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Yes, and the fight that was coming.

2 Q Do you know any of these people involved in the
3 fight?

4 A I don't. You can see Brittany crossing over
5 there.

6 Q That's when Brittany was trying to get into the
7 driver's side?

8 A Yeah. And the gas was just taking a long time
9 to pump.

10 Q Do you know if you were still standing outside
11 at this time or if you had gotten into the car?

12 A I'm standing by the driver's door.

13 Q You're standing by the driver's door?

14 A Yeah.

15 Q Okay. What's taking place now?

16 A I'm pulling off.

17 Q Just point to your vehicle.

18 A (The witness complies.)

19 Q Does it go out of view eventually?

20 A Yes, it's gone now.

21 Q In that far left-hand corner, can you see your
22 vehicle trying to leave or does it go out of view?

23 A No, it goes out of view.

24 Q Do you ever see the Camero on this video?

25 A No.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Okay. Thank you. Now, before I ask you to take
2 your seat again, I have one more map. So, while you're
3 down, just take a look at that. I'm now going to show you
4 State's Exhibit No. 4.

5 MR. MOYER: It's my understanding this is to be
6 admitted without objection by the Defense.

7 MR. EPPES: Yes, Your Honor.

8 THE COURT: All right, without objection, the
9 same is admitted into evidence.

10 (WHEREUPON, State's Exhibit No. 4 was admitted
11 into evidence.)

12 BY MR. MOYER:

13 Q Let me ask you to do just like you've done
14 before, just explain to the jury what is shown on this
15 map. Let me ask you to stand on this side first.

16 A This right here is the gas station on Pelham
17 Road.

18 Q Does this show where you all ended up -- your
19 car ended up stopping?

20 A Yes.

21 Q Where did it end up stopping after the shooting?

22 A I believe somewhere in here.

23 Q Okay. Now, on the -- where it shows the Spinx
24 gas station, can you show us where it was that the Camero
25 parked while you were pumping gas?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A It was up towards here because this is the exit.
2 I pulled out of.

3 Q Okay. And so, that's sort of a grass median
4 there in the middle?

5 A I think that's like the cement, but you can park
6 on the pavement part right there.

7 Q Can you show us the route that you took when you
8 left to go back to the road?

9 A I was at this pump right here and I just went
10 out and went right here.

11 Q And you got into that left lane?

12 A Uh-huh, got like out and went in this lane right
13 here.

14 Q Thank you. You can have a seat.

15 A (The witness complies.)

16 Q Okay. So now, let's talk about what happened
17 when you turned out on Pelham Road. Actually, wait one
18 moment. Okay. Let's talk a little bit about what
19 happened when you turned out onto Pelham Road. You said
20 you got out into the left lane?

21 A Yes.

22 Q What did you notice once you got out into the
23 left lane?

24 A I noticed a car kind of speeding up behind me a
25 little bit. His headlights were bright.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Did you look over at the car at any point?

2 A Yes.

3 Q What did you notice about the car?

4 A It was the orange Camero.

5 Q And where was it in relation to you?

6 A It's top part was more toward my passenger door.

7 Q Okay.

8 A Like their driver's side would almost be beside
9 my back passenger side.

10 Q So, it was on your right-hand side or your
11 left-hand side?

12 A My right-hand side.

13 Q Did you hear anything or notice anything?

14 A Yeah, I could hear some guys hollering from the
15 car.

16 Q What do you remember? Could you hear what they
17 were saying?

18 A Yeah, it was like, Hey, girl, hey, girl, like
19 stuff like that.

20 Q Okay. What did y'all do when you heard that?

21 A I turned around to look and that's when I seen
22 it was the orange Camero. And that's when Jermaine had
23 said something back to them.

24 Q What do you remember Jermaine saying?

25 A He was like, Hey, that's my old lady and my

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 sister-in-law. I guess he was like, Hey, they're with me.

2 Q Was that -- that window was down?

3 A Yes.

4 Q Was there anymore exchange of words that you
5 heard?

6 A Yeah, you can hear --

7 Q Let me stop you one second. Let me ask you to
8 use the actual words that you heard even if they're curse
9 words. So, tell me what you heard.

10 A Yeah, you could hear the gentlemen from the
11 orange Camero holler out, Fuck you. And then you can hear
12 Jermaine holler back, Fuck you, too.

13 Q Then what happened then?

14 A I heard a gunshot.

15 Q Did -- could you tell who in the Camero was
16 saying --

17 A When I glanced over before I was hit -- like I
18 remember me and Brittany -- when we heard Jermaine say it
19 back to them, we looked back at him and told him to like
20 shut up, hush, you know, leave it alone. And that's when
21 I heard the gunshot. And I just remember seeing like a
22 light.

23 Q Okay.

24 A Coming -- it was more of the driver's window.

25 Q Okay. When you saw that light and you heard

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 that gunshot, what happened then?

2 A Everything just was ringing and white. I didn't
3 see anything. Everything was ringing. And it kind of got
4 confusing after that.

5 Q How many gunshots did you hear?

6 A I heard one.

7 Q Your window was up?

8 A Yes.

9 Q And the back side window on your driver's side
10 was up, also?

11 A Yes.

12 Q Did you know you had been shot?

13 A Not at that moment, no.

14 Q Okay. So, you heard ringing. What happened
15 then? What did you do?

16 A I kept trying to see stuff and I couldn't see
17 anything. And then I felt my nose bleeding and I grabbed
18 my face. And I remember reaching for my door -- because I
19 kept grabbing my phone and I couldn't see anything to
20 dial. And I realized my face was getting really hot and I
21 kept trying to holler for Brittany and I kept hearing
22 Brittany screaming, Please wake up. Please wake up.

23 Q Did you stop pretty quickly after the shot?

24 A Uh-huh.

25 Q So, what did you do then?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A I got out of my car and felt till I got to the
2 back and then I collapsed at the back of the car.

3 Q Did you start to notice anything?

4 A Yeah, my face was pretty much gone, I guess.

5 Q Okay. Could you -- was there any bleeding?

6 A Yeah, I could just taste blood and feel my face
7 was extremely hot. And I could -- I could feel the blood
8 just squirting and gushing out.

9 Q So, you couldn't -- could you see at this time?

10 A No.

11 Q So, you don't know what was taking place with
12 Brittany?

13 A No, I don't. I could just hear her screaming.

14 Q Do you remember officers being there pretty
15 quickly?

16 A Yes.

17 Q Did anyone attend to you?

18 A Yes, there was one officer, I remember asking
19 him had I been shot, and he told me yes. And he told me
20 to lean my head to a certain way and he handed me napkins
21 to put on my face and just told me to wait.

22 Q Okay. And did EMS arrive then, also?

23 A Uh-huh.

24 Q And they took you to the hospital and that's
25 where -- you were there for several days --

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Uh-huh.

2 Q -- being treated? Okay. At any point, did
3 anyone in your vehicle have a weapon of any kind?

4 A No.

5 Q Or brandish or show a weapon?

6 A No.

7 Q I'm going to show you a couple of exhibits. I'm
8 going to start off -- I'm sorry.

9 THE COURT: All right. Let's go ahead and take
10 a quick break. We'll come back in after everything
11 this is marked and we'll be ready.

12 (WHEREUPON, the jury left open court at
13 approximately 11:20 a.m.)

14 THE COURT: Okay. You can go ahead and mark
15 those. We'll go ahead and take a break.

16 You can take a break, too, but you can't discuss
17 your testimony with anyone because you're under oath
18 and on the stand right now. Just like anyone, you
19 can go use the restroom and relax and then come back
20 in and we'll resume testimony. All right. Thank
21 you.

22 (WHEREUPON, a short break was taken.)

23 (WHEREUPON, State's Exhibits Nos. 7-13 were
24 marked for identification only.)

25 THE COURT: All right. Bring the jury back in,

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 please.

2 (WHEREUPON, the jury came into open court at
3 approximately 11:45 a.m.)

4 THE COURT: All right. Mr. Moyer, your case.

5 MR. MOYER: Thank you, Your Honor, may it please
6 the Court?

7 THE COURT: Yes, sir.

8 BY MR. MOYER:

9 Q I'm going to start off by showing you what has
10 been marked as State's Exhibits 7, 8, 9, and 10. These
11 are some photographs that were taken by law enforcement
12 later. And I'm only going to ask you if you're able to
13 identify your vehicle in these photographs. So, if you
14 would, take a look at each of those pictures.

15 A Uh-huh.

16 Q Are you able to recognize those as being your
17 vehicle?

18 A Yes.

19 Q In substantially the same condition as it was
20 back in of 2014?

21 A I mean, without all the blood and stuff, yeah.

22 Q Okay.

23 MR. MOYER: Your Honor, at this time, I move to
24 have State's Exhibit Nos. 7, 8, 9, and 10 moved into
25 evidence.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 MR. EPPES: Without objection, Your Honor.

2 THE COURT: All right. Without objection, the
3 same is admitted into evidence.

4 (WHEREUPON, State's Exhibits Nos. 7-10 were
5 admitted into evidence.)

6 BY MR. MOYER:

7 Q Now, I'm going to show you State's Exhibit Nos.
8 11 and 12 for the purpose of just asking you if you're
9 able to determine -- to recognize what is being shown in
10 the vehicle as looking anything similar to anything you
11 saw on of 2014, back when the incident
12 happened?

13 A Yes.

14 Q You'll be able to do that looking at those
15 photographs?

16 A Yes.

17 Q And the same with State's Exhibit No. 13?

18 A Yes. Those were on the car at the time.

19 Q Okay. Are they true and accurate
20 representations of what appeared to you to be similar to
21 the vehicle, the Camero, and the rims that were on the
22 Camero that you saw back on , 2014?

23 A Yes.

24 MR. MOYER: Any objection?

25 MR. EPPES: No objection, Your Honor.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 THE COURT: Okay. Without objection, the same
2 are entered into the record.

3 (WHEREUPON, State's Exhibits Nos. 11-13 were
4 admitted into evidence.)

5 BY MR. MOYER:

6 Q Now, I'm just going to ask you to move back a
7 little bit. I'm not going to ask you to get down this
8 time, but we're going to show some pictures on the screen
9 behind you. We're going to start off with State's Exhibit
10 No. 7. Okay. Can you tell the jury what that is a
11 picture of?

12 A That's a picture of where I was sitting and
13 exited the vehicle for a moment.

14 Q Is that your Tahoe?

15 A Yes.

16 Q Does that show the driver's side of your Tahoe?

17 A Yes.

18 Q Let me show you State's Exhibit No. 10. I'm
19 going to use the laser pointer here. Do you recognize
20 what that is in this picture?

21 A That's my vehicle.

22 Q That's your vehicle right there?

23 A Yes.

24 Q Can you tell us what road this is?

25 A That's Pelham Road.

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 Q Is that where your vehicle stopped after you
2 were shot?

3 A Yes.

4 Q I'm going to show you State's Exhibit No. 9, do
5 you recognize that?

6 A Yes.

7 Q What is that?

8 A That is my passenger side of my Tahoe.

9 Q Okay. Is this picture taken after the shooting
10 incident?

11 A Yes.

12 Q Okay. I'm going to direct your attention to a
13 place on the rear passenger side window. I'm going to
14 show you another -- let me start off by showing you
15 State's Exhibit No. 8. You've had a chance to take a look
16 at this picture before today, correct?

17 A Yes.

18 Q And you were shown this mark that was on your
19 vehicle?

20 A Yes.

21 Q In fact, did you get your Tahoe back after law
22 enforcement was finished with it?

23 A I did.

24 Q Was this mark on the vehicle when you got your
25 Tahoe back?

ASHLEY HIOTT-DIRECT BY MR. MOYER

1 A Yes.

2 Q Was that hole or this mark on your Tahoe prior
3 to the shooting incident at Pelham Road?

4 A No.

5 Q Okay. So, that only existed after you were
6 driving down Pelham Road and were shot?

7 A Yes.

8 Q Okay. Once again, this mark on the window, is
9 that right, this location on your Tahoe?

10 A Yes.

11 Q One moment, please. Now, I'm going to show you
12 State's Exhibit No. 11. What can you say about the car
13 that is depicted in State's Exhibit No. 11?

14 A That's the vehicle that was parked at the store.

15 Q Okay. That looks like the vehicle that you saw
16 at the BP gas station?

17 A Yes.

18 Q Okay. Does that also look like the vehicle that
19 came driving up next to you from which the shots were
20 fired?

21 A Exactly like it.

22 Q I'm going to show you State's Exhibit No. 12.
23 Is that that same Camero?

24 A It is, but it doesn't have the rims on it.

25 Q Okay. So, the only difference that you notice

ASHLEY HIOTT-CROSS BY MR. EPPES

1 is the rims?

2 A The rims matched the car before.

3 Q Let me show you State's Exhibit No. 13. What
4 can you tell me about what is shown in State's Exhibit No.
5 13?

6 A Those seem to be the rims that were on the
7 vehicle at the time of the incident.

8 Q Okay. That's what they looked like to you that
9 night?

10 A Uh-huh.

11 Q Okay.

12 MR. MOYER: Okay. Please answer any questions
13 that the Defense has.

14 THE COURT: Cross-examination?

15 CROSS-EXAMINATION

16 BY MR. EPPES:

17 Q Ms. Hiott, I'm going to jump around a little bit
18 just because I jump around a little bit. I'm sorry about
19 that. This is your vehicle, right?

20 A Yes.

21 Q Now, the window there, you talked about in your
22 testimony how sometimes it would flop down. Is that where
23 it was when this incident happened? Is that how far down
24 it was?

25 A Yes.

ASHLEY HIOTT-CROSS BY MR. EPPES

1 Q So, when you said flop down, you don't mean flop
2 all the way down --

3 A No, the back windows in those vehicles don't go
4 all the way down.

5 Q Okay. Thank you. Now, I'm going to go back --
6 I'm going to go back to the BP station for a second. That
7 altercation we saw at the BP station, did you see any of
8 the people in the red Camero in that altercation?

9 A I did not.

10 Q Okay. Do you know whether Billy Taylor or
11 Anthony Henderson or Deunte Jones were part of that
12 altercation?

13 A Not that I was aware of.

14 Q Not that you were aware of? Did you see anybody
15 in that altercation that had caused you problems at Croc's
16 or tried to flirt with you or anything?

17 A No.

18 Q Did anybody in that altercation interact with
19 either you or Jermaine Nesbitt or Brittany Jeter while you
20 were in the parking lot?

21 A Now, as you seen me, I had no communication with
22 anyone.

23 Q Okay. Now, you said when the Camero came up
24 beside you, you heard multiple guys talking?

25 A Yes.

ASHLEY HIOTT-CROSS BY MR. EPPES

1 Q It wasn't just one voice coming out of the
2 Camero?

3 A I mean, I heard voices. I can't pinpoint who
4 they were coming from.

5 Q But you believe it was more than one voice
6 coming out of the Camero?

7 A Yes.

8 Q Talking about the flash, you don't really know
9 where that flash of light came from, the shot that you
10 believe was fired; do you?

11 A It looked as if it came from the driver window.

12 Q Okay. Do you remember -- do you remember in
13 February -- I believe it was in February, but I could be
14 speaking wrong. Do you remember being in an interview
15 room with Investigator Hammett --

16 A I do.

17 Q -- and he tape recorded you talking about this
18 incident?

19 A I do.

20 Q If I told you that during that -- during that
21 interaction, you said, I just remember seeing the light
22 like through that window, which I think -- I thought when
23 I heard it meant the window of your vehicle, and that's
24 all I can remember of that. Do you remember saying that
25 to him?

ASHLEY HIOTT-CROSS BY MR. EPPES

1 A I remember telling him I seen the flash of
2 light.

3 Q And you saw it through the back window of your
4 car?

5 A Yeah, like I said, the cars weren't neck and
6 neck. The driver window, like I said before, was almost
7 to my back passenger window.

8 Q And when Investigator Hammett said, You thought
9 it came from the driver's area? You said, Uh-huh, and it
10 was kind of like it came from the back?

11 A Yes, but the --

12 Q Like the back part of the car?

13 A But there's only two windows on those vehicles.
14 The back window was just a little -- that window
15 doesn't --

16 Q So, when you say the back, you mean like behind
17 the driver?

18 A No, the driver window. There's no back window
19 after the driver window.

20 Q But you just saw a flash out the window of your
21 vehicle?

22 A Yes.

23 Q Okay.

24 MR. EPPES: Thank you.

25 MR. MOYER: Nothing further for this witness.

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 THE COURT: Thank you, ma'am. You may step
2 down. I appreciate it.

3 All right. You may call your next witness.

4 MR. MOYER: The State calls Matthew Hegger.

5 THE CLERK: Sir, please place your left hand on
6 the Bible and raise your right hand.

7 MATTHEW HEGGER, after being duly
8 sworn, testified as follows:

9 THE CLERK: Thank you. Please be seated. Would
10 you please state your full name for the record.

11 THE WITNESS: Detective Matthew Hegger.

12 THE CLERK: Thank you.

13 DIRECT EXAMINATION

14 BY MR. MOYER:

15 Q Where are you employed, sir?

16 A Greenville County Sheriff's Office.

17 Q How long have you been in law enforcement?

18 A Today, seven years.

19 Q Has it all been with the sheriff's office?

20 A It has.

21 Q What is your position?

22 A I am a community deputy now. I was a uniform
23 patrol deputy the night of the incident.

24 Q Tell the jury a little bit about what a uniform
25 deputy does, a patrol deputy?

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A Uniform patrol deputies are deputies that
2 respond to 911 calls from dispatch. So, when somebody
3 calls 911, it goes to dispatch. Dispatch will then send
4 it out to a road deputy, which was me.

5 Q So, y'all are pretty much the First Responders,
6 generally, for incidents like this?

7 A Yes, sir. Most of the time, yes, sir.

8 Q Okay. Now, did you get a call on the early
9 morning of , 2014?

10 A Yes, sir, I did.

11 Q What location was that call?

12 A We were called out to Croc's, which was,
13 obviously, a nightclub, you've already heard that, for
14 purposes of gunfire in the parking lot.

15 Q So, was that the location we were showing on
16 Pelham Road, the maps?

17 A Yes, sir.

18 Q You said it was regarding the gunshot; is that
19 correct?

20 A That's correct.

21 Q So, you did you respond to that location?

22 A I did.

23 Q Were you by yourself or did other officers
24 respond?

25 A At that point in time, I was the only one that

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 was -- actually, there were two or three deputies in
2 route, but I was the first one to get there.

3 Q What time did the call come out?

4 A The call from Croc's, it was at 3:39 in the
5 morning, 3:39 on 2/22/2014.

6 Q That's what time you were dispatched?

7 A Yes, sir.

8 Q What time did you arrive at Croc's?

9 A I was the first one to arrive on scene at 0345.
10 0345.

11 Q So, tell us a little bit about that scene, that
12 location. What was going on?

13 A Well, first of all, Croc's is a known nightclub
14 which we had multiple problems at from the public, from
15 law enforcement standpoint. It was reported about 200
16 people that were clearing the parking lot in reference to
17 some fights going on and then some gunshots being in the
18 parking lot.

19 Q Okay.

20 A And there were so many people -- again, 200
21 people was not exaggerating. We had so many cars, so many
22 people running and walking to their cars, just disbursing
23 all at one time. It was like a football game at the end.

24 Q Did you get out of your patrol car or did you
25 remain in?

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A I remained in my patrol car until I got some
2 other deputies just due to the fact that knowing that area
3 and knowing that club, there's a lot of examples of you
4 need backup at that club.

5 Q Okay. Now, did you hear any shots or see any
6 criminal activity while you were at that location?

7 A I did not. I just saw a bunch of people leaving
8 at the same time, trying to get out of one exit, which is,
9 basically, how everybody exits that club.

10 Q Okay. So you say you stayed in your vehicle?

11 A I did.

12 Q Did you roll your window down and speak to
13 people while you were there?

14 A I rolled my window down just to see if I could
15 hear anything or hear any fights. Obviously, there was a
16 lot of people talking about some fight inside the club. I
17 did roll down the window and drove around the bar. And I
18 noticed a couple of security guards there, so I just
19 talked to them, if they had seen anything or heard any
20 gunshots.

21 Q Is that when you got the information to be on
22 the lookout for this maroon Tahoe?

23 A Yes, sir, I did, from one of the nightclub
24 bouncers, the security guy. Yeah, he told me some people
25 to look for, kind of vehicle to look for that he thought

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 shots were coming from.

2 Q Was there any description given of the person
3 who had fired the shots?

4 A On that, I did have a -- according to my report,
5 which I had taken the night of the incident -- since this
6 was two years ago, I have to go back to my report. I made
7 contact with the club security, who stated that a fight
8 broke out inside the club and people started leaving. The
9 security officers stated that they observed a black male
10 wearing a baggy white shirt walking in the parking lot
11 firing off a few rounds. The security stuff stated that
12 he believed that the subject that was firing the shots got
13 into a burgundy red Tahoe heading away from 85, I-85.

14 Q All right. Did you take a statement from
15 anyone?

16 A I did not.

17 Q That was because you were in the middle of
18 trying to figure out what was taking place there?

19 A That's correct.

20 Q Did you know the names of anyone that you spoke
21 to at that time?

22 A At that point in time, no. Like I said, we've
23 been to that club so many times for the same incidents,
24 same fights or gunshots in the air. It's not the first
25 one. But, normally, we just ask the security if they've

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 got a victim, if there's anybody involved, if there's any
2 property damage, but nobody said that anybody was hurt or
3 injured or any property damage.

4 Q Okay. So, then you left Croc's. What direction
5 did you travel?

6 A I traveled away from 85, so I took a left onto
7 Pelham. And the reason why I take a left onto Pelham is
8 because I know that working that area for five years when
9 the incident happened, a lot of people congregate towards
10 the McDonald's because it's opened 24/7 and also the Spinx
11 BP gas station, which is taking a left onto Pelham Road.

12 Q Did you see anything while you were driving that
13 caught your attention?

14 A I did. As I was driving towards the McDonald's,
15 which is before the BP, Spinx, I noticed on the oncoming
16 traffic, I saw a burgundy red Tahoe sitting in the --
17 basically, the median or it's a lane of turn into
18 Bojangles', with the doors opened. I thought that was
19 kind of strange. I believe -- I don't know if the hazards
20 were on or not, but it just looked odd to me.

21 But knowing that my suspect -- possible suspect
22 vehicle was a burgundy red Tahoe, all the four doors
23 opened and I didn't see anybody near the vehicle, I just
24 kept going and I turned to the left and then I did a
25 U-turn and got behind that vehicle. So, I'm actually

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 facing 85 now.

2 Q Okay. What time was it that you called out
3 that -- well, first off, what time did you leave Croc's?

4 A I cleared that call out with our dispatch at
5 3:52 in the morning, 3:52.

6 Q And what time did you notify dispatch that you
7 had stopped with that Tahoe?

8 A 3:54, so two minutes.

9 Q Okay. Now, we have a map that's been introduced
10 into evidence. I'm going to ask you to step down and
11 point out to the jury where that Tahoe was parked. We're
12 going to use State's Exhibit No. 4. Would you just kind
13 of show us your direction of travel where the Tahoe was.
14 Maybe stand on this side so we don't block the view of the
15 jury.

16 A Bojangles' is here. Their vehicle was coming
17 towards 85. And then there's a little turn lane right
18 here. So, basically, it's lane one, lane two and lane
19 three. It was actually lane one, right about here.

20 Q Okay. Then you parked right behind it, you
21 said?

22 A When I was coming from Croc's and I saw that
23 vehicle, I immediately did a U-turn and got behind it
24 probably, maybe 20 yards.

25 Q Okay. Please have a seat again.

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A (The witness complies.)

2 Q Now, you were the first officer to stop there
3 behind this vehicle?

4 A Yes, sir.

5 Q Tell us what you observed when you stopped
6 behind the Tahoe?

7 A I didn't see anybody when I got behind the Tahoe
8 as I was driving past it. So, when I did the U-turn,
9 that's when I noticed there were two black females -- or
10 what I saw were two black female standing behind the
11 tailgate of the Tahoe screaming and yelling. At that
12 point in time, I got out my car, started making contact.
13 And right when I got out of the vehicle, I saw that the
14 girl on the left-hand side was completely covered in blood
15 and her head -- and her hair was matted down. I couldn't
16 tell if she was shot, stabbed or anything, but I knew she
17 was in pain because she kept saying she couldn't see,
18 couldn't see.

19 I said, Ma'am, are you shot?

20 I don't know. I don't know.

21 She was frantic. But to the point where if she
22 got shot in the head, I'm like -- I was pretty shocked
23 that she would still be standing, number one, and talking
24 coherently.

25 Q Right.

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A The girl to her right -- or to my right, she was
2 also covered in blood from her shirt. And she was, also,
3 saying that somebody's been shot, her boyfriend or
4 somebody in the back seat. There was a male in back seat.
5 I'm like, okay.

6 So I go around, start checking the vehicle from
7 the passenger side. As I make my way -- those two doors
8 on the right-hand side were actually opened, along with
9 the driver's door. As I come around, I could see that
10 the -- there was a victim in the back seat who's kind of
11 slumped over. I mean, he bled out. There was so much
12 blood, I knew there was no chance that I could even help
13 him.

14 Q Did you notice any -- was he -- did you notice
15 whether he was moving, whether he was breathing, whether
16 there was any responsiveness at all?

17 A There was no response at all. He, obviously --
18 I didn't go into the vehicle, but I could tell that -- by
19 getting that close to him, I could see that there was an
20 exit wound in the back of his head.

21 Q So, you could see signs of injury?

22 A I did.

23 Q Did you move or touch him at all?

24 A No. My attention then turned to the two females
25 needing help. I called out for EMS and assistance from

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 backup.

2 Q Okay. All right. And then were other officers
3 arriving around that time?

4 A Yes, sir.

5 Q Okay. Did you then secure the scene?

6 A I secured the immediate scene as what I could
7 tell. I got the other deputies that were coming on scene
8 to help me rope whatever crime scene we had. I didn't
9 know where the actual crime scene was because they were
10 traveling down the road. But I got them to actually tape
11 off certain areas and look for bullet casings. And also,
12 go back to the Spinx where it technically originated.

13 Q So, what does securing a scene mean? What does
14 that entail?

15 A Securing a scene for us is, basically, making
16 sure that the public doesn't go and contaminate anything
17 that we've got. This was an active scene. We don't want
18 anybody that's not associated with that call -- like EMS
19 can go in there, fireman can go in there, but we document
20 everybody that's been on that scene.

21 Since it was right between Bojangles' and
22 McDonald's and McDonald's was still opened at that time,
23 we had a bunch of onlookers. So, we tried to -- you know,
24 once EMS was cleared to come in -- because that's what we
25 do, we have to clear them to come in to a call to make

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 sure it's safe for them. At that point in time, I cleared
2 them in and allowed them to attend to the deceased, the
3 black male; and also the two females.

4 Q Okay.

5 A No nobody touched that car.

6 Q Okay. So, you made sure no one touched or
7 tampered with the car?

8 A Absolutely?

9 Q Okay. And you were the first officer on the
10 scene?

11 A Yes, sir.

12 Q I know you didn't -- you didn't search the
13 Tahoe?

14 A No, sir.

15 Q But from your brief looking into the vehicle and
16 just scanning around a little bit, did you see any weapons
17 or anything like that?

18 A I didn't see any weapons as I was peering into
19 the vehicle.

20 Q Now, you mentioned y'all looked for a shell
21 casing or shell casings?

22 A Yes, sir.

23 Q All right. Do you remember where all y'all
24 looked?

25 A Well, considering it occurred between the Spinx

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 and where the car ended up, that's my crime scene.

2 Q Okay.

3 A That's probably a good hundred, 200 yards, if
4 that. I mean, so you've got a large area that you're
5 trying to find. I don't know how many vehicles that were
6 out there may have either ran over it or if there was no
7 bullet casing.

8 Q So, sometimes a gun can fire without ejecting a
9 bullet casing?

10 A If it's a revolver.

11 Q So, y'all did -- did y'all find a shell casing,
12 shell casings?

13 A I did not. I don't think any other deputies
14 found one either.

15 Q So, you're not aware of any?

16 A I'm not aware of any, no.

17 Q So, you said there was traffic going back and
18 forth on the road?

19 A There was at that point in time. Because I was
20 the first deputy on the scene, you know, there's still
21 cars passing us until I got some more deputies to block
22 out that road. And we blocked that road from, basically,
23 Spinx all the way to 85. We locked it down.

24 Q Now, did you speak to Brittany and Ashley, the
25 two women who were there?

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A I did.

2 Q About what had happened?

3 A I did.

4 Q Within a short period of time after arriving?

5 A As soon as I got there, I said what happened,
6 what happened.

7 Q What did Brittany Jeter tell you?

8 A Brittany told me there was a red or orange
9 Camaro, newer model, tinted windows that followed them as
10 they left the Spinx and pulled up beside them and a
11 gunshot rang out. And that's when the back seat passenger
12 and the driver was hit.

13 Q Okay.

14 A And that vehicle had large rims.

15 Q Okay. I know Ashley was injured, but do you
16 remember having any conversation with her about what
17 happened?

18 A I did briefly. Obviously, I was getting EMS to
19 come out there because she was bleeding pretty bad and I
20 didn't really want to question her too much. I needed to
21 get the information out of her as soon as possible so I
22 could BOLO that information out to dispatch to be on the
23 lookout for that vehicle and those subjects in that car.

24 Q Okay. So, you did put out the information about
25 the --

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A We did.

2 Q -- kind of car, the description of the car?

3 A Everything that matched what she told me.

4 Q You mentioned the rims as well?

5 A The rims were pretty much the -- what I
6 consider, if somebody says that black pickup truck. Well,
7 how many black pickup trucks are there? Black pickup
8 truck with an American flag hanging off of it, specific.
9 So, that's what I needed. And that's pretty much what
10 helped us do what we needed to do.

11 Q So, the fancy rims were something that stood
12 out?

13 A Yeah, they were definitely aftermarket.

14 Q Okay. Now, you also spoke to a potential
15 witness named Austin Tate?

16 A I did.

17 Q And I'm not going to ask you what he said, but
18 you did speak to him?

19 A Yes, sir.

20 Q Okay. Now, this location that we've been
21 talking about, this crime scene, is that all in Greenville
22 County?

23 A It's all in Greenville County.

24 Q I'm just going to show you a couple of exhibits
25 now.

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 (WHEREUPON, State's Exhibits Nos. 14-16 were
2 marked for identification only.)

3 BY MR. MOYER:

4 Q I'm going to show you in just a minute State's
5 Exhibit Nos. 14, 15 and 16.

6 MR. MOYER: And I believe there's no objection.
7 I'm going to move to enter State's Exhibit Nos. 14,
8 15 and 16 into evidence.

9 THE COURT: Is that correct, Mr. Eppes, without
10 objection

11 MR. EPPES: No objection, Your Honor.

12 THE COURT: All right. Without objection, the
13 same is admitted.

14 (WHEREUPON, State's Exhibits Nos. 14-16 were
15 admitted into evidence.)

16 BY MR. MOYER:

17 Q I think you should be able to see the screen if
18 you just push that aside a little bit. I'm going to start
19 off with State's Exhibit No. 15. Can you tell the jury
20 what it is that we see in State's Exhibit No. 15?

21 A That is the victim's vehicle parked in front of
22 Bojangles' and a sheet hanging up on the back passenger
23 window.

24 Q Was that sheet up when you first arrived?

25 A No.

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 Q Do you know what the purpose of putting the
2 sheet up was?

3 A To cover the onlookers from seeing our crime
4 scene.

5 Q Is that -- behind that sheet, is that where the
6 victim was located?

7 A Yes.

8 Q Okay. I'm going to show you State's Exhibit No.
9 10. Is that also the same general location, also showing
10 the same Tahoe?

11 A Yes, sir.

12 Q Does that show the relationship to the
13 Bojangles' on Pelham Road?

14 A Absolutely.

15 Q Let me show you State's Exhibit No. 14. Tell
16 the jury what is shown in that picture?

17 A That's, again, the victim's vehicle. That's a
18 turning lane, the first and second lane. So you've got
19 the turning lane, the first and second lane that turns
20 into the Bojangles'. That is, also, the victim's vehicle.

21 Q Does that show in relation to where it was to
22 your vehicle when you pulled up?

23 A Correct. Correct.

24 Q Show you State's Exhibit No. 7. Do you
25 recognize that?

MATTHEW HEGGER-DIRECT BY MR. MOYER

1 A I do.

2 Q Is that the Tahoe that you pulled up to?

3 A Again, that's the Tahoe that I pulled up to.

4 Q And State's Exhibit No. 16?

5 A That is, also, the same vehicle.

6 Q Okay. Did you look inside the vehicle when you
7 approached?

8 A Basically, to make sure there was nobody in the
9 vehicle, number one. Number two, if any weapons in the
10 vehicle were in plain view. But I did not go into that
11 vehicle.

12 Q Okay. Now, we see some dark matter on the -- on
13 the seat and on the ground below there?

14 A Yes, sir.

15 Q Did they have any significance to you?

16 A Well, it's a lot of blood and possibly brain
17 matter.

18 Q Okay.

19 A In this area in here.

20 MR. MOYER: Okay. Please answer any questions
21 the Defense may have.

22 THE WITNESS: Yes, sir.

23 THE COURT: Cross-examination.

24 MR. EPPES: Thank you, Your Honor.

25 THE COURT: Yes, sir.

MATTHEW HEGGER-CROSS-EXAMINATION BY MR. EPPES

CROSS-EXAMINATION

1
2 BY MR. EPPES:

3 Q Officer, I'm showing you Exhibit 14. So, when
4 you got there and you pulled in -- I realize your car was
5 gone when this photograph was taken, but were you closer
6 to the car, or is that about where you were?

7 A I was probably a little further back, probably
8 another five to ten feet.

9 Q Because you were concerned about what was going
10 on there?

11 A Correct.

12 Q Now, I think you said -- and tell me if you did
13 because I want to make sure I'm right about this, as you
14 drove by the car, you thought the doors were open and the
15 car was empty, so you went ahead and circled around. Did
16 you notice the women before you circled around or as you
17 were circling around or what?

18 A As I was coming up on it and I looked out my
19 window, I saw them at the back of the vehicle standing
20 right there by the license plate, standing. At that point
21 in time, there was screaming and yelling. That's when I
22 did a U-turn and got behind them, turned on my lights.
23 That's when I called it out to my dispatch.

24 Q So, they had gotten out of the car and they were
25 behind the car?

MATTHEW HEGGER-CROSS-EXAMINATION BY MR. EPPES

1 A They were behind the car when I pulled up, yes,
2 sir.

3 Q Thank you. Now, we talked about -- you already
4 talked about it in your report, you talked to the security
5 staff and they told you that there was somebody firing
6 shots that got into a maroon SUV, correct?

7 A Correct.

8 Q Then you spoke with Mr. Tate about the shots
9 being fired in the air, okay. Somebody in a white baggy
10 shirt, I believe is what your report reflects; is that
11 correct?

12 A Correct, yes, sir.

13 Q Now, anywhere in your report does it say that
14 person was wearing a hat or a dew rag?

15 A My report does not state that the subject had a
16 dew rag. However, if I may, going back to the incident
17 recall from dispatch, from our dispatch --

18 Q Well, I ask you about your report, so the answer
19 to that is no?

20 A It's no.

21 Q But then you go back to dispatch and dispatch
22 said something about that?

23 A That's correct. So, when I got a call to go to
24 Croc's in reference to the gunshots in the air, it will
25 tell me exactly what the person who is calling in is

MATTHEW HEGGER-CROSS-EXAMINATION BY MR. EPPES

1 stating, okay, so that's what I'm looking for. In there,
2 it does say per the complainant, advised of the gunshots
3 in the parking lot, suspect is a black male, white dew
4 rag, white shirt, and unknown if he's actually on scene or
5 if he left. So, yes.

6 Q Did you ever find that complainant?

7 A I don't believe I did. Because like I said, it
8 was 200 people out there.

9 Q But based on the interactions you had and the
10 report you made from the scene --

11 A I didn't --

12 Q -- you don't have that in your report?

13 A No, I did not make a report from Croc's. I made
14 one for the actual SUV.

15 Q Okay. Let's talk that because I don't know that
16 it's very important. You gave the incident at Croc's a
17 separate case number, correct?

18 A Correct.

19 Q But that case number, to my knowledge, literally
20 has no paper in its file. It's just an assigned case
21 number?

22 A That's correct yeah.

23 Q And then you mentioned it in the Croc's report,
24 which has a different case number; is that right?

25 A Croc's has a separate case number than this

MATTHEW HEGGER-CROSS-EXAMINATION BY MR. EPPES

1 incident, correct.

2 Q Am I correct that, you know, the gunfire
3 nonsense at Croc's is kind of a regular part of y'all's
4 night. And so, every time somebody complains about
5 something out there, y'all don't feel compelled -- if
6 there's no crime that's committed, y'all don't feel
7 compelled to write up a report; is that correct?

8 A Sometimes, if there's damage or there's a
9 victim. Due to the fact that there's so many calls at
10 Croc's and now that it's shut down, before when it was
11 still running, we had so many calls out there, which is
12 the reason why we shut it down.

13 MR. EPPES: Thank you, very much.

14 THE WITNESS: Yes, sir.

15 MR. MOYER: Nothing further.

16 THE COURT: Thank you. You may step down.

17 You may call your next witness.

18 MR. MOYER: The State calls Christy Crow-Hall.

19 THE CLERK: Ma'am, if you will please place your
20 left-hand on the Bible and raise your right hand.

21 CHRISTY HALL, after being duly sworn,
22 testified as follows:

23 THE CLERK: Please be seated. Would you please
24 state your name for the record.

25 THE WITNESS: Christy Crow-Hall.

CHRISTY HALL-DIRET BY MR. MOYER

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MOYER:

4 Q Where are you employed?

5 A Greenville County EMS.

6 Q How long have you worked there?

7 A I've worked for Greenville County for 15 years.

8 Q Have you worked with EMS anywhere else other

9 than Greenville County?

10 A Yes, Spartanburg County. I've been a paramedic
11 for 21 years.

12 Q So, what is your position?

13 A I'm a field training officer and paramedic at
14 Greenville County.

15 Q What does your job entail?

16 A I answer 911 calls, taking care of whoever has
17 called, treating injury up to paramedic level.

18 Q Okay. Now, did you receive a call on the early
19 morning hours of , 2014?

20 A Yes, I did.

21 Q Okay. What was the location that you were
22 called out to?

23 A The location we were called to was Pelham Road.
24 Location is McDonald's, 3608 Pelham Road.

25 Q Are you familiar with -- it's the McDonald's

CHRISTY HALL-DIRET BY MR. MOYER

1 like right across the street from the Bojangles' that
2 you're talking about?

3 A Yes.

4 Q What time did you get the call?

5 A The call came in at 0354.

6 Q Is that 3:54 in the morning?

7 A Yes.

8 Q What time were you in route?

9 A We went in route at 0356.

10 Q What time did you arrive at the location?

11 A 0400.

12 Q So 4:00 in the morning pretty much on the dot,
13 you were there?

14 A Yes.

15 Q Were you allowed to immediately approach the
16 victims in the car or did you have to wait --

17 A Yes.

18 Q Okay. So the officers --

19 A They cleared the scene -- as we were in route,
20 they cleared the scene.

21 Q So, in a situation like this, you're not allowed
22 to approach until the officers give you clearance?

23 A Correct.

24 Q So, when you got there, you were able to go
25 right up?

CHRISTY HALL-DIRET BY MR. MOYER

1 A Right. There was no staging because we had a
2 response that we had to make, the traveling time.

3 Q Okay. So, what kind of vehicle were you in?

4 A Ambulance.

5 Q Were you the only ambulance that arrived or did
6 others --

7 A At the time, yes.

8 Q Did any other units come after you?

9 A Yes, they did.

10 Q But you were the first one there?

11 A Yes.

12 Q You said officers were already on the scene --

13 A Yes.

14 Q -- and cleared it? Okay. So, what did you do
15 upon arrival?

16 A When we arrived, I immediately took command. I
17 was the senior paramedic on that call, so I immediately
18 took command and I assessed the scene. I looked to see
19 how many victims there were and then I called for more
20 backup. Because --

21 Q Okay. I'm sorry. Go ahead, please.

22 A Because I had more patients than I had
23 caregivers or responders.

24 Q So, how many patients did you consider yourself
25 to have there?

CHRISTY HALL-DIRET BY MR. MOYER

1 A There were three patients at the time.

2 Q So, you considered Brittany Jeter to be a
3 patient?

4 A Yes.

5 Q Okay. Did you do anything with regard to
6 Ms. Jeter?

7 A My partner at the time, he was a paramedic in
8 training, he went to her because she was what we call
9 walking wounded. She had gotten out of the vehicle. I
10 could see that she was breathing, walking, talking because
11 she was actually screaming.

12 Q Okay. What did you notice about -- have you
13 seen the photographs that we've shown?

14 A Yes.

15 Q Is that where the vehicle was when you arrived?

16 A Yes.

17 Q So after -- so was Brittany Jeter taken to the
18 hospital?

19 A No, she was not.

20 Q So, she didn't have any physical harm?

21 A Not that I saw. I had another truck come out to
22 take care of her.

23 Q Okay. And so, whom did you give your immediate
24 attention to?

25 A My immediate attention went to Mr. Nesbitt

CHRISTY HALL-DIRET BY MR. MOYER

1 because he was in the back of the vehicle. He was the
2 only one that had not exited the vehicle. So, I went to
3 go check to see how he was doing.

4 Q What determinations or observation did you make
5 about him?

6 A I found him to be pulseless and apneic, which
7 means he was making no respiratory effort and he had no
8 pulse that I could feel. And his injuries were
9 incompatible with life, so I moved to the next victim that
10 was severe, which was Ms. Hiott.

11 Q Okay. What did you notice about her?

12 A That she was -- she was standing at the back of
13 the vehicle. She had a cloth to her head. She had blood
14 on her and she was telling us that she could not see. Her
15 eyes were swollen at the time.

16 Q What about her demeanor at the time?

17 A At the time, she was extremely calm with me. As
18 a matter of fact, I made the comment that she was the
19 calmest patient I've ever had that had gone through such a
20 trauma.

21 Q Okay. So, she was talking about her eyesight,
22 you said?

23 A Yes. She said she could not see.

24 Q Did you make -- did you see -- make any
25 observations about any signs of trauma to her?

CHRISTY HALL-DIRET BY MR. MOYER

1 A She had a wound to the right temporal area of
2 her head at the time.

3 Q Can you point that out?

4 A Right here.

5 Q Right behind the eye?

6 A Yes, behind the eye.

7 Q Any observations about her eyes?

8 A Her eyes were swollen and they were closed.

9 Q Now, did you make any other -- did you look into
10 her eyes any further at that point?

11 A Yes. Well, actually, as soon as we saw her, we
12 got the stretcher to her and placed her on the stretcher
13 and took her to the back of the unit so that we could
14 assess her even further. And her eyes were -- I've got to
15 look at my report here. According to my report, her left
16 eye, the size of her eye, which means the size of her
17 pupil, was four millimeters and sluggish, which means it
18 was just very slow to react, it did not react normally.
19 Her right one was five millimeters and there was no
20 reaction with that eye.

21 Q Okay. What do you mean reaction?

22 A The pupils with light is not reacting at all.

23 Q Okay. So, the right eye had none and the left
24 eye had some reaction?

25 A Correct.

CHRISTY HALL-DIRET BY MR. MOYER

1 Q So, were you able to determine whether she could
2 see or not at that time?

3 A She was not able to see. She was not able to
4 see the light that we were shining.

5 Q But she's conscious and responsive.

6 A She was conscious and responsive.

7 Q Did you check her vital signs?

8 A Yes, I did.

9 Q What did you note about that?

10 A Her vital signs were a little out of range. She
11 was breathing rapidly, her blood pressure was up a little
12 bit and heart rate was up.

13 Q Okay. Was she bleeding?

14 A Yes, she was. As a matter of fact, she was
15 bleeding so her blood pressure started out just a little
16 elevated from what would be normal for her age and her
17 size to the point where she became what we call
18 hypotensive, which means that her blood pressure dropped
19 below 100. And that means that she was losing a
20 significant amount of blood.

21 Q Okay. Did you go anything for the bleeding?

22 A Yes, we started two large IVs and was giving her
23 fluids.

24 Q Did you do any other treatment for her?

25 A We cut her clothes off head to toe, placed her

CHRISTY HALL-DIRET BY MR. MOYER

1 on oxygen and just rapid transport. We placed her on a
2 monitor so we could watch her heart and placed her on a
3 CO2 monitor so that we could check her respiratory and how
4 she was breathing.

5 Q What's the purpose of taking off all her
6 clothes?

7 A So, that we can assess for any other injuries so
8 we were not missing any injuries or exit wounds, anything
9 like that.

10 Q Did you notice any other injuries to her?

11 A Not that we saw.

12 Q Is it protocol in a trauma situation like that
13 to ask the patient what had happened?

14 A Yes. If they are able to answer our questions,
15 we do. We ask them what happened. Because I can say that
16 she had a penetrating injury, but unless they specifically
17 state what the injury was from, we cannot make those
18 determinations.

19 Q Okay. So, you asked Ashley then what had
20 happened?

21 A Yes, we did ask her what had happened. She told
22 us that she had been shot. And she actually mentioned
23 that it was by someone, an unknown assailant in a red
24 Camero.

25 Q Did you take Ashley to the hospital?

CHRISTY HALL-DIRET BY MR. MOYER

1 A Yes, I did.

2 Q Greenville Memorial?

3 A Yes. She was a level one trauma.

4 Q What does that mean?

5 A It means that she was a patient that had
6 significant injuries that was life threatening.

7 Q Where did you take her at the hospital?

8 A Greenville Memorial trauma bay.

9 Q Trauma bay. That's where you ended up leaving
10 her then?

11 A Yes.

12 Q In the care of hospital officials?

13 A Of the trauma team, yes.

14 Q Okay. What time did you leave the scene with
15 Ashley?

16 A We left the scene at 0407.

17 Q What time did you arrive at the hospital?

18 A 0428.

19 Q You arrived there at 4:28 in the morning?

20 A Uh-huh.

21 MR. MOYER: Okay. Please answer any questions
22 the Defense has.

23 MR. EPPES: Your Honor, I have no questions of
24 this witness.

25 THE COURT: All right. Thank you, ma'am. You

AUSTIN TATE-DIRECT BY MR. MOYER

1 may step down. I appreciate you being here.

2 MR. MOYER: We ask that she be excused.

3 THE COURT: I presume you have no objection to
4 that, sir?

5 MR. EPPES: I do not, Your Honor.

6 THE COURT: You may be excused. Hope you have a
7 great day.

8 You may call your next witness, sir.

9 MR. MOYER: The State calls Austin Tate.

10 THE CLERK: Mr. Tate, please pause at the end of
11 the bench. Place your left hand on the Bible and
12 raise your right hand.

13 AUSTIN TATE, after being duly sworn,
14 testified as follows:

15 THE CLERK: Thank you. Please be seated.

16 Please state your name for the record.

17 THE WITNESS: Austin Tate.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. MOYER:

21 Q Okay. Mr. Tate, you are a single guy?

22 A That's correct.

23 Q I understand you work at BMW?

24 A That's right.

25 Q Is that where you worked back in February of

AUSTIN TATE-DIRECT BY MR. MOYER

1 2014?

2 A That's also correct.

3 Q And I think you told me you were in the Air
4 Force?

5 A Sure was.

6 Q How long were you in the Air Force?

7 A Four years.

8 Q Well, let me take you back to the early morning
9 hours of the , 2014. You said you were
10 working at BMW at that time?

11 A That's correct.

12 Q What shift did you work?

13 A I believe I was coming home from work that
14 night. My shift was odd at that point in time.

15 Q So, around the time this incident took place,
16 you were on your way home?

17 A That's correct.

18 Q And that took you on Pelham Road?

19 A That's correct.

20 Q Okay. So, were you in that vicinity around 3:30
21 or 3:45 in the morning on ?

22 A I don't recall the exact time, but from the
23 incident, yes.

24 Q So, did your route take you by Croc's?

25 A It sure did.

AUSTIN TATE-DIRECT BY MR. MOYER

1 Q That club that we were talking about that's in
2 the same building as Atlanta Bread Company?

3 A Yes, sir.

4 Q You had just gotten off the Interstate?

5 A Yes.

6 Q As you're driving by Croc's, did anything grab
7 your attention or make you notice it?

8 A It did. Normally, there's a lot of crowd or a
9 lot of people out there on the weekends. This particular
10 night really stood out to me because there was an
11 extremely large crowd and it looked really tense and like
12 it was completely divided, like two big groups. So, I
13 stopped. I thought something could happen, so I stopped.

14 Q Did you pull into Croc's?

15 A I didn't pull into Croc's.

16 Q Where did you stop?

17 A At the CVS.

18 Q Is that on the same side of the road or the
19 other side of the road?

20 A It's on the opposite side of the road.

21 Q So, you stopped your vehicle in the parking lot
22 of CVS?

23 A Yes, sir, I pulled in and turned my car to face
24 Croc's.

25 Q And you stayed in your car?

AUSTIN TATE-DIRECT BY MR. MOYER

1 A That's right.

2 Q At least, at that time?

3 A At that time.

4 Q Tell us what you observed while you were sitting
5 there?

6 A So, I pulled in and shown my lights on what was
7 at the time a big empty dirt, maybe grass, area that sat
8 across the street, a smaller street from Croc's. That's
9 where the crowd was. And at that time, I started -- I
10 rolled my window down and just started looking at the
11 crowd to see if I could hear what was going on and I
12 started hearing gunshots. And I scanned and saw a guy in
13 a white shirt and a white hat firing a gun into the air.

14 Q Do you remember what kind of hat it was?

15 A It was white. I'm not exactly sure the type at
16 this point, it was two years ago, but white is what I
17 remember.

18 Q Okay. You recall -- you said it could have been
19 one or other kind of --

20 A Yeah, either a dew rag or a billed cap.

21 Q So, you thought it was either -- definitely
22 white?

23 A Definitely white.

24 Q Either a -- so was the person like shooting in
25 any direction or?

AUSTIN TATE-DIRECT BY MR. MOYER

1 A Just in the air.

2 Q Into the air?

3 A That I saw, yes, sir.

4 Q Do you remember, did you lose sight of the
5 person or did you see him?

6 A I did. When he started shooting, I grabbed my
7 phone and started dialing 911. Also, went to where I kept
8 a gun in the back of my vehicle and grabbed it as well
9 just in case it was needed. I got in touch with 911 and
10 started trying to tell them what I was seeing.

11 Q So, you did report what you saw to 911?

12 A That's correct.

13 Q Okay. What kind of shirt was this person
14 wearing?

15 A A white -- it was a short -- I guess you would
16 call it a short-sleeved shirt. It wasn't a long shirt
17 like I'm wearing. It was a baggy white-sleeved shirt,
18 short-sleeved.

19 Q Like a tee-shirt type or a button-up type?

20 A A big baggy white tee-shirt.

21 Q Okay. So you called 911. Do you remember
22 officers getting there?

23 A Yes. When I called 911, they were there fairly
24 quickly. I believe I was trying to direct the operator to
25 tell the officers where to go of what I had seen. They

AUSTIN TATE-DIRECT BY MR. MOYER

1 told me to stay put where I was. And I lost sight of the
2 person who was shooting.

3 Q Okay. Did you then -- did you notice or hear
4 anything else after that?

5 A Yes. After I got off the phone with the
6 operator, I still had my windows down and I heard another
7 single gun fire shot. And still nobody had come to me
8 yet. I saw an officer sitting over at Atlanta Bread, so I
9 rushed over to him. And by the time I got to him, he was
10 taking off to go towards the Bojangles'. So, I then
11 turned and followed him.

12 Q What did you see when you got down that way?

13 A I saw the SUV that you've been showing.

14 Q Was it in that location?

15 A It was in that location right between McDonald's
16 and Bojangles'.

17 Q So, this second shot, you said it was a single
18 shot?

19 A It was a single shot.

20 Q What about the direction of that shot?

21 A It was coming from my right. I don't know the
22 actual north, east, west at that point, but it was coming
23 from my right, which was towards the Spinx and the
24 Bojangles' and McDonald's.

25 Q Then did you notice anything else after you --

AUSTIN TATE-DIRECT BY MR. MOYER

1 after you heard the shot, did you notice anything else on
2 Pelham Road?

3 A Yes. So, after the gunshot occurred --
4 actually, what I give to the officer is that after the
5 gunshot, there was a -- I described it as a maroon Camero
6 flying by me, which I was thought was extremely odd with
7 the police being on the scene. And he was doing probably
8 between 70 and 100 miles an hour. It had big rims on it.
9 They weren't Chevy rims at all. It was some other
10 manufacturer who made those.

11 Q So, were you still at the CVS when you saw that
12 Mustang fly by?

13 A I sure was.

14 Q And then after that is when you drove down --

15 A After that is when I drove to the officer.

16 Q Okay. Let me ask you just to step down and just
17 show us on a map what you've been talking about. I'm
18 going to start off with State's Exhibit No. 5. This is
19 the map showing Croc's. Would you just maybe step on this
20 side over here so you don't block the view of the jury?
21 Just point out Croc's.

22 A Croc's is here.

23 Q Okay. Can you point out the CVS where you
24 parked?

25 A CVS is right -- CVS is here and I pulled --

AUSTIN TATE-DIRECT BY MR. MOYER

1 actually, sorry, CVS is up in this direction. This is the
2 parking lot that I pulled into and shown my lights.

3 Q Can you point out where you saw the guy with the
4 gun, the general area?

5 A About this direction here.

6 Q Okay. All right. Okay. You can have a seat
7 again.

8 A (The witness complies.)

9 MR. EPPES: Your Honor, can I ask that he point
10 that out again? Myself and I think one of the jurors
11 couldn't quite see it.

12 THE COURT: All right. Point it again.

13 THE WITNESS: I was parked here at the CVS
14 shining my lights across the street. The gunman was
15 in this area.

16 MR. EPPES: Thank you, Your Honor.

17 THE COURT: Yes, sir.

18 BY MR. MOYER:

19 Q Okay. Thank you. One moment, please. You saw
20 the picture of the red Camero that we showed?

21 A Yes, sir.

22 Q Does that resemble the car that you saw?

23 A It sure did.

24 Q You saw the picture of the rims?

25 A I sure did.

AUSTIN TATE-CROSS BY MR. EPPES

1 Q Do they resemble the rims that you saw?

2 A Yes, sir.

3 Q On that Camero?

4 A Yes, sir.

5 MR. MOYER: Okay. Please answer any questions
6 the Defense may have.

7 THE COURT: Cross-examination, Mr. Eppes.

8 CROSS-EXAMINATION

9 BY MR. EPPES:

10 Q You got your gun out?

11 A Yes, sir.

12 Q Where did you keep your gun?

13 A In the trunk of my vehicle.

14 Q You got out, opened the trunk and got back in
15 the car.

16 A While I was on the phone, yes, sir -- or while I
17 was dialing 911, yes, sir.

18 MR. EPPES: No further questions.

19 MR. MOYER: Nothing further.

20 THE COURT: All right. You may step down, sir.

21 Thank you, very much. I appreciate it.

22 MR. MOYER: Judge, may we approach about
23 scheduling?

24 THE COURT: Sure.

25

AUSTIN TATE-CROSS BY MR. EPPES

1 (WHEREUPON, an off-the-record bench conference
2 was held in the presence of the jury but out of
3 the hearing of the jury.)

4 THE COURT: All right. Ladies and gentlemen, we
5 were talking about scheduling. I don't have any
6 secrets with you. It went on because I sort of put
7 the screws to them and said how many more witnesses
8 do you have?

9 Originally on the witness list, the State had
10 about 21 witnesses. Mr. Moyer says that he doesn't
11 think he's going to call all of those witnesses. It
12 may be more like 18 or 19, but he said a good number
13 of them will be fairly short, just like the last
14 several witnesses that you've seen. So, they should
15 come along at a pretty good pace. So, we've heard
16 from one, two, three, four witnesses. Take that away
17 from 19, and I'm just an English major from the
18 Citadel, so I don't have any meaningful education,
19 but I think that's about 15 additional witnesses.

20 So, this afternoon, we'll try to get in seven or
21 eight, if we can, depending on how long they last,
22 then we'll resume tomorrow. Maybe the State will be
23 able to finish its case tomorrow morning, maybe early
24 afternoon. The Defense at this point anticipates
25 they may have two or three witnesses, okay.

1 So, at the pace that we're going right now, I'm
2 hopeful, I'm hopeful that we can finish up by close
3 of business tomorrow with the introduction of
4 evidence and then do argument and charge on Thursday.
5 I don't know that, but that's kind of what I'm
6 shooting for right now.

7 We're going to take a break. Mr. Moyer's next
8 witness may be a little bit longer than the few
9 before. So, I don't want to keep you here until 2:00
10 and then take a break. Let's go ahead and take our
11 lunch break now. Please be back at five minutes till
12 2:00 and we will try to start promptly at 2:00.
13 Y'all have a good lunch. Please don't discuss the
14 case.

15 (WHEREUPON, the jury left open court at
16 approximately 12:37 p.m.)

17 THE COURT: All right. Counsel, anything
18 additional for the record before we adjourn for
19 lunch?

20 MR. MOYER: One thing just real quick.

21 THE COURT: Yes, sir.

22 MR. MOYER: I just want to make sure you don't
23 think I'm misleading the Court. My next witness
24 probably won't be very long, but what I'm saying if
25 you want us to go this morning, it would have been

1 longer.

2 THE COURT: I got you. I got you. I understood
3 exactly what you were saying. Okay, good enough.

4 MR. EPPES: Thank you, Your Honor.

5 THE COURT: All right, y'all have a good lunch.

6 (WHEREUPON, a lunch break was taken.)

7 (WHEREUPON, the jury came into open court at
8 approximately 2:03 p.m.)

9 THE COURT: Mr. Moyer, you may call your next
10 witness.

11 MR. MOYER: Thank you. May it please the Court.
12 The State would call Dr. James Fulcher to the stand.

13 THE CLERK: Sir, please place your left hand on
14 the Bible and raise your right.

15 JAMES FULCHER, after being duly sworn,
16 testified as follows:

17 THE CLERK: Please be seated. Would you please
18 state your name for the record?

19 THE WITNESS: Dr. James William Fulcher.

20 THE CLERK: Thank you.

21 DIRECT EXAMINATION

22 BY MR. MOYER:

23 Q Would you tell the jury what kind of medical
24 doctor you are?

25 A I'm a forensic pathologist.

JAMES FULCHER-DIRECT BY MR. MOYER

1 Q Where are you employed?

2 A Pathology Associates of Greenville, South
3 Carolina.

4 Q What are your duties in that position?

5 A I perform autopsies for this county, Laurens
6 County and Pickens County.

7 Q How long have you held that position?

8 A Seven years.

9 Q Starting with college, will you tell the jury
10 about your education?

11 A Sure. I went to college at the University of
12 Virginia. I then went to medical school at the Medical
13 College of Virginia in Richmond, Virginia. I did two
14 years of residency in anatomic and clinical pathology at
15 MCG in Augusta, Georgia. And then because of some family
16 things, I went back to Virginia and finished the two years
17 of residency at the Medical College of Virginia. I then
18 completed a one-year fellowship in forensic pathology,
19 which, I guess, is a total of approximately 13 years after
20 college.

21 Q Okay. Have you been certified by any Boards?

22 A Yes, I'm Board certified in anatomic pathology,
23 clinical pathology and forensic pathology.

24 Q Would you tell the jury what is forensic
25 pathology and what a forensic pathologist does?

JAMES FULCHER-DIRECT BY MR. MOYER

1 A A forensic pathology -- a forensic pathologist
2 usually does autopsies for the state in cases where the
3 state has a compelling interest in the case. That would
4 be in homicides, in suicides, accidents. My job is to
5 perform a thorough and complete medical examination of the
6 body to make sure two things are correct, cause of death
7 is correct, that is why the person died, and the manner,
8 which is a medical legal descriptor, is correct.

9 Q How many people do we have doing forensic
10 examinations here in Greenville County?

11 A We have two. We have myself, the deputy medical
12 examiner, and my partner, the chief medical examiner, Mike
13 Ward.

14 Q Do you know how many of these forensic autopsies
15 you have done?

16 A Approximately 1700.

17 Q Is that all in Greenville?

18 A No. I did quite a few of those in Richmond,
19 Virginia for the State of Virginia in training. I did a
20 few for the State of Georgia when I was in training there.
21 And I have done quite a few for Laurens and Pickens
22 Counties as well.

23 Q Have you testified in court?

24 A Yes, I have.

25 Q Do you know -- do you keep track of how many

JAMES FULCHER-DIRECT BY MR. MOYER

1 times?

2 A Approximately 15. There's a significant lag
3 between autopsy and court. This case is a year old and
4 that's, actually, pretty quick. But I've been in
5 Greenville, at least, 10 times and other counties several
6 times.

7 Q And you've been qualified as an expert in
8 forensic pathology?

9 A Yes, sir, every time.

10 MR. MOYER: Your Honor, at this time, I would
11 offer Dr. James Fulcher as an expert in forensic
12 pathology and ask that he be qualified as such.

13 THE COURT: Any objections or voir dire, sir?

14 MR. EPPES: Your Honor, Mr. Massengill is going
15 to handle this witness.

16 MR. MASSENGILL: No objection, Your Honor.

17 THE COURT: No voir dire?

18 MR. MASSENGILL: No, sir.

19 THE COURT: All right. Ladies and gentlemen,
20 the State would offer this gentleman as an expert
21 witness in the field of forensic pathology. Now, a
22 person may be qualified by the Court as an expert
23 witness because of his or her experience, education
24 or expertise in a certain field.

25 The reason a party would introduce a witness as

JAMES FULCHER-DIRECT BY MR. MOYER

1 an expert witness is so that witness can help you
2 understand the evidence presented more readily, more
3 easily. The other reason why someone would present
4 someone as an expert witness is because an expert
5 witness can offer opinion testimony that a lay
6 witness can't offer. That is, an expert witness can
7 give his or her opinion about evidence that has been
8 entered into the record.

9 Now, just because somebody has been offered and
10 qualified as an expert witness doesn't mean that that
11 witness's testimony has any preferred quality. That
12 means you shouldn't prefer it over any other
13 witness's testimony. Just like any other piece of
14 evidence you receive in a case, you decide whether
15 it's credible. You decide whether it's important or
16 not and you put whatever value you think is important
17 on it just like any other piece of evidence you
18 receive from a lay witness or any other witness in
19 the case.

20 All right. You may proceed.

21 MR. MOYER: Thank you, Your Honor.

22 BY MR. MOYER:

23 Q Did you perform a forensic autopsy on Jermaine
24 Nesbitt?

25 A I did.

JAMES FULCHER-DIRECT BY MR. MOYER

1 Q What date and time did you do that?

2 A I performed that at approximately
3 10:00 a.m. And that's 2014, sorry.

4 Q And where was that conducted?

5 A The morgue or the autopsy suite at Greenville
6 Memorial Health System, which is co-owned and shared by
7 the County of Greenville.

8 Q Where was the body retrieved?

9 A The body was retrieved -- I'll have to refer to
10 the coroner's report. The event occurred on 3618 Pelham
11 Road. There was a vehicle in the roadway there. It was
12 retrieved from there and brought to me.

13 Q Okay. I didn't phrase that correctly. But the
14 body was brought to you there in the morgue?

15 A Yes, sir.

16 Q So, was the body sealed?

17 A Yes, body bags were sealed by our transport
18 service.

19 Q Now, was the -- was Mr. Nesbitt dressed when he
20 was brought in?

21 A He was. He was dressed in a tee-shirt, polar
22 fleece, combat boots, jeans, multiple pairs of shorts,
23 some socks, briefs. He also had a wallet with multiple
24 credit cards and identification cards present bearing the
25 name of Rodney Jermaine Nesbitt.

JAMES FULCHER-DIRECT BY MR. MOYER

1 Q And that was turned over to a law enforcement
2 officer?

3 A Yes, law enforcement will recover whatever they
4 want. In this case, I'm not sure what they recovered.
5 Personal effects usually go to the coroner to be returned
6 to family if they don't have evidentiary value. The
7 wallet, the cards, if the police are interested, then the
8 coroner will return those to the family.

9 Q Okay. And there was no weapon?

10 A No, no weapon, no weapon.

11 Q Now, would you tell the jury what evidence of
12 trauma that you found to Mr. Nesbitt?

13 A Mr. Nesbitt suffered a gunshot wound to the
14 head. It enters the right brow, I'll point to my head
15 here, and exits posteriorly on the left.

16 Q Okay. So there was an exit wound then, you
17 said?

18 A Yes, sir.

19 Q Okay. Was this wound one that you would
20 consider to be a mortal wound, one that would be likely to
21 cause death?

22 A Absolutely. Part of doing an autopsy is
23 examining the internal structure of the brain. So, I
24 actually removed Mr. Nesbitt's brain and identified the
25 vital structure of the brain which were destroyed by the

JAMES FULCHER-DIRECT BY MR. MOYER

1 impact.

2 Q So, as far as directionality of that shot, would
3 you tell us again?

4 A Sure. As the bullet's passing through
5 Mr. Nesbitt's head, the bullet goes from front to back and
6 right to left. And it does not significant alter
7 vertically, so it doesn't go up or it doesn't particularly
8 go down. And that's just in relationship to his head.

9 Q Now, as part of your autopsies, are you ever
10 asked to try to determine range of a shot?

11 A Yes, sir.

12 Q Is that something you generally look into when
13 you do a forensic autopsy?

14 A Yes.

15 Q Okay. So, there are ways to make those
16 determinations?

17 A There are, yes.

18 Q Now, in this particular case, were you able to
19 make any determination as to range?

20 A I was not, except that there was something in
21 between the gun and the head.

22 Q Okay. And can you elaborate on that?

23 A Sure. There was an intermediate target, which
24 means the bullet hit something before it hit Mr. Nesbitt.

25 Q Now, what led you to that conclusion?

JAMES FULCHER-DIRECT BY MR. MOYER

1 A On the skin surface of Mr. Nesbitt's head, if
2 you're familiar with weapons, guns, you'll know there's a
3 jacket and a lead core. And if these projectiles hit
4 something hard, tables, rocks, chairs, automobiles, they
5 can break apart. And there's a very discreet lesion or
6 injury, not the wound, the entrance wound on the head, but
7 another small abrasion that appears to be a portion of
8 jacket fragment from that projectile.

9 Q Now, you're aware that a law enforcement officer
10 was present taking photographs while you were there?

11 A Yes.

12 Q And have you had a chance to take a look at one
13 of the photographs that was taken of that, specifically,
14 State's Exhibit No. 17?

15 A Yes.

16 Q And taking a look at that, does that exhibit
17 give you a true and accurate representation both of the
18 location of the entrance wound and that other mark that
19 you were just referring to?

20 A Yes. The entrance wound is directly above the
21 decedent's brow. It has an irregular border, it's
22 rounded, where the other injury is more square, abraded.
23 It's not an actual deficit in the skin. It's just an
24 abrasion. And, also, there's a few smaller injuries
25 around this which may represent additional small fragments

JAMES FULCHER-DIRECT BY MR. MOYER

1 of debris that may have come off from the projectile.

2 MR. MOYER: Your Honor, at this time, the State
3 would move to have Exhibit No. 17 entered into
4 evidence.

5 THE COURT: Mr. Massengill, any objection?

6 MR. MASSENGILL: No objection.

7 THE COURT: All right. Without objection, the
8 same is admitted into evidence.

9 (WHEREUPON, State's Exhibit No. 17 was marked
10 for identification and received into evidence.)

11 BY MR. MOYER:

12 Q Dr. Fulcher, I think you should be able to see
13 from where you're seated.

14 A Yes.

15 Q And I'm going to hand you a laser pointer.

16 A Thank you.

17 Q Looking at State's Exhibit No. 17, that has been
18 cropped as best we could behind you on the screen, would
19 you point out to the jury where the entrance wound was?

20 A Sure. The entrance wound on Mr. Nesbitt is
21 here. It's a classic entrance wound, rounded with a
22 slight abraded margin. Bullets aren't sharp, they're
23 blunt. So, when they puncture your skin, they have to
24 push through. And as they push through, they create an
25 abraded margin or irritated, irregular, rough red margin.

JAMES FULCHER-DIRECT BY MR. MOYER

1 This is this other very unusual finding we find when a
2 bullet fragments. We probably had a piece of jagged --
3 or, perhaps, even some other portion of debris hitting the
4 skin at high velocity and a few satellite wounds as well.

5 Q What do you mean by satellite wounds?

6 A As the projectile fragments, portions of lead
7 can spill out. The lead is much softer than the jacket,
8 so when the jacket peels off, oftentimes, small pieces of
9 lead can hit the skin as well.

10 Q I want to show you State's Exhibit No. 9 now,
11 behind you. And assuming this is the location where
12 Mr. Nesbitt was shot, and we're going to focus right now
13 on the portion of the vehicle behind the window. I'm
14 going to now show you a closer view of that, State's
15 Exhibit No. 8.

16 A Yes.

17 Q And I think you've had a chance to take a look
18 at this photograph before. Could that be consistent with
19 the intermediate area that you were talking about?

20 A Absolutely. You have a guttered wound in this
21 trim piece that's punched out in a semi-circular pattern.
22 Just anyone could imagine a bullet hitting this and kind
23 of scooting off and breaking up as it hits this portion of
24 the door.

25 Q So in addition to -- would you tell the jury

JAMES FULCHER-DIRECT BY MR. MOYER

1 again what a bullet jacket is?

2 A Sure. The jacket is the hard metal surrounding
3 of the lead. Lead is very soft. Lead weighs a lot, so we
4 use it in projectiles. In modern weapons, the jacket can
5 be copper, sometimes rarely brass, actually, steel
6 sometimes, but it's a hardened metal. And its job is to
7 stabilize the lead core in flight, also, provide hardness.

8 Q Okay. So, could -- so, you mention that as a
9 possibility of causing that additional mark on
10 Mr. Nesbitt's head?

11 A Could be. Or, potentially, another possibility
12 could be is a small portion of metal from this damaged
13 area of the car could have hit him in the head, too. A
14 lot of possibilities.

15 Q Okay. Now, the bullet having brushed that part
16 of the car, would that cause -- assuming you wanted to try
17 to make determinations as to directionality of the
18 gunshot, would that complicate that?

19 A Very much so. It is very difficult to recreate
20 these ricochet patterns. Number one, you're never really
21 absolute confident where the projectile was exactly fired
22 from. And you'll find that metal surfaces like this are
23 not an ideal surface to bounce bullets off of. There can
24 be -- even in this same piece of metal, there can be
25 differences in hardness and fitness of the trim piece.

JAMES FULCHER-DIRECT BY MR. MOYER

1 These things are not made to exact specifications.

2 Q So, there's no way then really to determine
3 which the bullet ricocheted after striking that part of
4 the car?

5 A I would think anything that you did there would
6 be very speculative, yes.

7 Q Thank you. So, that being the fact, were you
8 then unable to make any conclusions then about the
9 distance the firearm was to Mr. Nesbitt when he was shot?

10 A That's correct.

11 Q Now, would you tell the jury a little bit about
12 what the immediate effect a gunshot wound of this type
13 would have on a person?

14 A Sure. The areas that were wounded in
15 Mr. Nesbitt's brain were vital areas, including thalamic
16 and basal ganglia, which are large nuclei inside the
17 cortex of the brain, the big portion of the brain which
18 have many vital functions. Suffice it to say someone
19 injured in these areas would have very little usable
20 consciousness left. They would pretty much be dead
21 relatively instantly, perhaps, some spasmodic movements of
22 the arms, but no surviving this wound.

23 Q Now, you ran a toxicology?

24 A Yes, sir, we always run a toxicology.

25 Q That is something you check for alcohol and

JAMES FULCHER-DIRECT BY MR. MOYER

1 drugs?

2 A Yes, we send all the toxes to the National
3 Medical Service in Philadelphia, Pennsylvania. They're
4 one of the premium labs in the country. They offer many
5 panels. In this case, we ran as complete a panel as is
6 practical on Mr. Nesbitt and all we found was alcohol.

7 Q So there were no illegal drugs?

8 A Not that we could tell.

9 Q What was his alcohol level?

10 A His alcohol level was point 369.

11 Q That is pretty high?

12 A That's very high, yes.

13 Q Now, is there any way to -- is there any way to
14 tell within a specific degree how that would affect a
15 person?

16 A The State of South Carolina and the National
17 Highway Transportation agencies have determined that point
18 08 is the legal limit to operate a motor vehicle. There's
19 some research that decision making is actually quite
20 flawed at point 06, so there's a movement afoot to even
21 reduce that number. I'll be perfectly honest with you, at
22 a point 369, many of us in the room would be comatose.

23 Q Now, do different people have different
24 reactions to alcohol?

25 A Absolutely. If someone drinks consistently and

JAMES FULCHER-DIRECT BY MR. MOYER

1 greatly, it's quite possible they could be functional,
2 walking around, fighting and arguing with a point 369.
3 It's highly variable in the population.

4 Q Because we actually have a videotape in this
5 case that happened moments before he was killed that shows
6 him actually walking around, pumping gas. Does that
7 necessarily contradict your findings?

8 A It does not. In fact, one of my teachers in
9 Richmond often said that what would kill him, he did not
10 drink significantly, there would be people that would be
11 walking around Wal-Mart shopping at that level acting as
12 if nothing is wrong. So, I think what we can assume is
13 Mr. Nesbitt consumed great quantities of alcohol
14 regularly.

15 Q Okay. So, he had built up a tolerance?

16 A Absolutely, significant tolerance.

17 Q Now, let me ask you about cause of death.

18 A Sure.

19 Q Were you able to form an opinion within a
20 reasonable degree of medical certainty as the cause of
21 Mr. Nesbitt's death?

22 A I was, yes, sir.

23 Q Can you please tell the jury what that was?

24 A The cause of death in this case is gunshot wound
25 to the head.

JAMESE FULCHER-CROSS BY MR. MASSENGILL

1 MR. MOYER: Thank you. Please answer any
2 questions Defense may have.

3 THE COURT: Mr. Massengill.

4 MR. MASSENGILL: Thank you.

5 CROSS-EXAMINATION

6 BY MR. MASSENGILL:

7 Q Dr. Fulcher.

8 A Yes.

9 Q So, you performed the autopsy of Mr. Nesbitt,
10 correct?

11 A Yes, sir.

12 Q And in your report, you noted that the direction
13 of the bullet was from front to back, right to left,
14 correct?

15 A Yes, sir.

16 Q And in your report, you also noted that there
17 was no significant vertical deviation, correct?

18 A Yes, although I have a minor disclaimer. That's
19 within the region of the head. So, I'm very good at
20 telling you where the bullet goes from when it's in the
21 head, but what I would say is that people can move their
22 head in a crime scene and it disrupts that because I don't
23 know how the person had his head held at the time he was
24 shot.

25 Q Do you use any particular instruments to

JAMESE FULCHER-CROSS BY MR. MASSENGILL

1 determine how the bullet traversed from the front of the
2 head to the back of the head?

3 A I generally use a bullet probe but I can
4 actually, also, figure that out once I remove the brain, I
5 have the entire skull intact with the holes in the skull
6 and then line up the holes. It's not terribly
7 complicated.

8 Q So, based on your knowledge, the bullet traveled
9 in a straight line?

10 A Bullets travel in a straight line, yes, through
11 space and generally through tissue. It is a misnomer that
12 they can significantly travel in curves. Rarely, a bullet
13 will hit the inside table of the skull, that is the inside
14 portion of the skull and track along that ridge of bone,
15 but that is fairly uncommon and did not happen in this
16 case.

17 Q Okay. And your report also noted that the
18 victim's skin was free of any soot or stippling; is that
19 correct?

20 A That's absolutely correct, yes.

21 Q Can you explain to the jury a little bit what
22 that means?

23 A Sure. The absence of soot and stipple -- now,
24 we do have an intermediate target, but had this been a
25 close or contact range wound, some of the debris that

JAMES FULCHER-REDIRECT BY MR. MOYER

1 comes out of a barrel, which is hot fragments of powder or
2 soot, it's just not the bullet that comes out of the
3 barrel, will actually be deposited on the skin's surface.
4 And in those cases, not this case, in those cases, I can
5 tell you the gun was an inch from the skin, two inches
6 from the skin, five inches. But once you get past in
7 space where that soot and stipple goes, it's just the
8 bullet flying through the air and it just makes a hole.
9 And I can't tell you if it's five feet or 500 feet.

10 Q Okay. Thank you, Dr. Fulcher.

11 MR. MASSENGILL: I have no further questions,
12 Your Honor.

13 THE COURT: Redirect, sir?

14 MR. MOYER: Yes, sir, briefly.

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. MOYER:

18 Q One more question.

19 A Yes.

20 Q Based on your experience -- you said you've done
21 how many --

22 A Approximately 1700.

23 Q And I'm sure some of these had stipple?

24 A Oh, absolutely.

25 Q How far does the soot or stipple generally

JAMES FULCHER-REDIRECT BY MR. MOYER

1 travel?

2 A It depends on the weapon, but, generally, this
3 is a generality -- let's assume we're not talking about a
4 .22. Let's say we're talking about something bigger, 'a
5 .9-mm, .45, the soot with a standard handgun, let's say a
6 fairly short barrel, not a really long barrel, let's say,
7 two to three inch barrel will go approximately three to
8 four inches, the soot. Now, the stipple will go a little
9 past that, maybe eight inches to a foot.

10 If you really want to know distance, what you
11 must do is take that exact gun and that exact ammunition
12 and, in fact, that exact manufacture's run of that
13 ammunition and test fire it against a white piece of
14 paper, shooting paper, and then a firearm's examiner can
15 measure that and get that exact measurement.

16 But generally speaking, without soot and stipple
17 with a handgun and with a rifle, it's fairly close.
18 You're talking -- the shooter is, at least, two to three
19 feet away, probably further than that. I'd say, at least,
20 two to three.

21 MR. MOYER: Thank you, Dr. Fulcher.

22 MR. MASSENGILL: Nothing further, Your Honor.

23 THE COURT: Thank you, Doctor. I appreciate you
24 being here, sir. Thank you for your time. Have a
25 good day.

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 THE WITNESS: Thank you.

2 THE COURT: Mr. Moyer, you may call your next
3 witness.

4 MR. MOYER: The State calls Dustin Kretschmar.

5 THE CLERK: Sir, please come forward. Place
6 your left hand on the Bible and raise your right
7 hand.

8 DUSTIN KRETSCHMAR, after being duly
9 sworn, testified as follows:

10 THE CLERK: Thank you. Please be seated.
11 Please state your full name.

12 THE WITNESS: Dustin Kretschmar.

13 THE CLERK: Thank you.

14 DIRECT EXAMINATION

15 BY MR. MOYER:

16 Q Where are you employed?

17 A Greenville County Forensics.

18 Q How long have you been in law enforcement?

19 A I have been in law enforcement for seven years
20 and with the forensic division for five and a half years.

21 Q Where did you work before?

22 A Gainesville Police Department in Florida.

23 Q All right. Tell the jury what the forensic
24 division is and what you do as forensics officer?

25 A As a forensics officer, we go to crime scenes

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 and collect any evidence that's pertinent to the case and
2 document the scene as it is.

3 Q Does that include like processing scenes?

4 A Yes, we'll process for fingerprints. If we see
5 some kind of blood or any other fluid that we might want
6 to collect, physical evidence, things of that nature.

7 Q Okay. You take photographs?

8 A Photographs as well.

9 Q Sometimes take videotapes?

10 A Yes, sir.

11 Q Okay. Let me take you to of
12 2014. Did you respond to this particular case that we're
13 talking about here today?

14 A Yes, sir.

15 Q Will you tell us what time you arrived at the
16 scene?

17 A I arrived on scene at 0445 hours in the morning.

18 Q 4:45 in morning?

19 A Yes, sir.

20 Q What was the location that you responded to?

21 A The address was 3645 Pelham Road in Greenville.

22 Q Can you tell us what is located and where that
23 is on Pelham Road?

24 A There's a Bojangles' right there. And the
25 vehicle that we responded to was in the middle of the road

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 in front of the Bojangles'.

2 Q Were the victims still present?

3 A There was a complainant that was there, a
4 Brittany Jeter.

5 Q Okay.

6 A Then there was a victim in the vehicle still.
7 Then another victim in the hospital.

8 Q Okay. So, you took photographs of that
9 location?

10 A Yes, sir.

11 Q Okay. Now, did you also -- were you asked to
12 take a gunshot residue test of any particular person?

13 A Yes, sir. The complainant that was there, I was
14 asked to take a gunshot residue kit from her.

15 Q A kit. Okay. Now, tell the jury what type of
16 evidence is attempting to be gathered by doing a gunshot
17 residue kit?

18 A With the gunshot residue kit, they're small
19 dabbers that have adhesive on the ends of them. We dab
20 them on the hands and that collects any trace evidence
21 that will be on the hands. The name implies that gunshot
22 residue, so we're looking for the powders that's -- after
23 a gun is fired, it might get stuck on someone's hands, but
24 it will also collect other things that could be on the
25 hand as well.

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 Q Okay. Now, is that something that you do -- end
2 up doing the actual testing for?

3 A No, sir.

4 Q So, what is your role in this?

5 A I collect the gunshot residue from the hand with
6 the dabbers and then package it and it gets sent off to
7 be analyzed.

8 Q Do you know where it's sent?

9 A Usually, it's SLED, but I'm not sure where this
10 one specifically went.

11 Q And that's the State Law Enforcement Division?

12 A Yes, sir.

13 Q And they have a laboratory where they do
14 testing?

15 A From what I understand, yes.

16 Q Okay. All right. So, you did collect some
17 gunshot residue in this case?

18 A Yes, sir.

19 Q Who was the person that you checked for that on
20 or that you did this kit on?

21 A The complainant, Brittany Jeter.

22 Q Do you have the time that you did that?

23 A I collected it 0517 hours in the morning.

24 Q It is protocol to note the time that you collect
25 it?

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 A Yes, sir.

2 Q What is the reason for that?

3 A Just for documentation purposes.

4 Q Are you aware that there's protocol as to how
5 far after an incident they can --

6 A Yes, sir. I believe it's six hours. After six
7 hours, you don't collect the gunshot residue kit, so you
8 want to try to get the kit done as soon as possible.

9 Q So, whatever that time frame is, whoever
10 analyzes it has to be able to know what time?

11 A Correct.

12 Q Well, would you tell us then, how it was that
13 you went about collecting this gunshot residue kit on
14 Brittany Jeter? What steps you actually take and how you
15 do it?

16 A So, there are four dabbers in the kit, one
17 for -- two for each hand, one for your palm and one for
18 the backside of your hand. And you'll dab each area. I
19 go in a systematic search over the entire backside of the
20 hand and then on the palm side of the hand. You do it for
21 both hands.

22 Q Okay. So, you use one dabber on the back of one
23 hand?

24 A Yes, sir.

25 Q Then you use a separate dabber for the palm

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 portion?

2 A Yes, sir.

3 Q All right. Do you check the fingers and
4 everywhere?

5 A Yes, sir. I go up to the first section of your
6 finger, so I don't go all the way up to the tips of the
7 fingers. But then I get in between the webbings of each
8 hand.

9 Q All right. And do you roll it or do you dab it?

10 A No, sir, we dab it.

11 Q Okay. Then after you finish doing that, are
12 each of those four dabbers collected in a separate little
13 bag or package?

14 A Each dabber is individually contained in a
15 plastic capsule. And then those four capsules are put
16 into a paper bag that's sealed and sent off.

17 Q Okay. So, you sealed the paper bag that you put
18 the dabbers in?

19 A Yes, sir.

20 Q What did you end up doing with that bag?

21 A Once it's sealed, I transferred it to our
22 property and evidence section.

23 Q What is a property and evidence section?

24 A It's where all the evidence is stored until it
25 gets allocated to whatever analysis needs to be done.

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 Q So, pretty much all evidence goes to that
2 location?

3 A That's where we submit all our evidence, yes,
4 sir.

5 Q Where is that property and evidence room?

6 A At the Law Enforcement Center at 4 McGee Street
7 here in Greenville.

8 Q It is a secure location?

9 A Yes, sir.

10 Q So, just not anybody can go into that room?

11 A No, sir.

12 Q You have to have -- do you have to work there
13 actually --

14 A Yes, sir.

15 Q -- to be able to get into it?

16 A Yes, sir.

17 Q Did you note when you took that -- those -- the
18 gunshot residue collection kit, did you note when you took
19 that to the property and evidence room?

20 A I transported the items on February 27th of
21 2014.

22 Q So, where did you keep it between
23 and February 27th?

24 A In our office at the crime scene office, we have
25 individual lockers for each employee. And we have keys

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 for those lockers to keep it secure. So, I kept the
2 gunshot residue kit in my locker until I transferred it to
3 property and evidence.

4 Q How many people have keys to your locker?

5 A Myself and then my supervisor.

6 Q That's the only two people who can get in there?

7 A Yes, sir.

8 Q All right. Let me ask you a little bit about
9 that vehicle. Did you spend much time examining the
10 vehicle?

11 A Yes, sir. That's the scene that I worked, is
12 the vehicle.

13 Q Okay. Now, tell me what you noticed about the
14 vehicle when you approached it?

15 A The vehicle was in the turning lane in the
16 center of Pelham Road and the front driver's side door was
17 standing open. Suspected blood was seen on the interior
18 of the doors. Then also the rear passenger door was open
19 as well, but a sheet had been draped over it. So, I
20 couldn't look into it at that time until I got closer to
21 the vehicle.

22 Q Okay. Was there blood on that side of the
23 vehicle as well, the passenger side of the vehicle?

24 A There was blood on the interior of the vehicle
25 where -- that's where the victim's head was resting, on

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 the passenger side. And there was suspected blood running
2 down the victim's face and onto the seat in the vehicle as
3 well.

4 Q Okay. Now, at that time, did you do a thorough
5 search of the vehicle?

6 A No, sir.

7 Q Okay. What is the reason for that?

8 A It was determined that we needed to seal the
9 vehicle and get a search warrant to be able to enter the
10 vehicle and do a proper search at a later time.

11 Q So, did you seal the vehicle?

12 A I did.

13 Q Tell jury how it is that you go about sealing a
14 vehicle?

15 A We have red evidence tape that -- on each door
16 and on the trunk and on the hood, put a piece of tape at
17 the bottom of the door and then we'll initial and date it.
18 So, once it gets transferred to wherever the search is
19 going to be done, you'll know if the door has been opened
20 and that seal has been broken.

21 Q So, did you put your initials on the seal in
22 this case?

23 A Yes, sir.

24 Q What initials did you put?

25 A DK.

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 Q So now, you did look in the vehicle a little
2 bit, correct?

3 A I looked into the doors that were open and
4 through the windows, yes, sir.

5 Q Okay. But you did not actually go inside the
6 vehicle?

7 A No, sir.

8 Q From your search of it, did you see any weapons
9 or any dangerous instrumentalities?

10 A No, sir.

11 Q All right, sir. And do you recall the windows
12 being up or down?

13 A I would have to look at the photo again to
14 refresh my memory.

15 Q Okay. I'm going to ask you just about the
16 driver's side of the vehicle. I'm going to hand you
17 State's Exhibit Nos. 7 and 16.

18 A Yes, sir.

19 Q The windows, were they up?

20 A They were up, yes, sir.

21 Q And you didn't change that, right?

22 A No, sir.

23 Q You didn't roll any windows up?

24 A No, sir.

25 Q Okay. Okay. Now, were you present when -- you

DUSTIN KRETSCHMAR-DIRECT BY MR. MOYER

1 mentioned about a sheet being draped over the back of the
2 vehicle?

3 A Yes, sir.

4 Q Was it ever removed or did you ever have an
5 opportunity to look into that?

6 A Yes, sir, the sheet was taken down after I had
7 taken my initial photographs of the scene, then we removed
8 the sheet to look inside the car where the victim was
9 lying?

10 Q And can you describe how he was positioned in
11 the vehicle?

12 A His head was on the rear passenger seat and the
13 upper portion of his body was on the seat as well and his
14 legs kind of draped down towards the back driver's side of
15 the car.

16 Q Now, were you presented when he was removed from
17 the vehicle?

18 A Yes, sir.

19 Q And did you do anything with regard to
20 Mr. Nesbitt before he was taken away from the vehicle?

21 A I'm sorry, sir?

22 Q Did you do anything to secure him for later
23 collection of evidence?

24 A Yes, sir. We placed bags over the victim's
25 hands to secure any trace evidence that might fall off in

DUSTIN KRETSCHMAR-CROSS BY MR. EPPES

1 the transportation process. And I put the bags on his
2 hands.

3 Q All right. Once again, did you put your
4 initials --

5 A Yes, sir, I put my initials and dated it.

6 Q Can you tell us what time it was that you
7 cleared the scene that night?

8 A I cleared the scene at 0745 hours.

9 Q All right.

10 MR. MOYER: Okay. Please answer any questions
11 that the Defense has.

12 THE COURT: Cross-examination.

13 MR. EPPES: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. EPPES:

17 Q Do you remember that nick that was on the side
18 of the window --

19 A Yes, sir.

20 Q -- on the vehicle? I think your report says
21 that Officer Parker found it; is that right?

22 A Yes, sir.

23 Q Did y'all mark that at the scene or did y'all
24 seal the vehicle?

25 A We would have sealed the vehicle and then

DUSTIN KRETSCHMAR-REDIRECT BY MR. MOYER

1 documented it at a later time.

2 Q So, the tape that was beside it was not done at
3 the scene?

4 A I'd have to look at the photos again, sir.

5 Q Now, your notes say that Parker, Investigator
6 Parker, found it. That's why I just wondering if that
7 tape was done at the scene or if it was done later.

8 A I don't recall, sir.

9 Q All right. Now, when you sealed the vehicle,
10 did you roll up that window?

11 A No, sir.

12 Q Did you do anything to seal the outside of the
13 vehicle?

14 A We placed the tape on the doors.

15 Q That was all?

16 A Yes, sir.

17 Q Did you look for any gunshot residue on the
18 outside of the vehicle?

19 A No, sir.

20 Q You said gunshot residue, you like to try to get
21 it within six hours; is that right?

22 A Yes, sir.

23 MR. EPPES: No further questions, Your Honor.

24 Thank you, Officer.

25 REDIRECT EXAMINATION

DAR SHAW-DIRECT BY MR. MOYER

1 BY MR. MOYER:

2 Q So, you don't recall if you put that tape on the
3 vehicle, but that is the nick or the mark that you saw on
4 the door?

5 A Yes, sir.

6 Q So, you saw that out there at the scene?

7 A Yes, sir.

8 MR. MOYER: Nothing further, Your Honor.

9 THE COURT: Any recross based on that redirect?

10 MR. EPPES: No, sir.

11 THE COURT: Thank you, Officer. I appreciate
12 you being here, sir. Thank you for your time. Have
13 a great day.

14 The State may call its next witness.

15 MR. MOYER: The State calls Dar Shaw.

16 THE CLERK: Sir, if you please come forward.
17 Please place your left hand on the Bible, raise your
18 right hand.

19 DAR SHAW, after being duly sworn,
20 testified as follows:

21 THE CLERK: Thank you. Please be seated.

22 Please state your full name for the record.

23 THE WITNESS: Darwin Shaw, S-H-A-W.

24 THE CLERK: Thank you.

25 DIRECT EXAMINATION

DAR SHAW-DIRECT BY MR. MOYER

1 BY MR. MOYER:

2 Q Would you please tell the jury, what is your
3 position and whom do you work for?

4 A I'm a sergeant with the Department of Public
5 Safety crime scene section, forensic division.

6 Q So, you're in the same division with Officer
7 Kretschmar who just testified?

8 A Yes, I am.

9 Q So, you do the same sort of thing as far as
10 going to crime scenes and collecting evidence?

11 A Yes, I do.

12 Q Okay. All right. Did you get involved in the
13 case that is before the Court on of 2014?

14 A Yes, I did.

15 Q You responded to the scene?

16 A I did.

17 Q Okay. Can you tell the jury what time it was
18 that you arrived there at the location?

19 A I got there about 5:30 in the morning.

20 Q What area -- where did you respond to?

21 A I responded to the incident location on Pelham
22 Road where there was a vehicle in the center median area.
23 That was the original location where I had responded to.

24 Q Okay. Did you stay there or did you go
25 somewhere else?

DAR SHAW-DIRECT BY MR. MOYER

1 A I went to a secondary location.

2 Q And what was that secondary location?

3 A It was a BP station about a block and a half
4 farther up the street.

5 Q What was your reason for going there?

6 A It was my understanding after speaking with
7 Investigator Hammett that there was a secondary scene in
8 which there might be potential evidence at the BP station.
9 So, I went up there just to find out if there was anything
10 to process, any potential evidence. Then I would work
11 that area and Technician Kretschmar worked the scene area
12 with the vehicle.

13 Q Did you see anything in the parking lot area of
14 the BP that caught your attention?

15 A I did.

16 Q Can you tell the jury what it was that you
17 noticed?

18 A There was some areas of blood in the parking
19 lot. There was a -- looked like milk had been spilt in
20 the parking lot. There was a gallon jug of milk there, a
21 wad of paper towels or napkins and there was some money
22 that looked like it had come out of somebody's pocket.
23 They were folded and really wadded up laying in the
24 parking lot.

25 Q So, at the time, you made note of all those

DAR SHAW-DIRECT BY MR. MOYER

1 items and photographed them?

2 A Originally, because of the situation, I had one
3 technician that I had to videotape the scene and then I
4 photographed it. Once I made the observations, I went
5 inside and spoke with the employee there at the BP
6 station.

7 Q Okay. Did you have an opportunity to view the
8 videotape at that time?

9 A I did.

10 Q Did you notice -- did you see a fight and so
11 forth in the parking lot?

12 A There was some altercation, people scattered.
13 around. Didn't really see an actual incident itself, but
14 did see several people scurrying from one area to another.
15 Saw an individual come into view of the camera, looked
16 like he had some type of injury to the side of his neck or
17 to his face. And then did see another person come out of
18 the store with napkins to place over, looked like possibly
19 an injury. Then people got into their vehicles, then they
20 left.

21 Q So, that could explain -- possibly explain the
22 blood that you saw in the parking lot?

23 A Yes, sir.

24 Q Okay. Now, did you then -- after viewing that
25 location, did you go back to the location where the Tahoe

DAR SHAW-DIRECT BY MR. MOYER

1 was?

2 A I did.

3 Q While you were there, did you spend any time
4 looking inside the Tahoe?

5 A Investigator Hammett had requested somebody to
6 check to see if there might be a weapon inside the
7 vehicle. And I had checked in the front passenger
8 compartment under the seats around where the victim was at
9 looking for a possible weapon and did not find one.

10 Q So, did you do a thorough search at that time?

11 A No, it was just one -- I call it a cursory
12 search, which is just a -- because we couldn't move the
13 victim, so I couldn't tell if there might be one under
14 him. But nothing in plain view or an area where it would
15 be accessible by a quick look.

16 Q So, you left the more thorough search to be done
17 later?

18 A That's correct.

19 Q Was the vehicle sent anywhere after y'all were
20 done with it?

21 A The vehicle was towed somewhere, but I'm not
22 familiar with where it was taken to.

23 Q But it was kept in law enforcement custody?

24 A Yes, it was.

25 Q So, you didn't find any weapons in the vehicle.

DAR SHAW-DIRECT BY MR. MOYER

1 Now, did you, also, attend the autopsy of Mr. Nesbitt?

2 A Yes, sir, I did.

3 Q Okay. Is that normal for a forensic officer to
4 attend an autopsy?

5 A Yes, it is.

6 Q Does somebody from your division attend all of
7 them?

8 A Only if we're requested by the agency.

9 Q Okay. Did you take the photographs at the
10 autopsy?

11 A I did.

12 Q All right. Did you also collect the victim's
13 belongings?

14 A Yes, sir, I did.

15 Q They were given to you by Dr. Fulcher?

16 A They were laying out. They had already been
17 removed by the time I had gotten there.

18 Q Was it the victim's clothes and other items like
19 that?

20 A Yes, the victim's clothes. Now, I think he had
21 bags on his hands, but those remained until I got there so
22 I could remove the bags and also do a gunshot residue test
23 on his hands.

24 Q Were there any weapons among his personal
25 belongings?

DAR SHAW-DIRECT BY MR. MOYER

1 A No, there wasn't.

2 Q Tell us about the gunshot residue test. You
3 performed that on Mr. Nesbitt?

4 A I did.

5 Q When was that done?

6 A I'd have to look at my notes.

7 Q Do you have your report with you?

8 A I do.

9 Q If you would, just refresh your memory by
10 looking at your report?

11 A It was done at 11:45 in the morning.

12 Q 11:45. And this was on what date now?

13 A The

14 Q So, the same date that the incident took place
15 then?

16 A Yes, sir, that's correct.

17 Q Okay. And do you collect a gunshot residue kit
18 from a deceased person the same way you would do so with
19 someone who was living?

20 A We do.

21 Q Would you just -- we've already had a full
22 discussion about it, but just give the jury a cursory
23 explanation as to how you went about collecting the
24 gunshot residue on Mr. Nesbitt?

25 A On -- in the -- it's called a gunshot residue

DAR SHAW-DIRECT BY MR. MOYER

1 test and it's called the SEM, which is scanning electronic
2 microscope. They are little plastic containers that have
3 little sticky tabs on the end. One capsule is marked
4 right palm, one is right back, one is left palm, the other
5 one is left back.

6 What we do is we correspond the dabber, we take
7 it off because it's capped, we take it apart and we will
8 dab the areas that's designated on the cannister itself.
9 So, the right back, you do the right back of the palm --
10 or the right back of the hand and the palm, you do the
11 palm.

12 Q Okay. So, there are four different dabbers
13 then?

14 A That's correct.

15 Q One each for the back of the hand and one each
16 for each palm?

17 A That's correct.

18 Q Okay. So, you did that -- so you had to take
19 the -- let me back up. Were Mr. Nesbitt's hands still in
20 bags when you saw him?

21 A Yes, they were.

22 Q Did you remove the bags?

23 A I did.

24 Q Then you immediately did the gunshot residue
25 test?

DAR SHAW-DIRECT BY MR. MOYER

1 A That's correct.

2 Q What did you do with those four dabbers after
3 you did the test?

4 A They get put back into -- they come in an
5 envelope. And then there's a questionnaire that comes
6 with it wanting to know the victim's name, address, if you
7 know whether they're right-handed, left-handed, where it
8 occurred at, whether it was indoors, outdoors. So, you
9 fill that information all out. It goes back into the
10 envelope. The dabbers get put into the envelope, they're
11 sealed and then a bar code is placed on them and
12 transported to property and evidence.

13 Q Okay. Did you take them to property and
14 evidence?

15 A I did.

16 Q Can you give the date when you did so?

17 A No, sir. I don't have it in the report. It
18 would be on the property and evidence sheet.

19 Q But you did take it there yourself?

20 A That's correct.

21 Q Where would it have been kept from when you
22 collected it to when you took it to property and evidence?

23 A Well, we each have our own evidence locker that
24 is secured. We have the keys, the technician has a key.
25 So, it would be in my possession until I get it packaged

DAR SHAW-CROSS BY MR. EPPES

1 and transported to property and evidence.

2 Q Okay. And that's a secured location?

3 A It is.

4 Q That locker you're talking about?

5 A Yes.

6 Q One moment.

7 MR. MOYER: Okay. Please answer any questions
8 the Defense may have.

9 THE COURT: Cross-examination, sir?

10 CROSS-EXAMINATION

11 BY MR. EPPES:

12 Q Officer Shaw, who did you have do the video of
13 BP crime scene?

14 A Robert Parker.

15 Q Okay. Do you recognize his initials? That may
16 not be his initials.

17 MR. MOYER: Your Honor, we'll stipulate to the
18 admissibility of the video and have no objection to
19 it.

20 MR. EPPES: Your Honor, I move it into evidence.

21 THE COURT: What is it?

22 MR. EPPES: This is a video of the scene at the
23 BP station.

24 THE COURT: Okay, not from the surveillance on
25 scene?

DAR SHAW-CROSS BY MR. EPPES

1 MR. EPPES: No, the crime scene that was videoed
2 by Deputy Parker at Deputy Shaw -- Sergeant Shaw's
3 instruction.

4 THE COURT: All right. Without objection and
5 upon motion of the Defense, it's introduced as
6 Defendant's Exhibit No. 1.

7 (WHEREUPON, Defendant's Exhibit No. 1 was marked
8 for identification and received into evidence.)

9 (WHEREUPON, Defendant's Exhibit No. 1 was
10 played.)

11 BY MR. EPPES:

12 Q Officer, just bear with me. There's just one
13 thing that I thought this video showed that was useful.
14 Now, Officer, this is what I wanted to show you. Is this
15 a fair and accurate view of the scene as Deputy Parker was
16 videotaping it?

17 A Yes, sir, it is.

18 Q And you can see the McDonald's up there and the
19 Bojangles' sign?

20 A Yes, sir.

21 Q And the blue lights here, I think, is a car that
22 was stopping traffic, correct?

23 A I would assume so, here we're blocking the
24 intersection.

25 Q But the car you looked cursorily for the weapon

DAR SHAW-CROSS BY MR. EPPES

1 in, the Tahoe, was parked up there pretty much between the
2 McDonald's and the Bojangles' sign?

3 A It was directly in front of the Bojangles', yes.

4 Q Okay. So, it's just not very far from the BP at
5 all?

6 A I'd say about a block and a half.

7 Q And that picture gives you kind of a good
8 representation of it since we all kind of know how big the
9 McDonald's signs and Bojangles' signs are; would you agree
10 with that?

11 A It's in the dark, but I'd say I can just tell it
12 was like a block and a half.

13 Q Thank you. Officer Hammett told you that he had
14 evidence that indicated there may be a gun in that
15 vehicle, correct?

16 A No, sir, he just asked if we could check to see
17 if there was one.

18 Q I point you to Page 3 of your report where it
19 says right in the middle of the page, Investigator Hammett
20 states there was a possibility of a weapon being in the
21 SUV?

22 A Okay.

23 Q Do you see that?

24 A Yes, sir, I do.

25 Q So, that's what you wrote in your report at the

DAR SHAW-CROSS BY MR. EPPES

1 time?

2 A Yes, sir.

3 MR. EPPES: Okay. Thank you. No further
4 questions.

5 THE COURT: Redirect, sir?

6 MR. MOYER: Nothing further from this witness.

7 THE COURT: Thank you, sir. I appreciate you
8 being here.

9 Okay. Ladies and gentlemen --

10 Sir, if you'll just wait.

11 Ladies and gentlemen, there are several pictures
12 that the State intends to mark. In order to make the
13 testimony go a little bit more smoothly and more
14 efficiently, as opposed to them presenting them and
15 getting it marked, presenting them and getting them
16 marked, we're going to take a short break. We'll
17 mark all of those exhibits so we don't have to start
18 and stop. We've been at it for about an hour, so
19 it's probably an appropriate time to take a break.
20 We'll come back in and resume testimony from the next
21 witness. Please don't discuss the case while you're
22 out. Thank you.

23 (WHEREUPON, the jury left open court at
24 approximately 3:00 p.m.)

25 THE COURT: Okay. All right. We'll take a

1 break.

2 April, you mark those and tell me when you're
3 ready.

4 THE COURT REPORTER: Yes, sir.

5 (WHEREUPON, a short break was taken.)

6 (WHEREUPON, State's Exhibits Nos. 18-37 were
7 marked for identification only.)

8 (WHEREUPON, Defendant's Exhibit No. 2 was marked
9 for identification only.)

10 THE COURT: All right. Bring the jury in.

11 (WHEREUPON, the jury came into open court at
12 approximately 3:20 p.m.)

13 THE COURT: All right. Mr. Moyer, you may
14 proceed, sir.

15 MR. MOYER: Thank you, Your Honor. May it
16 please the Court?

17 THE COURT: Yes, sir.

18 MR. MOYER: The State calls Adam Davis.

19 THE CLERK: Sir, place your left hand on the
20 Bible, raise your right hand.

21 ADAM DAVIS, after being duly sworn,
22 testified as follows:

23 THE CLERK: Thank you. Please be seated. Would
24 you please state your name for the record.

25 THE WITNESS: Adam Patrick Davis.

1 THE CLERK: Thank you.

2 DIRECT EXAMINATION

3 BY MR. MOYER:

4 Q Where are you employed?

5 A I currently work for the United States Probation
6 Office in Charleston.

7 Q Okay. How long you been doing that?

8 A I switched to this job about a month ago, a
9 month and a half ago, sir.

10 Q Where did you work prior to that?

11 A The previous five and a half years, I worked for
12 the crime scene unit office of Greenville County.

13 Q So, that's what we call the forensics division?

14 A Yes, sir.

15 Q That same area where Dar Shaw and Dustin
16 Kretschmar, who just testified, where they work now?

17 A Yes, sir, that's correct.

18 Q Do you have any law enforcement experience prior
19 to that?

20 A Yes, sir. Prior to that, I worked two and a
21 half to three years in South Carolina Department of
22 Probation and Parole in Anderson County.

23 Q Okay. Now, did you get involved at all in any
24 of this processing of evidence in the case that is
25 currently before the Court?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A I did, sir.

2 Q Okay. Let's start off with a vehicle, a Tahoe
3 vehicle, I believe. Is that the first piece of evidence
4 that you dealt with?

5 A Yes, sir, that is correct.

6 Q And when did you deal with that vehicle and
7 where did that take place?

8 A That was February 28th of 2014 and that was in
9 the crime scene unit bay.

10 Q Tell us about that crime scene unit bay?

11 A It's a secured processing bay that is at the
12 crime scene unit office. It's downstairs.

13 Q Okay. And is that where -- what kind of
14 evidence do you process in that location?

15 A It's a bay that has -- for vehicles and it has
16 lifts so you can raise the vehicle if necessary. It also
17 has a processing room or a fuming chamber and a drying
18 room is, also, off of that to dry evidence as well.

19 Q A fuming chamber, that's for processing
20 fingerprints?

21 A Correct. And what fuming does is it turns
22 Superglue into a vapor so it adheres to any oil left as
23 fingerprints.

24 Q So, what was -- February 28th, you said you did
25 that?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A Yes, sir, that's correct.

2 Q Around what time of day was it?

3 A 9:25 is my start time on that, sir.

4 Q All right. Did you take photographs of the
5 vehicle?

6 A I did.

7 Q Okay. In fact, let me show you State's Exhibit
8 No. 9 that's already in evidence. Is that one of the
9 photographs that you took?

10 A Yes, sir, it is.

11 Q Okay. So, that picture was taken in this bay
12 that you're talking about?

13 A That's correct.

14 Q All right. Now, was the vehicle sealed?

15 A It was, it was sealed with red evidence tape
16 bearing the initials of DK, and that would stand for
17 Dustin Kretschmar.

18 Q Where was it sealed? How was it sealed?

19 A My recollection is that it's usually, the
20 vehicles are sealed with each door. So, there's evidence
21 tape placed over the gap between door jams and any rear
22 hatch would be sealed and the trunk and hood would be
23 sealed, too.

24 Q Is that just to make sure the vehicle has not
25 been tampered with?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A Correct, sir.

2 Q Were any of those seals broken by the time you
3 processed the vehicle on the 28th?

4 A No, sir.

5 Q So, Deputy Kretschmar sealed it to when you saw
6 it was the first time that vehicle had been entered; is
7 that correct?

8 A Yes, sir.

9 Q Did you search the vehicle?

10 A I did search the vehicle, that's standard
11 procedure.

12 Q Okay. Did you search it thoroughly, I mean, all
13 the compartments?

14 A All compartments, under the seat, any -- I think
15 in a Tahoe, there's a compartment in a rear hatch on the
16 side that's down in the floor. It's lifted up, too, if it
17 does lift on a vehicle. Sometimes, the rear hatch will
18 have a spare tire and that part is lifted as well. The
19 hood is lifted to check for anything under the hood that
20 looks suspicious.

21 Q You looked in the glove box?

22 A Yes, sir, center console as well.

23 Q You looked at center console, you mentioned,
24 under seats and everywhere?

25 A Yes, sir.

ADAM DAVIS-DIRECT BY MR. MOYER

1 Q Okay. Were any weapons located during your
2 search?

3 A The only thing I remember is I collected a box
4 cutter, but I'm not sure if it was from this vehicle or a
5 red Camero. I do not believe there was a weapon in this
6 vehicle, sir.

7 Q Was there a firearm?

8 A No, sir.

9 MR. MOYER: Your Honor, at this time, I would
10 move to have State's Exhibit Nos. 18 through 37
11 entered into evidence. Defense and I agreed to
12 stipulate to that.

13 THE COURT: All right.

14 MR. EPPES: We have, Your Honor.

15 THE COURT: Okay. All right. Without
16 objection, the same is admitted into evidence.

17 (WHEREUPON, State's Exhibits Nos. 18-37 were
18 admitted into evidence.)

19 BY MR. MOYER:

20 Q Okay. We're going to show a couple of
21 photographs behind you there. One moment. I'm going to
22 start off with State's Exhibit 18, is that -- you took
23 that photograph of the Tahoe on February 28th?

24 A Yes, sir, I did.

25 Q Was there anything in particular that you were

ADAM DAVIS-DIRECT BY MR. MOYER

1 focusing on in that photograph?

2 A Well, it looks like these are -- where you see
3 the white indentations on these photos, they are scale
4 tape. And it looks like possible projectile impact point
5 on this rear door molding.

6 Q And you're pointing to this area right in here?

7 A Yes, sir.

8 Q Let me show you a closer-up picture of that,
9 State's Exhibit No. 19. Okay, is that a closer picture of
10 what you were just talking about?

11 A Yes, sir.

12 Q And State's Exhibit No. 20. You took that
13 photograph as well?

14 A Yes, sir, I did.

15 Q And the windows were up in that photograph; is
16 that correct, for that vehicle?

17 A Yes, sir.

18 Q Okay. Let's move on now to later that same day.
19 Did you come in contact with a Camero automobile? Were
20 you asked to go to a location where a Camero was located?

21 A Yes, sir. Investigator Hammett said that he had
22 found a vehicle that was possibly tied to a death
23 investigation.

24 Q Okay. What time of day was it that you went to
25 that location?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A 3:38 is my start time with that one, sir.

2 Q All right. And that would be 3:38 in the
3 afternoon?

4 A Yes, sir.

5 Q Okay. What was the location you went to for
6 that?

7 A Drive in Greenville.

8 Q Can you describe that residence or that
9 location?

10 A Yes, sir, it was a white in color double-wide
11 trailer with brown shutters. It had multiple vehicles in
12 front, then it had a red Camero in the rear yard.

13 Q Okay. Do you recall if the Camero was visible
14 from the street where it was?

15 A I didn't see it from the street. You had to
16 walk around to see it. It was close up to the back of the
17 residence.

18 Q Did the Camero have a tag?

19 A If my memory serves me, it had a blue paper tag
20 on it.

21 Q You took photographs of the vehicle?

22 A I did, sir.

23 Q And you took photograph of that entire location?

24 A Yes, sir, that's correct.

25 Q Did you process that vehicle there?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A I did not, as I sealed it and it was towed to
2 the crime scene unit bay as well to wait for a search
3 warrant for that vehicle.

4 Q So, that was that same location that you had
5 just done the Tahoe?

6 A Yes, sir.

7 Q So, by sealing it, you did it --

8 A I put the evidence tape on it and sealed the
9 doors and the trunk lid and the hood as well as the
10 prior -- the Tahoe like we discussed.

11 Q Okay. And you put your initials on the tape and
12 all?

13 A Correct, yes, sir.

14 Q Okay. Well, let me show you a few photographs
15 from location. Let's start off with State's Exhibit No.
16 21. Is that the photograph, a picture of the location
17 where you found the -- where you were asked to take
18 picture of the Camero?

19 A Yes, sir.

20 Q That's the trailer -- or the home you were just
21 describing?

22 A Yes, sir, that's correct.

23 Q You mentioned multiple vehicles in the front
24 yard, does this victim show those vehicle?

25 A Yes, sir. And if my memory serves me correct,

ADAM DAVIS-DIRECT BY MR. MOYER

1 there was a white Honda on the street as well. For safety
2 reasons, I stepped out of the street to take this picture.

3 Q Let me show you State's Exhibit -- that was
4 State's Exhibit 21. Here's State's Exhibit No. here 3.
5 Describe what is shown in that photograph?

6 A This is the back of that same residence and this
7 is the red Chevy Camero.

8 Q Okay. Is that -- the Camero that you were just
9 describing and talking about, is that were you found it
10 behind that residence?

11 A Yes, sir.

12 Q State's Exhibit 24. Tell the jury what that is.

13 A It is a photo of a front driver's side fender of
14 that same Camero, focusing predominantly on a stock rim
15 and tire, or what appears to be a stock rim and tire.

16 Q And State's Exhibit No. 22?

17 A This is the passenger side of that same vehicle.

18 Q Okay. We see some steps there to the right-hand
19 side, are those steps -- do they led up to the house?

20 A Yes, sir, that would be to the rear door.

21 Q I show you State's Exhibit No. 11 that was
22 entered into evidence earlier today. Is that the same
23 Camero?

24 A Yes, sir, it is.

25 Q And is that Camero -- was that picture taken

ADAM DAVIS-DIRECT BY MR. MOYER

1 there at the residence that you've just been describing?

2 A Yes, sir.

3 Q And finally, State's Exhibit 12. Once again, is
4 that that same Camero?

5 A Yes, sir.

6 Q Okay. Now, did you end up processing that
7 Camero?

8 A Yes, sir, I sure did.

9 Q Where and when did that take place?

10 A That took place on March 1st of 2014 at the
11 crime scene unit bay at 2031 Berry Court in Greenville.

12 Q So that was the following day from when it was
13 found?

14 A Yes, sir.

15 Q So, did you process it for fingerprints?

16 A I did.

17 Q Now, when you first began dealing -- processing
18 or dealing with this car, did you have a key to get inside
19 the car?

20 A I did not. We started processing the exterior
21 of it. And we realized we didn't have a key, so a search
22 warrant was obtained to go to another location to retrieve
23 that key.

24 Q Did you end up going to that location to get the
25 key, sir?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A I did.

2 Q Did you -- before you did so, did you process
3 the exterior of the Camero?

4 A That is correct, I did.

5 Q Okay. Tell us how you go about processing a
6 vehicle like this for fingerprints?

7 A Well, prior to processing for fingerprints,
8 Chris Hammett had asked if gunshot residue would be taken
9 from the roof area and the driver's window molding on
10 the -- the driver's side window molding. So, I used
11 what's called a particle lifter. It's a dabber. So, you
12 take the cap off and you dab it and it picks up
13 microscopic elements or small things that can't
14 necessarily be seen by the human eye. So, because of his
15 request, I did that prior to processing for latent prints.

16 Latent prints are processing for prints.
17 Fingerprints are referred to as ridge detail. And ridge
18 detail is pretty much the transfer of the oil in your skin
19 to an object. So, latent print powder adheres to the oil
20 and that's what's commonly referred to as fingerprints.
21 So, latent print powder shows the ridge detail and it's
22 put on with what you might think of it as kind of a
23 feather duster. It puts the powder on little by little.

24 Does that answer your question, sir?

25 Q Yes. Let's talk about the processing for

ADAM DAVIS-DIRECT BY MR. MOYER

1 fingerprints first and I'm going to go back and ask you a
2 few more questions about the gunshot residue.

3 A Yes, sir.

4 Q What all areas of the exterior of the vehicle
5 did you attempt to find fingerprints?

6 A I would have done the hood, both front fenders,
7 the driver and passenger door, the rear fenders, and the
8 trunk lid and any fuel door on the exterior side of the
9 vehicle.

10 Q All right. Were you able to find any
11 fingerprints at all?

12 A The only fingerprint that was found was on the
13 trunk lid of the vehicle.

14 Q Okay. So, none of those other locations you
15 talked about, including the handles, the door handles had
16 any fingerprints at all?

17 A No, sir.

18 Q Did that surprise you at all?

19 A Somewhat. This vehicle was relatively new.
20 Fingerprints stick to what is flat, dry, clean. You might
21 think of it as shiny objects. So with it being a new
22 vehicle, unless it had been recently cleaned, there should
23 have been more fingerprints than what was there.

24 Q Or you would have expected that?

25 A Right. And you can even see on the windows -- I

ADAM DAVIS-DIRECT BY MR. MOYER

1 suspect that it was cleaned because on the windows, you
2 can see streak marks. If something -- if water dries
3 normally, it leaves water spots, not streak marks.

4 Q Was there anything else about the vehicle,
5 including inside and out, that led you to believe that it
6 had been cleaned recently?

7 A You could see the streak marks even better on
8 the interior side of the windows. But it had a, I would
9 call it a citrus smell. Like you could smell some type of
10 cleaning agent. I couldn't tell you what it is, but you
11 could definitely smell some type of cleaning agent.

12 Q Both inside and out?

13 A You couldn't smell it on the outside, you could
14 just see the streak marks, but you could smell it on the
15 interior side.

16 Q Okay.

17 (WHEREUPON, State's Exhibit No. 38 was marked
18 for identification only.)

19 BY MR. MOYER:

20 Q All right. I'm going to hand you what's been
21 marked as State's Exhibit No. 38. Take a moment to look
22 at that and see if you recognize that and tell the jury
23 what it is.

24 A It's a latent envelope bearing my penmanship and
25 bar code with my initials on it.

ADAM DAVIS-DIRECT BY MR. MOYER

1 Q Okay. What's inside the envelope?

2 A It's one latent card with a latent print
3 attached to the back of the card, also, bearing my
4 penmanship.

5 Q What particular latent card does that belong to
6 or which --

7 A This latent was lifted from the trunk lid.

8 Q Of this Camero?

9 A Yes, sir. 2011 Chevrolet Camero.

10 Q Is that the fingerprint that you were just
11 referring to that you found on the outside of the car?

12 A Yes, sir.

13 Q Okay. A couple more questions about this
14 fingerprint card. How were you able to get that
15 fingerprint from the trunk of the car onto this card?

16 A How it's done is once it's visible, then it's
17 called latent tape. You might think of it as peelable
18 tape. So, you stick the tape there, let it adhere, smooth
19 it out and then you pull it and attach it to the rear.
20 And that lifts the print from one side to another, one
21 object to another.

22 Q So, you actually put that tape on that dust that
23 you were just talking about that you would put down?

24 A Correct. Once the print is visible, the dust is
25 on the print and you put the tape over the print and then

ADAM DAVIS-DIRECT BY MR. MOYER

1 you peel the tape off and attach it to the back of the
2 card.

3 Q Okay. And then did you make any markings on the
4 card so you would be able recognize it later, for example,
5 today here in court?

6 A Yes, sir. It bears my initials and then a
7 diagram where it was recovered from is noted. And a
8 diagram to refresh my memory is also provided.

9 Q So, you were able to recognize that as the
10 latent print that you took from the Camero on March the
11 1st of 2014?

12 A Correct.

13 Q Okay. Is it in substantially the same condition
14 now as it was when you collected it?

15 A Yes, sir.

16 MR. MOYER: Your Honor, at this time, we would
17 move State's Exhibit No. 38 into evidence.

18 MR. EPPES: No objection, Your Honor.

19 THE COURT: All right. Without objection, the
20 same is entered into evidence.

21 (WHEREUPON, State's Exhibit No. 38 was admitted
22 into evidence.)

23 BY MR. MOYER:

24 Q Then what did you end up doing with this latent
25 print card?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A Once the latent card is sealed in that latent
2 envelope -- and we have latent print lockers in the office
3 that only latent print examiners have a key to. So, once
4 it's in the box, you can't retrieve it out. So, I secure
5 it in that box. Whichever latent print examiner comes to
6 pick those up, unlocks the box and takes possession of
7 that.

8 Q Okay.

9 A And it's all done via bar code system showing
10 that it left my possession to the box and then he checks
11 it from the box to himself.

12 Q Okay. So, you actually put that into the box
13 yourself?

14 A Correct, yes, sir.

15 Q Okay. Now, let me ask you a few more questions
16 about the gunshot residue that you were talking about
17 doing on the outside of the vehicle?

18 A Yes, sir.

19 Q There was some testimony earlier about a dabber
20 that is used on hands, like looking for gunshot residue on
21 hands. Is that the same type of dabber that is used on a
22 vehicle?

23 A Yes, sir, it is. It's exactly the same one that
24 would be used.

25 Q So, on the outside of this vehicle, there were

ADAM DAVIS-DIRECT BY MR. MOYER

1 three distinct areas that you checked?

2 A Yes, sir.

3 Q You said it was the roof of the car, the
4 driver's side and passenger side?

5 A Correct.

6 Q Then the molding area?

7 A Yes, sir, on the driver's side.

8 Q Let's start with the roof. Tell us how -- how
9 extensive of an area did you cover as you were using that
10 dabber?

11 A So, I split the vehicle down the midline. So,
12 the one for the passenger side would be done from the
13 midline to the -- say, the driver's door window. Then
14 from the midline to the passenger's door window. Then the
15 molding, obviously, is done on the molding itself.

16 Q Okay. So, you covered pretty much the entire
17 roof?

18 A Yes, sir.

19 Q What did you end up doing with those dabbers?

20 A They're sealed and then a bar code is made for
21 them, too, and they're placed in the department of
22 property and evidence. If they're not ready that day to
23 go, they get secured in my evidence locker.

24 Q Okay. Then you would have taken them to the
25 property and evidence room?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A Yes, sir.

2 Q You took photographs, also, there at your office
3 where you were processing the vehicle?

4 A Yes, sir, I sure would have.

5 Q Okay. Let's take a look at State Exhibit Nos.
6 25 through 30. Let's start off with State's Exhibit No.
7 25. Is that that Camero that you had seen?

8 A Yes, sir, that's the same Camero that's in our
9 crime scene unit bay. You can see the lift right there.

10 Q All right. Does that show the tag that was on
11 the vehicle?

12 A Yes, sir, it does.

13 Q Show you State's Exhibit No. 26?

14 A This is the driver's side interior door panel
15 and the seat of that same vehicle, passenger side, excuse
16 me.

17 Q Okay. So, this is a two-door vehicle,
18 obviously?

19 A Yes, sir, it's a coupe.

20 Q And there -- how many windows are there that
21 roll up and down in the vehicle?

22 A Just the two. If my memory serves me correct,
23 the back ones, I think those are referred to as vent
24 windows, I'm not positive about that, but they're secured
25 if I remember correctly.

ADAM DAVIS-DIRECT BY MR. MOYER

1 Q So, just these two windows?

2 A Correct.

3 Q Okay. State's Exhibit No. 27. Just another
4 picture of that same area?

5 A Yes, sir.

6 Q Exhibit 28. Show you State's Exhibit 29.

7 A This is over the passenger side of the -- like
8 the passenger seat is right here in the foreground and
9 you're looking at the driver's seat and the driver's rear
10 seat in this photograph, or the center console between.

11 Q Then State's Exhibit No. 30.

12 A That's more of a focus on the driver's seat and
13 driver's rear seat.

14 Q So, these pictures, obviously, were taken after
15 you had gotten the key to the vehicle, correct?

16 A Yes, sir, that's correct.

17 Q And I'm going to ask you about that trip in just
18 a moment. So, you kind of broke up your processing of the
19 Camero, you went and got the key and came back and
20 finished the rest of the processing?

21 A Yes, sir, that's correct.

22 Q Now, what else did you do -- what did you do to
23 the rest of the inside of the Camero once you had the key
24 to be able to get inside of it?

25 A So, once I could open the vehicle, general

ADAM DAVIS-DIRECT BY MR. MOYER

1 protocol is that we take swabs from the interior door
2 handles and then swabs for possible DNA from the steering
3 wheel, gear shift and sometimes the emergency brake if
4 it's a pull-up one instead of a foot engaged. So, swabs
5 from all of those areas were obtained for possible DNA.
6 And then tape lifts from the back and bottom of each seat
7 for possible hair or fibers were also collected.

8 Q Did you do any more for possible gunshot residue
9 collection?

10 A I did. The particle lifters, the dabbers we
11 talked about earlier, was also used to do the headliner.
12 And two dabbers were used for that midline to the edge of
13 the driver's door and midline to the edge of the passenger
14 door as well.

15 Q So, was that just directly above the driver and
16 passenger seats? Do you know how much of an area that you
17 covered?

18 A It's dome, so I would have done as much as I
19 could. But if my memory serves me correct, it stopped
20 just past the head rest on each side because of restraints
21 as it dome.

22 Q Past the back headrest of the front seats?

23 A Yes, sir.

24 Q Okay. So, you were able to go back just a
25 little bit?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A Right, yeah, as far as I could reach without
2 compromising anything else at that point.

3 Q Okay. And just so I understand this right then,
4 so you got five different areas out of the Camero that you
5 collected gunshot residue kits on?

6 A Correct.

7 Q The three areas you just described from the
8 outside and then the two areas on the ceiling inside the
9 car?

10 A That is correct, sir.

11 Q Okay. Did you process the inside of the vehicle
12 for fingerprints?

13 A Yes, sir, I did. I processed several things
14 inside the vehicle. The interior side of the driver's
15 door and window, the driver's side vanity mirror, the
16 interior side of the passenger's door and window, the
17 rear-view mirror and the smooth area of the steering
18 wheel.

19 Q Did you find any fingerprints at all inside the
20 vehicle?

21 A I did not. I did get some noncomparable results
22 from some aftermarket rims that I had in here, but that
23 was -- that was center caps of the rims that were in the
24 trunk.

25 Q Did -- sorry, I didn't mean to cut you off?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A No, sir, I was done. It's a center cap to a rim
2 and it had arms that go that match some rims that we --
3 Investigator Hammett asked me to process and I got some
4 noncomparable results. And all that really means is you
5 can tell that there is some of that fingerprint ridges we
6 talked about, but it's not substantial as the print from
7 the trunk lid.

8 Q But they were in the trunk, correct?

9 A Yes, sir.

10 Q As far as in the actual compartment, passenger
11 compartment of the vehicle, did you find any fingerprints
12 at all in there?

13 A No, sir, I did not.

14 Q Once again, I'll ask you the same thing as the
15 outside of the vehicle, did you find that surprising at
16 all?

17 A It's harder on the inside of a vehicle, so it's
18 not as surprising, but I still would have thought
19 something would show up on a newer vehicle like that.

20 Q That's the area where you smelled the cleaning
21 agent?

22 A That is correct, yes, sir.

23 Q Okay. Well, now, let me talk to you finally
24 about the location you went that broke up your processing
25 of the Camero. Where did you go at that time?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A That's Street. And that's in
2 Greenville as well.

3 Q What did you do at that location?

4 A Once again, I made contact with Investigator
5 Hammett and he said that he had obtained a search warrant
6 for the residence and had located rims in a rear storage
7 building. So he asked me to photograph and collect the
8 rims. And I took possession of a Chevrolet Camaro key via
9 property and evidence sheet from Investigator Hammett as
10 well.

11 Q Okay. So, you got the key from Investigator
12 Hammett?

13 A I did, on the property and evidence sheet.

14 Q Did you take photographs at that location?

15 A I did, yes, sir.

16 Q What is that address?

17 A It's a residence, but we were predominantly
18 focused on a storage building behind the residence because
19 the rims were found inside the storage building.

20 Q Okay. Let me start off with State's Exhibit No.
21 31. Is that a picture of that residence you were just
22 talking about?

23 A Yes, sir, this is the rear side of that
24 residence.

25 Q Is that back where the storage building was?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A Yes, sir. On other side of this pool back in
2 this direction to the foreground would be where that was.

3 Q State's Exhibit 32?

4 A Yes, sir. This is that storage building that
5 I'm referring to.

6 Q Right here?

7 A Yes, sir.

8 Q State Exhibit 33. Again, that's a closer
9 picture of the storage building?

10 A Yes, sir, it is.

11 Q And State's Exhibit 34?

12 A Through the doors, you can see a shininess of
13 what appears to be a rim and a tire.

14 Q Okay. Let's back up. That those doors?

15 A Correct.

16 Q That's just a closer look at the door?

17 A Yeah.

18 Q State Exhibit 35?

19 A You'll see three rims stacked on top of what is
20 either a washer or a dryer and then another one leaning
21 against it.

22 Q Is that the way the rims looked when you
23 opened -- when the doors were opened?

24 A Yes, sir.

25 Q State's Exhibit 36?

ADAM DAVIS-DIRECT BY MR. MOYER

1 A That is those rims placed on the ground.

2 Q State's Exhibit 13 that was entered into
3 evidence earlier. Is that the rims?

4 A Yes, sir.

5 Q So, you just took them out of the storage shed
6 and took photographs of them?

7 A Yes, sir. With them being stacked up, I just
8 wanted to see if they were the same general pattern, so I
9 looked at them like this to see if they were the same
10 pattern.

11 Q State's Exhibit 36.

12 A Yes, sir, those same four rims.

13 Q Okay. You took those -- you collected those
14 rims?

15 A Yes, sir, I did.

16 Q Did you take them back to where the Camero was?

17 A Yes, sir, they were secured in the crime scene
18 unit bay.

19 Q Did you actually end up putting them on the
20 Camero?

21 A I did. At Investigator Hammett's request,
22 measurements were taken from the height of the vehicle
23 stock rims that were on it and those rims were placed on
24 it and more measurements were taken as well.

25 Q So, that did fit on the vehicle?

ADAM DAVIS-CROSS BY MR. EPPES

1 A They did. As they did have double lug nut
2 holes, so they are designed to fit multiple vehicles.

3 Q Were they bigger at all than the wheels that
4 were on there?

5 A Yes, sir. I think those were 24-inch rims. And
6 I'm not sure what stock rims were, but I do remember those
7 were 24-inch rims.

8 Q They did raise the Camero up a little bit?

9 A Yes, sir, they did.

10 MR. MOYER: One moment. No further questions of
11 this witness.

12 THE COURT: Yes, sir.

13 CROSS-EXAMINATION

14 BY MR. EPPES:

15 Q You took these pictures of this Tahoe?

16 A Yes, sir.

17 Q You examined it? You took fingerprints off it,
18 what else did you do with it?

19 A On the Tahoe?

20 Q Yeah.

21 A Yeah, I took swabs for possible DNA and then I
22 also processed it for prints. I believe I collected
23 several items inside of the vehicle.

24 Q Did you look for any gunshot residue?

25 A I did not.

ADAM DAVIS-CROSS BY MR. EPPES

1 Q Did you measure the wheels or the rims or
2 anything on it?

3 A No, sir.

4 Q Did you measure the height of the windows or
5 anything?

6 A No, sir.

7 Q You examined this -- I'm sorry, I'll leave it
8 up. You examined this car on the 28th of February?

9 A Yes, sir.

10 Q Six days after it was taken from the crime
11 scene? The crime occurred on the of ?

12 A Yes, sir, if the crime occurred on the
13 yes, sir, I examined it on the 28th.

14 Q And nothing was done to monkey with it before
15 then to your knowledge?

16 A To my knowledge, I have no knowledge of that.

17 Q You checked five places for gunshot residue on
18 the Camero?

19 A Yes, sir.

20 Q Why didn't you check the molding on the
21 passenger side?

22 A Investigator Hammett -- I did the areas that he
23 requested.

24 Q Okay. Did he ask you to check the roof?

25 A Yes, sir.

ADAM DAVIS-CROSS BY MR. EPPES

1 Q As if somebody had taken a gun and shot over
2 from the passenger side?

3 A That is one possibility. He just asked me to
4 check the roof.

5 Q Okay. And I'm showing you what has been marked
6 as Defendant's Exhibit 2. It's about six pages of smaller
7 photographs. Would you look through that, please?

8 A (The witness complies.)

9 Q While you're looking, are you actually visible
10 in a couple of those photographs?

11 A I am. Sergeant Hamilton assisted me. Some of
12 them you will see Sergeant Hamilton and some of them, you
13 will see myself.

14 Q Okay. So, you're working with somebody and
15 y'all were measuring and taking photographs back and
16 forth, correct?

17 A Yes, sir. Can't do both at the same time.

18 Q And those six pages of smaller photographs
19 reflect photographs that you or Sergeant Hamilton took in
20 your presence following the instructions of Detective
21 Hammett about measuring the wheels of the vehicle and the
22 height of the windows and all?

23 A Correct.

24 MR. EPPES: Your Honor, I'd move these into
25 evidence.

ADAM DAVIS-CROSS BY MR. EPPES

1 MR. MOYER: No objection.

2 THE COURT: All right. Without objection, the
3 same is admitted into evidence as Defendant's Exhibit
4 No. 2.

5 Am I right about that? Are they already marked?

6 MR. EPPES: Yes, sir, they're already marked,
7 Your Honor.

8 THE COURT: Okay. Good enough.

9 (WHEREUPON, Defendant's Exhibit No. 2 was
10 admitted into evidence.)

11 MR. EPPES: Your Honor?

12 THE COURT: Yes, sir.

13 MR. EPPES: I am just going to -- I don't really
14 have a whole lot of questions about them, so I'm just
15 going to kind of leave them up here and show them to
16 the jury for 15 or 20 seconds a piece and then just
17 flip the pages. I think that's as quick a way to do
18 it as any.

19 THE COURT: Okay. I don't have any objection to
20 that.

21 Mr. Moyer, any objection to that, sir?

22 MR. MOYER: No, Your Honor.

23 THE COURT: All right, go ahead, sir.

24 BY MR. EPPES:

25 Q Okay. Just since we're here, is that you or

ADAM DAVIS-CROSS BY MR. EPPES

1 Sergeant Hamilton?

2 A That is me. You can see my glasses.

3 Q Okay. And you were wearing gloves, obviously,
4 for this?

5 A Yes, sir.

6 Q Okay. Where did you write all these
7 measurements down?

8 A First, Sergeant Hamilton's direction, the
9 photographs --

10 Q Would show the height?

11 A Yes, sir.

12 Q Okay. Gone to the third page. Can you -- and
13 I'm going to bring them back over there when I ask you
14 this, but I just want the jury to see them. Can you tell
15 from this how much higher the vehicle would have been with
16 the custom rims at opposed to the stock rims? Can you
17 look at this and make a determination to y'all's thinking
18 on that?

19 A I would have to look at the actual feet and inch
20 measurement, not from the naked eye. I couldn't tell.

21 Q But you could tell if I showed you the pictures,
22 you think?

23 A I can try.

24 Q Okay. Well, I'm going to let you look at them
25 and see if you can tell.

ADAM DAVIS-CROSS BY MR. EPPES

1 A Yeah, I'm not going to be able to tell, sir.

2 Q Okay. You think you might could if you blow
3 them up or you don't know?

4 A Don't know about picture quality if they were
5 blown up if I would be able to tell or not.

6 MR. EPPES: Thank you.

7 THE WITNESS: Yes, sir.

8 MR. EPPES: Your Honor, I have no more questions
9 of this witness.

10 THE COURT: All right. Redirect, sir?

11 MR. MOYER: No, Your Honor.

12 THE COURT: All right. Thank you, sir. I
13 appreciate you being here.

14 MR. EPPES: Your Honor, he may be excused as far
15 as I'm concerned.

16 THE COURT: Sure. Absolutely.

17 You may call your next witness, Mr. Moyer.

18 MR. MOYER: Your Honor, the State calls Whitney
19 Berry.

20 THE CLERK: Place your left hand on the Bible,
21 raise your right.

22 WHITNEY BERRY, after being duly sworn,
23 testified as follows:

24 THE CLERK: Thank you. Please be seated. Would
25 you please state your name for the record?

WHITNEY BERRY-DIRECT BY MR. MOYER

1 THE WITNESS: My name is Whitney Berry.

2 THE CLERK: Thank you.

3 DIRECT EXAMINATION

4 BY MR. MOYER:

5 Q Where are you employed?

6 A I'm employed with the South Carolina Law
7 Enforcement Division, also known as SLED.

8 Q What department at SLED are you employed in?

9 A I work in the trace evidence department.

10 Q What is trace evidence?

11 A Trace evidence is defined as any sort of
12 evidence that you can't easily see without some sort of
13 enhancement. For example, a microscope or a scanning
14 electronic microscope or something of that nature.

15 Q What specifically do -- or do you have a
16 specialty within that realm of trace evidence that you
17 deal with predominantly or solely?

18 A Yes, sir. I am the primary gunshot residue
19 analyst for South Carolina.

20 Q How long have you been doing that?

21 A About three years.

22 Q Do you keep records as to how many times you
23 have analyzed gunshot residue?

24 A Informally, yes.

25 Q Can you give us -- so you don't have a specific

WHITNEY BERRY-DIRECT BY MR. MOYER

1 number then?

2 A No.

3 Q Can you just give us some way to understand the
4 number of items or articles of evidence that you have
5 looked at?

6 A I've analyzed approximately 750 items of
7 evidence for gunshot residue.

8 Q Okay. Beginning with college, tell the jury
9 about your educational background?

10 A I have a Bachelor of Science in chemistry from
11 the University of South Carolina. When I began my
12 employment at SLED, I started SLED's nine-month in-house
13 gunshot residue training course. This course included
14 written and practical exams, journal readings, learning
15 the theory behind scanning electron microscopy as well as
16 working under a qualified analyst and observing them doing
17 testimony.

18 Q Okay. And how long was that training period?
19 You said nine months?

20 A Yeah, nine months.

21 Q So, how long have you been trained so that you
22 can go to court and testify about your findings?

23 A I was deemed competent in gunshot residue in
24 January of 2014.

25 Q All right. And have you testified in court

WHITNEY BERRY-DIRECT BY MR. MOYER

1 before?

2 A Yes, sir.

3 Q Been qualified as an expert?

4 A Yes, sir.

5 Q Do you keep track of how times?

6 A Yes, sir.

7 Q How many times?

8 A This is going to be number 29.

9 Q Okay.

10 MR. MOYER: Your Honor, at this time, I'd move
11 to have Whitney Berry qualified as an expert in
12 gunshot residue analysis.

13 THE COURT: Any objection or voir dire?

14 MR. EPPES: I want to ask a couple more
15 questions, Judge.

16 THE COURT: Okay. Ladies and gentlemen, when
17 someone is offered as an expert witness, then the
18 opposing party has the opportunity to ask questions
19 bearing upon qualifications before I make a
20 determination as to whether that witness will be
21 qualified and what scope of his or her expertise may
22 be.

23 So, having said that, Mr. Eppes, you can ask
24 questions in qualification, sir.

25 MR. EPPES: Thank you.

WHITNEY BERRY-VOIR DIRE BY MR. EPPES

VOIR DIRE EXAMINATION

BY MR. EPPES:

Q After you did the nine-month program, what did you do next?

A When I completed the nine-month program, the last step was to do a mock court, in which I had to work my own case with evidence prepared by my department. I then had to defend it and testify as though I would be in court. After that, I was deemed competent. I was signed off by my supervisor as well as my captain and my major, who then gave me a certificate saying that they deemed me competent in gunshot residue analysis. After that time, I then began working cases on my own.

Q How many people work in the gunshot residue area there?

A We have six analysts in the trace evidence department who are qualified to do gunshot residue analysis, but I am the primary gunshot residue analyst.

Q So, take me through how you became the primary gunshot residue analyst.

A I was hired primarily to do gunshot residue. That means that I don't do paints or fibers. I don't do fire debris analysis or glass or ink dye analysis or any other analysis, I'm just dedicated to the gunshot residue analysis.

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 Q So, they hired you for that spot?

2 A Yes, sir.

3 Q And you were trained and everything. It wasn't
4 where there was somebody ahead of you, they hired you for
5 the spot and then after your training, that was what you
6 started doing?

7 A There was initially another analyst who did
8 this, but she retired.

9 Q I see. Did she retire before you took over the
10 job or after?

11 A She retired towards the end of my training.

12 MR. EPPES: I have no objection to her being
13 qualified as an expert, Your Honor. Thank you.

14 THE COURT: Thank you. So admitted.

15 Ladies and gentlemen, I've already told you what
16 an expert is, just keep in mind just because someone
17 is qualified as an expert witness doesn't mean that
18 their testimony has any preferred weight or value.
19 You determine, just like any other piece of evidence,
20 what weight to place upon an expert witness's
21 testimony.

22 Go ahead, Mr. Moyer.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. MOYER:

25 Q Okay. Would you please explain to the jury what

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 gunshot residue is and how it's expelled from a firearm
2 and matters like that?

3 A Sure. When we're looking at gunshot residue,
4 what we're actually looking for is the primer residue from
5 the cartridge. So, the primer residue is going to
6 contain three metal elements, lead, barium and antimony.
7 And when they come under that high of heat and pressure of
8 the gunshot, they're going to vaporize. So, they're going
9 to go from a solid metal state to a liquid metal state.
10 And then as they cool in the air and atmosphere or as they
11 hit objects that are cool, they will resolidify and then
12 will become warm.

13 So, what we're looking for are particles between
14 one and 10 microns in diameter. If you pull a hair off of
15 your head and you look across the diameter of your hair,
16 about 100 GSR particles can fit across it. So, they are
17 very, very tiny. You can't see them with the naked eye.
18 So, we're looking for these particles using a scanning
19 electron microscope. And as it scans across the sample,
20 it also takes an x-ray of whatever it finds. And this
21 x-ray shows us what elements are present so we can verify
22 that it's those three metals, lead, barium and antimony,
23 and then we can see a picture to verify that it is molten
24 or round in shape.

25 These particles primarily come out of the

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 cylinder gap on a revolver or the slide on a
2 semi-automatic gun. So, if you've ever seen an old west
3 movie when they pull the trigger and there's kind of a
4 poof around the hands, that's where gunshot residue can
5 come from and be deposited on somebody's hands. Then the
6 majority of the gunshot residue is going to come out the
7 barrel end of the gun and it's going to follow the
8 projectile or the bullet towards its intended target.

9 Q So, that's where the majority goes?

10 A That is where the majority goes. The majority
11 is just going to come straight out the end of that gun.

12 Q So, a revolver, then, you said some will come
13 out around the sides of the pistol?

14 A Yeah, it can come out of the cylinder gap.

15 Q So, a revolver, that's the kind of gun that has
16 sort of the spinning carriage?

17 A Yes, sir.

18 Q And nothing ejects from it when you shoot it,
19 correct?

20 A That's correct.

21 Q Now, the other kind of gun you mentioned is
22 semi-automatic?

23 A Yes, sir.

24 Q Once again, gunshot residue, the majority of it
25 comes out the front?

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 A Yes, it does.

2 Q On a gun like that, where -- does gunshot
3 residue also come out the sides and so forth of the gun?

4 A Yes, it can come back on the slide, so when --
5 or the ejection port from the slide. So, when the gun
6 slides back and ejects that spent cartridge, spent casing,
7 it can come out there.

8 Q Okay. So, gunshot residue can come out that
9 way, too?

10 A Yes.

11 Q Now, keeping in mind -- well, let me just ask
12 you this, are you able to make any generalities or tell us
13 generally how far gunshot residue will come out the barrel
14 of a gun?

15 A It depends on a number of factors, such as the
16 caliber of the gun and the ammunition that was used, the
17 cleanliness of the gun, if the gun has been cleaned, if it
18 was put back together properly, what condition it's in,
19 in general, it is in good condition or is it corroded and
20 rusted. All those can have factors. But in general, we
21 do have an estimate that we can give for a certain
22 caliber.

23 Q Okay. Can you give us the range?

24 A For any caliber or?

25 Q From the very lowest to maybe the highest?

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 A So, for a .22 caliber, we can expect it maybe
2 one and a half to two feet. Whereas, if you have a .45,
3 we can expect maybe up to six feet.

4 Q Okay. Now, if a gun is fired in a closed space,
5 let's say, perhaps, a passenger compartment of a vehicle,
6 what would you expect to happen to the gunshot residue as
7 far as it being deposited within that enclosed space?

8 A When you discharge a firearm in an enclosed
9 space, especially a very small enclosed space, such as the
10 passenger compartment of a vehicle, you would expect to
11 see gunshot residue pretty much all over everything in the
12 general area that it was discharged.

13 So, if it was discharged in the front seat, you
14 would expect to find gunshot residue all over the dash,
15 the headliner of the car, which is the carpeted area on
16 the top, the passenger, if there's a passenger, the
17 driver, depending on who fired. But it would stay within
18 the vehicle if it was an enclosed space. If it was
19 discharged in the back of the car, you could expect to
20 find it in the back seat, on the backs of the seat in
21 front of it, possibly, in the center console and
22 passengers in the front.

23 Q All right. Now, how long does gunshot residue
24 last?

25 A So, gunshot residue is really fragile. It kind

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 of goes with the fact that it's very microscopic. If you
2 think about being in your kitchen and you have flour on
3 your hands for baking, every time you touch your hands to
4 something or clap them a little bit, that flour comes off.
5 So, that's very similar to gunshot residue.

6 So, on a living person, we don't expect gunshot
7 to be found on their hands after six hours. And that's
8 just from normal activities. Again, if you think of
9 having flour on your hands, every time you touch
10 something, wash your hands, wipe them, put them in your
11 pockets, even if you sweat, that can remove some of that
12 flour. Well, it can do the same with gunshot residue.

13 If you have a deceased person, they're not doing
14 any of those things, so you could expect the gunshot
15 residue will stay on their hands until it's removed by an
16 outside source. And that would be the same for an object,
17 an inanimate object. You can expect that unless it is
18 removed by an outside source, it should still be there.

19 Q Now, talking about a deceased person, would
20 putting bags over the person's hands, would that help to
21 preserve the gunshot residue?

22 A It can. We really have no studies on that
23 because there is no way to determine how much gunshot
24 residue there should be if a gun was fired. You don't
25 know what you're starting with. Putting anything on the

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 hands could potentially remove some gunshot residue.

2 But in most cases, it's a negligible amount.

3 Q What's a negligible amount?

4 A The amount of transfer, the amount of GSR that
5 could be removed by something such as paper bags.

6 Q All right. Now, does SLED have protocol as far
7 as for a living person as far as how long you would -- how
8 long a period of time it has to be -- the kit has to be
9 taken?

10 A Yes. SLED will not test any GSR kit that was
11 collected after six hours from the incident time. So in
12 our GSR kits that we give out to an agency who request, we
13 have a worksheet. And on that worksheet, we need the name
14 of the person that it was collected off of as well as the
15 incident date and time and the collection date and time.
16 And if it's greater than six hours on a living person, we
17 will not analyze it.

18 Q Now, what about a deceased person?

19 A On a deceased person, there's no time limit.

20 Q What about from an inanimate object?

21 A Inanimate objects, there's no time limit.

22 Q Now, for -- you talked a little bit about how
23 gunshot residue can dissipate or be taken away from a
24 living person. What about from an object? Can gunshot
25 residue very easily be disbursed or gotten rid of?

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 A On an object, the only way that you can get rid
2 of it is by removing it intentionally. So, for example,
3 an article of clothing, you would have to throw it in the
4 laundry and wash it in order to get the GSR off of it.
5 For something like a vehicle, you would probably have to
6 have it cleaned, detailed very well to get rid of any
7 gunshot residue that might be present.

8 Q Okay. Now, let me ask you, you mentioned that
9 when you're looking for gunshot residue, you're looking
10 for three different components, and that was lead,
11 antimony and barium?

12 A Yes, sir.

13 Q Okay. Now, it is possible when you do your
14 analysis of a gunshot residue kit to find combinations of
15 that? For example, you may not find all three, but you
16 may find one or two of those elements?

17 A Yes. To say something is gunshot residue, it
18 has to contain all three elements and be molten or round
19 in shape. But we also see combinations of those, such as
20 lead and antimony or barium and antimony or some other
21 combination, and we would call those consistent particles.
22 Those consistent particles are most likely from gunshot
23 residue, but there is a possibility they originate from
24 another source.

25 We then have our single component particles,

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 which we call associated. So, that would be round lead,
2 round barium or round antimony particle. And these
3 element round particles are not necessarily unique to
4 gunshot residue. You can find them in the environment or
5 in the world at large.

6 Q Which of those three elements is more common?

7 A Round lead is actually the one that you're going
8 to see the most. If you go to a store and handle certain
9 items in the store, you most likely will walk out with
10 round lead on your hands.

11 Q So, if you find all three of those components,
12 do you have a terminology for that?

13 A Yes. We would label it as gunshot residue.

14 Q And if there are two, you would say it was
15 consistent?

16 A Yes, sir.

17 Q Okay. And if there's one, any terminology for
18 that?

19 A We would then say it's associated.

20 Q Associated. Okay. Let me ask you about this
21 particular case then. Did you have occasion to analyze
22 gunshot residue kits in this case?

23 A Yes, sir.

24 Q And there were multiple ones?

25 A Yes, sir.

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 Q Let me ask you first about a gunshot residue kit
2 for Brittany Jeter?

3 A Okay.

4 Q Were you given -- how many -- how many of those
5 dabbers were provided to you for Brittany Jeter?

6 A So, when we have a GSR kit, there are four of
7 these inside. These are called particle lifts. These are
8 what are used to dab the hands. The black part is sticky
9 and will remove any microscopic particulate matter off the
10 hands. So, when we go to analysis them, we put them on
11 the scanning electron microscope. We set it up, it goes
12 almost like a radar, it just goes back and forth and picks
13 up any difference in topography or any divots that might
14 be in it and it detects the particles, which then signals
15 the x-ray detector to take an x-ray of them.

16 After that automated analysis is done, then I
17 have to go back through and I have to confirm and verify
18 that what the instrument found was accurate. So, if it
19 said it was GSR, I have to make sure that it really has
20 three components and it's really the correct shape and the
21 correct size. That would be the same with any particles
22 that we found.

23 So, on the GSR kit for Brittany Jeter, we
24 received the four particle lifts in the kit. And they're
25 labeled for the parts of the hand that we want sampled, so

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 there's one for the right palm of the hand and the right
2 back of the hand and the left palm of the hand and the
3 left back of the hand. And once those are sampled,
4 they're sealed back up in the envelope and sent to SLED.

5 Q What were the results of Brittany Jeter?

6 A For all four areas on Brittany Jeter's hands, no
7 primer or gunshot residue was found.

8 Q So, that was completely negative?

9 A That was completely negative.

10 Q What about Jermaine Nesbitt?

11 A For Jermaine Nesbitt, again, all four areas were
12 negative, no primer or gunshot residue was found.

13 Q Let me ask you about the vehicle. You were
14 given five different areas with regard to the vehicle, a
15 Camero, Chevy Camero?

16 A Yes, sir.

17 Q Okay. Would you go through those five different
18 areas and tell what the results were for that.

19 A So, item number three was one particle lift
20 labeled above passenger's door. No primer or gunshot
21 residue was found. Item number four was one particle lift
22 labeled driver's door above window, and no gunshot residue
23 was found. Item five was one particle lift labeled
24 between driver's side door mold and windows, and no
25 gunshot residue was found. Item six was one particle lift

WHITNEY BERRY-DIRECT CONTINUED BY MR. MOYER

1 labeled passenger's headliner, and we found ground
2 particles associated with gunshot residue.

3 In this specific case, they were round lead
4 particles. And those can come from a variety of different
5 environmental, occupational and recreational sources. No
6 information can be given as to when they were deposited
7 there. They were just found. One particle lift labeled
8 driver's headliner, item seven, and no gunshot residue was
9 found.

10 Q So, let me make sure I understand, the only area
11 where any of these particular elements was found was the
12 area on the inside of the Camero above the passenger side?

13 A It just said passenger's headliner.

14 Q Okay.

15 A I just have what was written to go off of, so I
16 don't know where specifically it was sampled.

17 Q Okay. And only one of the elements was found;
18 is that correct?

19 A It was just round lead particles, yes.

20 Q And that's what you said was the most common of
21 those three elements?

22 A Yes, sir.

23 Q Can you give us any idea about how much lead was
24 there or how little?

25 A We found two round lead particles.

WHITNEY BERRY-CROSS BY MR. EPPES

1 Q So, it's possible that could have come from
2 either gunshot residue or from other environmental
3 sources; is that right?

4 A Yes, sir.

5 MR. MOYER: Okay. Please answer any questions
6 the Defense has.

7 THE COURT: Cross-examination.

8 MR. EPPES: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. EPPES:

11 Q If I fired a gun, I'd have gunshot residue on my
12 hand, correct?

13 A It's possible. I can't say for certain you
14 would or you wouldn't.

15 Q But it's possible?

16 A It's possible.

17 Q And you talked about transfer. If I touched the
18 roof of a car after I fired a gun and got gunshot residue
19 on my hand, could I transfer it up there?

20 A Yes, that is possible as well.

21 Q Like you said, you've got six hours, but once
22 it's up, if nothing is interacting with it, it might stay
23 a good while?

24 A Yes, sir.

25 Q Okay. Now, if I was firing a gun outside of a

WHITNEY BERRY-CROSS BY MR. EPPES

1 moving car from the passenger seat and I fired it because
2 the car was moving, would that effect it? Would I still
3 have the potential of getting gunshot residue on my hands?

4 A The potential would still be there, but I'm not
5 really certain if it would or wouldn't be there.

6 Q There's no studies on that?

7 A No.

8 Q Okay. So, you really don't know one way or the
9 other?

10 A No.

11 Q That doesn't come up a lot as a primary gunshot
12 residue person at SLED? Has that come up with you before,
13 let me ask it that way?

14 A I have had, at least, one other case where there
15 was a gun that was discharged out of the window of a car
16 while it was moving.

17 Q Do you know if the person that discharged it had
18 gunshot residue on their hand?

19 A I can't recall off the top of my head whether
20 they did or not.

21 Q Okay. Talking about the discharge from a barrel
22 of a gun, a .22, you said went two feet, a .45 would go
23 about six feet?

24 A Yeah, those are just estimates.

25 Q How about a .38 or a .380 or 40-caliber? And

WHITNEY BERRY-CROSS BY MR. EPPES

1 I'm treating those like they're the same, if they're not,
2 please correct me.

3 A Those would probably be in about the four and a
4 half to five foot range, give or take. I mean, again, it
5 depends on not just the gun, but also, you know, the
6 weather could play a factor in it, too. If the wind is
7 blowing one way versus the other way, that could
8 determine -- or change the distance of how far it would
9 go.

10 Q Four and a half to five feet?

11 A Yeah.

12 Q Okay. And the only thing you found on all these
13 tests were two round lead particles from the top of the
14 passenger side -- well, that's what it said, passenger
15 roof?

16 A Passenger headliner, yes, sir.

17 Q The headliner is inside the car, correct?

18 A That is what I know as the headliner, but,
19 again, I can't testify to what was actually sampled. I
20 can only testify to what it was labeled as.

21 MR. EPPES: Thank you, very much.

22 THE COURT: Okay. Any redirect, sir?

23 MR. MOYER: No, sir.

24 THE COURT: All right. Let's take just a very
25 brief break, ladies and gentlemen, just a very brief

WHITNEY BERRY-CROSS BY MR. EPPES

1 break.

2 Just for your information, I don't intend to go
3 beyond 5:30 today. I haven't told the jury to
4 anticipate to go beyond that. So, if you finish up
5 5:15ish, that would probably be nice.

6 So let's take a brief break, then we'll come
7 back in and finish up the home stretch. Please don't
8 discuss the case.

9 (WHEREUPON, the jury left open court at
10 approximately 4:26 p.m.)

11 THE COURT: All right. We'll be in recess.

12 (WHEREUPON, a short break was taken.)

13 THE COURT: All right. Bring the jury in,
14 please.

15 (WHEREUPON, the jury came into open court at
16 approximately 4:40 p.m.)

17 THE COURT: All right. Mr. Moyer, your case,
18 sir.

19 MR. MOYER: The State calls Dr. Bradley Snow.

20 THE CLERK: Dr. Snow, pause at the end the
21 bench. Place your left hand on the Bible and raise
22 your right hand.

23 BRADLEY SNOW, after being duly sworn,
24 testified as follows:

25 THE CLERK: Thank you. Please be seated. Would

BRADLEY SNOW-DIRECT BY MR. MOYER

1 you please state your name for the record?

2 THE WITNESS: Sure. I'm Bradley Michael Snow.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. MOYER:

6 Q Where are you employed, Dr. Snow?

7 A At Greenville Health Systems.

8 Q And would you tell the jury what kind of medical
9 doctor that you are?

10 A Sure. I do trauma and critical care as well as
11 general surgery.

12 Q Starting with college, would you tell the jury
13 about your educational background?

14 A I went to college in Birmingham, Alabama at
15 Birmingham Southern. I stayed there and did medical
16 school at the University of Alabama in Birmingham. I did
17 my general surgery training here at Greenville from 2000
18 to 2005. And then I was an attending here and did a
19 fellowship in critical care and trauma at MUSC in
20 Charleston from 2012 to 2013.

21 Q Are you certified by any Boards?

22 A I am. I'm certified by the America Board of
23 Surgery in general surgery and critical care.

24 Q Okay. Would you tell the jury what a doctor
25 who's certified in this area does, what you do?

BRADLEY SNOW-DIRECT BY MR. MOYER

1 A As far as we are involved doing general surgery,
2 both elective and emergent as well as doing care trauma
3 patients and patients after their admission into critical
4 care.

5 Q Now, were you involved -- well, let me ask you
6 this. How long have you been with Greenville Memorial
7 Hospital?

8 A I, also, did my residency there, so since 2000.

9 Q Okay. Let me ask if you would move that
10 microphone over just a little bit. Okay. Since when now?

11 A 2000 was when I started my residency there.
12 Besides doing my year off for fellowship, I've been there
13 since.

14 Q Now, were you involved in the medical treatment
15 of Ashley Hiott?

16 A I was. I was the trauma attending that evening.

17 Q What does that mean to be an attending
18 physician?

19 A So, I'm responsible for overseeing her care when
20 she's in the trauma bay.

21 Q She was admitted around what date and time?

22 A It was the around 4:00 in the morning.

23 Q And you were her -- you became her attending
24 physician pretty much right away?

25 A Yes, sir.

BRADLEY SNOW-DIRECT BY MR. MOYER

1 Q What level of patient was she categorized as?

2 A We have two levels of trauma alerts, either one
3 or two. There's some criteria that we use for designation
4 of one and two and she was a level one.

5 Q Is that -- what does that mean to be a level one
6 patient?

7 A So, some of it's designed as far as mechanism as
8 to why the patient is coming in or patient's stability.
9 But it's our involvement of how quickly an attending is
10 supposed to be at a trauma.

11 Q So, how quickly do you have to see a level one
12 patient like Ashley Hiott?

13 A You have to be there within 15 minutes.

14 Q So, you were attending to Ashley within 15
15 minutes of her arrival at the hospital?

16 A Yes, sir.

17 Q Where did you first see her?

18 A I saw her in the trauma bay.

19 Q What signs of trauma did you observe?

20 A She had a wound in her right temple region.

21 Q Can you describe the wound?

22 A She had some skin breakdown in the right temple
23 region as well as some eye swelling.

24 Q Now, did you have a CT scan ordered?

25 A We did. We had one of the head, face and neck.

BRADLEY SNOW-DIRECT BY MR. MOYER

1 Q Is that three different CT scans?

2 A Correct.

3 Q What was the reason for the CT scans?

4 A So, as far as the things we had to make sure of
5 is she only had one wound, and to see if it's
6 intracranial, which means it's inside of the skull itself,
7 whether it's extracranial. And then see -- you can,
8 typically, see a trajectory of what -- as far as what's
9 broken and also the path of the bullet, what soft tissues
10 it goes through.

11 Q So, what did the CT scans reveal about the
12 extent of injury and trauma to Ashley?

13 A So, she had a wound that went through the right
14 lateral aspect of the orbit, which is the orbital base of
15 the wall the eyeball sits in that holds the lobe itself as
16 well as a nerve that goes back from the eyeball as well as
17 the muscles that help move the eye. And she had some
18 displacement of both her optic nerves as well as having
19 some hemorrhage and some distortion of the muscles in her
20 eye.

21 Q Okay. Did it end there with the right eye?

22 A No, it involved both orbits, right and left, and
23 the bullet was lodged in left.

24 Q Can you tell us where it was lodged in the left?

25 A It's behind her left eyeball.

BRADLEY SNOW-DIRECT BY MR. MOYER

1 Q Did it cause any damage to that area?

2 A There was some hemorrhage and there was, also,
3 some displacement of her optic nerve, which allows us to
4 see.

5 Q What do you mean by displacement?

6 A It means it moved it.

7 Q What affect would that have on a person?

8 A So, when you have that, as far as clinically,
9 someone can be awake and can see, but they can also have
10 visual changes where they have blindness or not be able to
11 see.

12 Q Okay. So, you were able to see a foreign body
13 then from the CT scan?

14 A Yes, sir.

15 Q Was it consistent with a projectile?

16 A It was consistent with a metal object behind the
17 left eye.

18 Q So, were you her attending physician for her
19 entire stay during the hospital?

20 A I was.

21 Q How long was she in the hospital?

22 A For two days.

23 Q Is there -- was any surgery needed or any other
24 treatment?

25 A No, sir. As far as -- we normally do some neck

BRADLEY SNOW-DIRECT BY MR. MOYER

1 surgery, some chest surgery and some abdominal surgery.
2 So, if people have injuries that are outside our scope of
3 practice, we normally get consultants to be involved as
4 far as making opinions. So, she had facial fractures of
5 the orbit itself. It did not involve the bones below her
6 eyes, but did involve the orbits themselves. Also, we had
7 an ophthalmologist as well as we have someone who takes
8 facial trauma call for broken bones to the face, and that
9 person was consulted as well.

10 Q Based on the consultation with these other
11 doctors, was any surgery needed at that particular time?

12 A No, sir. They -- their opinion was because of
13 the location, that it was needed to be left in place.

14 Q Okay. When you say it needed to be left in
15 place, what are we talking about?

16 A The projectile that was seen on the CT scan.

17 Q So, the projectile was actually just left in her
18 body?

19 A Yes, sir.

20 Q Is that common?

21 A It's not uncommon at all to leave bullets inside
22 the tissue, whether it's torso, trunk, chest.

23 Q What is the reason for not wanting to remove
24 this projectile from her left eye?

25 A Where this is located is behind the eyeball

BRADLEY SNOW-DIRECT BY MR. MOYER

1 itself. The concerns were that you would cause more
2 trauma to the tissues itself than it would be to leave it
3 intact.

4 Q So, the least dangerous course of action was to
5 just leave it in place?

6 A Yes, sir.

7 Q Now, I think that's all I have for you. Oh, did
8 she -- did a toxicology reveal any alcohol in her system?

9 A No, sir.

10 Q So, she had no alcohol in her system?

11 A No, sir.

12 MR. MOYER: Okay. I have no further questions
13 for Dr. Snow. Thank you.

14 MR. EPPES: Nothing from the Defense, Your
15 Honor.

16 THE COURT: All right. Thank you. I appreciate
17 you being here. Thank you for your time.

18 You may call your next witness, sir.

19 MR. MOYER: The State calls Chris Gary.

20 THE CLERK: Mr. Gary, please come forward.

21 Please place your left hand on the Bible and raise
22 your right hand.

23 CHRIS GARY, after being duly sworn,
24 testified as follows:

25 THE CLERK: Thank you. Please be seated. Would

CHRIS GARY-DIRECT BY MR. MOYER

1 you please state your name for the record.

2 THE WITNESS: Christopher Adam Gary.

3 THE CLERK: Thank you.

4 DIRECT EXAMINATION

5 BY MR. MOYER:

6 Q Where do you work?

7 A I work for the Greenville County Department of
8 Public Safety in the forensic division.

9 Q What is your position there?

10 A I'm a latent fingerprint examiner.

11 Q How long have you been doing fingerprint
12 examinations?

13 A This July will mark the seventh year of full
14 time work, but prior to that, I had the opportunity to be
15 an intern with Greenville County in an apprentice-style
16 training program for approximately three years while I was
17 in college. I was able to learn the basics of fingerprint
18 examinations, learn the skill and then that way, whenever
19 I graduated college, I was able to start full time work
20 immediately.

21 Q Would you tell the jury about your education,
22 starting with college, and then what training you have had
23 for your position?

24 A Yes. First off, I have a Bachelor's Degree in
25 biology from the College of Charleston. I finished that

CHRIS GARY-DIRECT BY MR. MOYER

1 in 2009. It was May. Shortly thereafter, I was employed
2 in July with Greenville County full time. And during the
3 fall of 2009, I was selected among 14 other examiners by
4 the National Institute of Justice. Their idea was to take
5 novice examiners to Florida for 10 weeks of training. And
6 in that 10 weeks, it was 400 hours of classroom training
7 as well as multiple hours of outside classroom that we had
8 to do practicals, read article and study for tests and
9 things that we were doing in the classroom.

10 After I graduated that program in 2010, I had
11 several other training opportunities. At West Virginia at
12 Marshall University, I took part in a footwear class that
13 was held by Marshall University by the FBI. I have also
14 taken a few other courses, fingerprint courses that were
15 sponsored by Ron Smith & Associates, which is a well
16 renowned fingerprint expert in the field, along with other
17 classes that were sponsored and held at SLED in Columbia,
18 South Carolina.

19 Q Are you a member of any professional
20 organizations?

21 A Yes, I'm a member of the International
22 Association for Identification as well as the North
23 Carolina Division of IAI, which is the International
24 Association for Identification.

25 Q All right. And are you able to give us a number

CHRIS GARY-DIRECT BY MR. MOYER

1 as to how many fingerprints you've examined over your
2 career?

3 A I've examined tens of thousands of fingerprints.

4 Q Have you testified in court?

5 A Yes, I have testified in state and federal court
6 a total of 15 times.

7 Q Have you been qualified as an expert in
8 fingerprint identification?

9 A Yes, in all 15 times I was qualified as an
10 expert.

11 MR. MOYER: Your Honor, I move to have Chris
12 Gary qualified as an expert in fingerprint
13 identification.

14 MR. EPPES: Without objection, Your Honor.

15 THE COURT: All right. Without objection, so
16 qualified.

17 BY MR. MOYER:

18 Q Would you tell the jury what we mean by a known
19 print and a latent print, what the differences are?

20 A Yes. We'll start with a latent print. And the
21 word latent, to start off, is -- it means hidden in Latin.
22 If you'll look at the surface of your hands, you have
23 raised ridges. And these raised ridges act as stamps like
24 a rubber stamp you may have had as a child. And the oil
25 and sweat of daily life acts as the ink for that stamp.

CHRIS GARY-DIRECT BY MR. MOYER

1 So, when you come in contact with another object, you have
2 a chance to leave behind a replication of that raised skin
3 that's on your hand. That latent fingerprint that is now
4 left normally at a crime scene in my profession, it has to
5 be found. So, a technician will come along with either a
6 fine powder or a brush like you may have seen on
7 television, or a chemical, in order to make that latent
8 hidden print visible so that we can collect it and
9 preserve it and use it examinations in our office.

10 Q Okay. And what is a known print?

11 A A known print is when we know the individual
12 that we're taking their fingerprints. We're recording
13 this entire friction ridge skin, which is those raised
14 ridges, that's the technical term for it. We can record
15 it either with a thin layer of black printer's ink and
16 then put it on a piece of paper, or we can do it
17 digitally, which is mostly the case now. A camera will
18 record those friction ridge skin, that raised skin. And
19 we put their name, their birth date, their social security
20 numbers, their height, weight, gender, race, everything so
21 we know who the individual is and their associated with
22 those fingerprints.

23 Q Now, are fingerprints always left behind when a
24 person touches a surface?

25 A They are not.

CHRIS GARY-DIRECT BY MR. MOYER

1 Q Okay. Would you explain that?

2 A Like I was saying, going back to the stamp
3 reference I made earlier, if you were to use a rubber
4 stamp and you were to come in contact with an object, you
5 wouldn't leave a replication of that stamp unless you put
6 ink on it. Fingerprints are very much the same way. In
7 order to touch an object and leave a latent fingerprint
8 behind, you must have sweat or oil or blood or another --
9 any other liquid object to leave behind so that you can
10 leave behind the replication of your skin. And then the
11 dust from our brushes or the chemical adheres to those,
12 that sweat, that moisture and that way, we can make it
13 visible.

14 There are other situations when a latent print
15 may not be left behind. People's professions, such as a
16 brick mason that would handle bricks all day and tear
17 their fingers up when they're constantly tearing their
18 hands and they have very dry hands, they would, typically,
19 not generally leave very good fingerprints behind because
20 their fingerprints are so worn down. Same with the
21 elderly, people who have washed dishes all of their lives
22 and they're constantly rubbing off their hands and they
23 constantly sloughing off that skin, they wouldn't leave
24 behind very good fingerprints.

25 Q Okay. How long will a fingerprint remain on a

CHRIS GARY-DIRECT BY MR. MOYER

1 surface?

2 A There is no time table that a fingerprint can
3 remain on a surface. However, fingerprints are fragile in
4 nature because they are made up of moisture, like I was
5 saying. So, if someone were to wipe a fingerprint off of
6 a surface or if someone were to touch where a fingerprint
7 was already placed and then wipe it with their hands, they
8 could completely obliterate that fingerprint or they could
9 leave behind new fingerprints. So, there's no time table
10 for how long a participates can remain on a surface.

11 Q So, fingerprints can be removed or obliterated
12 or taken off of a surface by environmental factors?

13 A Yes, that is true. Like if you were to have a
14 rain storm or any other kind of weather, if you were to
15 have heat to, essentially, bake off that fingerprint to
16 dry the moisture that's left, that could also be another
17 factor for why you wouldn't find fingerprints that were or
18 were not left behind at a crime scene.

19 Q Okay. Did you have occasion to examine any
20 fingerprint that was -- latent fingerprint that was taken
21 in this case?

22 A Yes, I did.

23 Q I'm going to hand you what's already been
24 entered into evidence as State's Exhibit No. 38. I ask
25 you to just take a look at that and see if you can

CHRIS GARY-DIRECT BY MR. MOYER

1 identify what that is?

2 A Yes, I can.

3 Q What is that?

4 A This is a latent fingerprint envelope. This is
5 what -- our forensic evidence technicians, when they go
6 out to crime scenes and they process for fingerprints,
7 this is what they will, ultimately, put their evidence in.
8 It is an envelope that has all the case information, such
9 as the victim's name, the victim's address, the case
10 number, the date that they were collected and all of that
11 information to identify the latents that were recovered
12 from a crime scene with the latents that I have here
13 today.

14 On the inside of that envelope is a latent
15 fingerprint card, which is actually where that we dusted
16 with a fingerprint powdered brush and it adhered to the
17 moisture that was left behind on a surface. And it was
18 lifted using something similar to scotch tape and placed
19 onto a latent fingerprint card. And that is what we have
20 here today.

21 Q Did you compare that against a known fingerprint
22 of any particular individual?

23 A Yes, I did.

24 Q Who was that person?

25 A I compared this print, which is from the trunk

CHRIS GARY-CROSS BY MR. EPPES

1 lid of a 2011 Chevrolet Camero, to -- and it was
2 identified as being made by the right palm, which is this
3 hand, of Billy Lemurces Taylor.

4 Q Okay.

5 MR. MOYER: No further questions.

6 THE COURT: Cross?

7 BY MR. MOYER:

8 Q Just to make sure we're clear on this, what were
9 the results of your examination?

10 A I identified Billy Lemurces Taylor as producing
11 the latent print that was on the trunk lid of the 2011
12 Chevy Camero.

13 Q I thought that I made that clear, but maybe not.
14 So, it was a positive match to Billy Taylor; is that
15 correct?

16 A Yes, it was.

17 MR. MOYER: Thank you.

18 THE COURT: Cross, sir?

19 CROSS-EXAMINATION

20 BY MR. EPPES:

21 Q You have Billy's fingerprints there; don't you?

22 A Yes, sir, I do.

23 Q And so, did they tell you to compare that print
24 as one of the possible ones to compare or did they just
25 tell you go find out who this print belongs to?

CHRIS GARY-REDIRECT BY MR. MOYER

1 A This print was actually identified as a result
2 of a search through a database that is maintained with
3 SLED. And that is how this individual's name was provided
4 to me.

5 Q But they told you to compare that with his
6 prints?

7 A No, sir, they did not.

8 Q They did not?

9 A No.

10 Q You just found it?

11 A Yes.

12 MR. EPPES: Okay. Thank you.

13 THE COURT: Redirect, sir?

14 MR. MOYER: Yes, sir, just briefly.

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. MOYER:

18 Q So, you were not given his name going into it?

19 A That is correct.

20 Q It popped up when you ran it through that
21 database; is that correct?

22 A That is correct.

23 Q All right. Then when that happened, do you then
24 take his known print and match it against that latent
25 print?

CHRIS GARY-REDIRECT BY MR. MOYER

1 A So, just to be clear, what happens is when I
2 have a latent that is unknown and I'm not provided anyone
3 to compare it to, we have a system that we can enter a
4 image or this latent print that I have before us and we
5 can search a known database that's compiled of fingerprint
6 cards. Once the system says that this is closest to what
7 you're looking for, I then do a manual comparison. And I
8 compared the prints of Billy Taylor to the print that was
9 found on the 2011 Chevrolet Camero and I identified it as
10 being made by his right palm.

11 MR. MOYER: Okay. All right. No further
12 questions.

13 THE COURT: Recross?

14 MR. EPPES: Nothing further.

15 THE COURT: Thank you, sir. I appreciate you
16 being here. Thank for your time.

17 MR. MOYER: Want me to call another witness,
18 Your Honor?

19 THE COURT: You think you can get one in before
20 5:15?

21 MR. EPPES: It would be really close, Judge. It
22 would probably be a little longer than that.

23 THE COURT: I just don't want to go beyond 5:30.
24 If you can get them in that space of time, let's go
25 ahead and do it.

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 MR. MOYER: The State would call Donterio
2 Harris.

3 THE CLERK: Please place your left hand on the
4 Bible and raise your right.

5 DONTERIO HARRIS, after being duly
6 sworn, testified as follows:

7 THE CLERK: Thank you. Please be seated. Sir,
8 please state your name for the record.

9 THE WITNESS: Donterio Harris.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MR. MOYER:

13 Q Mr. Harris, make sure you speak into that
14 microphone, maybe pull it down just a little bit so it's
15 about level with your mouth. Okay. How old are you?

16 A I'm 25.

17 Q You're from Greenville?

18 A Yes, sir.

19 Q You've lived in the upstate all your life?

20 A Yes, sir.

21 Q You're single?

22 A Yes, sir.

23 Q Any children?

24 A No.

25 Q Where do you work?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A At the Blue Beacon in Duncan.

2 Q Let me ask you, do you know the Defendant in
3 this case, Billy Taylor?

4 A Yes.

5 Q How long have you known him?

6 A Practically, my whole life.

7 Q And what about Anthony Henderson?

8 A Yes.

9 Q How long have you known him?

10 A Off and on, you know, childhood.

11 Q So, you've known him since you were young?

12 A Yes.

13 Q All right. Do you know a guy by the name of
14 Deunte Jones?

15 A No.

16 Q As far as you know, have you ever met him?

17 A No.

18 Q All right. Let me take you back to
19 February 21st of 2014. Do you remember what kind of car
20 Billy had at the time?

21 A Yes.

22 Q What kind of car did he have?

23 A It was a red Camero.

24 Q Okay. Let me show you a couple of photographs.

25 First off, State's Exhibit No. 23, is that the car he

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 owned?

2 A Yes.

3 Q State's Exhibit 22, is that his car?

4 A Yes.

5 Q Okay. All right. Do you know how long he had
6 had the car at that time?

7 A No, sir.

8 Q Was it pretty new?

9 A Yes.

10 Q Do you remember him talking about getting rims
11 for the car?

12 A Yes.

13 Q Do you remember when he was talking about
14 getting rims?

15 A No, sir.

16 Q Let me ask you about that night, February the
17 21st of 2014. Was there some discussion amongst you and
18 your friends about going out that night?

19 A Yes.

20 Q Do you remember who all you were talking about
21 going out with?

22 A Just me and Cory really. You know, they wanted
23 to know if we wanted to go to Croc's. I was kind of like
24 no, because my old lady's momma just passed away, so.

25 Q Do you remember talking to Billy Taylor about

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 going to Croc's?

2 A Yes, earlier.

3 Q Earlier in the day. So, did he ask you to go
4 out to Croc's, too?

5 A He asked if I was going to go out there.

6 Q Did you want to go out?

7 A Yes.

8 Q But you ended up not going?

9 A Yes.

10 Q Why was that?

11 A Because my old lady's lady momma had passed away
12 and we was going to have a little get-together, you know,
13 to cheer her up.

14 Q Okay. That was your girlfriend at the time?

15 A Yes.

16 Q Okay. All right. So, you stayed home with her
17 that night; is that correct?

18 A Yes, sir.

19 Q Did you hear from Billy Taylor that night?

20 A No.

21 Q Did you get any phone calls in the middle night?

22 A Yes.

23 Q Around what time was it you got a phone call?

24 A I guess around 4:00, 4:30.

25 Q In the morning?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A Yes.

2 Q Did you look at your phone when the phone call
3 came in?

4 A No.

5 Q So, you didn't answer it?

6 A No.

7 Q Did you try to call it back?

8 A Yes, when I woke up that morning.

9 Q Okay. And who did you speak to when you called
10 back?

11 A I didn't speak to nobody at the time -- when I
12 first called, I didn't speak to nobody.

13 Q Did you end up talking to somebody?

14 A Yes, later on.

15 Q That was Billy?

16 A Yes.

17 Q What did you talk about at that time?

18 A I just asked him when he called, did he need
19 anything.

20 And he said, No, he just calling to check up on
21 me and that was it.

22 Q Did he talk anything about what had happened to
23 him that night?

24 A No.

25 Q Did he say anything about any altercations he

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 got into anywhere?

2 A No, he just said the whole club got maced.

3 Q He said the club got maced?

4 A Uh-huh.

5 Q Is that all? Was there anything else? Did he
6 talk about anything else happening?

7 A No, that was it.

8 Q Did you speak to him -- so this would have been
9 on Saturday, the ?

10 A Yes.

11 Q Did you speak to him later that day?

12 A Yes.

13 Q What was that about?

14 A He called and asked for a jack, if I had a jack.
15 I told him yeah, I had a jack.

16 Q Like a jack that you --

17 A Yes.

18 Q So, did you actually have one at that time?

19 A Not at the time.

20 Q So, you had to go get one?

21 A Yes.

22 Q And you did that? Did you go get the jack?

23 A Yes.

24 Q Okay. And after you got that jack, where did
25 you go?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A I went to his house.

2 Q Was he there when you got there?

3 A No.

4 Q Did you call him?

5 A Yes.

6 Q And what did he say?

7 A He said he will be there in five or 10 minutes,
8 he around the corner.

9 Q Did he mention anything about the vehicle at
10 that time?

11 A No.

12 Q What did he call the Camero? Did he have like a
13 short name for it?

14 A Marrow.

15 Q Marrow? Do you remember him saying anything
16 that had taken place with the Marrow?

17 A He said he might have messed it up.

18 Q Might have messed it up. Did you ask him any
19 specifics about what?

20 A No.

21 Q So, he didn't tell you anything at that time?

22 A No.

23 Q Did he show up there at his house?

24 A Yes.

25 Q Was he driving?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A Yes.

2 Q Was he driving in his Camero?

3 A No.

4 Q What was he driving?

5 A He was driving a Honda.

6 Q Okay. And was he by himself or was anyone with
7 him?

8 A He was by himself.

9 Q Did you -- what did y'all talk about right then?

10 A Nothing really. He just ask if I had the jack
11 and I told him yes. If I can bring it around and drop it
12 off around back for him.

13 Q Do you remember having a conversation where he
14 said something -- made any reference to anything going
15 wrong?

16 A Oh, yes, he was like he might have did
17 something. I thought -- I figured he got into with his
18 baby's momma or something like that. He kind of laughed
19 about it, so that's what I figured it was and left it
20 alone.

21 Q Did you ask him was that it?

22 A No, I didn't ask him.

23 Q Did he go into any specifics? Did he tell you
24 what it was that he quote, unquote messed up?

25 A No.

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 Q He just said he messed up?

2 A Yes.

3 Q So, you had the jack with you at that time. Did
4 you get it out of your car?

5 A I pulled the car around back and took it out of
6 the trunk. It's a three-ton jack, so it wasn't heavy, so
7 I just, you know, threw it out the trunk of the car and
8 put it down by the gate.

9 Q Okay. Was the Camero there?

10 A Yes, sir.

11 Q Did you take a close look at it?

12 A No.

13 Q So, you just left the jack and did you leave at
14 that time?

15 A Yes.

16 Q Did he say anything about what he was going to
17 do with the Camero?

18 A Yeah, he wanted to put a black rally stripe on
19 it.

20 Q Now, did he say anything about what he had done
21 with the car at that point? Did it look clean or did he
22 say anything about it being clean?

23 A Yes, it looked clean to me.

24 Q Did he say anything about it being cleaned at
25 that time?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A No.

2 Q Not at that time. Okay. So, let me take you
3 then to the following -- so that was Saturday. Let me
4 take you to Monday. Did you have a conversation with him
5 on that Monday about the Camero?

6 A Yes.

7 Q What was the conversation about on that date?

8 A He said he was going to get it painted or get a
9 rally stripe put on there, but he wanted to move it, you
10 know, get it out the middle of the road.

11 I told him, Okay.

12 Q So, what did he want to do with the car?

13 A Just bring it over for a little bit while he, I
14 guess, run his errands.

15 Q Where did you live at that time?

16 A At

17 Q Okay. Okay. What did you say when he asked you
18 taking the car over to your place?

19 A I told him, That's fine. You know, I got to go
20 to work in a couple of minutes. If you come through, just
21 know it's out the way because, you know, her family is
22 coming over for the funeral so we needed more room.

23 Q So, did he show up with the Camero?

24 A Yeah.

25 Q Was he by himself?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A Yes.

2 Q Where did he leave the Camero?

3 A He left it in the backyard.

4 Q Behind your house?

5 A Yes.

6 Q And did you -- how did he leave your house?

7 A He rode with me back to his house.

8 Q So, you took him to his house?

9 A Yes.

10 Q Then where did you go from there?

11 A I went to my grandmother's house.

12 Q Were there rims on the Camero at that time?

13 A No.

14 Q Did he do anything with the Camero while it was
15 there at your house?

16 A He just washed it.

17 Q Did he tell you why he had to wash it?

18 A To rewash, I guess.

19 Q What do you mean by rewash?

20 A He had washed it the first time and said he
21 wanted to rewash it to get all the soap off of it because
22 he didn't rinse it off too good.

23 I told him, Okay, that's fine.

24 Q So, he said he had already washed it?

25 A Uh-huh.

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 Q Did he tell you what he had washed it with?

2 A He said he had washed it with household
3 detergents and stuff.

4 Q Did he say anything about bleach?

5 A Yes.

6 Q He said bleach?

7 A Yeah, household, you know, stuff to put in the
8 bucket, you know. Guess he didn't have no cleaning
9 supplies.

10 Q Did you have cleaning supplies at your place?

11 A Yes, it was outside on the side of the porch.

12 Q Did you help him wash it?

13 A No.

14 Q Where did you go when he washed it?

15 A I walked back in the house and finished packing
16 up for work, like my lunch bag and stuff.

17 Q So, you let him use your bucket?

18 A Yes.

19 Q Did you have soap?

20 A Yes.

21 Q Did you have a hose back there?

22 A Yes.

23 Q Then you took him to his house?

24 A To his house.

25 Q Then you went on to work?

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 A To my grandmother's house.

2 Q Okay. Did you hear about him getting arrested
3 after that?

4 A No. I didn't hear it until a couple days later.

5 Q Until a couple days later?

6 A Uh-huh.

7 Q Did he say anything when he was going to come
8 get the car?

9 A He said he would probably leave it there for a
10 couple hours and then he would be right back to get it.

11 I told him, That's fine.

12 Q Did he ever come back and get it?

13 A No.

14 Q Did he leave the keys there?

15 A No.

16 Q So, you weren't able to move it if you wanted
17 to?

18 A Yeah, couldn't move it.

19 Q Okay. Then the -- you know, the police then
20 ended up showing up at your house for the car?

21 A Yes.

22 Q Were you there when they showed up?

23 A No, I was at work.

24 Q How did you find out about it?

25 A My girlfriend called me.

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 Q And when you got the call, did you go over
2 there?

3 A Yeah, I went on over there.

4 Q Okay. Just going to show you a couple of
5 pictures. Let me ask you just to back up a little bit so
6 you don't get blinded. We're going to show some pictures
7 behind you. So, what again was the address where you
8 lived?

9 A

10 Q What city is that or town is that?

11 A Greenville.

12 Q Is that in Greenville? Is that -- are you
13 familiar with the Piedmont area?

14 A Yes.

15 Q Is it in that area of Greenville?

16 A Yes.

17 Q Where did Billy live at that time?

18 A At his grandmother's house in Greenville on
19 Washington Street -- or I forgot what it is.

20 Q How long does it take to drive from his place to
21 your place?

22 A Probably about 20 minutes, maybe 10.

23 Q Ten, 20 minutes?

24 A Uh-huh.

25 Q Let me show you State's Exhibit 21. Is that

DONTERIO HARRIS-DIRECT BY MR. MOYER

1 where you were living?

2 A Yes.

3 Q You can see that okay where you're seated?

4 A Yes.

5 Q Are any of those vehicles yours?

6 A Yes, the Monte Carlo, the truck.

7 Q This one here?

8 A Yes.

9 Q That truck is yours, too?

10 A Yes.

11 Q All right. Here's State's Exhibit No. 12. Do

12 you recognize that?

13 A Yes.

14 Q What is that?

15 A The red Camero.

16 Q Okay. Is that where it was left behind at your
17 house?

18 A Yes.

19 Q State's Exhibit No. 4. Is that the Camero?

20 A Yes.

21 Q Where he left it at your house?

22 A Yes.

23 Q Had you ever seen the rims after he put the rims
24 on the car?

25 A I seen it when he went by.

DONTERIO HARRIS-CROSS BY MR. EPPES

1 Q You saw him driving by with them on?

2 A Uh-huh.

3 Q Did they look sort of like this? This is
4 State's Exhibit No. 13, is that what they looked like?

5 A Yes.

6 Q One moment.

7 MR. MOYER: Okay. Please answer any questions
8 the Defense has.

9 THE COURT: Cross-examination, Mr. Eppes?

10 CROSS-EXAMINATION

11 BY MR. EPPES:

12 Q You call Anthony Henderson Little Ant, right?

13 A Right.

14 Q And you know that Little Ant's cousin threatened
15 to and did beat on a girl name Briana King?

16 MR. MOYER: Your Honor, I object, relevancy and
17 hearsay.

18 THE COURT: What's the relevance?

19 MR. EPPES: Your Honor, this entire case is an
20 investigation about who the shooter was. The
21 investigation has focused on my client as the
22 shooter. And this is part of the investigation that
23 I will link up that shows that this witness was --
24 that law enforcement talked to this witness about
25 Little Ant being the shooter.

DONTERIO HARRIS-CROSS BY MR. EPPES

1 THE COURT: Okay. I'm going -- because it's
2 cross-examination, I'm going to grant you some
3 latitude.

4 You're welcome to reposit your objection to
5 relevance.

6 I'm going to take you at your word that it's
7 relevant. I don't necessarily see it right now, but
8 if you can wrap it up, I'll give you some latitude in
9 that regard.

10 MR. EPPES: Thank you, Judge.

11 BY MR. EPPES:

12 Q You ever see a video of Briana King in a fight?

13 A Yes.

14 Q And that was an altercation with Little Ant's
15 cousin, correct?

16 A I don't know if it was his cousin or not. I
17 didn't know she got into a fight until she showed me on
18 her phone.

19 Q And do you remember Little Ant instructed her
20 not to -- to delete those Instagram post, correct?

21 A Correct.

22 Q And is it fair to say that that fight concerned
23 the thought that Briana was, quote, snitching on Little
24 Ant?

25 A Yes.

DONTERIO HARRIS-CROSS BY MR. EPPES

1 Q And you were interviewed on video by the
2 Greenville County Sheriff's Office, Anthony Bailey and
3 others, right?

4 A Yes.

5 Q And at that time, one of those officers told you
6 that you knew that Little Ant was the shooter, correct?

7 A Yes, he asked me that.

8 Q And you told them you didn't know anything about
9 that?

10 A Yes.

11 MR. EPPES: Okay. Thank you.

12 MR. MOYER: Nothing further.

13 THE COURT: All right. Thank you for being
14 here. I appreciate it. You can step down.

15 All right. Ladies and gentlemen of the jury,
16 we're going to go ahead and break for the evening.
17 I'll ask you to be back tomorrow morning at 9:30. If
18 my count is right, we've heard 12 witnesses today,
19 which means we'll have approximately seven State
20 witnesses tomorrow.

21 Is that about right, Mr. Moyer?

22 And either the two or three Defense witnesses
23 tomorrow. So again, my hope is that we can finish up
24 the introduction of evidence tomorrow and then argue
25 and charge on Thursday. It looks right now like

1 we're in pretty good shape to do that, okay.

2 So, y'all be back, please, a little bit before
3 9:30 so that we can start as promptly as possible.
4 Please don't discuss the case. I look forward to
5 seeing you tomorrow.

6 (WHEREUPON, the jury left open court at
7 approximately 5:18 p.m.)

8 THE COURT: All right. Anything further for
9 this afternoon?

10 MR. MOYER: No, Your Honor.

11 MR. EPPES: Nothing, Your Honor.

12 THE COURT: All right. Good enough. I'll see
13 y'all tomorrow morning.

14 MR. MOYER: 9:30, Your Honor?

15 THE COURT: Yeah, if y'all need me before then,
16 I'll be here at about 8:15. If you need me, just let
17 me know.

18 (WHEREUPON, the proceedings were concluded for
19 the day to be reconvened on March 2, 2016.)
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21
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23
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25

1 March 2, 2016

2 (WHEREUPON, State's Exhibit No. 39 was marked
3 for identification only.)

4 THE COURT: All right. Ready for the jury?

5 MR. MOYER: Yes, sir.

6 MR. EPPES: Yes, sir.

7 THE COURT: All right. You bring them in, sir.

8 (WHEREUPON, the jury came into open court at
9 approximately 9:36 a.m.)

10 THE COURT: All right. Good morning, ladies and
11 gentlemen, hope you had a good evening. Welcome
12 back. Okay. Let's get started.

13 Mr. Moyer, you may call your first witness, sir.

14 MR. MOYER: Thank you, Your Honor. The State
15 would call Marie Biggerstaff.

16 THE CLERK: Ma'am, please come forward. Please
17 pause at the end of the bench. Place your left hand
18 on the Bible and raise your right hand.

19 MARIE BIGGERSTAFF, after being duly
20 sworn, testified as follows:

21 THE CLERK: Thank you. Please be seated. Would
22 you please state your name for the record?

23 THE WITNESS: It's Marie Biggerstaff.

24 THE CLERK: Thank you.

25 DIRECT EXAMINATION

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 BY MR. MOYER:

2 Q Okay. Ms. Biggerstaff, where are you employed?

3 A I was previously employed with Rent-N-Roll.

4 Q So, that's where you worked back in February of
5 2014?

6 A Yes, sir.

7 Q How long had you worked there at that time?

8 A Eleven years.

9 Q What was your position there?

10 A The assistant manager.

11 Q What kind of business is Rent-N-Roll?

12 A We do -- they rent wheels and tires.

13 Q Okay. Any particular kind of wheels and tires
14 or just all kinds?

15 A Yeah, I mean anything aftermarket. Anything
16 from 16-inch all the way up to 26-inch.

17 Q Okay. And you say they -- so they -- do they
18 sell them, also, or just rent them?

19 A They also sell them.

20 Q Is most of the business through rentals?

21 A It is.

22 Q Are they weekly or monthly rentals or how does
23 that work?

24 A It depends on your pay period. It's set up
25 weekly, bi-weekly.

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 Q Okay. I'm going to show you State's Exhibit No.
2 37, which is a set of tires and rims. Do they look like
3 the kind of rims and tires that y'all rent?

4 A Yes, sir.

5 Q Okay. So, do sometimes people -- do people rent
6 them for short periods of time or is it always over long
7 periods of time?

8 A It's a contract, so normally, it's usually over
9 a long period of time. If they don't pay for them,
10 normally, we either take them back or they give them back.

11 Q Where is the business located?

12 A It's at 3141 North Pleasantburg Drive,
13 Greenville, South Carolina 29609.

14 Q Okay. Now, are you here today under subpoena to
15 talk about some records from Rent-N-Roll?

16 A Yes, sir.

17 Q Let me take you back to February 25th, 2014. Do
18 you remember meeting with Investigator Hammett on that
19 date to go over -- look at those records?

20 A Yes, sir.

21 Q Where did he meet you?

22 A At Rent-N-Roll.

23 Q Did you know he was coming before he got there
24 or did he just show up?

25 A No, sir. He just showed up.

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 Q Okay. Do you remember him asking you if you had
2 put rims on a red Camero recently?

3 A Yes, sir.

4 Q Did that ring a bell?

5 A Yes, sir.

6 Q Okay. And did you remember how recently it was?

7 A No, because I wasn't there the day of the
8 install, I just remember seeing the application and the
9 fact that it was a previous customer.

10 Q Okay. In fact, someone had actually taken some
11 pictures of the vehicle that they were put on?

12 A Yes, sir.

13 Q Did you see those pictures?

14 A I'm sorry?

15 Q And you have seen the pictures?

16 A I have.

17 Q I want to show you a couple of exhibits.
18 State's Exhibits 24, 23 and 22. Can you just look through
19 those photographs?

20 A Okay.

21 Q Do they look at all like the red Camero that was
22 there that got the rims?

23 A I wasn't there the day of the install, but by
24 the pictures that the employee took because he was so
25 impressed with the way that it looked after the rims and

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 tires that he actually took pictures with his phone.

2 Q After the rims were on it?

3 A Uh-huh.

4 Q Okay. So, these pictures don't have the rims on
5 it?

6 A They do not.

7 Q Okay. Thank you.

8 A Uh-huh.

9 Q Now, when somebody rents rims and tires from
10 y'all, do you have a rental order form that is used?

11 A We do.

12 Q Okay. Did Investigator Hammett ask you whether
13 or not you had one for that particular transaction?

14 A Yes, sir.

15 Q All right. Did you require him to get a court
16 order?

17 A Yes, sir.

18 Q Did he go and do that?

19 A He did. He went and got a subpoena and brought
20 it back to me and I had to give him the records.

21 Q Okay. Let me show you State's Exhibit No. 39.

22 Can you take a look at that record?

23 A This is our general rental application. This is
24 what the customer comes in and fills out prior to getting
25 wheels and tires on their vehicle. This is actually the

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 quote sheet that the sales guy types up and shows to the
2 customer to let them know what their weekly, bi-weekly,
3 monthly payments are going to be, the total payments and
4 the name brand of the wheels and tires.

5 Q So, is that the rental order form that you
6 handed over to Investigator Hammett?

7 A It is.

8 Q Okay. All right.

9 MR. EPPES: Your Honor, could we just clarify, I
10 think the third page is not a rental order form --

11 THE WITNESS: It's not, it's actually a quote
12 sheet.

13 MR. EPPES: So, the first two pages are a rental
14 order form. I just wanted to clear that up for the
15 record, Your Honor.

16 THE COURT: Okay. Do you want to redact the
17 third page?

18 MR. EPPES: No, I'm fine with it. I just wanted
19 to make sure.

20 THE COURT: Good enough.

21 BY MR. MOYER:

22 Q Okay. All right. Now, are these forms, the
23 rental order forms and the quote sheet, are they -- are
24 they kept by Rent-N-Roll as a part of the business
25 practices of the company?

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 A Yes, sir, they're required.

2 Q Okay. And they're kept in the regular course of
3 business activity then?

4 A Yes, sir. They're kept in a filing cabinet in a
5 customer's file along with any previous information that
6 we have.

7 Q Okay. And that's a regular practice then of
8 Rent-N-Roll to keep those records?

9 A Yes.

10 Q How long are they kept?

11 A We've got records from 11 years ago. They're in
12 storage locked up.

13 Q Okay. And so then they are preserved and kept
14 by Rent-N-Roll?

15 A Yes, sir.

16 Q And you have access to those -- or you did have
17 access to those records?

18 A I did have access to the records, yes, sir.

19 Q As part of your job?

20 A Yes, sir.

21 MR. MOYER: Your Honor, at this time, I'd move
22 to have State's Exhibit No. 39 entered into evidence.

23 MR. EPPES: If I may look at it briefly, Your
24 Honor. Mr. Moyer has shown them to me before. No
25 objection, Your Honor.

MARIE BIGGERSTAFF-DIRECT BY MR. MOYER

1 THE COURT: All right, sir. Without objection,
2 the same is admitted into evidence.

3 (WHEREUPON, State's Exhibit No. 39 was admitted
4 into evidence.)

5 BY MR. MOYER:

6 Q Okay. Ms. Biggerstaff, I'm going to just ask
7 you a few questions about the document?

8 A Sure.

9 Q First off, what exactly was rented?

10 A A set of wheels and tires, which is -- the
11 custom quote sheet that's actually on the back of this
12 page explains just exactly what was rented. It was rented
13 four Pinnacle P60 20-inch wheels -- or 24-inch wheels and
14 tires. The tires were Duante 255-3024.

15 Q Is that what these are in this photograph?

16 A Yes, sir.

17 Q I show you State's Exhibit No. 37.

18 A Actually, if you break those wheels and tires
19 down, the serial numbers that are listed on here are the
20 serial numbers that are also on his contract and inside
21 those wheels and tires as well.

22 Q Okay. And they were what size?

23 A Twenty-four.

24 Q Okay. Do you know what -- okay. All right.

25 When were they rented?

MARIE BIGGERSTAFF-CROSS BY MR. EPPES

1 A The date of the application is going to be on
2 2-10-2004.

3 Q Okay. February 19th of 2000 and what?

4 A 2014, I'm sorry.

5 Q 2014. And who rented those rims?

6 A Billy Taylor.

7 Q Does it have a date of birth and social security
8 number?

9 A It does.

10 Q Does it show an address?

11 A Yes, sir.

12 Q What's the address?

13 A It shows , Greenville, South
14 Carolina 29601.

15 Q What kind vehicle were those rented for?

16 A They were rented for a 2011 Chevrolet Camero LS,
17 red.

18 MR. MOYER: Okay. I have no further questions
19 for this witness.

20 CROSS-EXAMINATION

21 BY MR. EPPES:

22 Q Mr. Taylor put down his address, didn't he?

23 A Yes, sir. He filled out this application
24 himself, along with his signature at the bottom where it
25 says renter's signature.

MARIE BIGGERSTAFF-CROSS BY MR. EPPES

1 Q It says , right?

2 A Yes, sir.

3 Q That's his address?

4 A That's the address he placed here, yes, sir.

5 Q Okay. And then over here under employment
6 information --

7 A Uh-huh.

8 Q -- he put down where he worked; didn't he?

9 A CNS Wholesale, yes, sir.

10 Q He put the phone number of his boss and
11 everything else?

12 A Yes, sir.

13 Q Is that something y'all would have checked as
14 part of the rental?

15 A He was a previous customer, so probably not.

16 Q So, y'all had checked his credit rating before?

17 A Yes, sir, because he was a previous customer.

18 And normally, when we have really good customers that are
19 previous, normally, when they come in, we usually just put
20 the wheels and tires on there for them and we know that
21 they're in good standing.

22 Q So, you would characterize him as a really good
23 customer?

24 A He was prior, yes, sir. This time, he didn't
25 even make his first payment on the wheels and tires on

MARIE BIGGERSTAFF-CROSS BY MR. EPPES

1 this set.

2 Q He rented them on the 19th of February, 2014?

3 A Yes, sir.

4 Q And y'all got the rims back?

5 A No, sir.

6 Q They're still in --

7 A They're still in holding.

8 Q Okay. But as far as y'all's credit went before
9 this time, he paid his debts?

10 A Yes, sir. He paid off the first set that he
11 had.

12 MR. EPPES: Thank you.

13 MR. MOYER: No further questions. I ask that
14 she be excused.

15 MR. EPPES: No objection, Your Honor.

16 THE COURT: Thank you. I appreciate your time.
17 You may call your next witness, sir.

18 MR. MOYER: Your Honor, the State calls Anthony
19 Henderson.

20 THE CLERK: Mr. Henderson, if you'd please come
21 forward. If you'd pause at the end of the, place
22 your left hand on the Bible and raise your right
23 hand.

24 ANTHONY HENDERSON, after being duly
25 sworn, testified as follows:

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 THE CLERK: Please be seated. Sir, would please
2 state your full name for the record?

3 THE WITNESS: Anthony Henderson.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. MOYER:

7 Q All right. Mr. Henderson, how old are you?

8 A Twenty-five, sir.

9 Q Okay. So, you're 25 years old. You single or
10 married?

11 A Single, sir.

12 Q You working anywhere right now?

13 A Yes, sir.

14 Q Where do you work?

15 A I work at Bojangles', sir.

16 Q And you've been working there for how long?

17 A Almost two years.

18 Q Now, you were charged in this case as well;
19 weren't you?

20 A Yes, sir.

21 Q You were charged with the same charge as Billy
22 Taylor, murder and two counts of attempted murder?

23 A Yes, sir.

24 Q All right. And so, you decided you're going to
25 testify here today?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A Yes, sir.

2 Q Did anyone make any promises to you at all about
3 anything you would get out of this?

4 A No, sir.

5 Q Get for this?

6 A No, sir.

7 Q All right. So, it's your decision then to
8 answer all the questions from me and then answer questions
9 on cross-examination?

10 A Yes, sir.

11 Q All right. Let me start off by asking you a few
12 questions about some of the people who have been involved
13 in this case. Do you know Jermaine Nesbitt, the man who
14 was killed?

15 A No, sir.

16 Q Had you ever met him as far as you know before
17 that day?

18 A No, sir.

19 Q Did you even meet him on that day?

20 A No, sir.

21 Q Do you know Ashley Hiott?

22 A No, sir.

23 Q Did you know her or ever meet her?

24 A No, sir.

25 Q Do you remember seeing her, though?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

- 1 A Yes, sir.
- 2 Q Where did you see her?
- 3 A At the BP..
- 4 Q Okay. How about Brittany Jeter?
- 5 A No, sir.
- 6 Q Had you met her before this incident?
- 7 A No, sir.
- 8 Q Okay. Let me ask about the Defendant in this
- 9 case, Billy Taylor. Do you know him?
- 10 A Yes, sir.
- 11 Q How long have you known him?
- 12 A Since I was about 11 or 12.
- 13 Q And he lived in the same neighborhood as you; is
- 14 that right?
- 15 A Yes, sir.
- 16 Q Did you kind of grow up together?
- 17 A Yes, sir.
- 18 Q Have you stayed in touch with him over all these
- 19 years up until around the time this happened?
- 20 A Yes, sir.
- 21 Q He's a friend of yours?
- 22 A Yes, sir.
- 23 Q Is he a close friend of yours?
- 24 A Yes, sir.
- 25 Q How about Deunte Jones?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A I've been knowing him since like 14.

2 Q Okay. So, you've known him about as long as
3 you've known Billy?

4 A No, sir. I've known Billy longer.

5 Q Known Billy longer. Okay. But Deunte was a
6 friend of yours as well?

7 A Yes, sir.

8 Q Okay. Let me take you now to the night of
9 February the 21st of 2014. Now, did you go out with some
10 friends on that night?

11 A Yes, sir.

12 Q Where did you -- where did you go? Where did
13 you go first?

14 A I went to Bugatti Nightclub.

15 Q It's a nightclub called Bugatti. Where is that?

16 A I think off of North Pleasantburg.

17 Q Okay. Had you ever been there before?

18 A Yes, sir.

19 Q Is that a place you and your friends would hang
20 out sometimes?

21 A Occasionally, sometimes.

22 Q Who did you go there with? How did you get
23 there?

24 A I rode with Cory and Deunte.

25 Q Cory is a friend of yours?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A Yes, sir. I rode with them.

2 Q Did he have kind of a distinctive looking car?

3 A Yes, sir.

4 Q How would you describe his car?

5 A He had a Crown Victoria, like an Elmo car.

6 Q When you call it an Elmo car, it actually has
7 the insignia on the side, right, that says Elmo?

8 A Yes, sir.

9 Q Okay. Did that car -- is it, actually, seen --
10 does that end up at that BP gas station later that night
11 as well?

12 A Yes, sir.

13 Q Were you in that car at that time?

14 A No, sir.

15 Q Was Cory involved in anything that went on
16 regarding the charges that came down as far as the
17 shooting goes?

18 A Not that I know of, sir.

19 Q Okay. All right. So, you got to Bugatti then
20 with him. Who else was with you?

21 A At Bugatti?

22 Q Well, on the way there? How did you get there?

23 A How did I get to Bugatti?

24 Q You said you got there with Cory, right?

25 A Cory and Deunte.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q Was anyone else with you and Cory?

2 A Deunte.

3 Q And that's Deunte Jones that you were talking
4 about earlier?

5 A Yes, sir.

6 Q So, the three of y'all got to Bugatti. Do you
7 recall around what time it was?

8 A No, sir.

9 Q Okay. Did you see other friends of yours there?

10 A Yes, sir.

11 Q Okay. Did you see this Defendant, Billy Taylor,
12 there?

13 A He came later on in the night.

14 Q Okay. He showed up there at Bugatti?

15 A Yes, sir.

16 Q Did you see what kind of vehicle he was in?

17 A Yes, sir.

18 Q What was it?

19 A A red Camero.

20 Q Had you seen that Camero before that day?

21 A Yes, sir.

22 Q Do you remember anything about the rims on the
23 car?

24 A I think they had black in them, if I'm not
25 mistaken.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q Were they aftermarket rims?

2 A Yes, sir.

3 Q You've had a chance to look at some of these
4 photographs before right now; haven't you?

5 A Some of them.

6 Q Some of them. I'll just show you State's
7 Exhibits 22 through 24. Is that the Camero that Billy was
8 in that night?

9 A Yes, sir.

10 Q Okay. Look at all three of those pictures.

11 A (The witness complies.)

12 Q I'll ask you again, does that look like the
13 Camero he was in that night?

14 A Yes, sir.

15 Q Then State's Exhibit 37, does that look anything
16 like the rims that were on the car that night?

17 A Yes, sir, without the black.

18 Q There was -- what kind of black?

19 A I want to say it was black lining in the middle
20 of the rims or something.

21 Q Okay. So, y'all were at Bugatti. Did you
22 decide to go anywhere else or did you stay there?

23 A We decided to go to Croc's nightclub.

24 Q Had you ever been to Croc's before?

25 A No, sir, that was my first time.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q How did you get to Croc's?

2 A Billy Taylor.

3 Q Why did you change rides?

4 A Because Cory Jackson, his girlfriend was getting
5 off, and he said that he wouldn't be able to -- he was not
6 going to make it to Croc's. But he ended up at Croc's
7 anyway.

8 Q All right. So, you thought he wasn't going to
9 go to Croc's?

10 A He told us he wasn't going to Croc's.

11 Q But you actually ended up seeing him there; is
12 that right?

13 A I honestly didn't see him. I didn't see him in
14 the club and I didn't -- I didn't see him at the gas
15 station until I watched the video recently.

16 Q Then you saw him?

17 A Yes, sir.

18 Q Okay. So, you're not quite sure if he was at
19 Croc's or not?

20 A No, sir.

21 Q All right. Was it just you and the Defendant
22 that drove over to the Croc's in his car?

23 A Me and the Defendant and Deunte Jones.

24 Q Okay. Do you remember how you got to Croc's
25 that night as far as -- there are two different, I guess,

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 ways you could get there. You could either come on the
2 Interstate, right, or you could come down Pelham Road. Do
3 you remember which direction you came?

4 A I want to say we took Pelham, but we may have
5 took the highway, I'm really not sure.

6 Q You don't remember that for sure, okay. Okay.
7 So, when you got to Croc's, do you remember -- did you
8 stay in the car with the Defendant until he parked or what
9 happened there?

10 A He -- we pulled up in front and he was trying to
11 get VIP parking. They wouldn't let him, I guess it was
12 too crowded. So, he dropped us off and he found a place
13 to park.

14 Q Did you see where he parked?

15 A No, sir.

16 Q Okay. And so, did you and Deunte go into Croc's
17 then?

18 A No, we waited -- we waited on Billy. Like, we
19 was like closer to the door, then he came up and we walked
20 in the club.

21 Q So, the three of y'all walked in together?

22 A I think so, yes, sir.

23 Q Now, looking at the surveillance video from
24 Croc's, like a security guy who kind of pats people down,
25 do you remember anything about -- do you remember that?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A I just remember -- not really. I just remember
2 going in.

3 Q You just remember going in. Do you remember
4 them having security there or not?

5 A Yes, sir, it was probably one guy at the door.

6 Q Okay.

7 A Same guy who told him he couldn't park in front.

8 Q Okay. When you got into Croc's, how long would
9 you say you were there before y'all ended up leaving?

10 A At least about an hour.

11 Q Okay. Tell us what all went on, what y'all did,
12 where you went.

13 A Well, we kind of split up, but me and Deunte was
14 together like the whole night. We didn't really leave
15 each other's side. I can't really say what anybody else
16 was doing, but me and Deunte -- I remember seeing Billy in
17 the club one time. He bought me a drink. We was like by
18 the bar. And me and Deunte probably steered off away to
19 like the dance floor type of thing, kind of closer to the
20 door.

21 Q Okay. So, you stuck with Deunte the whole time?

22 A Yes, sir.

23 Q Do you remember having interaction with any
24 strangers or anything that night, any girls?

25 A Yeah, just females.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q So, you just talked to some girls?

2 A Yes, sir.

3 Q Do you know who Ashley Hiott and Brittany Jeter
4 are now?

5 A Yes, sir.

6 Q Do you have any knowledge about whether or not
7 you spoke to them?

8 A I know I didn't speak to them.

9 Q You know you did not?

10 A Yes, sir.

11 Q But you weren't with Billy during this time,
12 correct?

13 A No, sir.

14 Q Okay. Did you know any other people at Croc's?

15 A Yes, sir.

16 Q You did see some other people you knew?

17 A Yes, sir.

18 Q So, what led to you leaving?

19 A A fight had broke out. Like the whole crowd
20 just went one way and I got maced, so.

21 Q Did a lot of people get maced?

22 A Yes, sir.

23 Q They were just spraying it all over the place?

24 A Yes, sir. I got sprayed directly.

25 Q Directly in your face?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A Like from behind.

2 Q Do you know who sprayed you?

3 A I would think the security guard.

4 Q It came from behind you?

5 A Kind of on the side of me. I didn't see him
6 coming or anything, he just came and sprayed me.

7 Q Were you involved in the fight?

8 A No, sir.

9 Q Did you know the people who were involved in the
10 fight?

11 A No, sir.

12 Q Did it have anything to do with what happened
13 later at the BP or on Pelham Road?

14 A I don't think so, sir.

15 Q As far as you know, it did not?

16 A No, sir.

17 Q Was Billy involved in that?

18 A I don't know, sir.

19 Q You don't know?

20 A In the fight?

21 Q Yes.

22 A I don't know, sir.

23 Q Okay. So, after you got maced, what did you do?

24 A I went towards the door. I probably -- I
25 covered my eyes and I went towards the door.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q Do you remember which door you went out?

2 A The front door, the same exact door I came in.

3 Q So, the main door to the club, not the one in
4 the back?

5 A No, sir.

6 Q Did Deunte come out, too?

7 A Yes, sir.

8 Q Did the Defendant, Billy, come out?

9 A Later on.

10 Q Okay. Do you know where he went, why he was out
11 later?

12 A No, sir.

13 Q So, what did you and Deunte do when you got
14 outside?

15 A When we got outside, people was just asking us
16 were we okay. And I had took my shirt off and was trying
17 to get the mace out of my eyes and stuff. And we just
18 kind of -- we was really stranded because the guy who
19 brought us there, he was nowhere to be found. So, we was
20 trying to just wait around until somebody picked us up.
21 Then Billy finally came out.

22 Q So, when you say the guy who brought you there,
23 you're talking about Billy?

24 A Yes, sir.

25 Q You weren't sure where he was?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A No, sir.

2 Q So, he eventually did come out of the club?

3 A Yes, sir.

4 Q So, what happened when he came out?

5 A When he came out -- when he came out, it was a
6 lot of people, it was a lot of drama, a lot of fights
7 going on outside. A lot of people trying to like just get
8 to their cars. So, he disappeared again and he came back
9 with -- he came back to pick us up.

10 Q Okay. One moment, please. Bear with me just a
11 minute. I just broke my reading glasses. And just in
12 case I cannot read all my notes, my assistant went to get
13 them, but we're still going to go forward.

14 So, you said you waited there until Billy came
15 out; is that right?

16 A Yes, sir.

17 Q Now, when Billy did come outside the club, tell
18 me what y'all did?

19 A He just went -- he went to his car and he came
20 back and got us.

21 Q Did you see where he went to go get his car?

22 A No, sir.

23 Q Okay.

24 THE COURT: I hope those aren't too feminine for
25 you. They look like Tootsie Esquire.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 (WHEREUPON, there was an outburst of laughter.)

2 MR. MOYER: I think they'll do.

3 BY MR. MOYER:

4 Q Okay. So, do you remember where you got picked
5 up then when he came and got his car?

6 A On the side of the building. Not really the
7 side, but it was between the side and like the front.

8 Q Okay. So, he was driving?

9 A Yes, sir.

10 Q He was in that red Camero?

11 A Yes, sir.

12 Q Where did you get in the vehicle?

13 A In the passenger seat, sir.

14 Q Okay. Front or back?

15 A In the front.

16 Q Okay. Where did Deunte go?

17 A Behind me.

18 Q So, he got in the back?

19 A Yes, sir.

20 Q Is that a two-seat or one-seat?

21 A Two seat, sir.

22 Q So, how does somebody get in the back?

23 A What I would have to do is like lean forward and
24 let my seat up so they get behind me.

25 Q Are you familiar with the windows in the back of

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 that car? Do they open?

2 A No, sir.

3 Q So, the only windows that open are the two on
4 the sides?

5 A Yes, sir.

6 Q Are they tinted at all, do you remember?

7 A Slightly tinted.

8 Q Slightly tinted, okay. So, did anything happen
9 while you guys were still in the parking lot?

10 A Somebody started shooting and everybody was just
11 trying to get up out of there.

12 Q Did you see who was shooting?

13 A No, but I heard it. It was like at the end of
14 parking lot. Somewhere in the parking lot, it was a
15 distance.

16 Q So, somewhere in the parking lot, you're not
17 sure where?

18 A No, sir.

19 Q After those gunshots were fired, was anything
20 said?

21 A On the way to BP, Billy was saying, I got to
22 shoot my gun one time. I got to shoot my gun one time.

23 Q Was there talk about the gun that had just been
24 fired at Croc's?

25 A No, sir, he just said it. He just was saying

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 it.

2 Q Now, did you see his gun?

3 A No, sir.

4 Q But he was talking about a gun?

5 A Yes, sir.

6 Q Had you seen him with guns before?

7 A Yes, sir.

8 Q What kind of guns?

9 A I've seen him with a .380, a Sig. I've seen him
10 with a 40-caliber Glock.

11 Q Have you seen them in his car?

12 A Not in the red car, but he had a black Audi and
13 I used to see it in his glove compartment and stuff.

14 Q Did you see it anywhere else while he was
15 driving the car?

16 A He had like holsters and stuff. So, I mean, he
17 used to have them on his hip.

18 Q He would sometimes have a gun on his hip?

19 A Well, a lot.

20 Q When he was driving, would he ever have a gun
21 anywhere in the vicinity?

22 A Not really sure where, but, yeah, he would.

23 Q Okay. So, y'all left Croc's. Did you take a
24 right or a left out of the parking lot?

25 A We took a left.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q All right. Do you know where y'all were going
2 at that time?

3 A Yeah, we were going to get milk from the BP.
4 And I think like while we were on our way there, he had
5 got a phone call saying that Dion was there.

6 Q Did you -- I don't want you to say what --
7 speculate what the person on the phone was saying, but did
8 you hear Billy talking on the phone?

9 A Yes, sir.

10 Q Do you remember what he was saying? I know you
11 don't remember the exact words, but do you remember
12 anything he was talking about?

13 A No, sir.

14 Q Okay. So -- well, why do you say you thought he
15 was talking to Ronnie Gaddis?

16 A I didn't say I thought he was talking to Ronnie
17 Gaddis. Someone said that Ronnie was at the store, at the
18 BP. We were already headed in that direction to get milk
19 because I had -- I mean, everybody had got maced.

20 Q Someone in your car said that?

21 A Said what, sir?

22 Q Said Ronnie was at the BP?

23 A Someone -- whoever was on the phone with Billy
24 Taylor.

25 Q Okay. So, you said you wanted to get milk, why

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 did you want to get milk?

2 A I got maced directly in my face.

3 Q Okay. Was it bothering you?

4 A Yes, sir, a lot.

5 Q Okay. So, tell me about getting to the -- going
6 into the BP gas station. Have you seen the video?

7 A Yes, sir, I just seen the video.

8 Q And you saw -- did you see the Camero in the
9 video?

10 A Which Camero, sir?

11 Q The Defendant's Camero.

12 A Yes, sir.

13 Q There was another white Camero there, too;
14 wasn't it?

15 A Yes, sir.

16 Q But that didn't have anything to do with this
17 incident as far as you know?

18 A No, sir.

19 Q All right. So, you see the Defendant's red
20 Camero in that video?

21 A I seen it coming into the store.

22 Q Okay. Then where did y'all park once you get in
23 the BP gas station?

24 A On the side.

25 Q On the side?

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1 A Kind of close to the road.

2 Q Close to the road?

3 A Yes, sir.

4 Q All right. Well, tell us what happened. You
5 were there, what, five or six minutes before you left?

6 A Not long. It wasn't long at all.

7 Q I mean, you've seen the video, right? Does that
8 show how long you were there? I mean, it shows you coming
9 and leaving, right?

10 A Yes, sir.

11 Q So, what were y'all doing while you were there
12 at the BP?

13 A Well, by the time we got there, I had got out
14 the car. My friend was like just pouring milk on himself.
15 So, I was on my way to walk into the store to grab some
16 milk, but the store was like overcrowded. On my way
17 walking in the store, a black car pulled up and some guys
18 jumped out and they were angry, bleeding.

19 Q Bleeding, you said?

20 A Yes, sir. So, I went back to the car.

21 Q Why did you go back to the car?

22 A Just because the store was crowded and the guys
23 was like -- I would have to pass the guys to get into the
24 store. I didn't want any problems with them guys.

25 Q So, these guys looked like they were getting in

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1 fights and stuff?

2 A They was pretty mad.

3 Q So, you parked along the road, correct?

4 A Yes, sir.

5 Q You don't go in the store?

6 A No, sir.

7 Q You didn't get gas?

8 A No, sir.

9 Q You pretty much were right behind that Tahoe
10 when you pulled in, right? You were pretty close to it?

11 A I mean, I didn't see it until I watched the
12 video. I was unaware of the Tahoe.

13 Q So, you were unaware that you were following the
14 Tahoe when you were getting there?

15 A Yes, sir, I didn't know anything about that
16 Tahoe.

17 Q Okay. So, what were y'all doing there then?

18 A Billy was trying to fight. Billy was trying to
19 fight.

20 Q Who was he trying to fight?

21 A Just anybody.

22 Q So, did he get out of the car?

23 A Yes, sir.

24 Q And you got out of the car you told us?

25 A Yes, sir.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q All right. So, was Billy doing anything else?

2 A Ashley was walking -- I'm not sure if she was
3 walking towards the store when he seen her or away from
4 the store when he seen her, but he was trying to talk to
5 her.

6 Q When you say Ashley, are you talking -- you
7 didn't know the young lady at the time, correct?

8 A No, sir.

9 Q You're talking about the lady who ended up
10 getting shot in the Tahoe?

11 A Yes, sir.

12 Q So, you remember seeing her?

13 A Yes, sir.

14 Q When she came into view, what was Billy's
15 reaction? What was he doing?

16 A He was trying to talk to her through my window.
17 We was in the car.

18 Q Do you remember anything he was saying?

19 A I mean, just being rude.

20 Q Like, I mean, tell us what you remember.

21 A Hey, girl type of thing.

22 Q Was he yelling out loud?

23 A Yes, sir.

24 Q It was kind of noisy in that parking lot,
25 though; wasn't it?

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1 A Yes, sir.

2 Q All the fighting and all going on?

3 A Yes, sir.

4 Q So, this was after you were both in the car when
5 he was yelling?

6 A When I got back to the car, I got in the car.
7 And we were back in the car. And then when she walked
8 passed, I'm not sure if it was before or after, but that's
9 when he was trying to talk to her.

10 Q Okay. Did she seem to acknowledge him at all?

11 A No, sir. I mean, she might have looked over,
12 but she just kept going.

13 Q You've had a chance to look at the video a time
14 or two, correct, of the BP?

15 A I watched the video, sir.

16 Q Are you and/or Billy at all -- can y'all be seen
17 in the video at any point?

18 A I seen myself, but just for a brief second.

19 Q How about the Defendant, can you see him?

20 A Yes, sir.

21 Q So, I'm going to -- we're going to watch that
22 for just a minute. I'm not sure if you'll be able to see
23 it from there or if you need to step down. But I want
24 you -- I'm going to give you a laser pointer and I want
25 you to point out where you and Billy are when you come

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1 into view. Maybe I should ask you to step around because
2 we're going to show the video right behind you.

3 A (The witness complies.)

4 Q Okay. I'm going to hand you this laser pointer.
5 You can stand right over here. Use that button right
6 there to point.

7 (WHEREUPON, a video was played.)

8 BY MR. MOYER:

9 Q Do you see the Tahoe up there?

10 A Yes, sir.

11 Q Okay. That will be normal speed now. What area
12 are we going to see you when we do see you?

13 A This area.

14 Q Okay. All right. Who is that?

15 A Billy.

16 Q Where are you?

17 A Right here.

18 Q Okay. So, this is Billy with sort of the aqua
19 shirt?

20 A Yes, sir, right here.

21 Q Point to him again.

22 A (The witness complies.)

23 Q Okay. He's out of view now?

24 A Yes, sir.

25 Q Okay. Thank you. Okay. I'm going to have you

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 go take your seat again.

2 A (The witness complies.)

3 Q Okay. So, why did y'all leave when y'all left?

4 A I guess just because of the commotion and stuff.
5 I, mainly -- the whole time I wasn't -- I wasn't trying to
6 fight and I was trying to keep Billy towards the car just
7 to -- if he would have got in a fight, I mean, I would
8 have had to go break them up. So, I was really just
9 trying to get him to leave.

10 Q You're saying that's when you went out into
11 the -- where you did when we saw you?

12 A Yes, sir. Yes, sir.

13 Q All right. So, do you remember seeing the Tahoe
14 as it was leaving?

15 A Yes, sir.

16 Q What, if anything, happened when that was taking
17 place?

18 A What do you mean?

19 Q Were you in your car?

20 A Yes, sir.

21 Q Or in Billy's car?

22 A Yes, sir.

23 Q You're still in the front passenger seat?

24 A Yes, sir.

25 Q Was anything said or was anything done during

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 that time?

2 A Yes, sir. Rodney was like yelling out the
3 window towards the car I was in.

4 Q You're talking about the man who ended up
5 getting killed?

6 A Yes, sir.

7 Q And was anything going on with Billy?

8 A Yes, sir.

9 Q Okay. What was he doing?

10 A He was yelling back.

11 Q Was his window opened?

12 A Billy's?

13 Q Yes.

14 A I'm not sure. He may have been yelling like
15 through my window.

16 Q So, your window was opened at that time?

17 A Yes, sir.

18 Q Do you remember what was being said?

19 A No, sir. I don't even know who said the first
20 words between the two, but it was -- they was going at it.
21 They was going back and forth, sir.

22 Q What happened -- so, did you pull out onto
23 Pelham Road when the Tahoe did?

24 A A lot of cars was pulling out at the same time.

25 Q Okay. But did you see the Tahoe pull out onto

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 the road?

2 A Not that I can remember.

3 Q You don't remember it?

4 A No.

5 Q Which way did y'all turn, left or right?

6 A Right, sir.

7 Q What happened once you pulled out onto Pelham
8 Road?

9 A We was just driving. And I heard a boom.

10 Q Okay. Did anything happen before you heard
11 boom?

12 A Before I heard the boom, like I just heard
13 somebody talking on my left side, it was real loud. Then
14 Billy started arguing again.

15 Q Okay. Who was he arguing with?

16 A The same guy, Rodney.

17 Q So, what was out the window? What was -- which
18 lane were you in, the right or left?

19 A The right lane, sir.

20 Q What was in the left lane?

21 A The red Jeep, sir.

22 Q That same Tahoe from the gas station?

23 A Yes, sir.

24 Q Could you see the man in the window?

25 A Not really, sir.

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1 Q What were you doing?

2 A At this time, my eyes had started back burning
3 and I -- before like, I turned the AC on and I was like in
4 the AC.

5 Q What do you mean in the AC?

6 A My face on the AC, so the air was blowing on my
7 eyes because I never got milk and my eyes just kept
8 burning and burning.

9 Q So, you heard yelling again?

10 A Yes, sir.

11 Q Who in your car was yelling?

12 A Billy.

13 Q Was he yelling at you?

14 A No, sir.

15 Q Was he yelling at Deunte?

16 A No, sir.

17 Q Who in the Tahoe was yelling?

18 A It was a guy's voice.

19 Q Okay. It was a guy?

20 A Yes, sir.

21 Q Do you remember what was being said at that
22 time?

23 A No, sir.

24 Q Then after you heard the yelling -- was Deunte
25 yelling?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

- 1 A No, sir.
- 2 Q He was still in the back seat?
- 3 A Yes, sir.
- 4 Q Do you remember where in the back seat?
- 5 A Right behind me.
- 6 Q So, you heard this yelling. Then what did you
7 hear next?
- 8 A A boom.
- 9 Q What did you do when you heard the boom?
- 10 A I kind of got low in the seat and looked up.
- 11 Q Did you look over at Billy?
- 12 A I looked up.
- 13 Q What did you see?
- 14 A He was bringing his hand back.
- 15 Q Back from where?
- 16 A Out the window.
- 17 Q Okay. What happened then?
- 18 A He switched gears. Well -- when he pulling his
19 hand out, I seen like -- I seen the Jeep kind of go to the
20 left. And he pressed a gear and we continued down the
21 road.
- 22 Q Fast or slow?
- 23 A Faster than what we was going.
- 24 Q Did you look back at that Tahoe?
- 25 A No, sir.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q Did not. So, when you did see the Tahoe, you
2 said you saw it going left?

3 A I seen it swerve, not towards us, but the
4 opposite way.

5 Q Okay. So, where did y'all go?

6 A We went on the highway. And I'm telling Billy,
7 like, Take me home, take me home.

8 He was like, No, I'm not taking you home.

9 Q Which direction on highway did you go?

10 A Coming off the exit right here.

11 Q Going towards Greenville or going to
12 Spartanburg.

13 A Greenville.

14 Q Towards Greenville. Okay. And you told Billy
15 what now?

16 A Take me home.

17 Q What did he say?

18 A No.

19 Q Okay. Do you remember Deunte, if he was talking
20 or not?

21 A He was just like, What the fuck happened?

22 Q Okay. Did y'all talk about what happened?

23 A No, sir.

24 Q Why not?

25 A Just -- I didn't say anything because I didn't

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 know. And at the same time, I didn't know what happened.
2 Billy wasn't saying anything. He wasn't saying what he
3 had done. He wasn't saying anything.

4 Q You didn't want to ask what had just happened?

5 A No, sir. No, sir.

6 Q Why not?

7 A Because if he did anything, I wasn't trying to
8 be on the other end of his gun.

9 Q Other end of what?

10 A Of his gun.

11 Q Of his gun?

12 A Yes, sir.

13 Q So, you chose to just not to even talk about it?

14 A Yes, sir.

15 Q Were you curious about what had happened?

16 A Yes, sir, just too scared to ask.

17 Q So, you said you wanted to go home. Where did
18 he take you?

19 A He stopped on Viola Street.

20 Q Viola Street?

21 A Yes, sir.

22 Q What's on Viola Street?

23 A Group of guys -- group of guys I know that was
24 in the club who got to fighting. That's like their
25 family's house.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q Did you go there a lot?

2 A Excuse me, sir?

3 Q Is that a place you guys used to hang out a lot?

4 A Yes, sir.

5 Q So, did it take a while to get there?

6 A I mean, as soon as we got on the highway, it
7 didn't.

8 Q Didn't take long. Okay. What happened when you
9 got to this house on Viola Street?

10 A Billy got out the car first. Once he got out
11 the car, he went to a group of guys. That's when me and
12 Deunte was like what happened type of thing. My eyes
13 started burning. I went on the side of the house and like
14 went for the water hose.

15 Q So, you got out the Camero?

16 A Yes, sir.

17 Q What did you do with the hose?

18 A I just put it in my face.

19 Q Rinsed your face?

20 A Yes, sir.

21 Q Did you hang out with Billy while you were there
22 on Viola Street?

23 A No, sir. As soon as I put the water in my face,
24 I went right back to the car.

25 Q Where did you get in the car?

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1 A On the passenger side.

2 Q Deunte was still there?

3 A Yes, sir.

4 Q Did y'all stay there for a while?

5 A Not even five minutes. They kind of walked off
6 and they were talking.

7 Q Okay. Did you hear what Billy was talking about
8 there?

9 A Basically, what he did and what happened.

10 Q What did he say happened?

11 A That he shot his gun.

12 Q He said he shot his gun?

13 A Yes, sir.

14 Q Did he say what he shot at or who he shot at?

15 A No, sir.

16 Q You just heard him say he shot his gun?

17 A Yes, sir.

18 Q Did you see his gun?

19 A No, sir.

20 Q So, after he was done talking, what did he do?

21 A He stopped at -- he stopped at his house.

22 Q Let me back up. So, he was still talking with
23 his friends there. Did he come and get back in the
24 Camero?

25 A Yes, sir.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q Did he talk to y'all when he came back to the
2 Camero?

3 A He was just -- we was just like, Take us home
4 type of thing.

5 Q Is that what happened?

6 A No, sir.

7 Q Where did you go then?

8 A He stopped at his house for like a minute. Went
9 to his car, his other car, popped the trunk and got back
10 in his Camero.

11 Q Did you see what he did?

12 A He put something in the trunk.

13 Q He put something in the trunk. What kind of car
14 was that, do you know?

15 A What do you mean?

16 Q Do you know what make or model?

17 A The other car?

18 Q Yes, the other car.

19 A It was black Audi.

20 Q Did he used to drive that, also?

21 A Yes, sir, he drove that the most.

22 Q So, he had several cars?

23 A Just two.

24 Q Do you know how long he had had the Camero at
25 that point?

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1 A Not long.

2 Q Do you know how long, months, weeks?

3 A Probably weeks. Because I remember when he
4 first got it, he called me. He was everywhere in it.

5 Q He was excited about it?

6 A Yes, sir.

7 Q But you don't remember the exact date?

8 A (The witness shook his head.)

9 Q Okay. So, how long did you stay there at his
10 house?

11 A For just like a minute, sir.

12 Q Do you know where his house is?

13 A Yes, sir.

14 Q Where is it?

15 A On Frank Street, sir.

16 Q On Frank Street?

17 A (The witness nods.)

18 Q Okay. So, did you and Deunte stay in the
19 Camero?

20 A Yes, sir.

21 Q Then what happened?

22 A I just like -- he was like, Where y'all going?
23 And I didn't want to go to my house and leave
24 Deunte in the car because Deunte didn't know him, so I
25 said we're going to Deunte's house.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Q So, Deunte and Billy, as far as you know, had
2 never met before?

3 A No, sir, they didn't.

4 Q So, you went where now?

5 A To Deunte's house.

6 Q Did you get out with Deunte?

7 A Yes, sir.

8 Q And y'all stayed the night there?

9 A I didn't.

10 Q How did you leave?

11 A Once we got out the car -- once I got out the
12 car, I went in the house and I remembered going straight
13 to the bathroom, washing my face off. And we just -- when
14 I came out, we just like what happened, like, what
15 happened.

16 Q Y'all talked about wondering what happened?

17 A Yes, sir.

18 Q Okay. Did you ever see anyone in the Tahoe at
19 any point that night with a weapon or firearm or anything
20 like that?

21 A No, sir.

22 Q All right. Now, you were arrested on March the
23 3rd; is that right?

24 A Yes, sir.

25 Q Did you speak to an investigator at that time?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 Roughly, around that date?

2 A Yes, sir.

3 Q Do you remember talking to -- was it this
4 investigator here?

5 A Yes, sir.

6 Q Did you tell him exactly what you've said here
7 today in court?

8 A No, sir.

9 Q What did you say differently?

10 A Just the fact that I didn't -- I didn't say -- I
11 didn't tell on Billy.

12 Q Okay. Did you tell on Deunte?

13 A No, sir.

14 Q Well, I say tell on, did you tell them that
15 Deunte was in the car?

16 A No, sir.

17 Q Did you tell them there was another person in
18 the car?

19 A Yes, sir.

20 Q Okay. And what did you say about who that
21 person was?

22 A Dee.

23 Q Dee?

24 A (The witness nods.)

25 Q You didn't give them the full name?

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 A No.

2 Q Why not?

3 A Just because we didn't have anything to do with
4 anything and I didn't just want to just be telling on
5 people.

6 Q Okay. So, you didn't give them Billy's name?

7 A I told them that he was driving.

8 Q Did you tell them that he had shot?

9 A No, sir.

10 Q Why is that?

11 A Because I was giving Billy the benefit of the
12 doubt to own up to what he did.

13 Q Okay. Did you tell them anyone in your car had
14 shot him?

15 A No.

16 Q You didn't tell them Deunte had shot or anything
17 like that?

18 A No, sir.

19 Q All right. Now, when you were incarcerated,
20 were you and Billy housed near each other or together?

21 A Yes, sir.

22 Q Were you able to have a lot of contact with one
23 another?

24 A Not really. I was at like another end of hall.
25 Sometimes I would hear my name being called like through

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 the door and I would answer and it would be Billy.

2 Q But were you able to have direct contact to talk
3 about anything?

4 A No, sir. I seen him once and, you know, he just
5 had his head down, shaking his head like he was real
6 stressed out.

7 Q Now, did you at some point have a conversation
8 with an inmate regarding a message?

9 A Yes, sir.

10 Q Who was that person?

11 A I'm not sure of his name, but I know his face.

12 Q Okay. Have you seen him here today, earlier
13 today?

14 A Yes, sir, I seen him when I came in, sir.

15 Q You did see him, okay. So, is that the guy you
16 had the conversation with?

17 A Yes, sir.

18 Q Okay. I'm not going to ask you what he said to
19 you, but what did you tell him?

20 A I told him to tell Billy to clear my face up.

21 Q What does clear my face mean?

22 A Basically, I mean, I didn't have anything to do
23 with anything and for him to admit what he did.

24 Q Did you call him by name or what sort of term
25 did you use?

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1 A I might have called him Bro.

2 Q Is that -- he's not really your -- he's not your
3 biological brother, is he?

4 A No, sir.

5 Q Is that just a term that you used?

6 A Just a good friend.

7 Q Okay. All right. Once again, don't tell me
8 what he said, but did you get a returned message from that
9 man?

10 A Yes, sir.

11 Q One moment. Did you then have another
12 conversation with Investigator Hammett where you gave
13 another interview, another recorded interview?

14 A Yes, sir.

15 Q And that was -- had your lawyer present at that
16 time?

17 A Yes, sir.

18 Q Then at that time, did you tell the name of
19 Deunte Jones and tell about the Defendant being the
20 shooter?

21 A Yes, sir.

22 Q Okay.

23 MR. MOYER: One moment, Judge.

24 Okay. Please answer any questions that the
25 Defense may have.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 MR. EPPES: Your Honor, can we take a break
2 before I begin cross?

3 THE COURT: Yes, that's fine.

4 Ladies and gentlemen, let's take a short break.
5 Please don't discuss the case.

6 (WHEREUPON, the jury left open court at
7 approximately 10:30 a.m.)

8 THE COURT: Okay. Mr. Henderson, you can take a
9 break, too. You're welcome to use the restroom or
10 whatever you need to do, but since you're on the
11 stand and under oath, you can't discuss your
12 testimony with anyone, okay?

13 THE WITNESS: Yes, sir.

14 THE COURT: All right, sir.

15 We'll be in recess.

16 (WHEREUPON, a short break was taken.)

17 THE COURT: Bring the jury back.

18 MR. EPPES: Your Honor, can we wait? To make my
19 cross go a little smoother, there's some issues we
20 need to take up and I'd like for Mr. Henderson to be
21 removed from the courtroom while we do that.

22 THE COURT: All right.

23 Where's Mr. Henderson? Is he here?

24 THE WITNESS: I'm right here.

25 THE COURT: Oh, I'm sorry. Okay. Will you go

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 back into the room so we can take up these motions,
2 okay.

3 (WHEREUPON, the witness leaves the courtroom.)

4 THE COURT: Yes, sir.

5 MR. EPPES: Your Honor, Mr. Moyer and I were
6 previously discussing Mr. Henderson's testimony. I
7 know neither the Court, Mr. Moyer nor I like
8 surprises. I discussed briefly the fact that I plan
9 to cross-examine Mr. Henderson about the fact that he
10 has a conviction for strong armed robbery, which I
11 believe Mr. Moyer objects to.

12 MR. MOYER: Well, I would just ask that rather
13 than the actual crime itself be brought up -- I mean,
14 you know, the adversely unfair and prejudicial
15 effect, that it just be brought up the fact that he
16 has been convicted of a crime which carries a penalty
17 of over a year.

18 MR. EPPES: Your Honor, in his initial
19 interrogation, he was shown these photographs of him
20 possessing a gun, which would frankly -- he had a gun
21 in his custody, which would frankly be a violation of
22 his status because he's been convicted of the crime.
23 And I plan to raise that as well. I don't think
24 Mr. Moyer has an objection, but while we're talking
25 about it.

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 MR. MOYER: Well, I -- what is the date of the
2 conviction?

3 MR. EPPES: He was about 15, about nine years
4 ago.

5 MR. MOYER: Your Honor, I don't think that would
6 be because that's not a crime -- it would be a prior
7 bad act, if anything, but it's certainly not a
8 conviction.

9 MR. EPPES: It's against federal law for him to
10 have a handgun. He has a photograph of a handgun
11 that was part of Investigator Hammett's interrogation
12 of him.

13 MR. MOYER: I don't have a problem with him
14 being asked if he's been in possession of a handgun.
15 I don't think there's any reason for the photograph
16 to come into evidence. There's also a question about
17 whether or not --

18 MR. EPPES: He violated his YOA parole in 2011,
19 Your Honor. I can't say when he was put on it, but I
20 was thinking 2006 or shortly thereafter.

21 THE COURT: Okay. All right. Sounds like we're
22 jumping around a little bit.

23 MR. EPPES: I'm sorry.

24 THE COURT: That's all right.

25 MR. MOYER: Your Honor, I don't have a problem

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 with him being asked if he's been in possession of a
2 firearm. I don't see any reason why the photograph
3 is relevant.

4 MR. EPPES: It is, likewise, my intent to ask
5 him if it was a condition of his bond that he not
6 possess firearms and whether he has been in
7 possession of a firearm since that time.

8 THE COURT: Okay. With respect to the first
9 issue, that is the question regarding his prior
10 record, I will overrule the State's objection and
11 allow you to ask that question.

12 With respect to the picture, the picture in and
13 of itself isn't relevant, unless, of course, he
14 denies the -- whether he's ever been in possession of
15 a handgun. You can ask him if since that conviction
16 he's been in possession of a handgun. If he responds
17 in the negative, then you can ask him about that
18 picture and whether he can identify the same or not.

19 So, whether that picture becomes admissible or
20 not is really dependent on the testimony and the
21 responses that the questions elicit.

22 MR. EPPES: Your Honor?

23 THE COURT: Yes, sir.

24 MR. EPPES: I also want to ask him if prior to
25 the bond that he's on right now if he's ever been

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 placed on house arrest. And I have reason to ask
2 that as well.

3 THE COURT: Do you have an issue with that?

4 MR. MOYER: Well, I can't imagine what the
5 reason would be. I can't think of a reason why that
6 would have relevance.

7 THE COURT: What's the relevance? You've got to
8 give me some idea of what the relevance is. And, you
9 know, the reason for most of these ruling is, you
10 know, I recognize that Mr. Taylor is facing a
11 substantial penalty. And I'm going to give the
12 Defense some latitude to present a full and complete
13 defense, I think that's fair. But you've got to give
14 me something to hang my hat on with respect to that
15 question because I don't know -- I don't know exactly
16 how it's relevant as I sit here.

17 MR. EPPES: Hold on, hold on. I apologize, Your
18 Honor.

19 THE COURT: That's all right.

20 MR. EPPES: Your Honor, I'm going to show this
21 on the big screen because I'm not sure that you can
22 see it.

23 Your Honor, this is a photograph of
24 Mr. Henderson taken from his Facebook page that was
25 posted on or around July 16th of 2015. And I have a

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 witness who can testify about it because it's on his
2 phone, the ankle monitor is right there. And I
3 haven't been able to figure out a way to brighten it
4 up enough, but I do have a witness to testify to
5 that.

6 THE COURT: So, is it your contention that he
7 wasn't at his home when that picture was taken?

8 MR. EPPES: No, it is my statement that since
9 the time of these charges, he has posted this on
10 Facebook. There's also an automatic weapon in his
11 hand right there.

12 Can you brighten this up? Is there a way to
13 brighten this up?

14 I'll show it to you, Judge, you can see it a
15 little better. This is a better one, we're going to
16 use this one. There's a semi-automatic weapon in his
17 hand and the ankle monitor is visible.

18 THE COURT: Okay. I'll let you ask him if --
19 I'll let you ask him if he recognizes that picture
20 and you can take it from there. What's admissible
21 would be dependent on his testimony. I hate to
22 anticipate, but --

23 MR. EPPES: Well, I hate to anticipate, too, but
24 I didn't want it to become a brouhaha --

25 THE COURT: If the picture is identified, then I

ANTHONY HENDERSON-DIRECT BY MR. MOYER

1 don't think -- I would allow you to ask the question
2 if at the time that photograph was taken whether he
3 was on house arrest or not.

4 MR. EPPES: Huh?

5 THE COURT: I said I'll let you ask him after
6 you present that picture to him.

7 MR. EPPES: Okay.

8 THE COURT: Whether, in fact, he was on house
9 arrest at the time and ask him about the ankle
10 monitor. I mean, you can ask him questions about
11 that. I'm not going to prevent you from doing that.
12 Okay.

13 MR. EPPES: Thank you, Your Honor.

14 MR. MOYER: As far as whether he was in
15 possession of a handgun while he on house arrest, is
16 that --

17 THE COURT: Yeah, exactly. I mean, it seems to
18 me -- again, I don't want to anticipate and tell
19 people how to try their case, but it seems to me if
20 you ask him, what is this? Is this picture you?
21 What is this in your hand? What is this on your
22 ankle? You know, I don't know how responsive he'll
23 be in answering those questions, but if he's either
24 evasive or nonresponsive, then the Defense will have
25 the opportunity to continue to ask questions to

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 determine whether, in fact -- you know, what that
2 means. Okay. I don't know how it's going to go, but
3 I'm not going to preclude you from going down that
4 avenue of questioning.

5 MR. EPPES: Thank you, Your Honor.

6 THE COURT: Okay. Okay. We good now?

7 MR. MOYER: Yes, sir.

8 MR. EPPES: Yes, sir.

9 THE COURT: All right.

10 Will you bring Mr. Henderson back in, please? I
11 think Ms. Fryer is outside.

12 Oh, you're right there, I'm sorry. Yeah, go
13 ahead and bring them in.

14 (WHEREUPON, the witness enters the courtroom.)

15 (WHEREUPON, the jury came into open court at
16 approximately 10:58 a.m.)

17 THE COURT: All right. Mr. Eppes, your witness,
18 sir.

19 MR. EPPES: Thank you, Your Honor.

20 THE COURT: Yes, sir.

21 CROSS-EXAMINATION

22 BY MR. EPPES:

23 Q Mr. Henderson, we have never met, have we?

24 A No, sir, just the preliminary hearing, sir.

25 Q You and I have never spoken, have we?

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 A No, sir.

2 Q You're here today telling this jury that you had
3 nothing to do with this?

4 A Nothing at all.

5 Q Correct?

6 A Yes, sir.

7 Q But you're charged with murder that carries 30
8 -years to life in prison, right?

9 A Yes, sir.

10 Q You're charged with attempted murder, two of
11 them, carries up to 30 years in prison, right?

12 A Yes, sir.

13 Q So, if you did have something to do with it, you
14 would be looking at a lot of time, right?

15 A Yes, sir.

16 Q And you know that, correct?

17 A Yes, sir.

18 Q You've been in trouble with the law before,
19 you've been convicted of a felony that carried more than a
20 year in jail, correct?

21 A Yes, sir.

22 Q Okay. And since that time, you've been
23 prohibited from owning a firearm, correct?

24 A Yes, sir.

25 Q Have you had firearms in your possession since

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 that time?

2 A Yes, sir.

3 Q Okay. Since you were arrested for this, have
4 you had firearms in your possession?

5 A Yes, sir.

6 Q Is it fair to say that you're a violent person?

7 A No, sir.

8 Q All right. I'm going to start back a little bit
9 because I've got to jump around some. So, first thing I
10 want to do is run the video from the BP. All right. Now,
11 come on down here for me.

12 A (The witness complies.)

13 MR. EPPES: Mr. Carter?

14 MR. MASSENGILL: Yes, sir.

15 MR. EPPES: Come put your hands under this
16 thing.

17 (WHEREUPON, a video was played.)

18 BY MR. EPPES:

19 Q Now, Mr. Gaddis [verbatim], y'all aren't there
20 yet, right? What am I saying? Mr. Henderson, y'all ain't
21 there yet, right?

22 A No, sir.

23 Q Okay. But you know from looking at this video
24 that y'all came in around the same time as the Tahoe?

25 A Yes, sir.

ANTHONY HENDERSON-CROSS BY MR. EPPES

- 1 Q All right. You know who these people are up
2 here?
- 3 A Yes, sir.
- 4 Q Who is all that?
- 5 A People I used to hang with, sir.
- 6 Q You don't hang with them anymore?
- 7 A No, sir.
- 8 Q Where does Ant -- where does Deunte live now?
- 9 A I'm not sure, sir.
- 10 Q Huh?
- 11 A I'm not sure, sir.
- 12 Q You don't know whether he lives here or in
13 Atlanta?
- 14 A No, sir.
- 15 Q Do you know whether he lives here or in Atlanta?
- 16 A I assume he stays here.
- 17 Q Okay. Well, that's the Tahoe, right?
- 18 A Yes, sir.
- 19 Q Okay. So, y'all are in here, but y'all are over
20 here beyond these gas pumps?
- 21 A Yes, sir.
- 22 Q This is Ms. Hiott walking in, correct?
- 23 A Yes, sir.
- 24 Q That's Mr. Nesbitt pumping gas or getting ready
25 to pump gas?

ANTHONY HENDERSON-CROSS BY MR. EPPES

- 1 A Yes, sir.
- 2 Q And the Camero is still over here?
- 3 A Yes, sir.
- 4 Q And nobody is in the frame, not you or Billy
- 5 Taylor or anybody?
- 6 A No, sir.
- 7 Q Now, it's your testimony that Billy Taylor
- 8 hollered at Ms. Hiott from over there as she left the car
- 9 and went in?
- 10 A I'm not sure if it was before or after, but he
- 11 did.
- 12 Q But from here to there somewhere?
- 13 A Yes, sir.
- 14 Q Okay. Now, y'all still aren't in the screen
- 15 over here; are you?
- 16 A No, sir.
- 17 Q Okay. And there goes --
- 18 A I'm right there.
- 19 Q You're right there?
- 20 A Yes, sir, talking to my friend.
- 21 Q Okay. So, you were there, you weren't near
- 22 where Billy was?
- 23 A No, sir.
- 24 Q But you never went in the store?
- 25 A No, sir. I was walking towards the store.

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 Q But then you turned around and went back?

2 A Yes, sir.

3 Q There's a red car there, but that's not

4 Mr. Taylor's car; is it?

5 A I don't think so, sir. I really can't tell.

6 Q You don't remember him moving his car into the
7 gas pumps, though; do you?

8 A No, sir.

9 Q Now, who are those two people?

10 A I'm not sure, sir.

11 Q Okay. Now, that's Ms. Hiott going back to her
12 car?

13 A Yes, sir.

14 Q And she watches that altercation. And she goes
15 over and she gets in front of the car. In a little bit,
16 we don't see her again. Now, tell me when y'all get back
17 in the frame.

18 A There's Billy.

19 Q That's Billy right there. He walks in the
20 frame.

21 A There's me.

22 Q He sees all that going on, he turns around and
23 walks back out. And there you are, too, doing the same
24 thing; is that right?

25 A Yes, sir.

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 Q And there's no indication from Mr. Nesbitt or
2 anybody over here that there was any interaction at all?

3 A No, sir.

4 Q All right. Now, do you or Mr. Taylor show up in
5 here again?

6 A I don't think so, sir.

7 Q Let's just watch to make sure. Okay. There
8 they are leaving, right? Y'all never came back into this
9 frame again; did you?

10 A No, sir.

11 Q All right. Thank you. You can get back up
12 there.

13 A (The witness complies.)

14 Q You and Deunte are pretty good friends still;
15 aren't you?

16 A Yes, sir.

17 Q And you see him on a regular basis, correct?

18 A No, sir.

19 Q When's the last time you saw him?

20 A Before today, probably like a week ago.

21 Q A week ago. So, you see him on a regular basis?

22 A No, sir, not on a regular basis.

23 Q Well, what do you describe as an irregular
24 basis? How often do you see him?

25 A Every couple of months.

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 Q Okay. You have a baby with his cousin, correct?

2 A Yes, sir.

3 Q Okay. Now, you mentioned to me that you're not
4 a violent person, but don't you from time to time take
5 pictures holding your hand out like you're pointing a gun?

6 A I mean, yes, sir.

7 Q Why do you do that if you're not a violent
8 person?

9 A I mean, I don't know. I'm not presenting a gun.

10 Q Okay. Do you ever threaten people?

11 A No, sir, not -- I don't threaten them unless I'm
12 threatened.

13 Q Do you talk smack to people about shooting them?

14 A No, sir.

15 Q Do you have a Facebook page?

16 A Yes, sir.

17 (WHEREUPON, Defendant's Exhibit No. 3 was marked
18 for identification only.)

19 BY MR. EPPES:

20 Q Do you recognize who's in that picture?

21 A Yes, sir.

22 Q Is that you?

23 A Yes, sir.

24 Q And did you post that on your Facebook page?

25 A Yes, sir.

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 Q When did you post it on your Facebook page?

2 A Last year.

3 Q Did you write what's on the top of that page?

4 A Yes, sir..

5 Q Okay.

6 MR. EPPES: Your Honor, I'd move this into
7 evidence.

8 THE COURT: Objection, sir?

9 MR. MOYER: I don't think a foundation has been
10 laid, Your Honor.

11 THE COURT: Okay.

12 MR. MOYER: It's not been --

13 THE COURT: Yeah, I think he indicated that it
14 was his Facebook page and he posted it on his
15 Facebook page. And I think that establishes that it
16 is what it's proposed to be. I think that's a basis
17 for a foundation under the rules of evidence.

18 MR. MOYER: I was actually thinking about the
19 foundation of Rule 613. I mean, I think it's
20 hearsay. I don't know it's a hearsay exception. And
21 the only way it would come in otherwise under 613 is
22 he denies having said any of that. He's not been
23 asked about it.

24 MR. EPPES: Your Honor, it's not hearsay. It's
25 something that he posted, he said it. It goes to his

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 credibility and the weight of his testimony.

2 THE COURT: Okay. I'll respectfully deny your
3 motion. I'll allow it.

4 MR. EPPES: Thank you, Your Honor.

5 BY MR. EPPES:

6 Q Well, darn it. I'm sorry. Mr. Henderson, will
7 you come down here where you can read this?

8 A (The witness complies.)

9 MR. EPPES: Carter, you're going to have to come
10 back.

11 BY MR. EPPES:

12 Q All right. Now, that's a picture of you; isn't
13 it?

14 A Yes, sir.

15 Q Mr. Henderson, you're holding a semi-automatic
16 weapon with a 30-round clip, it looks like to me; is that
17 correct?

18 A Yes, sir.

19 Q And on your ankle there is an ankle monitor that
20 you have on as a condition of your bond for this charge,
21 correct?

22 A Yes, sir.

23 Q And up at the top, I don't want to put words in
24 your mouth, but it appears that the symbol there is run up
25 on me, and then there's three shots and a gun, send you

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 straight to your maker. And then there's three smiley
2 faces with halos above them. Is that correct?

3 A Yes, sir.

4 Q And then under that, there's five American flags
5 and it says just do it; is that correct?

6 A Yes, sir.

7 Q And you posted that on your Facebook while
8 you're out on bond for murder; is that correct?

9 A Yes, sir.

10 MR. EPPES: Your Honor, because this is not as
11 clear a picture I would like -- I would like to
12 publish this to the jury and let them look at it.

13 THE COURT: Yes, sir, you may.

14 MR. EPPES: Thank you.

15 BY MR. EPPES:

16 Q You can sit back down, Mr. Henderson.

17 A (The witness complies.)

18 Q You said -- now, you gave two statements,
19 correct?

20 A Yes, sir.

21 Q And in that first statement, you didn't say much
22 except that you weren't involved in anything, correct?

23 A Yes, sir.

24 Q Then the second statement, they told you to tell
25 them everything, correct?

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 A Yes, sir.

2 Q And your attorney was there and y'all gave a
3 full interview of everything you said you knew about the
4 situation, correct?

5 A Yes, sir.

6 Q Your attorney is actually in the courtroom;
7 isn't she?

8 A Yes, sir.

9 Q Okay. Now, you said here today that Mr. Taylor
10 had said something about wanting to shoot his gun. Do you
11 remember saying that?

12 A Yes, sir.

13 Q That's not in your statement, your second
14 statement; do you realize that?

15 A Yes, sir.

16 Q Okay. You also said today that you wanted to go
17 to the BP to get milk for your eyes?

18 A Yes, sir.

19 Q Okay. Now, I want to talk a little bit about
20 this talking through the window. You said you didn't know
21 if that happened as Ms. Hiott was going out or coming in.
22 Are you saying that Mr. Taylor was hollering through the
23 window from way over here while she was walking in and
24 out?

25 A I'm not sure whether she was going in or going

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 out, but he was screaming through my window.

2 Q Okay. You don't know if she heard him or not?

3 A No, sir, but I'm sure she did.

4 Q But she didn't react to it?

5 A She may have looked over, but she kept walking.

6 Q Okay. Now, while y'all are at the BP as you're
7 pulling out, was there a time when Billy was -- you say
8 Mr. Taylor was talking through his window at Jermaine
9 Nesbitt?

10 A He may have been talking through my window.

11 Q And Jermaine Nesbitt would have been on the
12 driver's side hollering back?

13 A Yes, sir.

14 Q That's your memory of it?

15 A Yes, sir.

16 Q And was Billy hollering loud?

17 A Yes, sir.

18 Q Was Mr. Nesbitt hollering loud?

19 A Yes, sir.

20 Q Was that window down or up?

21 A My window?

22 Q No, the window on Mr. Nesbitt's car?

23 A It may have been down or it might have been
24 slightly cracked.

25 Q Slightly cracked, so he could holler back and

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 forth?

2 A Yes, sir.

3 Q And that's your testimony today?

4 A Yes, sir.

5 Q All right. But then, you say when y'all got in
6 the road, he moved over to the passenger side?

7 A I'm sure he was because I heard him on the left
8 side of Billy's car.

9 Q Yeah. And you never saw a gun in that car?

10 A In whose car?

11 Q In Billy Taylor's car?

12 A No, sir.

13 Q But you said you saw Billy blast out the window
14 and put his right hand down?

15 A He put his right hand down, yes, sir, and
16 changed the gear.

17 Q And you saw his hand out the window?

18 A No, sir. I seen it out the window, but I seen
19 it -- I started watching when he put it back.

20 Q Had you been talking to Deunte during any of
21 this?

22 A No, sir.

23 Q Okay. Where did the gun go?

24 A I don't know, sir.

25 Q Never saw it? Never saw it? You never saw the

ANTHONY HENDERSON-CROSS BY MR. EPPES

1 gun?

2 A No, sir.

3 Q And you didn't go to the police until you got
4 arrested?

5 A Yes, sir.

6 Q Yes, sir, you did not go to the police until you
7 got arrested?

8 A (The witness nods.)

9 Q You have to say yes or no, she has to write it
10 down.

11 A Yes, sir.

12 Q Thank you. Who was Billy talking to on Viola
13 Street?

14 A Just the group of guys that was at the BP.

15 Q Was Ronnie Gaddis there?

16 A Yes, sir.

17 Q You see Ronnie Gaddis in here?

18 A Yes, sir.

19 Q And you say you told the police in your first
20 interview that Billy was driving. But they already knew
21 he was driving when they picked you up, right?

22 A I assume.

23 Q And you knew from your first conversation with
24 Detective Hammett that they had enough evidence to convict
25 you of murder?

ANTHONY HENDERSON-REDIRECT BY MR. MOYER

1 A No, sir.

2 Q You did not know that?

3 A No, sir.

4 Q He did not say that to you?

5 A He may have, I'm really not sure.

6 Q Okay. They haven't promised you anything?

7 A No, sir.

8 Q It would be hard to convict you of murder if the
9 only story is that Billy Taylor was the only shooter;
10 wouldn't it?

11 A Excuse me, sir?

12 Q It would be hard to convict you of murder if the
13 only story they had was that Billy Taylor was the only
14 shooter, correct?

15 A He was the only shooter, sir.

16 MR. EPPES: Thank you.

17 No further questions, Your Honor.

18 THE COURT: Redirect, sir?

19 MR. MOYER: Just real briefly.

20 THE COURT: Yes, sir.

21 REDIRECT EXAMINATION

22 BY MR. MOYER:

23 Q What do you have to say about that Facebook
24 post? Why were you doing that?

25 A The Facebook post was about -- since I've been

ANTHONY HENDERSON-RECROSS BY MR. EPPES

1 out on this bond, I've been getting shot at, I've left
2 work and the car got shot up. I got into it with Mr. Dion
3 Gaddis. He shot at me. I have been getting shot at for
4 months every since I've been out on bond for this charge
5 because people think that I'm --

6 Q Don't tell me what people think. You've been
7 shot at?

8 A I've been shot at, sir.

9 Q Has your house been shot up?

10 A More than three times, yes, sir. They came to
11 my mother's house and shot at it.

12 Q Okay.

13 MR. MOYER: Nothing else. Thank you.

14 THE COURT: Any recross?

15 RECROSS-EXAMINATION

16 BY MR. EPPES:

17 Q Did you shoot at Dion Gaddis?

18 A No, sir.

19 MR. EPPES: Thank you.

20 THE COURT: All right. You may step down.

21 All right. You may call your next witness.

22 MR. MOYER: The State would call Jimmy Brock.

23 THE CLERK: Mr. Brock, if you'll please come
24 forward. Please place your left hand on the Bible
25 and raise your right hand.

JIMMY BROCK-DIRECT BY MR. MOYER

1 JIMMY BROCK, after being duly sworn,
2 testified as follows:

3 THE CLERK: All right. Please be seated.

4 Would you please state your name for the record.

5 THE WITNESS: Jimmy Brock.

6 THE CLERK: Thank you.

7 DIRECT EXAMINATION

8 BY MR. MOYER:

9 Q Okay, Mr. Brock, I just have a few questions for
10 you. Just look at me and make sure you speak into the
11 microphone so everybody can hear you. How old are you?

12 A Forty-nine.

13 Q Forty-nine years old. You working right now?

14 A Yes, sir.

15 Q Where you working?

16 A I'm working with Stewart Wells.

17 Q Doing some painting?

18 A Uh-huh.

19 Q And did you work for Labor Finders and places
20 like that, too?

21 A Yes, sir.

22 Q Were you in the Greenville County Detention
23 Center back in March 2014?

24 A Yes, sir.

25 Q And where in the particular jail were you, what

JIMMY BROCK-DIRECT BY MR. MOYER

1 section of the jail?

2 A I worked in the SHU.

3 Q How many sides are there to that SHU?

4 A There are four sides, an A side, B side -- A, B
5 and C side and D side.

6 Q So, there is an A and a B side?

7 A Yes, sir.

8 Q Now, were you in a position while you were there
9 to have interactions with people on both sides of that?

10 A Yes, sir.

11 Q Why is that? How is that?

12 A Because I did the food trays and stuff like
13 that.

14 Q What does that mean?

15 A Well, when you handed out food trays, you'd have
16 to give them out to everybody, so you travel down all four
17 sides.

18 Q So, you would go around with the food tray
19 taking out breakfast and lunch and meals like that?

20 A Yes, sir.

21 Q Okay. Now, was it common for you -- being in
22 that position, was it common for inmates to ask you to
23 relay messages to people in the other sections?

24 A Yes, sir.

25 Q It's a pretty common thing. Now, did you talk

JIMMY BROCK-DIRECT BY MR. MOYER

1 to the investigator at some point about interaction with
2 two guys?

3 A Yes, sir.

4 Q Did you get anything out of that?

5 A No, sir.

6 Q Anyone help you with any of your charges that
7 you were in jail for?

8 A No, sir.

9 Q Did you contact the officer about it or did he
10 contact you?

11 A He contacted me.

12 Q Okay. Were you still in jail at that time?

13 A Yes, sir.

14 Q So, did you know either one of those people's
15 names that you had the contact with?

16 A No, sir.

17 Q Okay. At the time you spoke to Investigator
18 Hammett. How many -- which two sections were they in?

19 A One was on A side and one was on B side.

20 Q Okay. And how did you have contact with those
21 two guys?

22 A I come up to the cell giving out trays and they
23 spoke to me.

24 Q Are those two guys, have they been in the
25 courtroom today?

JIMMY BROCK-DIRECT BY MR. MOYER

1 A Yes, sir.

2 Q Okay. Which is the guy you spoke to first?

3 A The guy that just left out the door.

4 Q The guy that was the on the stand?

5 A Yes, sir.

6 Q And who's the guy that you spoke to second?

7 A The guy right there.

8 Q Billy Taylor. Okay. So, let's talk about the
9 first guy, the guy who was just testifying. How did it
10 come about that you spoke to him?

11 A Well, the guy, when I come up to the cell to
12 hand him his tray, he was crying and he told me to tell
13 his brother to clear his face.

14 Q Was that on the A side or the B side?

15 A That was on the B side.

16 Q All right. Did you agree to do that for him?

17 A I did, sir, yes.

18 Q Did you speak to somebody on the other side?

19 A Yes, sir, I spoke to this guy right here.

20 Q Okay. Did you tell him what Mr. Henderson had
21 told you to tell him?

22 A Yes, sir, I did.

23 Q Then did you get a message to get back to
24 Mr. Henderson?

25 A Yes, sir, he told me to tell him that tell

JIMMY BROCK-DIRECT BY MR. MOYER

1 everybody it was the backseat driver -- or backseat rider
2 or he would tell that it was him.

3 Q Say that again. What did he say?

4 A He told me to tell him that the back seat rider
5 was the shooter or if they didn't stick together, he was
6 going to tell on him, make him the shooter.

7 Q All right. Did you relay that message back to
8 Anthony?

9 A Yes, sir, I did.

10 Q Okay. Now, when you later spoke to that -- you
11 said the investigator came to you?

12 A Yes, sir, he did.

13 Q All right. It was a number of months later;
14 wasn't it?

15 A Yes, sir.

16 Q Do you remember the date off the top of your
17 head?

18 A No, I don't remember.

19 Q Okay. But you remember it was a number of
20 months later?

21 A Yeah, it was several months later.

22 Q And at that time, do you remember the
23 investigator showed you a photographic lineup?

24 A Yes, sir, he did.

25 Q Okay. I'm going to show you State's Exhibit No.

JIMMY BROCK-DIRECT BY MR. MOYER

1 1. Can you take the look at that? Do you recognize that?

2 A Yes, sir.

3 Q What is that?

4 A That's a lineup with my initials on it.

5 Q That's the lineup the investigator showed you?

6 A Uh-huh.

7 Q Okay. Now, do you remember when the
8 investigator showed you that lineup, did he -- did you
9 feel like he put any pressure on you, making you think you
10 had to pick somebody out of the lineup?

11 A No, sir, he just presented it to me and I picked
12 him out.

13 Q So, did you feel like you were under a sense of
14 obligation that you had to pick somebody out of the
15 lineup?

16 A No, sir.

17 Q Did he in any way influence your decision as to
18 which person to pick out of that lineup?

19 A No, sir, he didn't.

20 Q Okay. All right. So, when he showed you the
21 lineup, what was your response to that lineup?

22 A I picked out this guy right here.

23 Q Picked out the Defendant?

24 A Yes, sir.

25 Q As being the person that you had spoken to in

JIMMY BROCK-DIRECT BY MR. MOYER

1 jail?

2 A Yes, sir.

3 Q Did you have any trouble picking this picture
4 out of the lineup?

5 A No, sir, I didn't.

6 Q How certain or confident were you that that was
7 the person?

8 A One hundred percent.

9 Q Okay. All right. After you made that -- after
10 you did that, were you asked to make any markings on the
11 paper?

12 A Yes, sir.

13 Q Okay. What were asked to do?

14 A Put my initials on it.

15 Q Where were you asked to put your initials?

16 A On the Defendant that I chose.

17 Q On the person that you had chosen?

18 A Uh-huh.

19 Q Let me hand you again State's Exhibit No. 1. Do
20 you see your initials in that lineup?

21 A Yes, sir.

22 Q And how many pictures are in that lineup?

23 A Six.

24 Q Are they all numbered?

25 A Yes, sir.

JIMMY BROCK-DIRECT BY MR. MOYER

1 Q Which number was it that you put your initials?

2 A Number two.

3 Q Okay. Were you asked to do anything to the back
4 of the form?

5 A Yes, sir, I think sign it and date it.

6 Q Okay. If you would, take a look at the back of
7 that document. Does that have your signature on it?

8 A Yes, sir, it does.

9 Q Does it have the date?

10 A 07/24/2014.

11 Q July 24th, 2014?

12 A Uh-huh.

13 Q Is that lineup that you're looking at, State's
14 Exhibit No. 1, is that in substantially the same condition
15 now as it was back when you saw it? Do you see changes,
16 anything stand out that's been amended or omitted or
17 changed in any way?

18 A No, sir, it's the same thing.

19 MR. MOYER: Your Honor, at this time, we would
20 move to have State's Exhibit 1 entered into evidence.

21 THE COURT: Any objection, sir?

22 MR. EPPES: No objection.

23 THE COURT: All right. Without objection, the
24 same is entered into evidence.

25

JIMMY BROCK-REDIRECT BY MR. MOYER

1 (WHEREUPON, State's Exhibit No. 1, was
2 previously marked and received into evidence in
3 prior testimony.)

4 MR. MOYER: Okay. Please answer any questions
5 the Defense may have.

6 THE COURT: Cross-examination, Mr. Eppes?

7 CROSS-EXAMINATION

8 BY MR. EPPES:

9 Q You have no information as to who actually shot
10 Jermaine Nesbitt; do you?

11 A Only information I got is what he gave me.

12 Q And he didn't tell you he shot Jermaine Nesbitt;
13 did he?

14 A No, sir, he didn't.

15 Q He said he would tell everybody that Ant
16 Henderson was the shooter, correct?

17 A Yes, sir, he did.

18 MR. EPPES: Okay. Thank you.

19 THE COURT: Redirect, sir?

20 MR. MOYER: Briefly, Your Honor.

21 THE COURT: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. MOYER:

24 Q Did he use a name?

25 A He did not use a name, he just said the back

JIMMY BROCK-REDIRECT BY MR. MOYER

1 seat rider was the shooter.

2 Q He said whoever was in the back seat was the
3 shooter?

4 A Yes, sir.

5 Q He was asking you to tell that to Anthony
6 Henderson; is that right?

7 A Yes, sir.

8 Q Do you know the name of who was in the back?

9 A No, sir.

10 Q Okay. Did you know anything about this before
11 you heard these guys talking about it?

12 A Never heard anything about it until they told
13 me.

14 MR. MOYER: Nothing further.

15 THE COURT: Any recross, sir?

16 MR. EPPES: No, sir.

17 THE COURT: Okay. Thank you, sir. I appreciate
18 you being here. Appreciate your time.

19 Call your next witness.

20 MR. MOYER: The State calls Deunte Jones.

21 THE CLERK: Sir, please pause at the end of the
22 bench, place your left hand on the Bible and raise
23 your right hand.

24 DEUNTE JONES, after being duly sworn,
25 testified as follows:

DEUNTE JONES-DIRECT BY MR. MOYER

1 THE CLERK: Thank you. Please be seated.

2 Would you please state your name for the record?

3 THE WITNESS: Deunte Jones.

4 THE CLERK: Thank you.

5 DIRECT EXAMINATION

6 BY MR. MOYER:

7 Q Mr. Jones, I ask you to just sit up a little bit
8 and make sure you speak into that microphone so we can all
9 hear what you have to say. How old are you?

10 A Twenty-four.

11 Q Are you single?

12 A Yes, sir.

13 Q You work?

14 A No, sir, I get disability.

15 Q Okay. Do you -- were you in the Camero on the
16 night of of 2014 when the incident happened?

17 A (The witness nods.)

18 Q You've got to say yes or no.

19 A Yes, sir.

20 Q You were?

21 A Yes, sir.

22 Q Okay. So, let's start back to the beginning of
23 that night and what y'all were doing. Did you go out with
24 any friends on that particular date?

25 A I mean, me and Ant went out.

DEUNTE JONES-DIRECT BY MR. MOYER

1 Q You and Ant? Anthony Henderson, is that the guy
2 who was just testifying?

3 A Uh-huh.

4 Q Where did y'all go?

5 A First, we went to Bugatti, then we went to
6 Croc's.

7 Q How did you get to Bugatti?

8 A The black Elmo car.

9 Q Do you know who was driving it?

10 A I know it was a dude I went to school with.

11 Q Okay. So, you got over there, how did you
12 get -- do you remember how long you stayed there?

13 A At Bugatti?

14 Q Yeah.

15 A Probably like an hour, if that.

16 Q Did you have other friends over there when you
17 were at Bugatti?

18 A (The witness shook his head.)

19 Q Do you know Billy Taylor?

20 A (The witness shook his head.)

21 Q You have to say yes or no, you can't just shake
22 your head.

23 A No, sir.

24 Q You did not know him?

25 A No, sir.

DEUNTE JONES-DIRECT BY MR. MOYER

1 Q At that time?

2 A No, sir.

3 Q So, when did you first meet him?

4 A That night at Croc's when I was entering his
5 vehicle.

6 Q Okay. And so until that time, you had never
7 seen or met him before?

8 A No, sir.

9 Q Okay. Now, did you use to go to Croc's a lot?

10 A Yes, sir.

11 Q Did you know a lot of people who were there?

12 A Like, at the time?

13 Q Yes.

14 A Yeah, I know a couple people there, lots of
15 people.

16 Q So, tell me about -- so, did you and Anthony
17 spend your time together there at Croc's?

18 A Yeah, we just like mainly sat around by the bar
19 and dance floor area.

20 Q All right. Do you remember having any
21 interaction with the Defendant while you were there at
22 Croc's? Did you talk or meet him or anything?

23 A No, sir.

24 Q So, what caused you to leave Croc's?

25 A The fight broke out.

DEUNTE JONES-DIRECT BY MR. MOYER

1 Q Did you get maced?

2 A I mean, I ain't get maced like that, but I
3 got -- like when it was hitting off other people, it got
4 into my eyes, but I wasn't really like couldn't see.

5 Q Okay. So, you weren't maced real hard?

6 A No, sir.

7 Q Do you remember which door you went out?

8 A The front door.

9 Q The same door you went in?

10 A Yes, sir.

11 Q Did you go out around the same time Anthony did?

12 A Yes, sir. I was holding him up.

13 Q I'm sorry?

14 A He was holding onto me when we was walking out
15 because he couldn't see. He had his shirt over his face.

16 Q What did you do when you got outside Croc's?

17 A Nothing. We just sit right there in the parking
18 lot looking for the dude that drove the Elmo car, but he
19 wasn't nowhere to be found. So, probably like two
20 minutes, three minutes after that, Billy had came out.
21 And was like Billy cool or whatever, we can ride with him.
22 He'll take us home.

23 Q Who said Billy's cool?

24 A Anthony.

25 Q So, your were expecting to go home with the guy

DEUNTE JONES-DIRECT BY MR. MOYER

1 who was in the Elmo car; is that correct?

2 A Yes, sir.

3 Q Had you seen him there at the club?

4 A Uh-huh.

5 Q All right. Did you see him at BP, at the BP gas
6 station later?

7 A I seen him pull up. When all the cars were
8 pulling up, he pulled up. But he wasn't coming from
9 Croc's, he was coming from down Pelham.

10 Q Did he have anyone with him, do you remember?

11 A No, I wasn't really paying no attention like
12 that.

13 Q So, you ended up getting in Billy's car. Was it
14 a Camero?

15 A Yes, sir.

16 Q Have you seen some of these pictures we've been
17 showing?

18 A Yes, sir.

19 Q Was that the car you got in?

20 A Yes, sir.

21 Q Where did you sit in the car?

22 A In the back seat on the passenger side.

23 Q All right. Did you have a gun?

24 A No, sir.

25 Q Did Anthony have a gun?

DEUNTE JONES-DIRECT BY MR. MOYER

1 A No, sir.

2 Q What happened while -- do you remember hearing
3 gunshots or anything while you were at Croc's?

4 A Yes, sir.

5 Q Tell me about that, where you were and what you
6 were doing?

7 A When I was in front of Croc's, there was like
8 upward in the parking area shooting. Nobody shooting
9 where Croc's was at.

10 Q Could you see who was shooting?

11 A Huh-uh.

12 Q Could you see what kind of car --

13 A No, sir.

14 Q -- whoever was shooting got in?

15 A No, sir.

16 Q Was anything -- did the Defendant say anything
17 about -- did you ever see him with a gun or did you hear
18 him say anything about a gun?

19 A I mean, when we jumped in the car, I heard him
20 tell Ant like he had -- he got to shoot his gun.

21 Q Did Anthony say anything when he said that?

22 A No, sir.

23 Q Did you say anything?

24 A No, sir.

25 Q All right. So, where did you go after you were

DEUNTE JONES-DIRECT BY MR. MOYER

1 leaving Croc's?

2 A We went to the BP to get milk for Anthony.

3 Q Did you need milk?

4 A No, sir.

5 Q And milk is supposedly used to try to help get
6 rid of mace; is that right?

7 A Yes, sir.

8 Q Okay. So, tell me what happened when you're at
9 the BP. What did y'all do?

10 A They jumped out the car or whatever. Ant stood
11 at the car for like a minute or two. Billy stood at the
12 car for like a minute or two. And then everybody got in a
13 fight. Like, on one side of the club -- I mean, at the
14 gas station, there was fighting and in the middle there
15 was fighting. Like, there was fights everywhere.

16 Q Did you get out of the Camero?

17 A No, sir.

18 Q You stayed in the back the whole time?

19 A Yes, sir.

20 Q Did you -- so, are you ever seen in that video
21 at any point?

22 A No, sir.

23 Q Because you stayed in the car?

24 A Yes, sir.

25 Q Could you hear anything that Billy was saying?

DEUNTE JONES-DIRECT BY MR. MOYER

- 1 A No, sir.
- 2 Q While y'all were at the BP?
- 3 A No, sir.
- 4 Q Do you remember seeing the Tahoe, did you take
5 notice of it?
- 6 A No, sir.
- 7 Q Didn't mean anything to you, didn't notice it at
8 all?
- 9 A No, sir.
- 10 Q Do you remember seeing the young lady who was
11 the driver walk into the gas station and walk back?
- 12 A No, sir.
- 13 Q Did you ever hear -- could you hear -- when
14 Billy and Anthony were outside the car, could you hear
15 what they were saying or doing?
- 16 A I was on my phone. I was texting my girlfriend.
- 17 Q So, you weren't paying attention to them?
- 18 A No, sir.
- 19 Q Okay. They both get back into the Camero?
- 20 A Yes, sir.
- 21 Q Do you know why -- so, where were y'all parked?
- 22 A On the side by the road.
- 23 Q Along the road there?
- 24 A Yes, sir.
- 25 Q Did Anthony ever go get milk?

DEUNTE JONES-DIRECT BY MR. MOYER

1 A No, sir.

2 Q Y'all never got gas?

3 A No, sir.

4 Q Were you wondering why you were there?

5 A I mean, we was there to get milk. That was our
6 purpose of going.

7 Q Do you know why y'all left without getting milk?

8 A I mean, I told Ant, I'm like, Let's go. He
9 telling Billy, Let's go. But I guess they wanted to
10 fight, so we sit there for another minute or two, then we
11 finally drove off.

12 Q Now, before you drove off, do you remember
13 seeing that Tahoe?

14 A No, sir -- like in front of us when they was
15 pulling out.

16 Q You saw it when it was pulling out?

17 A Yes, sir.

18 Q Do you remember anything being said by anyone in
19 your car to the people in the Tahoe?

20 A I mean, it was a lot of commotion. Like, I
21 heard him, I heard them, I heard the dude in the Tahoe.
22 Like, it was a lot of commotion.

23 Q Okay. Let me back up. You said I heard him?

24 A Billy.

25 Q You heard Billy. Do you remember what he was

DEUNTE JONES-DIRECT BY MR. MOYER

1 saying?

2 A No, sir.

3 Q And you heard the guy in the Tahoe?

4 A Yes, sir.

5 Q Do you remember what he was saying?

6 A No, sir.

7 Q Was it a -- how would you characterize that
8 exchange of words?

9 A Because he was looking dead at our car, like --

10 Q Let me rephrase the question. Was it a calm
11 conversation, was it hostile? In that range --

12 A It was hostile. It was like cussing going on.
13 Like, it was a lot of commotion, arguing. It was arguing.

14 Q Okay. So, you were on -- you were on Anthony's
15 side of the car at that time?

16 A Yes, sir.

17 Q Okay. All right. Do you remember when you
18 pulled out of BP, did you turn left or turn right, do you
19 remember?

20 A Right.

21 Q And what happened after you turned out onto the
22 road.

23 A I mean, we got down the road and I heard a shot
24 and I ducked.

25 Q Okay. What did you see?

DEUNTE JONES-DIRECT BY MR. MOYER

1 A I didn't see nothing. I looked back, I seen the
2 Tahoe slanting off to the left.

3 Q Okay. So, what did you see about the Tahoe
4 before you heard the shot as far as your Camero in
5 relation to the Tahoe?

6 A Excuse me?

7 Q All right. Where was your -- where was Billy's
8 Camero -- how close was it to the Tahoe when you heard the
9 shot?

10 A I mean, it was pretty close. Like, our front
11 bumper probably was like at the back seat door, like the
12 back of the door.

13 Q Okay. Was Billy's window up or down?

14 A Down.

15 Q Was he talking?

16 A Yeah.

17 Q What was he saying?

18 A He was saying, What? Like what? What? Like he
19 was asking what he saying, like, What?.

20 Q Was he talking to you or Anthony?

21 A No, he was talking to the dude in the Tahoe.

22 Q Was the guy in the Tahoe talking back?

23 A Yeah.

24 Q Do you remember what he was saying?

25 A No, sir.

DEUNTE JONES-DIRECT BY MR. MOYER

1 Q Once again, was it a calm conversation or
2 hostile?

3 A It was a hostile conversation.

4 Q Okay. Were you paying attention to it closely?

5 A Yes.

6 Q Okay. Then tell me what -- did you see Billy do
7 anything either before or after you heard that shot?

8 A Before, I seen him reach over, over Anthony, but
9 after that, it was like what, then shot.

10 Q How close was the shot?

11 A Probably from like here to the Judge.

12 Q What was from you to the Judge?

13 A The shot.

14 Q From where the Tahoe was?

15 A Yeah, from like the driver to where the Judge is
16 is like how close it was.

17 Q How close the Tahoe was to Billy's car?

18 A Yeah.

19 Q Okay. Did you -- after you heard the shot, did
20 you look at Billy?

21 A (The witness shook his head.)

22 Q Did you see what he did?

23 A (The witness shook his head.) I mean, I seen
24 him laugh. He laughed and sped off.

25 Q You said he laughed?

DEUNTE JONES-DIRECT BY MR. MOYER

1 A Yeah.

2 Q And then where did y'all go?

3 A The house behind BP -- I mean, QT. I don't know
4 the street, but it was over there by my house on
5 Washington Street.

6 Q What did y'all do over there?

7 A I sat in the car.

8 Q Did Billy stay in the car?

9 A No.

10 Q Did you see what he did?

11 A No, sir.

12 Q Did you hear what he was saying or doing?

13 A No, sir. He was over there at the house. He
14 wasn't nowhere near the car.

15 Q Were there a bunch of people there?

16 A Probably seven, six. It wasn't that many.

17 Q What about Anthony?

18 A He jumped out the car and ran over there, but I
19 don't know what he said or done. I sat in the car.

20 Q Okay. Then where did you go after that?

21 A Washington Street.

22 Q What's on Washington Street?

23 A What's on Washington Street? I don't know.

24 Q I guess what I'm saying, once you left the house
25 on Viola Street, where did you go?

DEUNTE JONES-DIRECT BY MR. MOYER

1 A Washington Street.

2 Q What did you do on Washington Street?

3 A He dropped us off at home.

4 Q At whose home?

5 A My house.

6 Q Did you ever see anyone in the Tahoe with a
7 weapon or gun?

8 A No, sir.

9 Q After the shot was fired, did you talk to Billy
10 about what had just happened?

11 A No. I just said what the F.

12 Q Did he say anything?

13 A No, sir.

14 Q You said -- I'm sorry, I didn't mean to talk
15 over you. You said no?

16 A No, sir.

17 Q Did you ever talk to him after this incident
18 about what had happened?

19 A No, sir.

20 Q Did you see him again after that?

21 A No, sir.

22 Q Okay. Do you remember what Billy was doing --
23 I'm sorry, what Anthony was doing when you heard the shot
24 when you were on Pelham Road?

25 A No. His face was in the vents or whatever, like

DEUNTE JONES-DIRECT BY MR. MOYER

1 he was leaning forward.

2 Q Okay. Do you know why he was leaning forward?

3 A I mean, we never did get milk, so I'm pretty
4 sure his eyes were still burning.

5 Q Were your eyes burning?

6 A One of my eyes, but it wasn't nothing major,
7 like I just wiped it.

8 Q Okay.

9 MR. MOYER: One moment. All right, please
10 answer any questions the Defense may have.

11 MR. EPPES: Your Honor, can I take a couple of
12 minutes to get my thoughts in order before we do
13 this? I'm sorry.

14 THE COURT: That's all right. You're probably
15 bailing somebody in the courtroom out. Somebody's
16 got to use the bathroom.

17 Let's go ahead and take a break, ladies and
18 gentlemen. Please don't discuss the case.

19 (WHEREUPON, the jury left open court at
20 approximately 11:47 a.m.)

21 THE COURT: Mr. Jones, you can take a break,
22 too. You just can't discuss your testimony because
23 you're under oath right now, okay?

24 All right. We'll be in recess.

25 MR. EPPES: One brief issue.

DEUNTE JONES-CROSS BY MR. EPPES

1 THE COURT: Sure.

2 MR. EPPES: The court reporter was not a hundred
3 percent sure that Exhibit 3, that Facebook post, was
4 admitted into evidence. We told her it was and we
5 just wanted to clarify that on the record.

6 THE COURT: Yes, it's admitted into evidence.

7 THE COURT REPORTER: Thank you.

8 (WHEREUPON, Defendant's Exhibit No. 3 was
9 admitted into evidence.)

10 (WHEREUPON, the jury came into open court at
11 approximately 12:00 p.m.)

12 THE COURT: Okay. All right, Mr. Jones.

13 All right. Mr. Eppes, your witness, sir.

14 CROSS-EXAMINATION

15 BY MR. EPPES:

16 Q You and Anthony Henderson have been friends for
17 a good while; haven't you?

18 A Yes, sir.

19 Q And I think he has a baby with your cousin?

20 A Yes, sir.

21 Q And you have a Facebook page?

22 A Yes, sir.

23 Q And you occasionally post pictures of you and
24 Ant on Facebook shooting the bird at people and pointing
25 guns at them or pointing -- pretending to point guns; have

DEUNTE JONES-CROSS BY MR. EPPES

1 you done that recently?

2 A Yes, sir.

3 (WHEREUPON, Defendant's Exhibit No. 4 was marked
4 for identification only.)

5 BY MR. EPPES:

6 Q Now, I show you what's been marked as
7 Defendant's Exhibit 4, is that a picture on your Facebook
8 page?

9 A Yes, sir.

10 Q Is that you and Anthony Henderson?

11 A Yes, sir.

12 Q And you're shooting the bird at a couple of
13 people and Anthony's pointing like he's got a gun,
14 correct?

15 A Yes, sir.

16 Q Why would you do that knowing you're charged
17 with murder?

18 A I mean, I didn't think the picture mattered.
19 It's a picture.

20 Q Picture's just a picture.

21 MR. EPPES: Your Honor, I move this into
22 evidence.

23 MR. MOYER: I object for relevancy, Your Honor.

24 THE COURT: All right, I'll overrule. You may
25 present the same.

DEUNTE JONES-CROSS BY MR. EPPES

1 (WHEREUPON, Defendant's Exhibit No. 4 was
2 admitted into evidence.)

3 BY MR. EPPES:

4 Q Now, Mr. Henderson, you gave an interview to law
5 enforcement --

6 A I'm Deunte Jones.

7 Q I've done this all day, I'm sorry. I'm senile.
8 Mr. Jones, thank you for correcting me. You gave an
9 interview to law enforcement on June 30th, 2014; do you
10 remember that?

11 A Yes, sir.

12 Q And in that interview, you described this
13 incident in a little more detail. Do you remember giving
14 that statement that day?

15 A Yes, sir.

16 Q Do you remember saying that when you saw that
17 flash, you saw Billy Taylor's gun out the -- hand with his
18 left hand -- or you saw Billy Taylor's left arm out the
19 window of the car?

20 A No, sir.

21 Q You don't remember saying that?

22 A I remember saying I seen a flash and his arm was
23 out the car. I didn't stay his left arm.

24 Q You did not say his left arm. And you didn't
25 say that he used his left arm out the window and then he

DEUNTE JONES-CROSS BY MR. EPPES

1 shifted gears with his right and took off?

2 A Not that I recall.

3 Q Okay. Well, I'm going to show you.

4 MR. EPPES: Your Honor, we're going to need to
5 take a little break. I'm sorry.

6 THE COURT: Okay. You're trying to find the
7 document?

8 MR. EPPES: Well, I tried last night to figure
9 out a way to use my own disk and have it where I
10 wanted it and it's impossible. So, Mr. Moyer's got
11 to help me.

12 THE COURT: Okay. All right.

13 Ladies and gentlemen, let's take just a short
14 break for us to get that together and we'll come
15 right back in. I'm sorry. Please don't discuss the
16 case.

17 (WHEREUPON, the jury left open court at
18 approximately 12:05 p.m.)

19 THE COURT: Okay. Y'all just come get me when
20 you're ready.

21 Mr. Jones, just hold tight. I hope this isn't
22 going to take long.

23 MR. EPPES: It won't.

24 MR. MOYER: Your Honor, it's going to take a
25 minute to get loaded. I just want to clarify how

DEUNTE JONES-CROSS BY MR. EPPES

1 this should be handled.

2 THE COURT: Okay.

3 MR. MOYER: If it please the Court. Under Rule
4 613, I think the only way extrinsic evidence of this
5 statement, either written or taped, can be introduced
6 is if Rule 613 -- I think is he should be given the
7 opportunity to view it outside the presence of the
8 jury.

9 MR. EPPES: Absolutely fine.

10 THE COURT: Yeah. And, you know, I don't
11 know -- because I'm operating in a vacuum right now,
12 I don't know if you intend to introduce the statement
13 or if you simply intend to show it to him and ask him
14 a question.

15 MR. EPPES: I want to show it to him and ask him
16 if he now remembers that's what he said.

17 THE COURT: Do you intend to project it on the
18 screen?

19 MR. EPPES: Yes.

20 THE COURT: Do you have a paper copy of it?

21 MR. EPPES: No, sir. We didn't do a transcript
22 of this one. Or they didn't do a transcript of it.

23 THE COURT: All right. Is that acceptable to
24 the State?

25 MR. MOYER: If it pleases the Court, I think if

DEUNTE JONES-CROSS BY MR. EPPES

1 he's shown it, I think it will refresh his memory.

2 And I think he will then say on the record that yes,

3 I said that. If he does not, then I think we would

4 just have to show that portion of the video.

5 THE COURT: Okay.

6 MR. EPPES: That's exactly what my plan was.

7 THE COURT: Okay. Good enough.

8 (WHEREUPON, a CD was played.)

9 BY MR. EPPES:

10 Q Did you hear that?

11 A Yes, sir.

12 Q Does that refresh your recollection that you
13 said that Mr. Taylor had his left arm out the window?

14 A Yes, sir.

15 Q And he pulled the gun back and you never saw
16 where the gun came from?

17 A Yes, sir.

18 Q And you'll now testify to that to the jury your
19 recollection has been refreshed that's what you said?

20 A Yes, sir.

21 MR. EPPES: Okay. That works.

22 THE COURT: Okay. Let's bring the jury back in,
23 please.

24 (WHEREUPON, the jury came into open court at
25 approximately 12:10 p.m.)

DEUNTE JONES-CROSS BY MR. EPPES

1 THE COURT: All right. Ladies and gentlemen,
2 welcome back. Just so you know, the reason why we
3 took a break is because the Defense asked a question
4 about a prior statement. Ordinarily, a prior
5 statement isn't going to be admissible. But the
6 witness had the opportunity to review his
7 recollection or refresh his recollection by looking
8 at the prior statement. So, that's what we took a
9 break to do, to let him take a look at it to refresh
10 his recollection in that regard. So, having done
11 that, we're ready to proceed at this point.

12 Mr. Eppes.

13 MR. EPPES: Thank you, Your Honor.

14 THE COURT: Yes, sir.

15 BY MR. EPPES:

16 Q Mr. Henderson, you just listened to a tape of
17 your prior statement, correct?

18 A I'm Deunte Jones.

19 Q I keep doing that, I apologize. Mr. Jones, you
20 just listened to a tape, correct?

21 A Yes, sir.

22 Q Of your prior statement, correct?

23 A Yes, sir.

24 Q And in that statement, you said that Mr. Taylor
25 had his left hand out the window when the shot was fired

DEUNTE JONES-CROSS BY MR. EPPES

1 and that he pulled it back in, shifted with his right and
2 took off, correct?

3 A Yes, sir.

4 Q And you said you never saw where the gun came
5 from or where the gun went, correct?

6 A I know where the gun came from. I know he
7 reached over and grabbed the gun. I don't know where he
8 put the gun after the fact.

9 Q You don't know where the gun went, but he
10 grabbed it with his left?

11 A With his right.

12 Q Well, his left was out the window. You gave a
13 statement that said that?

14 A His left was out the window, but he grabbed it
15 with his right.

16 Q All right. Now, you talked about how far -- how
17 far were the cars away from one another?

18 A Probably like -- you know how the lanes is,
19 probably like four lanes on Pelham. We in the two middle
20 lanes, you know, really not that far apart. Probably like
21 this close.

22 Q Your hands are showing about a foot. You think
23 they were that close or you think they were farther apart
24 than that?

25 A Probably about a foot. Like, I can't just --

DEUNTE JONES-CROSS BY MR. EPPES

1 Q So, Mr. Taylor's left arm and the other car were
2 within inches of each other?

3 A Yeah.

4 Q Okay. Let's go back to the BP station for a
5 second. You said at the BP station that you observed the
6 men in the SUV hollering at Mr. Taylor; is that correct?

7 A Yes, sir.

8 Q Or hollering at your car?

9 A Yes, sir.

10 Q Was he hollering out of the SUV -- was he
11 hollering out of the driver's side window in the backseat
12 or passenger side window in the back seat?

13 A On the driver's side the back seat as they was
14 pulling off.

15 Q When they were beside you kind of? Was that
16 window down?

17 A The back window of the --

18 Q SUV.

19 A -- SUV? Yes, sir. It was like cracked a little
20 bit. It wouldn't say it was all the way down, but it was
21 cracked a little bit.

22 Q But then when you're going up the road, he moves
23 to the other side of the vehicle?

24 A Yes, sir.

25 Q Now, also, in your statement that you gave to

DEUNTE JONES-CROSS BY MR. EPPES

1 Detective Hammett, you said that at the time the shot was
2 fired, you and Ant were talking, do you remember saying
3 that?

4 A Not that I recall.

5 Q Okay.

6 MR. EPPES: Your Honor, if we may?

7 THE COURT: All right.

8 Okay. Ladies and gentlemen, same thing, we need
9 to take a look and let him refresh his recollection.
10 If you will please exit the courtroom and we'll be
11 back in just a few seconds.

12 (WHEREUPON, the jury left open court at
13 approximately 12:14 p.m.)

14 (WHEREUPON, a CD was played.)

15 MR. EPPES: If I may, just to save us from
16 coming back?

17 THE COURT: Yeah.

18 BY MR. EPPES:

19 Q You said there you didn't see where the gun came
20 from, do you remember that?

21 A Yes, sir.

22 Q And you just refreshed your recollection that
23 you did not see where the gun came from, correct?

24 A Yes, sir.

25 Q And you also said that you were behind Anthony

DEUNTE JONES-CROSS BY MR. EPPES

1 and he was speaking to you as you heard the boom, correct?

2 A Yes, sir.

3 Q And we refreshed your recollection on both of
4 those things?

5 A Yes, sir.

6 MR. EPPES: Okay.

7 THE COURT: Okay. Bring the jury in, please.

8 (WHEREUPON, the jury came into open court at
9 approximately 12:17 p.m.)

10 MR. EPPES: Am I okay, Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. EPPES:

13 / Q Okay, Mr. Jones, you just refreshed your
14 recollection on the tape of your interview and you heard
15 in that tape where you said you did not see where the gun
16 was coming from. Does that refresh your recollection
17 that's what you told Detective Hammett?

18 A Yes, sir.

19 Q That you did not see where the gun was coming
20 from?

21 A Yes, sir.

22 Q You also heard in that tape where you said you
23 were behind Ant, mostly on your telephone, but listening
24 to Ant talking to you when you heard the boom; is that
25 correct?

DEUNTE JONES-REDIRECT BY MR. MOYER

1 A Yes, sir.

2 Q And that refreshed your recollection that that's
3 what you had said, correct?

4 A Yes, sir.

5 MR. EPPES: No further questions, Your Honor.

6 THE COURT: Okay. Any redirect, sir?

7 MR. MOYER: Just a couple, Your Honor.

8 THE COURT: Yes, sir.

9 REDIRECT EXAMINATION

10 BY MR. MOYER:

11 Q So, which hand did he reach for the gun with?

12 A His right.

13 Q His right hand. Do you remember which hand he
14 actually shot with?

15 A No, I don't recall.

16 Q You don't recall now?

17 A No, sir.

18 Q Okay. At the time, you said you thought it was
19 his left?

20 A Yes, sir.

21 Q But you're sure he reached for the gun with his
22 right hand?

23 A Yes, sir.

24 Q But do you know where exactly he reached?

25 A No, sir.

DEUNTE JONES-RECROSS BY MR. EPPES

1 Q So, you don't know where the gun actually came
2 from?

3 A No, sir.

4 Q Okay. And were y'all just -- when you're
5 driving on Pelham Road, as far as you know, were you just
6 driving normally in that right-hand lane? I mean, you
7 weren't one way far either to the right or to the left?

8 A Not that I recall.

9 Q As far as you know, you were just driving down
10 normally in the center of that right lane?

11 A Yes, sir.

12 Q And you recall the Tahoe being in the center of
13 that lane, too?

14 A Yes, sir.

15 Q Okay. And you said that the front of your
16 vehicle was somewhere near the middle of the Tahoe?

17 A Yes, sir.

18 Q Was there some back and forth or was it --

19 A It wasn't no back and forth.

20 Q Okay.

21 MR. MOYER: Okay. Nothing further. Thank you.

22 THE COURT: Any recross, sir?

23 MR. EPPES: Yes, Your Honor.

24 RECROSS-EXAMINATION

25 BY MR. EPPES:

DEUNTE JONES-RECROSS BY MR. EPPES

1 Q So we're clear, when I refreshed your
2 recollection, you remember that you told Detective Hammett
3 Billy fired the gun with his left hand, then down shifted
4 into third and took off? Isn't that what you told me?

5 A Yes, sir.

6 Q That was on June 30th of 2014?

7 A Yes, sir.

8 Q And today's March 2nd of 2016?

9 A Yes, sir.

10 MR. EPPES: Okay.

11 THE COURT: All right. Thank you, Mr. Jones.

12 You can step down. I appreciate your time, sir.

13 You may call your next witness.

14 MR. MOYER: May we approach to discuss
15 scheduling?

16 THE COURT: Yeah.

17 (WHEREUPON, an off-the-recrod bench conference
18 was held in the presence of the jury but out of
19 the hearing of the jury.)

20 THE COURT: All right. Ladies and gentlemen,
21 all we were talking about was scheduling. So, the
22 State has three additional witnesses and anticipates
23 that collectively those witnesses will take somewhere
24 around an hour and 30 minutes. At this point, the
25 Defense isn't absolutely sure, hasn't committed, but

1 thinks maybe two witnesses. So, that means that we
2 should finish comfortably with all the introduction
3 of evidence today. And what I hope is that then
4 we'll come back tomorrow morning and do argument and
5 charge.

6 Now, let me tell you why. If we finish today
7 sometime between 4:00 and 4:30, the reason we don't
8 go directly to argument and charge is because that's
9 going to take some time to do. Then after you get
10 the case, then y'all begin your deliberations. Your
11 deliberations may take 10 minutes and they may take
12 10 hours. But once you start deliberating, you're
13 here. And I don't want y'all to be here past
14 midnight going into the wee hours of the night
15 deliberating on this case. What I'd rather do is
16 come back tomorrow and start that and give y'all as
17 much time as you need without concern about, you
18 know, what's happening with the children at home and
19 is my spouse taking appropriate care of them. Okay.
20 So, that's what I'm thinking right now, just so
21 you'll know.

22 So, we are going to take a lunch break right
23 now. If y'all will be back here at quarter till
24 2:00, quarter till 2:00, which is approximately an
25 hour and 15 minutes, then we'll resume testimony and

1 introduction of evidence in this case. Please don't
2 discuss the case.

3 (WHEREUPON, the jury left open court at
4 approximately 12:25 p.m.)

5 THE COURT: All right. We'll be in recess until
6 quarter till 2:00. Y'all have a good lunch.

7 (WHEREUPON, a lunch break was taken.)

8 THE COURT: Okay, ready for the jury?

9 MR. MOYER: Yes, sir.

10 MR. EPPES: Yes, sir.

11 THE COURT: Bring them in, please, sir.

12 (WHEREUPON, the jury came into open court at
13 approximately 1:50 p.m.)

14 THE COURT: All right. Mr. Moyer, you may call
15 your next witness, sir.

16 MR. MOYER: The State calls Brittany Jeter.

17 THE CLERK: Ms. Jeter, if you please pause at
18 the end of the bench, place your left hand on the
19 Bible and raise your right hand.

20 BRITTANY JETER, after being duly
21 sworn, testified as follows:

22 THE CLERK: Thank you. Please be seated. Would
23 you please state your full name for the record.

24 THE WITNESS: Brittany Jeter.

25 THE CLERK: Thank you.

BRITTANY JETER-DIRECT BY MR. MOYER

DIRECT EXAMINATION

1

2 BY MR. MOYER:

3 Q Okay, Ms. Jeter, how old are you?

4 A Twenty-six.

5 Q So, you were 24 back when this incident happened
6 back in February of 2014?

7 A Yes, sir.

8 Q Okay. You have full time employment now; is
9 that correct?

10 A Yes, sir.

11 Q You're single?

12 A Yes, sir.

13 Q And you have two children?

14 A Yes, sir.

15 Q How old are your children?

16 A Seven and six.

17 Q Okay. You might want to pull that down just a
18 touch. Okay. Well, let me take you back to
19 of 2014. That night, the night of the , you
20 went out with some friends that night?

21 A Yes, sir.

22 Q Who did you start out with?

23 A It started out with me, Jermaine, my brother,
24 and my brother friend guy.

25 Q Okay. And what was the occasion for y'all going

BRITTANY JETER-DIRECT BY MR. MOYER

1 out?

2 A Start his birthday weekend off.

3 Q And that was that Friday night, right?

4 A Friday night.

5 Q Okay. So, his birthday was actually, Saturday,
6 right?

7 A Uh-huh.

8 Q So, your brother at the time was dating Ashley;
9 wasn't he?

10 A Yes, sir.

11 Q Is that how you got to know Ashley?

12 A Uh-huh.

13 Q And you were dating Jermaine?

14 A Yes, sir.

15 Q Okay. And how long -- do you remember, roughly,
16 when you met him?

17 A I met him my birthday weekend at the end of
18 May 2013, and we started dating in July 2013.

19 Q So, y'all had been dating five or six months
20 then when this happened, about six months?

21 A Yeah.

22 Q Okay. He had been in the Army, right?

23 A Yes, sir.

24 Q He had actually fought overseas; is that
25 correct?

BRITTANY JETER-DIRECT BY MR. MOYER

- 1 A Yes, sir.
- 2 Q Where did he serve?
- 3 A Iraq.
- 4 Q Was he out of the Army when you knew him?
- 5 A Yeah.
- 6 Q All right. So, where -- you mentioned you were
7 out with him and a couple of other friends. Where were
8 y'all out earlier that evening before you went to Croc's?
- 9 A We went to the bowling alley.
- 10 Q That's in Spartanburg?
- 11 A Spartanburg.
- 12 Q Where did y'all live?
- 13 A We lived in Woodruff.
- 14 Q How far is that? How long does it take for you
15 to get from Woodruff to here?
- 16 A To here?
- 17 Q To Greenville?
- 18 A Probably 30 minutes.
- 19 Q Okay. How about Spartanburg?
- 20 A Twenty minutes.
- 21 Q All right. So now, Jermaine did have a good bit
22 to drink that night?
- 23 A Yeah.
- 24 Q He was celebrating?
- 25 A Yeah, he was celebrating.

BRITTANY JETER-DIRECT BY MR. MOYER

1 Q He had just turned 29 on the day he died; is
2 that correct?

3 A Yeah, he turned 29.

4 Q So, after y'all were at the bowling alley, who
5 all -- what happened -- did your brother and that other
6 guy hang out with y'all anymore or did they leave?

7 A No, when the other guy got intoxicated, we took
8 him home.

9 Q Okay.

10 A Then we came back to Woodruff from taking him to
11 Cross Anchor, came back all the way to Woodruff, got
12 Ashley's truck. Then I drop my brother off at his baby
13 momma house. Then me and Jermaine went to Ashley's house.

14 Q Whose car were you driving?

15 A Ashley's car.

16 Q You were in Ashley's car. And it was that
17 Tahoe?

18 A The Tahoe.

19 Q The one we've been seeing pictures of the past
20 two days?

21 A Yes, sir.

22 Q And Ashley lived in Woodruff at that time?

23 A Yes, sir.

24 Q So, whose idea was it to go back out?

25 A I mean, he brung it up, but then I was like

BRITTANY JETER-DIRECT BY MR. MOYER

1 where to go.

2 Ashley was like, Only thing open late right now
3 is Croc's.

4 And I was like, You want to go to Croc's?

5 Because he didn't do clubs and all. He just did
6 bars really.

7 Q Jermaine?

8 A Yeah. And I was like, You want to go?

9 He was like, It's my birthday.

10 I said, Okay.

11 Q So, y'all decided to go out?

12 A Yeah.

13 Q All right. So, it was the three of y'all that
14 went out?

15 A Uh-huh.

16 Q And who drove?

17 A Ashley drove.

18 Q She drove the rest of the night?

19 A Yeah.

20 Q Did she have anything to drink at all?

21 A No.

22 Q So, what happened when you got to Croc's? Do
23 you remember where y'all parked?

24 A We parked like kind of across the street from
25 it -- not across the street, but it's like a little gravel

BRITTANY JETER-DIRECT BY MR. MOYER

1 area or whatever.

2 Q Come to think of it, I think Ashley pointed it
3 out yesterday, didn't she, where y'all parked?

4 A Uh-huh.

5 Q Then the three of y'all went inside Croc's?

6 A We went inside Croc's.

7 Q Tell us what you remember about what went on at
8 Croc's that night?

9 A When we first went in, we paid. Jermaine went
10 to the bathroom, Ashley went to the bathroom, and I stood
11 there because I didn't have to use the bathroom. Then we
12 walked from there, went to the bar. I asked Ashley if she
13 wanted something to drink?

14 And she was like, No.

15 I asked Jermaine what he wanted to drink?

16 And he was like, Hennessey.

17 So, I got two shots of Hennessey and I got two
18 Bud Lights. We sit there and took our shot and we walked
19 on the floor.

20 Ashley walked -- when we walked on the floor,
21 she walked off or whatever. When she came back through,
22 it was like somebody was trying to talk to her, but she
23 wasn't like feeling him or whatever. So, I pulled her
24 back to us or whatever and Jermaine put his arm around us.
25 So, we just stood their dancing or whatever, just

BRITTANY JETER-DIRECT BY MR. MOYER

1 chilling. Then by that time, the fight broke out.

2 Q Let me stop you right there. So, up until that
3 point, the three of y'all pretty much stuck together, you,
4 Ashley and Jermaine?

5 A Yes, sir.

6 Q You do remember somebody -- a guy trying to talk
7 to Ashley?

8 A Yeah.

9 Q Did you pay much attention to the guy?

10 A No. It look like she didn't want to be bothered
11 or whatever, so I just pulled her away from him.

12 Q Blew him off?

13 A Yeah.

14 Q So, you didn't notice well enough to know
15 whether or not you could identify him later or know who he
16 was or anything like that?

17 A No.

18 Q All right. And so, you said Jermaine, he's kind
19 of standing between the two of y'all?

20 A Yeah, I was on one side and Ashley was on the
21 other side.

22 Q He put his arms around the two of y'all?

23 A Yes.

24 Q All right. Well, tell me about -- you remember
25 the fight breaking out?

BRITTANY JETER-DIRECT BY MR. MOYER

1 A Yeah, the fight broke out or whatever. So, of
2 course, we're going to look in the direction wherever the
3 fight was breaking out. It was over there by when you
4 first come in at, but we couldn't see who was fighting or
5 whatever. Then the mace -- they start macing or whatever
6 and we got a whiff of it. And we had stood back -- I was
7 like no, we're not going to get out yet, we're just going
8 to let everybody else go out. And that's where we was
9 standing back there by the pool tables.

10 Q Like we could see in the video yesterday?

11 A Yes, sir. Then we stood back there and that's
12 when we left.

13 Q Then you went outside?

14 A Yeah.

15 Q Had you been to Croc's often?

16 A That was my second time.

17 Q Okay. Did you know many of the people there?

18 A No.

19 Q So, you didn't know the people involved in the
20 fight?

21 A No.

22 Q Okay. So, we saw on the video you and Ashley
23 and Jermaine walk outside the club. Is that how -- in the
24 video, do you remember how Jermaine was addressed?

25 A Yes.

BRITTANY JETER-DIRECT BY MR. MOYER

1 Q That kind of long-sleeved -- do you remember
2 what color it was?

3 A Beige.

4 Q Was it a shirt or a jacket?

5 A Like a fleece kind of.

6 Q Long-sleeved?

7 A Yeah, long-sleeved.

8 Q Did he keep that on all night?

9 A He kept it on all night. He put it on at his
10 house.

11 Q Before y'all went to the bowling alley?

12 A Yeah, because I had picked him up from
13 Spartanburg.

14 Q Okay. All right. And so, what happened when
15 y'all got outside?

16 A When we got outside, the security guard told us
17 to finish our beers, so me and him finished our beer and
18 we threw it beside the tree or whatever. Then we started
19 walking back towards the car.

20 Q Did you notice any cars on your way to your car?

21 A I noticed the Camero.

22 Q You noticed the Camero?

23 A Yes, sir.

24 Q Was it in the location where Ashley talked about
25 yesterday?

BRITTANY JETER-DIRECT BY MR. MOYER

1 A Yes, sir.

2 Q Do you remember why it stood out to you or what
3 you noticed about it?

4 A It stood out because it was like a crowd around
5 it, kind of, but, I mean, you still could see the rims,
6 you know, you still could see the rims. But I just
7 like -- in my peripheral, I could see it a little bit.
8 I'm still trying to get to the car.

9 Q Okay. Now, did it look like the car that ended
10 up being the car on Pelham Road that the shooting came out
11 of?

12 A Yes, sir.

13 Q Can you say for sure whether it was that car or
14 not?

15 A Yes, it was that car.

16 Q You think it was that car?

17 A Yes, sir.

18 Q Same color?

19 A Same everything.

20 Q Okay. So, what happened when you got back to
21 the Tahoe?

22 A When we got back to the Tahoe, we finally got in
23 and we heard gunshots. So, I ducked down, I ducked down
24 in the floorboard.

25 Q Where were you?

BRITTANY JETER-DIRECT BY MR. MOYER

1 A I was in the passenger seat.

2 Q You were in the front passenger seat?

3 A Yeah.. Once -- it was like soon as we sat down,
4 we heard gunshots. So, I ducked all the way down in the
5 floorboard.

6 And they was like, 'What's wrong?

7 I'm like, I'm scared, you know, I'm scared.

8 And he was like, It's going to be okay. It's
9 going to be okay.

10 And she was like -- I was like, Hurry up,
11 Ashley, I'm ready to go.

12 And she was like, I can't get out.

13 Because there was cars trying to leave, too.

14 Q So, there were a lot of people from the club,
15 everybody trying to leave pretty much at the same time?

16 A Yes, sir.

17 Q Okay.

18 A So finally, we got a clear view to go, so we
19 left.

20 She was like, I need gas or whatever.

21 So, we made a left to go to the BP. We went
22 there. And she pulled up to the gas pump.

23 Q Just like we could see on the video, correct?

24 A Uh-huh.

25 Q Now, let me ask you, you've seen on the video,

BRITTANY JETER-DIRECT BY MR. MOYER

1 did you notice the red Camero on Pelham Road as you were
2 pulling into the video -- I'm sorry, as you were pulling
3 in to the BP? I apologize.

4 A No, I didn't. I wasn't like paying attention.

5 Q Now, when you've seen the video, did you see
6 that Camero?

7 A Yeah, when I seen the video, I seen it pull in
8 behind us.

9 Q Now, that night, , when you
10 were driving into the BP, did you notice it at that time?

11 A No, I didn't.

12 Q You weren't paying attention to it?

13 A No, I wasn't paying attention.

14 Q Okay. We could see you on the video at that BP,
15 correct?

16 A Correct.

17 Q You got out of the Tahoe while you were waiting
18 for Ashley to go in and pay for the gas?

19 A Yes, sir.

20 Q Did you see the fights that were going on there
21 in the parking lot?

22 A Yeah, I heard the commotion. And I had got out,
23 went back there where Jermaine was out where he was
24 pumping gas and I seen the fights or whatever. And the
25 only thing stood out to me was a chick out there in a bra.

BRITTANY JETER-DIRECT BY MR. MOYER

1 She was out there in a pink bra. And like when Ashley
2 come back, it was like getting rowdier, so I got back in
3 the car because I'm already paranoid, so I got back in
4 car. And as it -- the fight kept growing or whatever, I
5 was sliding over into the driver's seat.

6 I was like, Y'all better come on, I'm ready to
7 go.

8 And then Ashley was like, No, you ain't fixing
9 to drive, you been drinking or whatever.

10 And I was like, Come on, I'm ready to go.

11 Q So, you moved back over?

12 A Yeah, I got back in the passenger seat.

13 Q All right. Did you notice the Camero there
14 while you were at the BP?

15 A No.

16 Q You didn't pay any attention to it?

17 A I wasn't paying attention.

18 Q You said it was pretty noisy, right?

19 A Yeah, it was noisy.

20 Q People yelling?

21 A Yes.

22 Q Was there music playing?

23 A I don't remember. It was a lot of arguing and
24 all kind of --

25 Q Fights?

BRITTANY JETER-DIRECT BY MR. MOYER

1 A Yeah.

2 Q So, pretty noisy?

3 A Uh-huh.

4 Q Okay. So then, Jermaine got the Tahoe gassed up
5 and y'all started to leave. Who was driving at this time?

6 A Ashley, she was driving.

7 Q And we saw on the video, does that show --

8 A Yeah.

9 Q Y'all did a loop around the parking lot?

10 A Yes, sir.

11 Q Then do you remember driving up to Pelham Road
12 and stopping before you went out onto the road?

13 A Yes, sir.

14 Q Did you notice anything at that time?

15 A No, sir.

16 Q Okay. Then which direction did you go when you
17 left?

18 A We went right.

19 Q You got into the left lane?

20 A Got into the other lane, but, yeah.

21 Q Like sort of the left lane?

22 A Yeah, in the middle. We didn't get directly in
23 the -- we got in the middle.

24 Q Right. So, there was still a lane to your --

25 A Yeah, it was a lane.

BRITTANY JETER-DIRECT BY MR. MOYER

1 Q Okay. And then farther up, there was that turn
2 lane where there's a third lane?

3 A Yes, sir.

4 Q Okay. So, tell us what you remember about
5 the -- once you turned onto Pelham Road.

6 A Once I turned onto Pelham Road, we around
7 about -- I think after we got past the bank or whatever,
8 something like that, I can hear like guy's voice like,
9 Hey, girl, hey, hey, hey.

10 So me being me, I looked like back, I looked
11 back or whatever, and I see this car.

12 Q What car?

13 A This Camero. I see this Camero.

14 Q Did it look that Camero that we've shown in all
15 these pictures the last two days?

16 A Yes, sir.

17 Q That red Camero, okay. What did you notice
18 about the Camero?

19 A The rims stood out.

20 Q Where was it when you looked over?

21 A It was coming up behind the -- back towards
22 where his window was at.

23 Q His being Jermaine?

24 A Yeah, where Jermaine was at or whatever.

25 Q Were any windows opened in the vehicle at this

BRITTANY JETER-DIRECT BY MR. MOYER

1 time?

2 A Only the window that was broken.

3 Q And that's --

4 A That's the back passenger window.

5 Q The back passenger window was down, sort of like
6 what we saw in the pictures?

7 A Yes, sir.

8 Q About three-quarters of the way down or so?

9 A Uh-huh.

10 Q So, you heard -- tell us again what you think
11 you heard?

12 A It was like -- it was saying like, Hey, girl or
13 hey.

14 Q Okay. So then, you looked over and you saw the
15 Camero. Then what happened?

16 A I turned back around. Then the next thing you
17 know, it was like -- basically, something else -- somebody
18 yelled something else out that car.

19 And Jermaine was like, Y'all chill. This is my
20 old lady and this is my sister-in-law.

21 Q And I know a curse word was used. I'm going to
22 go ahead and give you permission -- I want to ask you to
23 say the actual words that were used, even though it's a
24 curse word.

25 A Okay. So, after that was said, he was like,

BRITTANY JETER-DIRECT BY MR. MOYER

1 Hey, y'all, chill. This is my old lady. This is my girl.

2 And she was -- Ashley was like -- no, they said
3 something else out that car.

4 But as they was saying something, we was like
5 don't even say nothing to him. Don't even talk back to
6 them.

7 Q You were telling that to Jermaine?

8 A Yeah, I said something and Ashley said
9 something. But as I turned back around, you could hear
10 somebody, Fuck.

11 It was like -- Jermaine said, Fuck you, too.

12 Q Okay. Then what happened?

13 A Then after that, it's like pow, gunshot.

14 Q Okay. In fact -- are you sure how many gunshots
15 there were?

16 A I could have sworn I heard two shots.

17 Q You thought there was more than one shot?

18 A Yeah.

19 Q You definitely heard gunshots?

20 A Yeah, I heard gunshots. And after I heard
21 gunshots, I dropped to the floorboard again. Something
22 said turn around and I turned around and I seen him
23 slumping over. And then as I seen him slumping over, I
24 turned back around and I could see Ashley like all this
25 blood on her face. Like it was just pouring. So, I'm

BRITTANY JETER-DIRECT BY MR. MOYER

1 just like -- I'm just turned all the way around so my back
2 was on the dashboard. I'm just looking and just screaming
3 because I'm like what in the world.

4 She was like, What? What?

5 I was like -- I'm just screaming.

6 And then next thing you know, I stood and was
7 like, Jermaine, get up, you know what I'm saying. I was
8 like, Get up.

9 Q Were you stopped at this point?

10 A I can't remember.

11 Q You don't remember?

12 A I just remember us stopping and opening the door
13 and I just jumped out the car.

14 Q Now, let me stop you at this point. Let me go
15 back. So, after you heard the shot or the shots, did you
16 look back at the Camero?

17 A Oh, yeah, as I'm turning around. I looked at
18 Ashley and I was just like -- and something said look over
19 and I could see the rims and the red and I could see the
20 window, driver's side window going up on the Camero. And
21 it just sped off.

22 Q The Camero sped off?

23 A (The witness nods.)

24 Q So, then you stopped -- or Ashley stopped?

25 A Yeah, she finally stopped.

BRITTANY JETER-DIRECT BY MR. MOYER

1 Q Then tell me what you did.

2 A After she stopped the car, I was still turned
3 around like looking at him and just like screaming. And I
4 jumped out the car and I went back to open his door and I
5 was like Get up, baby, get up. And I was holding him and
6 he wasn't responding or nothing. So, when I looked over
7 there, I see all the lights and like, Get back from the
8 car.

9 Q And that was who, that was the police?

10 A Yeah, it was the police.

11 Q So, were they there pretty quickly after you
12 stopped?

13 A Yeah.

14 Q Within a minute or two, would you say?

15 A Probably like a minute or two.

16 Q And during that time, you were back with
17 Jermaine?

18 A Yeah, I was in -- they had to get me away from
19 the passenger side.

20 Q The officer described you having blood on your
21 shirt, was that where that came from?

22 A Yes, sir.

23 Q Did Jermaine -- was he responsive at all?

24 A No, he wasn't saying nothing.

25 Q Okay. So, then when the officers were there,

BRITTANY JETER-DIRECT BY MR. MOYER

1 what did you do?

2 A I was screaming and I was like, Go get that red
3 Camero. I was like, Go -- that red Camero just shot at
4 us.

5 Q Okay. Did you tell them about the fancy rims on
6 the car?

7 A No, I was just like, Go get the red Camero.

8 Q The red Camero. Now, did you ever see the
9 people in the Camero.

10 A The only thing I seen was some dreads.

11 Q Okay.

12 A I seen little dreads.

13 Q You could see that when you were looking through
14 the window?

15 A Yes, that's the only thing I could see was the
16 little dreads.

17 Q So, you couldn't tell how many people were in
18 the car?

19 A Huh-uh.

20 Q Could you -- you weren't able to see faces to be
21 able to identify any of those guys, anything like that?

22 A No, I didn't see no faces.

23 Q Now, that you know their names, did you know
24 them?

25 A No, I never seen them.

BRITTANY JETER-CROSS BY MR. EPPES

1 Q As far as you know, you've never saw them
2 before?

3 A Never.

4 Q Just one more question. You were here yesterday
5 when the picture of Jermaine was shown while the doctor
6 was testifying; do you remember?

7 A Yes, sir.

8 Q You remember the mark on his forehead, was that
9 there prior to the shooting?

10 A No, sir.

11 Q Okay. So, that mark was not there?

12 A No, sir.

13 MR. MOYER: Please answer any questions the
14 Defense has.

15 CROSS-EXAMINATION

16 BY MR. EPPES:

17 Q You said you saw a Camero window going up on the
18 driver's side?

19 A Yes, sir.

20 Q Okay. Now, you did a statement on
21 right after this happened. That's not in your statement;
22 is it?

23 A No.

24 Q Okay. It was cold that night, ?

25 A Yes, sir.

BRITTANY JETER-CROSS BY MR. EPPES

1 Q And so, the windows on Ashley's side of the car
2 were up, right?

3 A On the side of her car?

4 Q Yeah, on her side --

5 A The driver's side?

6 Q Yeah.

7 A Both windows was up.

8 Q You had a broken window on the other side?

9 A That's the only one that was down.

10 Q Okay. Now, your testimony -- you don't remember
11 any ya-yaing before y'all were on Pelham Road and y'all
12 hear, Hey, girl, hey, hey, hey, correct?

13 A No, we didn't hear no ya-yaing until we were
14 turning.

15 Q And you didn't hear Jermaine saying anything to
16 anybody until after y'all turned?

17 A Yeah, after we turned.

18 Q Driving up Pelham Road?

19 A Going up Pelham Road.

20 Q Okay. And you don't recall any interaction with
21 the Camero before that time? You don't recall anybody
22 from the Camero doing anything before y'all ever went up
23 the road?

24 A No, sir.

25 Q And you didn't see where the shot came from?

MIKE FORTNER-DIRECT BY MR. MOYER

1 A Huh-uh.

2 Q You have to say yes or no.

3 A No, sir.

4 MR. EPPES: Thank you, very much.

5 THE COURT: Redirect, sir?

6 MR. MOYER: No, Your Honor.

7 THE COURT: Thank you, ma'am. You can step
8 down. I appreciate you being here.

9 You may call your next witness.

10 MR. MOYER: The State calls Mike Fortner.

11 THE CLERK: Please place your left hand on the
12 Bible, raise your right.

13 MIKE FORTNER, after being duly sworn,
14 testified as follows:

15 THE CLERK: Thank you. Please be seated. Could
16 you please state your name for the record.

17 THE WITNESS: Mike Fortner.

18 THE CLERK: Thank you.

19 DIRECT EXAMINATION

20 BY MR. MOYER:

21 Q Where are you employed, sir?

22 A With the Greenville County Sheriff's Office.

23 Q How long have you been in law enforcement?

24 A A little over -- about 22 and a half years.

25 Q Has it all been with the sheriff's office?

MIKE FORTNER-DIRECT BY MR. MOYER

1 A It has, yes.

2 Q What is your position with the sheriff's office?

3 A Currently, I work with the homicide unit.

4 Q How long have you been in the homicide unit?

5 A Let's see, this coming August will be two years
6 in homicide.

7 Q Where did you work prior to that?

8 A Prior to that, I've been in investigations, what
9 we call criminal investigative division since January '99.
10 I started off in white collar crime investigations, then I
11 moved up to family violence investigations. Then they
12 moved me over to robbery investigations, and then back
13 over to white collar for a little bit. And then from
14 white collar back to robbery and now, I'm in homicide.

15 Q You've been in homicide now for two years?

16 A Yes, sir.

17 Q So, did you participate in the investigation of
18 this case against -- before the court against Billy
19 Taylor?

20 A Yes, sir, I did.

21 Q Were you the lead investigator?

22 A I was not.

23 Q That was Investigator Hammett?

24 A Yes, sir.

25 Q Were you asked to respond to that scene on the

MIKE FORTNER-DIRECT BY MR. MOYER

1 early morning hours of the of 2014?

2 A I was. I had received a phone call at my house
3 about 3:30 in the morning from the sergeant that was on
4 call and asked me to come out to assist Investigator
5 Hammett.

6 Q So, did you go there to the scene?

7 A I did -- well, to the Spinx station. Not to the
8 actual scene where the shooting took place, but the Spinx
9 station where we got the video.

10 Q You responded to the Spinx?

11 A Yes, sir, I did.

12 Q Did you look over that area? Do you remember
13 looking through the parking lot?

14 A Yes.

15 Q Did anything stand out?

16 A Not just from the parking lot, no, sir.

17 Q Then you went and viewed the video?

18 A Right.

19 Q Is that when you -- did you see anything on the
20 video that caught your attention when you viewed it?

21 A Yeah, when I got there Investigator Hammett had
22 already had the video pulled up and he was already in the
23 process of watching it. We watched the video. It shows
24 the victim's vehicle, the Tahoe, you could see it coming
25 down Pelham Road from the direction of I-85. It pulls

MIKE FORTNER-DIRECT BY MR. MOYER

1 into the Spinx station, pulls up to one of the pumps at
2 the Spinx station. In the video, you can also see the red
3 Camero that the Defendant was driving at the time drive
4 pass the Spinx station.

5 Then a few moments later, a few seconds later,
6 it shows up in the parking lot, the view of the video --
7 the camera. And you can see it pull over kind of to the
8 side of the parking lot out towards the side of Pelham
9 Road. And it just sits there for a few minutes while the
10 Tahoe is at the pumps. Then when the Tahoe pulls off from
11 the pumps, the Camero can be seen in video pulling out
12 behind the Tahoe following it out onto Pelham Road going
13 back towards 85.

14 Q Okay. Then after viewing that scene, did you go
15 over to the location where the Tahoe was?

16 A Yes, I did.

17 Q Okay. And were the victims gone at that point?

18 A The surviving victim, Ms. Hiott, she was gone.
19 The deceased victim, Mr. Nesbitt, he was still in the back
20 of the Tahoe.

21 Q Okay. All right. Now, later that day, did you
22 go to the autopsy?

23 A Yes, sir, I did.

24 Q And that was -- again, that was the very same
25 day?

MIKE FORTNER-DIRECT BY MR. MOYER

1 A It was, yes.

2 Q Did you collect or view the clothing that
3 Dr. Fulcher removed from the victim?

4 A I saw the clothing, yes. I did not collect it,
5 but I saw it.

6 Q Did you note what the clothing was?

7 A I did, yes.

8 Q What was the victim wearing?

9 A He was wearing a pair of light brown
10 combat-style boots, a pair of blue jeans. Underneath the
11 blue jeans, he had on a pair of like knee-length black and
12 gray shorts. And then underneath them, he had on a pair
13 of black underwear. And for a shirt, he had on a
14 khaki-colored long-sleeved shirt with a collar and like a
15 zip-up-type zipper in the middle there and a white
16 tee-shirt underneath that. And then some military dog
17 tags.

18 Q So, he's been wearing the military dog tags?

19 A Yes, sir.

20 Q Any weapons?

21 A No, sir.

22 Q No firearms?

23 A No.

24 Q Okay. Did you then go to Greenville Memorial
25 Hospital?

MIKE FORTNER-DIRECT BY MR. MOYER

1 A I did, yes, sir.

2 Q What was the reason for that?

3 A We had received a phone call from Greenville
4 Hospital System officer named Chuck Wilson, who said that
5 he had some belongings that belonged to Ms. Hiott, the
6 surviving victim.

7 Q Did you go collect her belongings?

8 A I did. He had all the belongings. They were in
9 a property bag there at the hospital all sealed up and
10 everything. So, I collected the bag from him.

11 Q What did you collect?

12 A A couple of bags, and these bags contained some
13 jewelry, a cell phone, some brown high heel shoes, black
14 and white bra, a pair of blue underwear and a multicolored
15 striped shirt.

16 Q Once again, no weapon of any kind?

17 A No, there was no weapon or anything.

18 Q Okay. Let me take you to a couple days later.

19 Were you with Investigator Hammett when you went to the
20 Rent-N-Roll business to collect some paperwork?

21 A Yes, I was.

22 Q And I'm not going to point to that at this
23 point, but after that, did you all make any efforts to try
24 to locate anybody?

25 A We did.

MIKE FORTNER-DIRECT BY MR. MOYER

1 Q Who was the person you tried to locate?

2 A You're referring to the Camero? We went to try
3 looking for the Camero?

4 Q Yes.

5 A Yes. So, we tried to locate the Defendant and
6 tried to locate his Camero.

7 Q Where did you go to look for that?

8 A Well, the first place we went to was the address
9 we got from Rent-N-Roll, which was over on Street in
10 Greenville. We drove by there. We did not see the
11 vehicle there. We then went to his place of employment.
12 And if I remember right, it was the Bi-Lo warehouse, I
13 guess it is, now in Mauldin. We drove around in the
14 parking lot down there in that looking for the vehicle as
15 well and did not find it.

16 Q So, you got the name then from the paperwork
17 that you got from Rent-N-Roll?

18 A Rent-N-Roll, yes, sir.

19 Q For the name of Billy Taylor, okay. Well, let
20 me take you now to again later, I guess, that same day.
21 Was it February 26th, 2014 when you did go to Frank Street
22 to serve arrest warrants?

23 A We did later that night, evening, yes.

24 Q Okay. And did you go alone or were there other
25 officers?

MIKE FORTNER-DIRECT BY MR. MOYER

1 A I went with the other officers. It was myself,
2 Investigator Rivera, who joined in at that point in time,
3 and then some units from uniform patrol, some other
4 deputies from uniform patrol were there as well.

5 Q What was the address you went to?

6 A It was in Greenville.

7 Q Is that the location you went earlier in the day
8 looking for the Mustang [verbatim]?

9 A It is, the same place.

10 Q Was the Mustang there at that time when you went
11 that night?

12 A The Camero, no, it was not there.

13 Q I apologize, I'm calling it a Mustang. It was a
14 Camero, wasn't it?

15 A Yes.

16 Q So, the Camero was not there then either?

17 A No.

18 Q Who did you meet with there?

19 A We made -- we knocked on the door. Let's see,
20 the Defendant's mother came outside. She also has another
21 son besides the Defendant who was there. And the
22 girlfriend to the Defendant was also there as well as the
23 Defendant's grandfather. They all came outside and spoke
24 with us, we talked to them outside. And they told us that
25 the Defendant was, in fact, inside the residence and in

MIKE FORTNER-DIRECT BY MR. MOYER

1 the bedroom.

2 Q Did you make efforts to get the Defendant to
3 come out?

4 A We did. We just called out to him. The bedroom
5 he was in was just as you walk into the main front door of
6 the house. It was just right up front there. So, we just
7 stood back by the front door and called out to him to ask
8 him to come out. He would never come out. So, one of the
9 other investigators who was still at the office had a cell
10 phone number for the Defendant, called the Defendant on
11 his phone and asked him to come out. At that time, he
12 came outside to us.

13 Q Okay. Subsequent to that, did you search the
14 residence?

15 A We did. We ended up getting a search warrant.
16 The same investigator that called him on the phone got a
17 search warrant for the house for us since we arrested the
18 Defendant there at the residence.

19 (WHEREUPON, State's Exhibits Nos. 40-43 were
20 marked for identification only.)

21 BY MR. MOYER:

22 Q Did you collect anything from the residence?

23 A Yes, we did.

24 Q What did you collect?

25 A We collected a black iPhone, which was contained

MIKE FORTNER-DIRECT BY MR. MOYER

1 in a black Otterbox type case, and gray Samsung slide
2 phone, a blue LG slide phone, a white Samsung Galaxy,
3 which was contained in a white Otterbox. We found a Sig
4 Sauer P-238 pistol, .380 caliber, a Sig Sauer padded
5 holster, and a magazine for the gun and a box of Federal
6 ammunition caliber .380 rounds. And the box contained
7 eight rounds. And then a gun case for the gun that we
8 recovered.

9 Q Okay. Where did you find the pistol?

10 A The gun was not contained in the case that it
11 came in. The case was separate from the gun, but the gun
12 was in the room and it was like a stand-alone-type closet,
13 a closet that you would maybe buy and build. It wasn't an
14 actual part of the structure of the house. It was down on
15 the bottom of this closet under a lot of clothing and
16 towels and things like that.

17 Q Which room?

18 A The same bedroom of which the Defendant came out
19 of when we arrested him.

20 Q Were photographs taken of the pistol and the
21 ammunition?

22 A Yes, sir, they were.

23 Q I'm going to hand you State's Exhibit Nos. 40
24 through 43. If you would, just take a look at those and
25 see if you can recognize what's depicted in those

MIKE FORTNER-DIRECT BY MR. MOYER

1 photographs?

2 A All right. This would be photos of the gun, the
3 magazine, the ammunition that we found and the holster, if
4 I didn't say that already.

5 Q And those pictures were taken on February the
6 26th of 2014?

7 A They were, yes, sir.

8 Q Okay. There at the Defendant's residence?

9 A They are, yes, sir.

10 Q Are they true and accurate representations of
11 the way those items looked on that day?

12 A Yes, sir.

13 MR. MOYER: Your Honor, I'd move to have State's
14 Exhibit 40 through 43 entered into evidence.

15 MR. EPPE: Without objection.

16 THE COURT: All right. Without objection, the
17 same are entered into evidence.

18 (WHEREUPON, State's Exhibits Nos. 40-43 were
19 admitted into evidence.)

20 BY MR. MOYER:

21 Q Real briefly, I'm going to show the photographs
22 behind you. Starting with State's Exhibit No. 40, can you
23 tell the jury what that is?

24 A That would be the Sig Sauer .380 pistol that we
25 found in the closet I was talking about underneath all the

MIKE FORTNER-CROSS BY MR. EPPES

1 clothing and stuff.

2 Q Here's Exhibit No. 41?

3 A That would be the same pistol. The little black
4 object there to the side is, actually, the holster. That
5 one there, yes, sir. Then the box of ammunition there and
6 bullets that were, actually, in the magazine that was
7 inside the gun at the time.

8 Q Okay. And the State's Exhibit No. 42?

9 A That would be the box of ammunition.

10 Q State's Exhibit No. 43?

11 A That's the same box of ammunition only opened
12 showing the eight rounds that were inside of it.

13 Q Okay.

14 MR. MOYER: Those are all the questions I have
15 for you right now. Please answer any questions the
16 Defense has.

17 THE WITNESS: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. EPPES:

20 Q You looked at the video of the cars coming into
21 the Spinx station, correct?

22 A I did, yes, sir.

23 Q Did you see the video of the brouhaha at the
24 Spinx station?

25 A I did, yes.

MIKE FORTNER-CROSS BY MR. EPPES

1 Q Did you know whether any of the people in the
2 Camero were involved in that?

3 A I couldn't tell you if they were or not, no,
4 sir.

5 Q My client worked at the Bi-Lo warehouse?

6 A Off the top of my head, I believe that's where
7 we went to look for that car, yes. I could be mistaken,
8 but I think that's where it was.

9 Q And do you remember how many people were at the
10 house?

11 A Me and Ramon. I know there was a Sergeant from
12 the shift that was on, at least, two, maybe three other
13 deputies. So, probably five or six of us.

14 Q Everybody came out on the porch and told you
15 Billy was in the bedroom?

16 A Yes, they did.

17 Q And then he came out peacefully?

18 A He did, yes.

19 Q Somewhere in that room there was a gun, correct?

20 A Yes, sir, it was.

21 Q That's the gun we saw pictures of?

22 A Yes, sir.

23 Q He didn't pick it up or do anything with it? It
24 looked like it had been under a pile of towels; didn't it?

25 A Underneath some clothing and stuff in that

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 closet, yes, sir.

2 MR. EPPES: No further questions.

3 THE COURT: Redirect, sir?

4 MR. MOYER: No, Your Honor.

5 THE COURT: Thank you, Officer. Appreciate your
6 being here, sir.

7 You may call your next witness, sir.

8 MR. MOYER: The State calls Chris Hammett.

9 THE CLERK: Sir, please place your left hand on
10 the Bible and raise your right hand.

11 CHRIS HAMMETT, after being duly sworn,
12 testified as follows:

13 THE CLERK: Thank you. Please be seated.

14 Please state your name for the record.

15 THE WITNESS: Henry Christopher Hammett.

16 THE CLERK: Thank you.

17 DIRECT EXAMINATION

18 BY MR. MOYER:

19 Q Where are you employed?

20 A Greenville County Sheriff's Office.

21 Q How long have you been in law enforcement?

22 A Approximately 18 years.

23 Q Has that all been with the sheriff's office?

24 A Yes, sir, it has.

25 Q Where are you -- what is your position right

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 now?

2 A Right now, I'm currently assigned to the
3 homicide unit in criminal investigations.

4 Q How long have you been in that unit?

5 A A little over eight years.

6 Q Were you in criminal investigations prior to
7 that?

8 A I was. I was in property crimes, burglary
9 investigations for approximately six years before
10 transferring to homicide.

11 Q So, you were assigned to handle this
12 investigation?

13 A I was, yes.

14 Q When did this case first come to you?

15 A I think it was around 4:02 in the morning of
16 the . I was on call for violent crimes and
17 received a call from the on-duty patrol supervisor who
18 advised me of the incident.

19 Q Okay. What did you do when you got that call?

20 A Initially, I contacted the on-call supervisor
21 for violent crimes, requested additional manpower to come
22 out to assist with interviews and obtain search warrants.
23 And contact the forensics to have them respond to the
24 scene to process it, and then I responded to the scene.

25 Q Now, when you arrived on the scene, was Ashley

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 Hiott still there?

2 A No, sir, she had already been transported to the
3 hospital.

4 Q Okay. Was the deceased victim still there?

5 A Yes.

6 Q And Ms. Jeter?

7 A Ms. Jeter had already been transported, I
8 believe, to the LEC at that point to be interviewed.

9 Q So, you looked over that scene and were briefed
10 by the officers who were on scene?

11 A Yes, sir.

12 Q Did you then go over to that BP gas station?

13 A Yes, I did, with Sergeant Shaw of the forensics
14 unit.

15 Q Did you walk through the scene?

16 A We did, yes, sir.

17 Q Did anything stand out about the scene?

18 A There was some items scattered about in the
19 parking lot area around the gas pumps. There was some
20 drops of what looked like blood. There was some cash
21 wadded up. I believe there was a cigarette pack. And
22 seems like it was -- I think it was a full carton of milk
23 or a jug of milk sitting in the middle of the driveway.

24 Q And having watched the video, does that all
25 correspond to what you see on the video?

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 A Correct, yes.

2 Q Did you watch the video at that time?

3 A We did.

4 Q Okay. Now, after walking through that location,
5 you went back to the Tahoe?

6 A Yes, sir.

7 Q Did you observe -- was the victim still -- the
8 deceased victim still there?

9 A He was, yes.

10 Q What do you remember about how he was dressed
11 and where he was positioned?

12 A He was positioned in the rear seat of the
13 vehicle, slumped over towards -- with his upper body
14 towards the driver's side, kind of in a twisted position
15 with his knees sort of towards the floorboard and his arms
16 were kind of tucked up underneath his body. He was
17 wearing a pair of kind of light-colored blue jeans and
18 some -- the desert-style combat boots, the light brown,
19 and a khaki kind of long-sleeved shirt.

20 Q Was he wearing a hat?

21 A No.

22 Q Were you told by officers at that point about a
23 BOLO that had gone out for a vehicle?

24 A Yes, sir.

25 Q Okay. What was the description?

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 A The first one for the Tahoe or the second one
2 for the Camero?

3 Q Yes, for the Camero.

4 A For the Camero, yes, sir. It was an orange or
5 red in color Camero that was seen headed towards 85.

6 Q Okay. Now, did you -- believing there had been
7 a gunshot there, did you all do anything to try to see if
8 you could find any shell casings or other evidence related
9 to a shot?

10 A Yes, sir. Because it was an outside area and it
11 was a very wide, broad area, we did what I guess you would
12 term a line search. We had personnel that were on scene
13 there to kind of line up in a line to walk from one area
14 towards the other to see if we could locate a shell casing
15 or any other evidence that would be found in the roadway
16 there.

17 Q Did you find any kind of shell casing or
18 anything?

19 A No, sir, we did not.

20 Q All right. Did you also go -- later that day,
21 did you go to the autopsy as well?

22 A I did, yes, sir.

23 Q Okay. And did you later arrange for the
24 collection of those videos that we've seen in this case?

25 A Yeah, I think, actually, I made arrangements to

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 have that done prior to leaving the scene to go to the
2 autopsy, if I recall correctly. We have a computer
3 forensics unit that specializes in doing that. And I
4 believe we did have Sergeant Miller contact them,
5 actually, before I left the scene.

6 Q Both videos, one from the BP and one from
7 Croc's?

8 A And from Croc's, yes, sir.

9 Q So, later that day, did you -- as far as the
10 video from the BP gas station, did you do anything to try
11 to get a better look at the Camero?

12 A Yeah, we, actually -- I reviewed it myself, and
13 then, eventually, we tried to turn it over to Investigator
14 Harris, who also worked with us to enhance the -- he had
15 some programs that he had for his computer and he was
16 attached to that unit also. And to try to enhance the
17 pictures of the Camero to see a tag or anything that was
18 distinguishing.

19 Q Did you get some -- were you ever able to see a
20 tag?

21 A No, sir. It was, I guess, pixilated is the word
22 you would use for it, but it appeared to be a dealer tag,
23 like a paper tag, but I couldn't make out what it said.

24 Q Did you get some still images of the Camero from
25 that video?

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 A We did, yes.

2 Q Using your investigation --

3 A Yes.

4 Q -- to identify it? Okay. Did you also go to
5 Croc's on that day?

6 A Yes, sir, we did.

7 Q What was your reason for going there?

8 A To talk to the bartenders and any security staff
9 that we could locate that may have seen or witnessed or
10 had any firsthand information.

11 Q So, your investigation into that matter, were
12 you ever able to find anybody, either that worked at
13 Croc's or security or whatever, who actually witnessed
14 someone shooting a gun there at Croc's?

15 A No, sir, it all seemed to be sort of word of
16 mouth. One person would relay something to another and we
17 never found the origin of anybody that actually physically
18 saw anything.

19 Q Other than that witness that testified
20 yesterday, Mr. Tate?

21 A Mr. Tate, yes, sir.

22 Q Okay. Now, did you do anything that day also to
23 determine whether there possibly could have been any other
24 videos that could have captured this incident?

25 A Yes, sir. Actually, out there at the scene

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 where this occurred, there's several restaurants and other
2 businesses located right in that general area that we
3 either made contact with or tried to inspect the exterior
4 of the buildings to see if there was video cameras
5 present.

6 Q Were you able to find any?

7 A No, sir. Most of the businesses that we,
8 actually, were able to make contact with had no video that
9 would show -- they may have had video, but none with that
10 angle to the road there.

11 Q Okay. Now, you eventually ended up going to a
12 business called Rent-N-Roll; is that correct?

13 A Yes, sir.

14 Q What was the date for that?

15 A The exact date, I don't remember specifically.

16 Q Okay. Let me ask you if you would just -- do
17 you have your report with you?

18 A I do.

19 Q Would you just refresh your memory and take a
20 look at your report?

21 A I believe it was on February 25th of 2014.

22 Q What was your reason -- did you have a specific
23 lead that took you there? How did you end up going?

24 A No, sir. We just -- in reviewing the video and
25 through testimony -- or statements had determined that

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 this particular vehicle had aftermarket wheels that were
2 very unique-looking, at least, to me. So, we felt like
3 that at that point, those wheels could possibly have been
4 rented. So, that's kind of what led us over there, just a
5 hunch to see if it was recognizable to anybody that worked
6 there.

7 Q Did you show them any -- those still photographs
8 that you had taken off the BP video?

9 A Yes, sir, I did.

10 Q And did you speak to Ms. Biggerstaff, the
11 woman --

12 A Yes, sir, she was the assistant manager that was
13 on duty at the time.

14 Q And just as she testified, were you able to get
15 those documents that showed the transaction from a few
16 days prior?

17 A That's correct, sir.

18 Q Okay. So, that's what led you on to this
19 Defendant?

20 A To Mr. Taylor, correct.

21 Q Okay. You heard Investigator Fortner testifying
22 earlier, were you with him when y'all went to try to
23 locate him at these locations?

24 A Yes, sir. It was myself and Investigator
25 Fortner.

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 Q Okay. Now, were you ever able to find that
2 Camero? Were you able to locate the Camero?

3 A Yes, sir, we were.

4 Q What was the date for that?

5 A I'm sorry, I don't remember the exact date on
6 that either. I believe it was on February 28th of 2014.

7 Q Okay. And what was the location where you found
8 it?

9 A I believe it was , which is
10 sort of the upper Piedmont area of Greenville County, off
11 Piedmont Highway.

12 Q As far as where that location is from where the
13 Defendant's residence was on , can you give us a
14 rough estimate as to distances there?

15 A Ten miles or so. The Frank address is more into
16 the city. And I believe I misspoke. I think I said
17 Piedmont Highway and I think it's, actually, off of South
18 Fairfield Road in that area. And this is the southern end
19 of Greenville County, so 10 or 12 miles or so, I would
20 guess.

21 Q And what was it that led you to that location?

22 A Well, we had been unable to locate the car,
23 obviously, at the time of the arrest of Mr. Taylor and did
24 not have any clue where it was. So, we contacted OnStar
25 because of the year model of the car and felt it possibly

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 had an OnStar system attached to it. And we were advised
2 that it was activated and we were able to locate it
3 through OnStar.

4 Q So, who all went out there to 505 Inglewood
5 Drive?

6 A Initially, I believe myself and Investigator
7 Fortner were together. Then we had our sergeant, which is
8 Sergeant Cooper, and I believe Investigator Rivera, so
9 that we had different areas of the neighborhood, any
10 entrances or exits in -- so, we didn't miss it leaving in
11 case it did.

12 Q Did you see the vehicle right away?

13 A No, sir.

14 Q Tell us about how you found it.

15 A When we rode by initially, it wasn't visible.
16 And as we made a return pass coming in a different
17 direction, you could see a small portion of what we felt
18 like was the car because it was the same color and looked
19 to be the same kind of car sort of to the back corner of
20 the house, behind the trailer. It was actually a house
21 trailer.

22 Q What did you do when you noticed that?

23 A We called and had a search warrant issued for
24 that property to seize the vehicle off the property.

25 Q Okay. So, did y'all sit there and wait for that

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 search warrant?

2 A We did until a tow truck arrived. And a tow
3 truck pulled onto the address where the vehicle was
4 located. So, out of fear that they were actually coming
5 to tow that vehicle, we actually at that point made
6 contact with the home owner.

7 Q Do you remember who it was that you spoke to?

8 A Tracy Terry, I believe was her name.

9 Q Was Donterio Harris, the gentleman who testified
10 yesterday evening, was he present at the time?

11 A No, sir, it was his girlfriend and it was where
12 he was, I believe, residing at the time, but he was not
13 there when we arrived.

14 Q But he did show up while y'all were there?

15 A Yes, sir. Ms. Terry, I believe, had called him
16 and he responded to the house while we were present.

17 Q Was there anything about the vehicle, this
18 Camero, that looked different to you from the description
19 that was given to you by the victims and also from the
20 stills that you got off the BP video?

21 A Yes, sir, the aftermarket wheels were missing
22 from it. It had what I would assume to be the wheels and
23 tires that came with the car on it, just the regular stock
24 wheels that were back on the vehicle.

25 Q Okay. So the following day, the Camero was

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 processed back at the forensics division?

2 A Yes, sir. It was, actually, towed from there to
3 their facility over at Greenville Tech.

4 Q Were you present for that?

5 A I think I was present for a portion of it. I
6 don't think I was there for the entire time.

7 Q Were you contacted -- you realized Adam Davis
8 realized he wasn't able to get inside the car; is that
9 correct?

10 A Correct. It never dawned on anybody until that
11 particular point in time that we didn't have the key for
12 the vehicle.

13 Q What did you do at that time?

14 A At that point, we issued a search warrant for
15 Mr. Taylor's residence on Frank Street to see if we could
16 locate the key.

17 Q So, you went over to his residence?

18 A We did.

19 Q What happened while you were there?

20 A When we arrived there, Investigator Fortner was,
21 again, with me, and we located the key to the vehicle. I
22 believe a family member actually handed it over to
23 Investigator Fortner. But, also, included in that search
24 warrant was the wheels and tires off the car. Mr. Harris,
25 when we had talked to him previously, had said he believed

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 the wheels and tires were underneath the house on Frank
2 Street. So, they had been included in the search warrant.

3 Q So, did you look under the house?

4 A We did.

5 Q You didn't see them there?

6 A No, sir, there wasn't anything under there.

7 Q Did you continue to search?

8 A We did. I believe it was Mr. Taylor's
9 grandfather, the resident or owner of the residence, came
10 out while we were in the backyard. We noticed, I guess
11 you would call it a utility-shed-type building in the back
12 of the yard and asked if we could look into that. He
13 said, sure, that would be fine and gave his permission.
14 And then that's where we found the tires.

15 Q And you saw a picture of the shed when Adam
16 Davis was testifying yesterday?

17 A Yes, sir.

18 Q Is that where the tires and the rims were when
19 you --

20 A That is correct, yes, sir.

21 Q Y'all collected those?

22 A Adam Davis did, yes, sir.

23 Q Okay. Now, we heard Mr. Henderson testify a
24 short while ago. Are you the one who interviewed him on
25 March the 3rd or, roughly, thereabouts when he was

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 arrested?

2 A Yes, sir.

3 Q You heard about he give the incomplete
4 statement?

5 A That's correct.

6 Q Okay. When was the date that you met with him
7 again?

8 A The second interview was on March the 20th of
9 2014.

10 Q His attorney with him at that time?

11 A Yes, sir.

12 Q Did you make any promises to him at that time?

13 A No, sir.

14 Q That's when he opened up and told you about the
15 other people in the vehicle and who the shooter was?

16 A Yes, sir, that's correct.

17 Q Is that when you also found out about a message
18 that was given to him?

19 A Yes. In that same interview, he advised about
20 an inmate, a trustee in the detention center had passed
21 the message back and forth, yes.

22 Q That he testified to -- that Mr. Brock and
23 Mr. Henderson testified to?

24 A Correct, yes, sir.

25 Q Okay. Let me ask you a few questions, then.

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 You later met with Mr. Brock?

2 A Yes, sir.

3 Q On July 24th, 2014; is that correct?

4 A I did.

5 Q When you met with Mr. Brock, did you -- he was
6 incarcerated at the time?

7 A That's correct, yes, sir.

8 Q Had he come to you or did you go to him?

9 A I don't really recall. I believe we had gone to
10 him because we were the ones able to get his name through
11 administration personnel at the detention center.

12 Q And you just tried to find out who could have
13 been in that position?

14 A Right. And based on the information we had
15 gotten from Mr. Henderson, we were able to narrow it down
16 because particular workers were assigned particular areas
17 in that facility at particular times. It took a little
18 while to sort through it and get to it, but that's how we
19 got the name, was through his services through the food
20 service.

21 Q Now, when you met with Mr. Brock, did you give
22 him any promises or help him out or anything like that?

23 A No, sir, I did not. His attorney was present
24 there when we met at the law enforcement center.

25 Q Okay. And did -- you put together the photo

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 lineup?

2 A Yes, I did.

3 Q It's already in evidence, let me just hand it to
4 you again. Did you give Mr. Brock any -- I want to hand
5 you State's Exhibit No. 1. Did you give Mr. Brock any
6 pressure or put any -- did you put any pressure on him to
7 make him feel like he had to pick somebody out of that
8 lineup?

9 A No, sir. As a matter of fact, that's part of
10 what we do to present the lineup is tell them that the
11 person that we're referring to may or may not be present
12 in the lineup -- or the photo may not be present in the
13 lineup.

14 Q Okay. And you didn't influence his decision in
15 any way as to which picture to pick out of the lineup?

16 A No, sir.

17 Q How did you show the lineup to him?

18 A Typically, we'll present it in a face down
19 motion like that and just sort of slide it over to them
20 and explain to them kind of what I was just saying about
21 the person may or may not be there, take your time,
22 there's no time limit, look at all the pictures thoroughly
23 before you make a decision. And if you do see the person
24 that you're referring to, just point to them. And if that
25 person is not there, just say he's not in there.

CHRIS HAMMETT-DIRECT BY MR. MOYER

1 Q Okay. So, how did Mr. Brock react or respond to
2 you?

3 A He turned the paper over or looked at the paper
4 and was immediately able to point out the Defendant.

5 Q The Defendant, Billy Taylor?

6 A Yes, sir.

7 Q Okay. Did he appear -- what was the degree of
8 certainty or confidence?

9 A Very confident, yes, sir.

10 Q Okay. Now, you heard Investigator Fortner
11 testify just a brief period of time ago about a firearm
12 that was located in the Defendant's residence?

13 A Yes, sir.

14 Q You were made aware of that, correct?

15 A I was, yes.

16 Q Was there anything you were able to do with that
17 firearm for purposes of your investigation?

18 A No, sir. We had nothing to compare it to as far
19 as a projectile or a shell casing. So, all we did was,
20 basically, collect it for evidence in case we were to
21 locate some additional evidence.

22 Q Okay. So, oftentimes, if you have either the
23 bullet or the shell casing that comes out of the gun, are
24 you able to do something with either of those two items if
25 you have a gun?

CHRIS HAMMETT-CROSS BY MR. EPPES

1 A Yes, sir. The shell casing as well as the
2 projectile can, in cases, be matched to a firearm.
3 Assuming that they're not obliterated, either the
4 projectile when it strikes a service or the shell casing
5 being run over by a car or stepped on or something, they
6 can both possibly be identified from the gun they were
7 fired from.

8 Q All right. But you weren't able to do that in
9 this case?

10 A Yeah, we've didn't have anything that we could
11 compare it to.

12 MR. MOYER: Okay. One moment. Please answer
13 any questions the Defense may have.

14 THE COURT: Cross-examination, sir?

15 MR. EPPES: Yes, sir.

16 CROSS-EXAMINATION

17 BY MR. EPPES:

18 Q When was Mr. Taylor arrested, on the 25th?

19 A I think so.

20 Q February 25th?

21 A I believe that's correct, yes, sir.

22 Q So, a gun is an inanimate object, right?

23 A Yes, sir.

24 Q And you were here when -- you didn't have
25 anybody test it for gunshot residue to see if it had been

CHRIS HAMMETT-CROSS BY MR. EPPES

1 fired recently; did you?

2 A No, sir, we didn't.

3 Q You arrested Mr. Taylor on the 25th. You talked
4 to him a little bit. And I believe you told him --

5 MR. MOYER: Your Honor, I object. May we be
6 heard?

7 THE COURT: Sure. Come on up, let me hear.

8 (WHEREUPON, an off-the-recrod bench conference
9 was held in the presence of the jury but out of
10 the hearing of the jury.)

11 BY MR. EPPES:

12 Q Officer, as I said before, when you were talking
13 with Mr. Taylor after you arrested him, did you tell him
14 that you firmly believed that the trigger man was the
15 passenger in the vehicle?

16 A Yes, sir.

17 Q And you told him that if you caught the trigger
18 man, he was probably going to say it was Billy?

19 A Yes, sir, I believe I did.

20 Q Okay. Now, we saw pictures of those wheels in
21 that shed. It wasn't much of a shed; was it?

22 A No, sir, it wasn't.

23 Q If you had walked through the yard, you could
24 have peeked and seen them, really, without permission
25 probably?

CHRIS HAMMETT-CROSS BY MR. EPPES

1 A Might could have. I don't think we ever got
2 close enough to it because we were still toward the door
3 looking underneath the residence.

4 Q And you said the Tahoe was being examined on
5 March the 1st, right?

6 A I don't recall having said that.

7 Q When you look to see when that was, the day you
8 got the keys and all? I apologize, I'm talking about the
9 Camero.

10 A So, we're talking about the Camero, correct?

11 Q Yeah.

12 A February the 26th of 2014 is when I got the
13 search warrant for the vehicle. And you are correct, it
14 was on the 1st when Forensic Technician Davis started on
15 it, yes, sir.

16 Q On the Camero?

17 A Correct.

18 Q When did he start on the Tahoe?

19 A It would have been towed from the location
20 immediately at the time of the incident.

21 Q And nobody did any gunshot residue work on the
22 Tahoe; did they?

23 A No, sir, they did not.

24 Q I want to kind of go back to the start of your
25 investigation again. You said that there was a BOLO out

CHRIS HAMMETT-CROSS BY MR. EPPES

1 on the Tahoe -- or on a Tahoe?

2 A Correct. From the incident that started at
3 Croc's, yes, sir.

4 Q Because that first report that we heard Officer
5 Hegger testify about, somebody said that somebody fired a
6 gun in a white-colored tee-shirt, white tee-shirt and
7 gotten in a Tahoe?

8 A Correct, yes, sir.

9 Q Red or burgundy Tahoe?

10 A That's correct.

11 Q Then -- so one of the reasons you had them
12 search very carefully for guns is because of that BOLO
13 that you were aware of when you arrived on the scene?

14 A Yes, sir, that's correct.

15 Q And you, also, searched for brass all the way up
16 and down the street?

17 A Yes, sir, for a portion. I mean, it wasn't the
18 entire length, but a good portion of where we felt the
19 incident would have occurred in that general area.

20 Q Did you search for a gun in the woods or trees
21 or anything?

22 A No, sir, we did not, not outside of the roadway
23 area.

24 Q Okay. You sent two or three officers -- as a
25 supervisor, you sent them back to do the same thing at

CHRIS HAMMETT-CROSS BY MR. EPPES

1 Croc's? Looking for brass?

2 A Yes, sir, that is correct. Yes, sir. I'm
3 sorry.

4 Q You interviewed Anthony Henderson the second
5 time on March the 20th; is that correct?

6 A That's correct.

7 Q And he gave you the name of Deunte Jones at that
8 time, correct?

9 A Yes, sir, he did.

10 Q And you didn't interview Deunte Jones until May
11 2nd, had a brief interview with him? I can show you your
12 notes if you don't have them handy.

13 A Yeah, if you have them. Sorry, I can't remember
14 the exact date. May 2nd of 2014, yes, sir.

15 Q Then you interviewed him -- you interviewed him
16 on -- you want it?

17 A No, no, I'm good. Thank you.

18 Q Then you interviewed him again on video, I
19 think, on June 30th; does that sound right?

20 A It was a little time elapsed, yes, sir.

21 Q Would you look and see for me?

22 A Uh-huh. Yes, sir, June 30th of 2014.

23 Q Okay. I'm sorry to jump around a little bit on
24 you. I'm showing you Defendant's Exhibit 2. Do you
25 recognize those photographs?

CHRIS HAMMETT-CROSS BY MR. EPPES

1 A Yes, sir, they appear to be the forensics
2 photos.

3 Q And you asked Deputy Davis -- is it Davis?
4 Adam?

5 A Yes, sir, Davis.

6 Q Adam Davis?

7 A The forensic technician.

8 Q You asked him to do that on March 1st, right?

9 A Yes, sir.

10 Q Okay. Then you interviewed Anthony Henderson on
11 March the 3rd, the first interview, the one where he was
12 vague?

13 A That's correct.

14 Q And in that interview, you told him --

15 MR. MOYER: Your Honor, once again, same
16 objection.

17 THE COURT: Okay. All right. We can handle
18 this the exact same way with the last objection. You
19 ask him if he made a representation.

20 MR. EPPES: Okay.

21 THE COURT: Okay.

22 BY MR. EPPES:

23 Q In that interview, you told him, The trajectory
24 of the way this bullet entered into that car came from the
25 passenger, okay. It will only line up one way. I took

CHRIS HAMMETT-REDIRECT BY MR. MOYER

1 the measurements off the Camero from the way it was
2 sitting with the wheels on it because Billy tried to take
3 the wheels off and hide them. But I found all that, took
4 the measurement from the distance from the top of the
5 window in the Camero versus the SUV and there's no way it
6 came from the driver's side. So, the shot had to come
7 from the passenger side the way it went through the car.

8 Did you tell Mr. Henderson that?

9 A Yes, sir, I did.

10 Q Okay.

11 MR. EPPES: Your Honor, that's all the questions
12 I have.

13 THE COURT: Mr. Moyer.

14 MR. MOYER: A couple follow up.

15 THE COURT: Yes, sir.

16 REDIRECT EXAMINATION

17 BY MR. MOYER:

18 Q Let me ask you first about when you were
19 speaking to the Defendant, Billy Taylor. And you were
20 asked a little while ago about a representation that you
21 made to him. At that time, did you have any scientific or
22 other evidence from your investigation or otherwise that
23 led to one person or the other in that car being the
24 shooter over any other one?

25 A No, sir, we did not.

CHRIS HAMMETT-RECROSS BY MR. EPPES

1 Q Lack of a better word, is that kind of
2 posturing?

3 A Yes, sir. It's -- that's basically what you
4 would -- a term for it, yes, sir. You're trying to get,
5 elicit some type of information from someone is all it
6 was, yes, sir.

7 Q So, your interviewing technique sometimes leads
8 you to either skew a question or posit facts that maybe
9 aren't necessarily in evidence to try to elicit a
10 response; is that true?

11 A That's correct, yes, sir.

12 Q Is that the same thing you were doing with
13 Anthony Henderson?

14 A That is correct, yes, sir.

15 Q So, you didn't have any scientific evidence
16 regarding measurements that pointed to one person or the
17 other being the shooter?

18 A No, sir, we did not.

19 MR. MOYER: Thank you.

20 THE COURT: Recross?

21 RECROSS-EXAMINATION

22 BY MR. EPPES:

23 Q Before you interviewed Anthony Henderson on
24 March the 3rd, you had taken the measurements on March
25 1st, correct?

CHRIS HAMMETT-RECROSS BY MR. EPPES

1 A The forensics unit did, yes, sir.

2 Q And another thing -- and you can tell me if this
3 was posturing, too. You, also, told Billy Taylor when you
4 arrested him that if you found who was the passenger that
5 was shooting, they were going to say Billy Taylor did it
6 and then he would be found guilty of murder; didn't you?

7 A Yes, sir.

8 MR. EPPES: Thank you.

9 THE COURT: All right. Thank you, sir. I
10 appreciate it. You may step down.

11 All right. Anything further from the State?

12 MR. MOYER: Your Honor, at this time, the State
13 rests.

14 THE COURT: All right. Ladies and gentlemen, at
15 this point in the trial, it's necessary that I hear
16 legal arguments and conduct some procedural business
17 before we move to the Defense's case. So, what I'll
18 ask you to do is take a short break. We'll take care
19 of those issues, then we'll continue on with the
20 presentation of evidence. Please don't discuss the
21 case. You may exit the courtroom.

22 (WHEREUPON, the jury left open court at
23 approximately 3:05 p.m.)

24 THE COURT: All right. Motions?

25 MR. EPPES: Your Honor, I don't believe the

1 State has met its burden. I ask that the matter be
2 dismissed by directed verdict.

3 THE COURT: Okay. All right. Under the
4 standard enumerated by the Supreme Court for directed
5 verdict, I must view the evidence in the light most'
6 favorable to the nonmoving party. Also, it's not the
7 Court's place to weigh the sufficiency of evidence,
8 only to determine whether there is evidence upon
9 which the jury could find that the State has met its
10 burden of proof. On that basis, I would respectfully
11 deny your motion.

12 Do you intend to put evidence into the record,
13 Mr. Eppes?

14 MR. EPPES: Your Honor, I don't think so, but
15 I'd like to have a conversation with my client, if we
16 could take a short break.

17 THE COURT: Sure. Do you want me to have a
18 discussion with him, an allocution regarding his
19 rights and his right against self-incrimination
20 before you have that discussion or afterwards?

21 MR. EPPES: Let's do it afterwards.

22 THE COURT: Okay. Good enough. We'll take a
23 break.

24 Mr. Eppes, let me know when you're ready and
25 we'll come back in, okay?

1 MR. EPPES: Thank you, Your Honor.

2 (WHEREUPON, a short break was taken.)

3 THE COURT: Mr. Taylor, would you raise your
4 right hand, sir?

5 BILLY TAYLOR, after being duly sworn,
6 testified as follows:

7 EXAMINATION

8 BY THE COURT:

9 Q Mr. Taylor, I've said this to the jury any
10 number of times, but I need to discuss it directly with
11 you, and that is you have a right to remain silent, a
12 right against self-incrimination that's guaranteed under
13 the Constitution. Now, what that means is the State has
14 the burden of proving you guilty beyond a reasonable
15 doubt. They have the burden of proving each and every
16 element of each count, each indictment beyond a reasonable
17 doubt. You do not have the burden of saying or doing
18 anything. You don't have to take the stand and testify if
19 you don't want to and no one can make you testify.

20 If you elect to exercise your constitutional
21 right not to testify, then I will tell the jury that they
22 cannot hold that against you. Because in as much as that
23 is a constitutional right that we all enjoy, you can't
24 hold it against somebody for exercising a constitutional
25 right. I'll tell them that it's such a sacred right that

BILLY TAYLOR-EXAMINATION BY THE COURT

1 they can't even discuss it in their jury room. So you
2 also have, you understand, the corresponding right to take
3 the stand and testify. You can take the stand and testify
4 and refute what other witnesses have said. You can tell
5 the jury your side of the story. But understand that if
6 you elect to do that, then you are subject to
7 cross-examination, which means that Mr. Moyer could ask
8 you questions. And he could ask you questions in an
9 attempt to impeach your credibility. He could ask you
10 questions bearing upon any prior record that you may have.
11 And I don't know whether you do or not, but he could ask
12 you those questions.

13 So sir, have you had the opportunity to discuss
14 that with Mr. Eppes, sir?

15 A Yes, sir.

16 Q Have you made a decision as to whether you would
17 like to testify or not, sir?

18 A Yes, sir.

19 Q And what is your decision in that regard?

20 A No, sir.

21 THE COURT: Okay. All right. Good enough. And
22 you can take a seat, Mr. Taylor. Thank you.

23 Mr. Eppes, do you have any evidence that you
24 would like to put into the record?

25 MR. EPPES: No, sir.

1 THE COURT: Okay. All right. I do note that --
2 and I know you know this, you have introduced
3 evidence in this case in the State's introduction.

4 MR. EPPES: I was hoping Mr. Moyer wouldn't
5 notice, but I guess you reminded him, so there's not
6 much chance.

7 THE COURT: Yeah, I think that Mr. Moyer
8 probably took note of that.

9 Okay. So, what I will do is I'll instruct the
10 jury that you don't -- that the Defense doesn't
11 intend to offer any additional evidence. And I'll
12 ask them to be back here tomorrow morning at 10:00.
13 What we'll do after we dismiss this jury is we'll
14 have a discussion about argument and charge. We'll
15 go over the law. And I'll entertain any requests for
16 charge that you may have. We won't do that on the
17 record. We'll do it in chambers. And then to the
18 extent that there are any residual motions or
19 objections that need to be made, we can put that on
20 record tomorrow morning, okay.

21 MR. EPPES: Thank you, Your Honor.

22 MR. MOYER: Thank you, Your Honor.

23 THE COURT: All right, good enough. Bring the
24 jury in, please.

25 Mr. Eppes, you want to rest on the record in

1 front of the jury?

2 MR. EPPES: I'd like to if I could, yes, sir.

3 (WHEREUPON, the jury came into open court at
4 approximately 3:26 p.m.)

5 THE COURT: Okay. All right. Mr. Eppes, does
6 the Defense intend to call any witnesses or offer any
7 additional evidence into the record?

8 MR. EPPES: We do not, Your Honor. The Defense
9 rests.

10 THE COURT: Okay.

11 All right. Ladies and gentlemen, you have
12 received all the evidence that you will receive in
13 this case. The next step will be closing arguments
14 and charge on the law and then deliberations. We're
15 going to adjourn today. We're going to come back
16 tomorrow and do that.

17 The reason is, right now, as you see, it's about
18 3:30, very close to 3:30. It will take all of an
19 hour and a half to accomplish closing arguments and a
20 charge on the law. I don't want you to begin
21 deliberations at 5:00. Once I give the case to you
22 to begin your deliberations, then you're stuck here.
23 And I don't want you -- again, like I told you
24 earlier today, I don't want you to be in a position
25 where you have to stay here for an extended period

1 tonight. So, what we'll do is we'll start in the
2 morning. We'll start at 10:00. I'd rather start at
3 9:00, but I told you I had shoulder surgery. I have
4 physical therapy tomorrow at 8:30, okay. So, we'll
5 start at 10:00.

6 In the meantime, just for your information, the
7 parties to this case and I are going to continue to
8 work. That is, we're going to talk about the law as
9 it relates to the case and closing arguments. So,
10 when we get here tomorrow, we'll all be postured to
11 move forward effectively and efficiently as possible.
12 It's necessary that we have a discussion about the
13 charge before we get to that stage. This will give
14 us a period of time where we can go ahead and have
15 that conversation and we won't have to have a gap
16 tomorrow morning before we give closing arguments and
17 charge.

18 All right. So, y'all don't discuss the case
19 tonight. I don't know that there's been any media
20 publications on this because I haven't checked. I
21 haven't watched the local news because all I see is
22 Donald Trump stuff and I'm tired of it. So, I
23 haven't been watching the news. But I don't know if
24 there's been any media reports on it or not, but
25 avoid any media reports with regard to the case. And

1 again, don't do any self-help, don't discuss it with
2 your spouse, significant other or friend. Again,
3 keep your powder dry, come in tomorrow with an open
4 mind and we'll proceed with the remainder of this
5 case.

6 Y'all have a good evening. I look forward to
7 seeing y'all back tomorrow. If you'll be here about
8 9:45 so that we can start as promptly as possible. I
9 appreciate it. Thank you.

10 (WHEREUPON, the jury left open court at
11 approximately 3:30 p.m.)

12 THE COURT: All right. We'll adjourn for the
13 day. Counsel, if you'll just come back to my
14 chambers. Give me about five minutes. I've got a
15 draft charge. We'll print it and we'll talk about
16 the law and we'll talk about any requests for charge
17 that you may have.

18 MR. MOYER: Thank you, Your Honor.

19 MR. EPPES: Thank you, Your Honor.

20 (WHEREUPON, the proceedings were concluded for
21 the day to be reconvened on March 3, 2016.)
22
23
24
25

1 March 3, 2016

2 THE COURT: I hope everyone is doing well today.
3 I apologize for running a little bit late. I got
4 held up in physical therapy, not much I can do.

5 Any issues or matters of law we need to put on
6 the record before we bring the jury in?

7 MR. EPPES: Your Honor, in anticipation that you
8 might go straight into the charge, I'd like to renew
9 my objections to the charge on the hand of one is the
10 hand of all and request a manslaughter charge.

11 THE COURT: All right. Based on -- I'm sorry,
12 the hand of one hand of all? There's not a directed
13 verdict motion?

14 MR. EPPES: Not yet, I got them out of order.

15 THE COURT: That's okay. That's okay. I just
16 wanted to make sure I'm clear. I know that in
17 chambers yesterday we discussed the charge and one of
18 the issues that came up is whether the hand of one is
19 the hand of all charge is an appropriate charge under
20 the evidence that's been presented in this case. Of
21 course, I take no position with regard to the value
22 or weight of the evidence or the sufficiency of the
23 evidence. But I will state on the record that there
24 was evidence in the record that three people were in
25 the same vehicle, that a shot, a fatal shot, was

1 fired from that vehicle with, based on the evidence,
2 three occupants. Again, I'm not saying that that
3 evidence is true. I'm not trying to recite the
4 facts. I'm saying that is the evidence that is in
5 the record. It's additional evidence that neither of
6 those -- none of those individuals reported anything
7 to law enforcement, and after the fact, changed the
8 rims on the car to make the car look unlike the one
9 that was at the scene.

10 I think given all of that evidence -- again, I'm
11 not commenting on the weight of that evidence or the
12 credibility of that evidence, but given the fact that
13 it is in the record, I think that a hand of one is
14 the hand of all charge is appropriate under the
15 evidence that's been -- that has been introduced into
16 the record.

17 Also, we discussed a mere presence charge, which
18 I intend to charge as well. Certainly, which would
19 mitigate the hand of one is the hand of all and give
20 you the opportunity to make appropriate arguments
21 about his mere presence at the scene of the crime if
22 you believe that doesn't necessarily indicate that
23 he's culpable, okay.

24 MR. EPPES: Thank you, Your Honor.

25 THE COURT: Okay.

1 MR. EPPES: Also, I ask for a manslaughter.

2 THE COURT: Okay, I respectfully deny that. I
3 don't think the evidence supports a manslaughter
4 charge. I don't think there was sufficient
5 provocation or heat of passion which would justify a
6 manslaughter charge under these facts.

7 MR. EPPES: I know it's slightly out of order,
8 but I would like to make a motion for a directed
9 verdict.

10 THE COURT: Okay. On the same grounds that you
11 made at the close of the State's case, I presume?

12 MR. EPPES: Yes, sir.

13 THE COURT: All right. On the same basis, I
14 will deny the motion.

15 Okay. Anything else?

16 MR. MOYER: No, Your Honor.

17 MR. EPPES: No, Your Honor.

18 THE COURT: All right. Let's see, ladies and
19 gentlemen, I need to appoint a foreperson. If you
20 would give me just a second and let me go through
21 this.

22 All right. If you would put Mr. Bradley Aiken,
23 Juror No. 3, in the Foreperson's chair, I would
24 appreciate it, sir.

25 THE BAILIFF: Yes, sir. Are you ready for the

1 jury, sir?

2 THE COURT: Yes, sir, please bring them in.

3 (WHEREUPON, the jury came into open court at
4 approximately 10:20 a.m.)

5 THE COURT: All right. Good morning, ladies and
6 gentlemen, welcome back. Thank you for being on
7 time. I'm sorry for starting a little bit late.
8 That's entirely my fault. I take full responsibility
9 for it. I got hung up in physical training this
10 morning. I apologize.

11 Mr. Aiken, congratulations, I'm appointing you
12 as Foreman of the jury because you've demonstrated
13 excellence as a juror thus far. I will tell you that
14 your role as Foreman of the jury is to ensure that
15 during deliberations that everyone has the
16 opportunity to speak, that everyone's voice is heard
17 and everyone has the opportunity to offer their
18 opinion. When you have 12 people get together,
19 oftentimes, you're going to have some people who are
20 louder and more assertive and you'll have people who
21 are a little bit more reserved and less likely to
22 offer their opinion or comments. But your job is to
23 make sure that everybody has the opportunity to be
24 heard in the jury room.

25 Beyond that, I can't give you any additional

1 instructions. I can tell you I've never been on a
2 jury. And in my capacity now as a circuit Judge, I
3 can't go back into the jury room and hear your
4 deliberations. It's against the law for me to do it.
5 So, I don't know how juries conduct deliberations
6 generally. So, you can form -- each jury kind of
7 comes to its own determination of the form and the
8 method of deliberations. Y'all work collectively on
9 how you will deliberate and how you will come to an
10 ultimate decision in this case.

11 So, ladies and gentlemen, at this time, we're
12 going to move to arguments, closing arguments. Now,
13 closing arguments, as I told you before, is not
14 evidence. You've already received all the evidence
15 that you will receive in this case. The attorneys
16 will simply be arguing in an attempt to persuade you
17 to their respective sides.

18 Mr. Moyer, will you open on the law or is that
19 waived?

20 MR. MOYER: No.

21 THE COURT: Okay. So, what will happen is
22 Mr. Eppes will have the opportunity to argue first.
23 Then after Mr. Eppes has argued, then Mr. Moyer will
24 have the opportunity to close. After you've heard
25 argument from both sides, then I will give you a

1 charge on the law. Having said that, ladies and
2 gentlemen, I will turn it over to Mr. Eppes for
3 argument.

4 MR. EPPES: Thank you, Your Honor.

5 THE COURT: Yes, sir.

6 CLOSING STATEMENT

7 MR. EPPES: I write all this stuff down, but I
8 don't ever know what I'm going to say. I'm going to
9 start like I started my opening argument, kind of a
10 civics lesson. Billy Taylor is innocent until the
11 State proves him guilty to your satisfaction, the
12 satisfaction of 12 jurors who must unanimously find
13 that the State has proven beyond a reasonable doubt
14 that he is guilty.

15 Okay. Now, I always talk about my father. My
16 father was a judge. I have no intention of ever
17 being a judge. I think it's too hard of a job,
18 but -- because I always argue. I'm a arguer by
19 nature. But when I was a kid, I learned about court
20 coming with my father. I didn't learn about it in
21 school. I was here all the time and I watched jury
22 trials. And I would get in the car and I would say,
23 Daddy, doggone, 12 people don't know anything about
24 anything. You realize there's always more stuff than
25 what's in the case. It just seems awful.

1 My father would say the same thing every time,
2 he'd say, Boy, it's terrible. It's a terrible system
3 to find justice, but it's better than anything else
4 that anyone has ever come up with.

5 I talked to y'all in the beginning about the
6 genius of the jury and I really believe that. And I
7 believe that and Billy Taylor's life is on the line
8 because of that.

9 Now, I have another story about my father. We
10 went to England in 1991. It was the 50th anniversary
11 of an air base that he'd been at in World War II. We
12 went over there and my father, being a judge, said, I
13 want one of those wigs. Those wigs costs \$900. He
14 didn't get one. But we go over there and we watch
15 the end of a trial. And in England, which our system
16 is based on, there's three potential verdicts,
17 guilty, not guilty and case not proven. Okay. In
18 the United States system, not guilty and case not
19 proven have been brought into one place, not guilty.

20 And so, I will be the first to tell you, I don't
21 know what happened in that car. I will be the first
22 to tell you that the three people in that car are the
23 only people that know what happened in that car. I
24 am asking you for a verdict of case not proven. But
25 in the United States of America, that is a verdict of

1 not guilty.

2 Now, you've seen us move around the courtroom.
3 And you've seen Mr. Moyer, who is very well
4 organized, and you've seen me. And I got to thinking
5 about that. And mostly, you've seen evidence.
6 You've seen witnesses from this witness stand and
7 you've seen this evidence that we put into the case.
8 Mr. Moyer's evidence is like him, it's organized and
9 it's in a straight line. Because he has evaluated
10 this case in a straight line. What I've been doing
11 is trying to show you the problems with that line,
12 the cracks in that line. But you have to look at the
13 witness stand and the evidence to determine if he's
14 met his burden or not.

15 Now, Mr. Taylor is charged with four crimes.
16 He's charge with murder, which is an intentional
17 killing with malice aforethought. Malice
18 aforethought is either a meanness of the heart -- and
19 the Judge will tell you what the law is. I'm giving
20 you kind of my thumbnail version of it. Meanness of
21 the heart or a complete reckless disregard of life.
22 And I don't mind telling you that if somebody fires a
23 gun, that's malice. He's also charged with the
24 attempted murders of Ms. Jeter and Ms. Hiott. Those
25 are, obviously, related crimes because the gun was

1 fired. Now, he's charged in the murder case with
2 possession of a weapon. That is tied only to the
3 murder. The Judge will explain that better, but if
4 you find him guilty of murder because you believed he
5 possessed a weapon, then you'll find him guilty of
6 that as well.

7 Now, the State may argue some version of the
8 hand of one is the hand of all. And they may try --
9 they may try to tell you that because Mr. Taylor was
10 driving the car, that made him guilty no matter where
11 the shots come from. The Judge is going to tell you
12 the law of the hand of one is the hand of all. He's,
13 also, going to tell you that mere presence in the car
14 is not sufficient to convict Mr. Taylor under the
15 hand of one hand of all theory. Merely driving the
16 car is not enough.

17 And I tell you, ladies and gentlemen of the
18 jury, the only place you have to look about any idea
19 of the hand of one hand of all -- that's why I want
20 to get it over with in this -- is the testimony of
21 Ms. Hiott and Ms. Jeter. Both Ms. Hiott and
22 Ms. Jeter, I'm pretty sure they both said this,
23 said -- I know they said this part. They said
24 they're driving up the road -- no interaction at the
25 Spinx station, no interaction at Croc's. They're

1 driving up the road and they hear, Hey, girl.

2 Ms. Jeter said, Hey, girl, hey, hey, hey. And
3 then there was the dueling FU's and then a shot was
4 fired.

5 Well, there's nothing in the evidence to
6 indicate any plan or conspiracy to get beside their
7 car. If you believe Ms. Hiott and Ms. Jeter, and I
8 believe they're the two most trustworthy people in
9 this case because of the horrible things that
10 happened to them, I don't believe the hand of one is
11 the hand of all is an issue at all in this case. I
12 just wanted to spend a moment on it because I think
13 Mr. Moyer might argue it.

14 Now, I want to talk again about evidence and
15 levels of proof. You're going to find this hard to
16 believe, but I had this set up ahead. Now, the
17 burden of proof -- and I'm, frankly, going to show
18 you this twice because I wanted to go through it just
19 in the abstract and then I want to go through here
20 and talk about the case a little bit. But the burden
21 of proof -- there's different levels of burden of
22 proof, as I have mentioned to you before.

23 There's a hunch or a rumor. It's not supported
24 by evidence. It's just a suspicion. And that's just
25 the things that we go on everyday to do the things we

1 do. Reasonable articulable suspicion. That involves
2 further investigation. If an officer sees somebody
3 acting shady, he might want to pat him down or
4 something for suspicion. Probable cause. Probable
5 cause leads to an arrest. There's evidence
6 sufficient to say that something happened. There's a
7 higher standard of that, preponderance of the
8 evidence, which I talked about before. You see that
9 in car wreck cases. Who's at fault in a car wreck
10 case only has to be done by 51 percent. Then in
11 cases involving, frankly, more serious matters than a
12 car wreck, something about your children or
13 something, the evidence has to be clear and
14 convincing. Meaning, it's got to really be
15 substantial, I mean, a lot. Then you get to proof
16 beyond a reasonable doubt. And that is what we're
17 talking about today.

18 Now -- did I bring my pointer up here? I want
19 to talk about these in the context of this trial a
20 little bit. Hunch and rumor. You remember when
21 Detective Hammett was on the stand. He thought to go
22 to the rim place to see Ms. Biggerstaff because he
23 just had a hunch that the rims on Mr. Taylor's car
24 were rented, and he went to the Rent-N-Roll. Then
25 from the Rent-N-Roll, he got word that there was a

1 red Camero that bought tires and that -- rented
2 tires. And that's a reasonable suspicion. He needs
3 further investigation. So, at that point, he says
4 well, let me get the records of these tires. So, he
5 gets the records of the tires. And they immediately
6 go to Billy Taylor's house. They go to his place of
7 work. They get a warrant and they arrest him.
8 Because the fact that it looks like it was his car
9 and that it likely was his car was enough for them to
10 do an arrest.

11 That's how this case got started. It came,
12 frankly, in a straight line. Detective Hammett had a
13 hunch. It went beyond a hunch to a suspicion. He
14 got records. The records made it look like it was
15 very possible it was Billy Taylor's car. They got
16 Billy Taylor's car and they arrested him.

17 Then the investigation was ongoing. He talked
18 to Billy Taylor. Told Billy Taylor, You need to tell
19 us what went on or you're going to jail. He, also,
20 told Billy Taylor that he didn't think Billy fired
21 the shot. He thought the shot came from the
22 passenger seat.

23 As the Camero was being examined after it was
24 found, they measured the tires. And then, as the
25 investigation went on, two or three days later, they

1 arrested -- I guess it was a week later, they
2 arrested Mr. Henderson, told Mr. Henderson the same
3 thing.

4 They said, We think you were the shooter. We
5 think you were in the passenger seat. We think
6 you're the shooter.

7 Now, if Investigator Hammett was really trying
8 to play them off against each other, it just seems to
9 me that he would have told Mr. Henderson we think
10 Billy Taylor was the shooter, but that isn't what he
11 did.

12 He said, We think you're the shooter.

13 And then two weeks later, Mr. Henderson comes in
14 and his story is, I didn't even see a gun. Billy did
15 it.

16 And after that, the case was done. The
17 investigation was done.

18 They went a couple months later and talked to
19 Mr. Jones. Mr. Jones had plenty of time in the
20 meantime to talk to Mr. Henderson. They had started
21 forensics. They had started measuring these tires.
22 They never went any farther. They didn't try to get
23 any gunshot residue off the tires. They didn't try
24 to get any gunshot residue off the gun that they
25 found at Mr. Taylor's house. Despite the fact that

1 they try to imply, well -- and this is horrible to
2 say, but they try to imply that well, if the bullet
3 was not in Ms. Hiott's head, we might could find
4 something on this gun. They didn't try to get
5 gunshot residue off of it.

6 I really liked that gunshot residue expert. She
7 said -- I believe she said that the typical kind of
8 gun you might expect to be involved in this case,
9 including the gun that they found, gunshot residue
10 goes four, four and a half, five feet. And you heard
11 from Mr. Jones's story, which was a story, that the
12 cars were that far apart and said Billy's arm was out
13 of the car. So, that's the State's case. The
14 State's case is a straight line.

15 They went out and they started investigating.
16 They found the car and they found Billy Taylor. They
17 told Billy Taylor, Tell us the story or we're going
18 to ring you up for it.

19 He didn't tell them a story.

20 Found Mr. Henderson, said, We think you're the
21 shooter. Tell us the story or we're going to ring
22 you up for it.

23 Here we are, trying the case against Mr. Taylor
24 because Mr. Henderson spoke. That's the State's
25 case.

1 They're counting on the fact that all of this
2 nonsense that went on at Croc's and that went on at
3 the BP station, which Ms. Hiott and Ms. Jeter have
4 said had nothing to do with the case, they're
5 counting on all of that to be part of the evidence
6 that y'all don't see. To be part of the evidence
7 when you say, when all this happened, there were
8 three people in this case, we have got to find
9 Mr. Taylor guilty because we have got to avenge this
10 death and we've got to avenge this shooting.

11 Now, we also know that Anthony Henderson has a
12 very good reason to lie. He has 30 years in the
13 penitentiary. Thirty years to life in the
14 penitentiary, 30 years each on the two women that
15 were in the vehicle. Deunte Jones, his friend, here
16 they are last year still playing around with guns.
17 He had a reason to lie for his friends. And for
18 Mr. Henderson to say that he was not a violent
19 person, from the face of this photograph, I don't
20 know what to say about that. But the evidence is
21 more important. The evidence that we do know is more
22 important than me casting aspersions on them for
23 being friends or for me casting aspersions on
24 Mr. Henderson for saying that if you cross him, which
25 might include using F word, will you send you

1 straight to your maker.

2 Most of the witnesses -- or a lot of the
3 witnesses dealt with the thing at the club and the
4 incident at the BP station. Deputy Hegger heard
5 about the gun potentially from the Tahoe. Sergeant
6 Shaw, Officer Kretschmar, they gathered all that
7 information. Dr. Snow talked about the injuries to
8 Ms. Hiott. Dr. Fulcher talked about the injuries to
9 Mr. Nesbitt.

10 Dr. Fulcher was kind of important, though. He
11 also said that there was no stippling around that
12 horrible injury y'all saw. There was no gunshot
13 residue around it. That gunshot residue test was
14 done within six hours of Mr. Nesbitt passing, and
15 there was nothing there. And that's important when
16 you put that against Deunte Jones's statement that
17 the cars were that far apart and Billy Taylor's gun
18 was in his left hand and the shot -- the shot that he
19 didn't see was fired by the gun that he didn't see.

20 They spent a good bit of time on the hiding of
21 the car and the rims. And I will tell you that my
22 client hid his car and my client hid his rims. He
23 knew he had been involved in a shooting. The only
24 thing I can say about that is neither Mr. Henderson
25 nor Mr. Jones went to the police either. They were

1 all trying to hide this incident. You heard some
2 brief testimony from Mr. Harris about Mr. Henderson
3 telling a witness to shut up about something. Nobody
4 went to the police.

5 Now, we also had Mr. Brock. And Mr. Brock said
6 that no one confessed to him. The only thing that he
7 had to say about what happened was that Mr. Taylor
8 sent word back to Mr. Henderson that they could
9 either blame Mr. Jones or Mr. Henderson or Mr. Taylor
10 was going to say that Mr. Henderson did it. Again,
11 this is three young men that made a terrible,
12 terrible decision. They are literally in a triangle,
13 each of them have the ability to point at the third.
14 And finally, two of them did.

15 Now, both of the witnesses, Anthony Henderson
16 and Deunte Jones, they, for whatever reason spent a
17 bunch of time talking about Mr. Taylor wanting to
18 fight at the BP station. Now, you saw a video of the
19 BP station. I think the whole idea that Mr. Taylor
20 was seeking a fight or argumentative or even paying
21 attention to the people in the Tahoe is just not
22 true. You look at that fight and Mr. Taylor walks
23 into the screen and walks out of the screen.

24 I'll tell you an interesting thing about that
25 video, though, if you decide to look at it. I know

1 it's a long video and you've seen it. Mr. Taylor
2 told -- Mr. Taylor's on the video, but Mr. Henderson
3 is on the video. Mr. Henderson is on the video
4 walking in and out of the screen two or three times.
5 Not once does he look like his eyes are hurting. Not
6 once does he look like his eyes are hurting. And he
7 even said he made a decision not to go in the store,
8 not to get milk, despite the fact that plenty of
9 people were going in and out of the store. I think
10 that's important. I think that goes to where his
11 story comes from later.

12 I got to thinking about the business at the BP
13 about Mr. Taylor wanting to fight anybody who would
14 stop at the BP without a sinister motive. And it
15 reminded me of Mr. Tate. Y'all remember Mr. Tate,
16 the little dude that parked across the street because
17 it looked like it was going to be trouble at Croc's.
18 He went to the trunk of his car. He got his gun out
19 and he just sat there. He reminded me of Barney
20 Fife, I don't know exactly why, but he sat there with
21 his gun and called 911 and hoping he could be
22 involved in something.

23 It also reminded me of what I talked about in
24 the opening, just the absolute tragedy of this and
25 the fact that over and over again, I was told as a

1 young boy that nothing good happens after midnight.
2 So, young men want to be around places where things
3 are happening. I don't think there's anything
4 sinister about the Camero being at the BP over here
5 while Mr. Nesbitt is filling the car with gas. I
6 don't think there's any relationship. And, most
7 importantly, neither did Ms. Hiott, neither did
8 Ms. Jeter.

9 That really brings us to the two stars in the
10 prosecution's case, Mr. Jones and Mr. Henderson, and
11 their story. I think the easiest, most obvious way
12 to tell their stories are made up is that
13 Mr. Henderson says Mr. Taylor shot with his right
14 hand. And Mr. Jones, after I prompted him, remember
15 that when he gave a statement two years ago, he
16 said -- I believe this is exactly what he said. He
17 said Mr. Taylor had his left hand out of the car. He
18 heard the blast and he shifted down hard with his
19 right hand and took off. That's what he said then.
20 Those two statements cannot be true.

21 In addition to that, I've mentioned it before,
22 but I'm going to mention it again. The testimony of
23 Ms. Jeter and Ms. Hiott. Ms. Hiott said multiple
24 voices coming out of this car. Multiple voices came
25 up behind saying, Hey, girl, what's going on? And

1 then the profanity. There were multiple voices doing
2 that. And yet, both Mr. Henderson and Mr. Jones say
3 they were on the other side of the car not paying
4 attention to anything. Mr. Henderson said he had his
5 eyes on the air conditioning and Mr. Jones said he
6 was talking to Mr. Henderson, which Mr. Henderson did
7 not support. Two completely different stories.

8 Ms. Hiott and Ms. Jeter have no interest in
9 telling anything but the truth. But Mr. Jones and
10 Mr. Henderson, it is literally a life-changing
11 decision if they tell the truth instead of the story
12 that they told you. They both say they didn't see a
13 gun because they both want to be as far away from any
14 gun as possible in the courthouse. That's not the
15 case. That's not the case in their lives.

16 Ladies and gentlemen, Investigator Hammett told
17 both my client and Mr. Henderson that he believed the
18 shot came from the passenger side. He says now that
19 that was something done to elicit a confession. But
20 he told them both that. In addition, he took the
21 measurements of this vehicle from which he hoped to
22 be useful information about the angle of the shot and
23 would have said where the shot came from. He did not
24 get any such information or we, certainly, never
25 heard it.

1 It appears from all the evidence that one
2 shot -- and I have a laser pointer -- that one shot
3 going straight, likely, did all the damage in this
4 case. Ms. Hiott discussed seeing a flash over her
5 right shoulder as the shot was fired. I would submit
6 to you that the flash would have had to come from
7 behind Mr. Nesbitt's head, but that does not indicate
8 where, given the situation in the car, it came from
9 only the Camero. Because we don't know where the
10 shot came from in the Camero.

11 The evidence in this case is simply not enough.
12 It does not prove beyond a reasonable doubt that
13 Billy Taylor fired the fatal shot. It does not prove
14 beyond a reasonable doubt that Billy Taylor fired a
15 gun. It does not prove beyond a reasonable doubt
16 that Billy Taylor was involved in this in any way,
17 shape or form. They have not met their burden of
18 proof. In our society that wants justice for
19 victims, it is very, very hard to be faced with these
20 problems. This is an issue that y'all have to
21 resolve. I can say from watching you, I know you
22 take your obligation seriously. I know that you're
23 going to do your best to resolve it. I know that
24 you're going to do your best to reach a unanimous
25 verdict. I ask that you simply stick to your

1 convictions, look at the evidence and come to a fair
2 and true verdict. And I thank you for your
3 attention.

4 THE COURT: Mr. Moyer.

5 MR. MOYER: Thank you. May it please the Court?

6 THE COURT: Yes, sir.

7 CLOSING STATEMENT

8 MR. MOYER: Good morning, ladies and gentlemen.
9 Let me start off by just telling you something that
10 the Judge either has already or will, is that you've
11 heard all the evidence, all the testimony in this
12 case, you've received all the evidence. Sometimes we
13 have juries come back with a question saying hey,
14 we'd like to look at so and so's police report or
15 we'd like to hear this statement or something like
16 that. Except in very rare circumstances, police
17 reports and witness statements and things like that
18 are not admissible into evidence. So, you wouldn't
19 be allowed to see those even if we wanted to allow
20 you to see those. The record is closed and all the
21 evidence is before you.

22 You have heard about this burden of proof. And
23 I want to tell you, ladies and gentlemen, right off
24 the bat that the State agrees with every word of
25 that. The State gladly accepts the burden of proof

1 in this case. It's a fundamental concept of American
2 law and we would have it no other way.

3 What that burden is that we must prove the
4 Defendant guilty beyond a reasonable doubt. That's
5 not beyond all doubt. It's not beyond every doubt.
6 I once heard someone refer to the burden of proof as
7 a shadow of a doubt. Whatever that is, it's not
8 that. Simply put, you must be firmly convinced of
9 the Defendant's guilt. I mean, there are very few
10 things in this world that one can say that you
11 believe beyond all doubt, and the criminal justice
12 system does not require that either.

13 I want you to remember this, every criminal
14 defendant who was ever convicted, who has ever been
15 held responsible for his crimes had this same burden
16 of proof, started off presumed innocent. In every
17 case, the most seemingly insignificant case -- in
18 South Carolina, you can get a jury trial for
19 speeding. In that case, you would have the burden of
20 proof, the State would. Up to the most seemingly
21 significant case, like capital murder charge, which
22 this is not, this burden is the same. So, for all
23 cases, from both extremes and from everything in
24 between, if a person was convicted, a group of
25 citizens just like you all got together and after

1 analyzing the evidence and reviewing the facts, found
2 that person guilty beyond a reasonable doubt.

3 Next thing I want to mention, ladies and
4 gentlemen, is I just want to remind you that the
5 ramifications of your verdict is not at issue here
6 either. And I just want to mention this because the
7 Defense mentioned a couple of times the Defendant's
8 life is on the line. I just want to make sure if
9 it's not clear already, this is not a capital murder
10 case. This is not one where the death penalty is
11 being applied. And I say this because sanctions are
12 established by our legislatures. Should you all find
13 this Defendant guilty, the sentence will be handed
14 down by the Judge. It will be in the Judge's
15 discretion what the sentence is. It would be
16 improper for you to talk about or consider a sentence
17 when you are doing your deliberations and making up
18 your minds on this case.

19 Now, I think your deliberations are going to
20 require a twofold question. One, was this a murder
21 or an attempted murder? And secondly, if it was a
22 murder, is this Defendant responsible for it? So, I
23 want to make just a few remarks about that. I don't
24 think I have to go into this in very much depth
25 because I think the Defense already told you from the

1 beginning that since a gun was used, then, yes, there
2 is malice. But a murder is the killing of a person
3 with malice aforethought expressed or implied. So
4 malice, essentially, means the intentional doing of a
5 wrongful act without just cause or excuse.

6 Malice aforethought, let me make sure there's no
7 confusion about that. That does not mean there has
8 to be planning or has to be thought out ahead of
9 time. Essentially, what that means is that element
10 of malice has to exist at the moment the fatal shot
11 is fired, when the act is done. So, as long as it
12 accompanies the act, this malice, then there is
13 sufficient malice for you to find a person guilty of
14 murder or attempted murder. Malice can be either
15 expressed or it can be inferred. Expressed malice
16 would be where there's actually words or maybe
17 evidence of planning, or someone's actions show this
18 malice. Inferred malice -- the law does not require
19 us to read a person's mind because you can infer
20 malice from the circumstances. The use of a deadly
21 weapon, you can infer malice from that. We can also
22 infer malice from -- you can infer malice when there
23 is a total disregard for human life used. Shooting
24 point blank range into a vehicle shows inferred
25 malice. Under that is why the Defendant is guilty of

1 attempted murder against Ashley and Brittany.

2 The Defendant's rage may have been directed
3 towards Jermaine. The bullet may have been directed
4 towards Jermaine. But the malice covers everyone
5 that may have been affected by that bullet. Should
6 that bullet that penetrated Jermaine's skull exited
7 Jermaine's skull and struck Ashley in the head, had
8 that missed Ashley and gone through the window and
9 struck someone at the Bojangles', someone on the
10 street, the Defendant would be guilty of that assault
11 as well.

12 But not only is there inferred malice in this
13 case, there's expressed malice as well. The
14 Defendant's actions speeding up to that Tahoe to
15 engage the occupant or occupants in this what began
16 as a verbal altercation and led to firing, that's
17 expressed malice. The words he used, the curse
18 words, the FU, that shows expressed malice as well.

19 Ladies and gentlemen, there's also, as you have
20 heard -- or will hear from His Honor, there's not
21 going to be any lesser included possibilities -- or
22 lesser included crimes, like manslaughter. There's
23 nothing here in this case that can justify or even
24 minimize what was done. Under the law, words alone
25 are not mitigation. The fact that there was angry

1 words being said back and forth does not mitigate the
2 act at all as well. Especially in this case, where
3 the Defendant is the one who instigated or provoked
4 that confrontation. There is no self-defense at
5 issue here either.

6 And I spent some time in this trial trying my
7 best to make sure there would not be confusion about
8 that or that this would not be a red herring.
9 Somehow, as you have heard, there was some confusion
10 initially about the person who fired that gun at
11 Croc's. And the word got around a little bit that
12 this person may have gotten into a red Tahoe. Right?
13 I knew that issue was going to come up, so I tried
14 throughout the trial to make sure that would not
15 become something that would throw you off. Now, who
16 knows, maybe there was another red Tahoe, we don't
17 know. It was certainly a chaotic scene.

18 The other thing I would note that we never ever
19 heard who said that -- so you remember the game I
20 think it was called telephone? We used to play it as
21 a kid. One person says something to another person
22 and by the time you get to the end of the line, it's
23 something completely different. So, who knows how
24 that hearsay or that word spread, but it clearly was
25 not true. There was no gun on Jermaine. There was

1 no gun in the highway. Should Jermaine have had a
2 gun, obviously, it would have been found. It's not
3 like this was a situation where there was even any
4 time like after the shooting to when the police
5 showed up. The police were there within -- I mean,
6 we don't know the exact time, but it had to have been
7 within a minute or so because Ashley and Brittany had
8 just gotten out of the vehicle. So, if there had
9 been a gun, it would have been there.

10 He also talked a little bit about the gunshot
11 residue. And I'll have a little bit more to say
12 about that in a minute when it comes to the vehicle.
13 But a gunshot residue test was done on Jermaine's
14 hands. There was no gunshot residue. One would
15 think if he been handling or fired a gun that would
16 have been there.

17 Let me remark at this time also as well what the
18 Defense -- when the Defense made mention about there
19 not being gunshot residue. We know that Jermaine's
20 hands were the only things that were tested, his
21 hands. So, the fact that there was no gunshot
22 residue shows that he was not firing a gun.

23 We also know that he did not fit the
24 description. Remember, the description by Mr. Tate,
25 who was the only person who saw the man firing in

1 Croc's, said the guy who shot the gun was in a white
2 tee-shirt and had either a white baseball cap or a
3 white dew rag on his head. We saw a video of
4 Mr. Nesbitt both at Croc's, inside Croc's and at the
5 BP gas station and Mr. Nesbitt was not dressed in
6 that way. So, there was malice. There was certainly
7 a murder and there was certainly two counts of
8 attempted murder.

9 So, now you need to decide is this Defendant the
10 one who is guilty of these crimes or is he -- is he
11 guilty? Is he one of the ones who is guilty? And
12 let's start with Anthony Henderson and Deunte Jones.
13 They told you that he was the one who shot. Now, the
14 Defense, surprisingly, despite no evidence in this
15 case that pointed in this direction, wants you to
16 believe that either Anthony or Deunte was the
17 shooter. As I said, it's not surprising because he
18 wants to divert the attention away from himself. The
19 Defense latches on a brief sentence out of a long
20 interview that Investigator Hammett said to those two
21 individuals who he was interviewing. Investigator
22 Hammett himself told you not to put stock into what
23 he said to them. It was an interviewing technique.
24 He was bluffing a bit. They have interviewing
25 techniques they use when they're interviewing

1 subjects to try to get them to open up. That was
2 simply what he was doing. So, to take those two
3 sentences out of context would certainly skew what
4 was taking place. Speculation on Anthony Henderson's
5 guilt, ladies and gentlemen, at this time is just
6 that, it's speculation. This is not his trial. This
7 is Billy Taylor's trial, not Anthony Henderson's.

8 I remember when I was very young, my dad
9 tried -- when he was first trying to teach me how to
10 play baseball and he was pitching to me. And I would
11 miss the ball over and over and over again. I still
12 remember what he would say to me, it was keep your
13 eye on the ball. Ladies and gentlemen, that's what I
14 ask you to do here today. Keep your eye on the ball.
15 Today's trial is against Billy Taylor. Look at the
16 evidence that is against him.

17 The Defendant spent a lot of time telling you
18 what unsavory characters Anthony Henderson and Deunte
19 Jones are. I just want to remind you, ladies and
20 gentlemen, we didn't pick those guys as witnesses. I
21 would argue that the Defendant did. Anthony
22 Henderson was his friend. These are the guys he
23 chose to have in the car with him. As a prosecutor I
24 know often says that crimes created in hell don't
25 have angels for witnesses, and that applies here.

1 Now, what Anthony and Deunte told you about the
2 Defendant being the shooter also fits the evidence.
3 Keep in mind, ladies and gentlemen, when that Camero
4 drove up next to the victim's Tahoe and the shot was
5 fired, this Defendant is the one who was closest to
6 Jermaine. His driver's side window, which was
7 opened, according to Brittany and Ashley, and
8 immediately was being rolled up right after the shot
9 was fired, was right next to where Jermaine was.

10 Now, we can talk about the angle of the shot.
11 The Defense wants you to focus on well, they started
12 taking measurements of the tires so we can look at
13 the angle of the shot. What else do we know about
14 that fired shot? It didn't go right from the Camero
15 into Jermaine Nesbitt. It struck the vehicle first.
16 It struck that vehicle. And as Dr. Fulcher told you
17 two days ago when he testified, once that bullet hits
18 the vehicle, all bets are off about directionality.
19 That thing could have gone any which way. And that's
20 what happened, the bullet struck the vehicle and then
21 hit Jermaine. How do we know that? Well, a piece of
22 the car also hit Jermaine's forehead. So, Jermaine
23 had to have been inside the Tahoe in the back seat
24 looking out the window, looking back when the bullet
25 struck the vehicle, ricocheted into his head and then

1 hit Ashley.

2 Deunte was in the back seat. There was no
3 window in the back seat from which he could shoot
4 from -- from which he could shoot. If he was the
5 shooter, he would have had to have leaned forward
6 somehow and shot outside of this Defendant's driver's
7 window. You can look at -- there are two or three
8 pictures of the inside of that Camero. You can look
9 and see if that would even be possible.

10 Anthony is in the front passenger seat. How
11 could he be the shooter? One of two ways. One, he
12 would have to shoot say across Billy Taylor from
13 inside the compartment of that Camero through that
14 little space of the window to hit them. How possible
15 would that be? That, or he would have had to have
16 climbed up out of the car and shot out over the roof
17 of the car, like in some kind of movie or something.
18 And don't you think that either Ashley or Brittany,
19 even if they had looked over there for a moment would
20 have seen somebody hanging out of the car? But they
21 did not.

22 So, not only was the Defendant closest to
23 Jermaine, the Defendant is the person who was after
24 that Tahoe. Ladies and gentlemen, he was driving
25 that Camero, there's no question about that. He is

1 the one who was trying to get Ashley's attention at
2 the gas station.

3 Now, we may also wonder -- we know, at the very
4 minimum, he was following the Tahoe from the gas
5 station. It's legitimate to ask yourselves whether
6 or not that began earlier.. Was he the person who was
7 trying to speak to Ashley at Croc's? She said there
8 was somebody she kept blowing off who was trying to
9 talk to her. She wasn't in the mood to talk to other
10 guys that night.

11 Did he see her as they walked past the Camero in
12 the parking lot of Croc's on the way to their Tahoe
13 to get in to leave? We know they walked right past
14 that car and there was a crowd of people. Was he
15 following her to the Spinx gas station from Croc's?
16 He certainly did a quick U-turn. You can see him on
17 the video. You can see that Camero following the
18 Tahoe. And as soon as the Tahoe turns into the gas
19 situation, it does a quick U-turn and comes back.
20 Why in the world did they go there? Why did he drive
21 into that gas station? He didn't get gas. He didn't
22 go inside the convenience station and get a Coke and
23 a bag of potato chips or milk. Why did he go there?
24 Just sat in the front and left when they left.

25 So, whether or not he was interested in her from

1 the beginning or whether that interest just developed
2 when he saw her walking across the parking lot, we
3 know that that was what his intention was focused on.
4 And then when that Tahoe pulled out onto Pelham Road,
5 he followed it. Why? He was in the left-hand lane.
6 The Tahoe is right here in the right side of that
7 entranceway to turn right to get out onto the
8 Interstate. The Defendant is over here as if he's
9 going to turn left. But what does he do? He follows
10 it. He's following that vehicle.

11 What about the gunshot residue testimony about
12 the Camero? And first, I just want to point out to
13 y'all that we need to be careful about drawing too
14 much from that. You remember the SLED agent talked
15 about how fragile gunshot residue is. I think she
16 used the analogy of flour and how it can be removed
17 on a living person. On an inanimate object, like a
18 car, it would stay until something removes it. She
19 talked about how washing a car would remove gunshot
20 residue.

21 We also know that we cannot say that there was
22 gunshot residue on the inside of that car. She
23 testified that there was only one of three elements.
24 Remember, she said to say it's gunshot residue, we
25 have to have lead, antimony and barium. There were

1 just two particles of lead on the roof of that car.
2 We know that lead is very common. It can come from
3 any source. So, we don't know for sure that was
4 gunshot residue.

5 But one can also imagine that if the Defendant
6 shot outside the car the gunshot residue being
7 disbursed or dissipated by the wind. We also know
8 that the Defendant washed that car thoroughly, at
9 least, twice. One would also think that if Anthony
10 Henderson had shot that gun from the inside of the
11 compartment of that Camero, that gunshot residue
12 would have been deposited towards the driver's side
13 of the car. Remember, she said, yeah, some gunshot
14 residue when you shoot a gun comes out the side, but
15 the majority goes out the barrel of that gun. So, if
16 he had been inside the car shooting past Billy Taylor
17 towards Jermaine, gunshot residue would have gone
18 forward into the car.

19 Ladies and gentlemen, we know that the
20 Defendant's actions after the fatal shot was fired,
21 also gives strong evidence of his guilt. After that
22 shot was fired, what did the Camero do? Did it
23 swerve? Did it stop? Did it crash? How in the
24 world would a person react when a -- if a gunshot --
25 a firearm is suddenly and unexpectedly fired by an

1 occupant of his or her car -- in his or her car? How
2 would you react? If that gunshot -- if it had been
3 Deunte in the back seat, if he leaned forward and
4 shot that gun right -- it would have had to have been
5 close to his head, all of a sudden shot that gun, how
6 would you react? What would you do? If Anthony was
7 the shooter and all of a sudden, either climbed out
8 of the car to shoot or shot across his body, how in
9 the world would you react? One would think you would
10 not just simply continue on as you were. What
11 happens to the car? It immediately takes off without
12 hesitation. The window, the driver's window goes up.
13 Austin Tate told us that he saw that Camero flying
14 down Pelham Road after the shot, 70 to 100 miles an
15 hour. So, he shoots and he leaves. He was in
16 control.

17 What also do we know the Defendant does? He
18 takes evasive action. He hides that car. He takes
19 the rims off because he knows that was distinctive.
20 He doesn't want to be found. He washes the car, at
21 least, twice. He's getting rid of incriminating
22 evidence. The forensics officer told us that he
23 could tell when he was processing the car that it had
24 been cleaned inside and out. He could see the
25 streaks. He could smell the cleaning agents. There

1 was one fingerprint found in that entire car and that
2 was just a heel where you can imagine -- I'm sorry,
3 the palm of his hand as he was closing the hood when
4 he had finished cleaning that car. We know he washed
5 it with bleach and household soap at his own house
6 because he didn't have proper cleaning agents. He
7 told that to Deunte Harris. And then when he got
8 over to Deunte's house, he used Deunte's bucket and
9 hose and he washed it and clean it -- cleaned it
10 again. Why?

11 Ladies and gentlemen, just finally look at the
12 Defendant's own words. What words do we have from
13 the Defendant at the jail? He sent a message to
14 Anthony through this stranger. He wants to get
15 together with Anthony, whom he's been friends with
16 for such a long time. He doesn't know that guy in
17 the back seat. Hey, Anthony, let's say the guy in
18 the back seat did the shooting. Let's say the back
19 seat guy did it. Not me. Let's save ourselves.

20 What did he say to Deunte Harris, his friend?
21 What did his friend testify to in court yesterday?
22 Deunte is the fellow who the Defendant took his car
23 over and left behind his house so it would not be
24 seen. What did he tell Deunte Harris? Deunte told
25 us that when he was talking about leaving the car at

1 his house, he said, I messed up. I messed up. He
2 say -- and Deunte knows Anthony. He didn't say
3 Anthony messed up. I've got to protect Anthony's
4 backside. He didn't say can you believe it, there
5 was this guy I never met before who was in the back
6 seat, he messed up. He didn't say that either. He
7 said, I messed up.

8 In closing, let me just mention one other area
9 of law that will be talked about by His Honor in just
10 a few moments, and that is this law of accomplice
11 liability. It's also known more familiarly as the
12 hand of one is the hand of all. And what this means
13 is that if you participate with another person who's
14 doing something criminal, you are also liable
15 criminally for what is done by the other person. It
16 doesn't have to be a formal agreement. It doesn't
17 even have to be discussed or talked about. If you
18 are -- if you know about it and you are aiding in
19 this criminal enterprise, what the other person does,
20 you are also responsible for.

21 So, ladies and gentlemen, even if this Defendant
22 is not the one who shot, even for some reason you
23 believe that he is not the one who shot, if he was
24 helping or aiding the person who shot to be able to
25 accomplish that shot, then he is also guilty. The

1 Defendant drove. The Defendant followed that Tahoe.
2 The Defendant drove up to that Tahoe. The Defendant
3 put his window down to further this confrontation
4 with the Tahoe and immediately after the shot, he
5 took off. You can certainly believe from the
6 evidence that even if he wasn't the shooter that he
7 was certainly just as guilty as the shooter. Ladies
8 and gentlemen, as I said, all the evidence points to
9 the Defendant as being the shooter anyway.

10 In closing, I told you at the beginning of this
11 trial that I would ask three things, to listen
12 closely to the evidence. And I can tell you
13 certainly did that. You have been very attentive
14 throughout this trial. To use your common sense and
15 your good judgment to weigh the evidence at the end
16 of the case when you deliberate. And then at the end
17 of the case, do justice.

18 This was a senseless and indescribably tragic
19 act that took a man's life and forever scarred two
20 others. Jermaine's loved ones are going to have to
21 live the rest of their lives without him. Ashley is
22 going to be reminded of that night for the rest of
23 her life every time she feels the pressure of that
24 bullet on her left eye. And Brittany, who had to
25 hold her boyfriend as he died, will likewise have to

1 live with this loss forever. Justice demands holding
2 the person responsible who committed this crime. And
3 I argue to you now, ladies and gentlemen, that
4 justice means finding this Defendant guilty of these
5 crimes. Thank you.

6 THE COURT: All right. Ladies and gentlemen,
7 the time has come for me to give you the charge on
8 the law. Let's take just a very brief break to
9 refresh. You may need it, and I think I need it,
10 too. It's only going to take me 15 or 20 minutes,
11 but when you come back in you can concentrate on the
12 law as I give it to you. Please don't discuss the
13 case yet, ladies and gentlemen.

14 (WHEREUPON, the jury left open court at
15 approximately 11:16 a.m.)

16 THE COURT: All right. Ladies and gentlemen,
17 we'll be in recess until all the jurors have the
18 opportunity to use the restroom and refresh and we'll
19 be back in for the charge on the law.

20 (WHEREUPON, a short break was taken.)

21 THE COURT: All right. Bring the jury in,
22 please.

23 (WHEREUPON, the jury came into open court at
24 approximately 11:30 a.m.)

25 ^ JURY CHARGE

1 THE COURT: All right. Ladies and gentlemen of
2 the jury, the time has come for me to deliver the
3 charge on the law. Now, when we began this case, I
4 told you that you have certain duties to perform and
5 I have certain duties to perform. My duty is to be
6 the judge of the law and to instruct you on the law
7 that is relevant to the evidence that's been
8 presented in this case.

9 Now, you took an oath. And when you took an
10 oath, you swore to accept the law as I give it to
11 you. So, you must under your oath accept the law as
12 I give it to you. Now, if you come into this
13 courtroom with any prior opinions or dispositions
14 about what the law is or what the law should be, then
15 I charge you now to disregard that. Because again,
16 you must accept the law as I give it to you.

17 Now, you are the judges of the facts. So, you
18 have the sole and exclusive authority to make the
19 determination as to what the facts are. So, if at
20 any point in this trial, you have seen me do or say
21 anything that gives you the impression that I have an
22 opinion about what the facts are in this case or an
23 opinion about what you should, ultimately, decide,
24 disregard that because I truly have absolutely no
25 opinion about what you should do and about what your

1 ultimate decision should be.

2 Now, ladies and gentlemen, I'm going to charge
3 you on the law. I'm going to try to not read much of
4 it. There's certain portions that I am going to read
5 because, as you know, this is an important case.
6 It's important for both the Defense and for the
7 State. So, when I need to give you a precise
8 definition, then I need to get it precisely right.
9 So, you may see me go back and begin to read. I'll
10 try not to read too much if I can avoid it because
11 that gets dry and kind of stale and boring, so I'll
12 try to avoid it.

13 When we first started jury qualification, I told
14 you that the Defendant is innocent until proven
15 guilty beyond a reasonable doubt. The Defendant
16 retains that presumption of innocence until such time
17 as 12 deliberating jurors determine that the State
18 has met its burden of proving each and every element
19 beyond a reasonable doubt. So, as we sit here right
20 now, Mr. Taylor is still presumed innocent.

21 Imagine, if you will, that he's wearing a cloak
22 of innocence just like I'm wearing a robe. And that
23 cloak of innocence is not taken off unless and until
24 you determine that the State has met its burden of
25 proving each and every element beyond a reasonable

1 doubt. Now, understand, you heard me say that
2 several times. It's because it's not just a legal
3 theory. It's the bedrock of our criminal justice
4 system. It's more than just a theory, so you must
5 take it seriously.

6 Now, ladies and gentlemen, as I told you, the
7 State must prove each and every element of the
8 offense beyond a reasonable doubt. In this case,
9 you've got three indictments and you've got four
10 counts. So, you're going to consider each and every
11 count separately and distinctly from one another.
12 Your first indictment is going to have two counts on
13 it. It's a murder and possession of a weapon during
14 the commission of a violent crime. Then you're going
15 to have an indictment for attempted murder and an
16 indictment for attempted murder. In my verdict form
17 when I give it to you, it's going to be three
18 separate indictments -- excuse me, three separate
19 verdict forms, which mirror the indictments, okay.
20 So, understand that on each and every one of those
21 counts, you consider them separately and
22 distinctively.

23 So, by way of example, if you were to find
24 Mr. Taylor not guilty on one of the counts, that does
25 not mean that you have to find him the same on the

1 remainder of the counts. If you were to find him
2 guilty on one, it doesn't mean you have to find him
3 the same on the remainder of the counts. You're
4 going to look at each and every count, each and every
5 charge. Then you're going to determine whether the
6 State has proven beyond a reasonable doubt each and
7 every element of all of those offenses.

8 Now, we bantered around this term reasonable
9 doubt and I will give you a definition of reasonable
10 doubt. Reasonable doubt -- proof beyond a reasonable
11 doubt is proof that leaves you firmly convinced of
12 the Defendant's guilt. Now, there's nothing on the
13 face of this earth that we can know with absolute
14 certainty and the law doesn't require proof beyond
15 any possible doubt. But if, after your review of the
16 evidence, you're firmly convinced of the Defendant's
17 guilt; then under your oath, you find him guilty.

18 However, if, after your review of the evidence, you
19 find that there's a real possibility that the
20 Defendant is not guilty, then under your oath, you
21 would find him not guilty.

22 Now, ladies and gentlemen, you will determine
23 whether the State has met its burden of proof by
24 reviewing the evidence and weighing the evidence. As
25 I've told you, you determine from the evidence that's

1 been submitted what the facts are. You decide what's
2 valuable and what's not. One of the things that
3 you'll do in weighing evidence is look at the
4 credibility of witnesses. And you'll decide whether
5 witnesses were believable or not believable, okay.
6 So, in your determination and your discretion, you
7 can look at a witness' testimony and you can decide
8 whether to believe part of it or you can decide
9 whether to believe none of it. You can decide
10 whether to believe all of it. And after you've
11 determined whether it's credible or not, you can
12 decide what weight it has as well.

13 Now, ladies and gentlemen, from your own common
14 sense, you're armed with the tools to determine
15 whether somebody is believable or not. You can look
16 at a person when they're testifying. You can look at
17 what they said, how they said it, their body language
18 when they were addressing the Court. You can
19 determine whether they had something to gain or
20 whether they had something to lose as a consequence
21 of their testimony. And you determine based on that
22 whether, in fact, a witness was believable or not.

23 Ladies and gentlemen, a witness took the stand
24 and there was evidence introduced that he had a
25 criminal record. Understand that that does not

1 invalidate his testimony. That does not make him
2 unqualified to offer testimony. That information
3 goes to his credibility and you can consider it only
4 as to the credibility of that witness.

5 Now, ladies and gentlemen, I will tell you again
6 what I've already told you at one point, expert
7 witnesses. I'm not going to belabor the point, but
8 you know that an expert witness is a witness that is
9 offered because of his or her education, experience
10 and expertise. That expert witness' testimony
11 doesn't have any greater value than any of the lay
12 witness' testimony. You decide what weight it has.
13 You decide whether it's valuable just like you
14 decide -- just like you weigh any other piece of
15 evidence in a case.

16 Now, in this case, ladies and gentlemen, the
17 Defendant elected not to testify, okay. You can't
18 hold that against him. Under the Constitution, all
19 of the citizens of the United States of America have
20 a right to remain silent. So, he simply exercised
21 that constitutional right. You can't hold that
22 against him. That is a sacred right that we all
23 enjoy in our society, therefore, it's not just that
24 you can't hold it against him, it's improper for you
25 to even discuss it in your jury room.

1 Also, ladies and gentlemen, I will tell you that
2 there was some discussion with regard to sentencing.
3 Sentencing is a function for the Court. You need not
4 be concerned with the sentence that could,
5 ultimately, be handed out. And I'm not making any
6 representations to you about the ultimate sentence.
7 That is a job for the Court. So, you need not to
8 consider that in your deliberations either.

9 Now, evidence will come in one of two different
10 forms. You received evidence in this case and it's
11 going to be classified as one of two different
12 things. And that's either direct evidence or
13 circumstantial evidence. Okay. Direct evidence is
14 evidence which immediately establishes a fact to be
15 proven. Circumstantial evidence is evidence of
16 collateral matters, which when taken together, prove
17 the main fact to be proven, okay. Now, that's a
18 simple definition, but sometimes it's easier for
19 me -- or it's better for you for me to give you an
20 example of it so you can kind of distinguish between
21 the two and understand the distinction.

22 Let's say that one January evening, you go to
23 bed and you go past your front door or your front
24 window and you look out on the ground and there's no
25 precipitation. The next day, you get up and you walk

1 past that very same door or window and you look and
2 there's a blanket of snow on the ground. And in that
3 snow, you see footprints which led to your front
4 door, then lead away. Well, in that set of
5 circumstances, you have direct evidence that it
6 snowed because it's immediately established by the
7 presence of the snow on the ground. It's there. You
8 can feel it, you can touch it, you can taste, it's
9 there. But you have circumstantial evidence that
10 someone either early that morning or late that night
11 walked to your front door and left. You can't see
12 that person. You can't have a conversation with
13 them, you can't touch them, you can't feel them, but
14 you know as a consequence of the timing of the
15 snowfall and the presence of the footprints that
16 somebody came to your door.

17 So, ladies and gentlemen, the law does not
18 prefer direct evidence over circumstantial evidence
19 or circumstantial evidence over direct evidence. You
20 decide what weight and what value either direct or
21 circumstantial evidence has. However, understand
22 that if the State elects to rely upon circumstantial
23 evidence, then all of that circumstantial evidence
24 must prove conclusively beyond a reasonable doubt to
25 the guilt of the Defendant. Remember that the State

1 has the burden of proving each and every element of
2 the offense beyond a reasonable doubt. And that is
3 maintained regardless of whether you are considering
4 direct or circumstantial evidence.

5 All right. Ladies and gentlemen, in this case
6 you saw an identification. There was a question in
7 the lineup. The witness testified about whether the
8 Defendant was who he represented him to be. So
9 again, in your deliberations, you must be satisfied
10 beyond a reasonable doubt that the Defendant was the
11 person identified. The State, again, has the burden
12 of proofing the identification beyond a reasonable
13 doubt just like any other issue in the case. You'll
14 determine whether that identification was credible or
15 believable based on any number of factors. Most of
16 those factors really are common sense.

17 But it's things like how long did he have to
18 look at the person? Did he have a conversation with
19 the person? What time of day was it? What was the
20 lighting in the circumstances? Did he have an
21 opportunity to know the guy beforehand or not? All
22 common sense matters to determine to look and see if
23 that identification was reliable.

24 Now, ladies and gentlemen, this is where I'm
25 going to get to reading a little bit. And we're

1 going to go over the charges specifically, okay. So,
2 we're going to go over murder. We're going to go
3 over possession of a weapon during the commission of
4 a violent crime and then we're going to go over
5 attempted murder.

6 Now, murder. The Defendant, as you know, in the
7 first indictment is charged with murder. The State
8 must prove beyond a reasonable doubt that the
9 Defendant killed another person with malice
10 aforethought. Now, malice is hatred, ill will or
11 hostility towards another person. It's the
12 intentional doing of a wrongful act without just
13 cause or excuse and with an intent to inflict an
14 injury or under circumstances that the law will infer
15 an evil intent. Now, malice aforethought does not
16 require that malice exist for any particular time
17 before the act is committed, but malice must exist in
18 the mind of the Defendant just before and at the time
19 the act is committed. Therefore, there must be a
20 combination of the previous evil intent and the act.

21 Malice aforethought may be expressed or
22 inferred. The terms expressed and inferred do not
23 mean different kinds of malice, but, merely, the
24 manner in which malice may be shown to exist. That
25 is either by direct evidence or by inference from the

1 facts and circumstances which are proved. Expressed
2 malice is shown when a person speaks words which
3 express hatred or ill will for another or when a
4 person prepared beforehand to do the act which was
5 later accomplished. For example, lying in wait or
6 other acts of preparation would show that the deed
7 was within the Defendant's mind. That would be
8 expressed malice. Malice may be inferred from
9 conduct showing a total disregard for human life.
10 And for that, malice may also arise when the deed is
11 done with a deadly weapon.

12 Ladies and gentlemen, on that very same count
13 with murder, you will be allowed to consider
14 possession of a deadly weapon during the commission
15 of a violent crime. In that event, ladies and
16 gentlemen, the State must prove beyond a reasonable
17 doubt that the Defendant was in possession of a
18 firearm or weapon during the commission of a violent
19 crime. In addition, you have to determine that a
20 violent crime was committed.

21 I will charge you that if you determine that
22 murder -- that the State has proven each and every
23 element of murder beyond a reasonable doubt -- and
24 I'll charge you that that murder is a violent crime
25 under the law. So, on that count, if you find that

1 the State has met its burden of proof, then you may
2 consider whether the State has met its burden of
3 proof with respect to possession of a weapon during
4 the commission of a violent crime. That will be
5 clear to you, hopefully, because they are on the same
6 verdict form, okay.

7 Attempted murder. Now, a lot of the elements of
8 attempted murder are going to be the same. So, I'm
9 not going to go through all of those specific
10 elements with you. With the definition of malice and
11 those sorts of things, I've already defined those for
12 you. So, the Defendant is charged with attempted
13 murder. In order to prove this crime, the State must
14 prove the Defendant attempted to kill another person
15 with malice aforethought, either expressed or
16 implied.

17 Now, ladies and gentlemen, a specific intent to
18 kill is not an element of attempted murder. But there
19 must be a general intent to commit serious bodily injury.
20 Intent means intending the result which actually occurred,
21 not accidentally or involuntarily. Intent may be shown by
22 acts or conduct of the Defendant and other circumstances
23 from which you may naturally and reasonably infer intent.
24 Evidence of the character of the act, the character of the
25 instrument used, the manner in which it was used, the

1 purpose to be accomplished and the resulting wounds or
2 injuries may be considered in determining the intent with
3 which the act was committed. Intent may also be inferred
4 when it is demonstrated that the Defendant voluntarily or
5 willfully commits an act the natural tendency of which is
6 to destroy another person's life. Ladies and gentlemen,
7 simply put, criminal intent is a mental state of conscious
8 wrongdoing. It is up to you to determine what the
9 Defendant intended to do based on the circumstances shown
10 to have existed.

11 Ladies and gentlemen, I'll further charge you
12 that when a person intends to harm one individual and
13 inadvertently causes another person or other persons to be
14 hurt or in danger of being hurt, that person is
15 responsible.

16 Now, ladies and gentlemen, you heard arguments
17 regarding a theory called the hand of one is the hand of
18 all. So, I'm going to read to you the law regarding that
19 theory of law. If a crime is conducted by two or more
20 people who are acting together in committing a crime, the
21 act of one is the act of all. A person who joins with
22 another to commit an unlawful act is criminally
23 responsible for everything done by the other person which
24 happens as a probable or natural consequence of the acts
25 done in carrying out the common plan and purpose. For

1 example, two people can be guilty of, say, a robbery even
2 if only one of the two had approached and accosted the
3 victim. If two or more people are together acting
4 together, assisting each other in committing the offense,
5 the act of one is the act of all, or it is sometimes said
6 the hand of one is the hand of all.

7 Prior knowledge that a crime is going to be
8 committed without more is not sufficient to make a person
9 guilty of that crime. Mere knowledge that another person
10 is going to commit a crime, even if the Defendant is
11 present when the crime is committed is not sufficient to
12 convict the Defendant as a principle. Guilt as a
13 principle is shown by actual or constructive presence at
14 the scene as a result of prior arrangement. Therefore, a
15 finding of a prior arranged plan or common scheme is
16 necessary for a finding of guilt as a principle. The
17 State must prove beyond a reasonable doubt by competent
18 evidence the theory of the hand of one is the hand of all.

19 Now, principle in a crime is one who either
20 actually commits the crime or is present aiding, abetting
21 or assisting in committing the crime. When a person does
22 an act in the presence of and with the assistance of
23 another, the act is done by both. Where two or more
24 acting with a common plan or intent are present at the
25 commission of a crime, it does not matter who actually

1 commits the crime, all are guilty. The hand of one is the
2 hand of all.

3 Present at the commission of a crime means to be
4 sufficiently near to aid and abet and assist in the
5 commission of the crime. However, I charge you that mere
6 presence at the scene of a crime is not sufficient to
7 convict one as a principle in the theory of aiding and
8 abetting. Intent is also a necessary element for there
9 must have been a common design or intent to commit the
10 crime. And the crime must have been committed pursuant
11 thereto with the person aiding and abetting by some overt
12 act. Intent means, again, intending the result which
13 actually occurs, not accidentally or voluntarily. Ladies
14 and gentlemen, the State must prove all of these elements
15 beyond a reasonable doubt.

16 Ladies and gentlemen, I charge you again mere
17 presence at the scene is not sufficient to prove someone
18 guilty of a crime. The Defendant's presence where a crime
19 is committed or mere association with a person who commits
20 a crime does not make the Defendant an accomplice or an
21 aider or abettor of the person committing the crime. The
22 burden is on the State to prove each and every element of
23 the offense beyond a reasonable doubt.

24 Now, ladies and gentlemen, I'm going to go over
25 these verdict forms with you so you won't see them for the

1 first time in your deliberations. Again, I've got three
2 verdict forms. So, as to each of these -- I'll start with
3 the first one. You see it has the caption, it's got the
4 indictment number and then it says, RE. And it has the
5 name of the alleged victim so that you'll know which
6 indictment pertains to which alleged victim. In the first
7 one, you'll see, it says, To the charge of murder, we, the
8 jury, unanimously find the Defendant, Billy Lemurces
9 Taylor, and then has two choices, not guilty and guilty.

10 Now, remember, this says unanimous. That's
11 important to know. Your verdict must be unanimous. You
12 must all agree on the verdict. It can't be 10 to two or
13 11 to one or any other combination of numbers that add up
14 to 12. It must be unanimous. Understand under your oath,
15 again, your verdict must be based upon the evidence which
16 was submitted and the law, which I gave you. It cannot be
17 based on anything outside of this courtroom or anything
18 extraneous. It cannot be based on prejudice, on bias,
19 caprice, it cannot be based on sympathy. It has to be
20 based on the evidence and the law that you received in
21 this case.

22 Now, going back to the verdict form. You've got
23 two choices, not guilty and guilty. Now, I don't put
24 these in any particular order. Two choices, one comes
25 before the other. So again, don't infer anything from me

1 about the order which I put your choices. But you're
2 going to make an election. In this first one, if you find
3 that the Defendant is not guilty of murder, the State has
4 not proven its case beyond a reasonable doubt, then you
5 would also find that he was not guilty of possession of a
6 weapon during the commission of a violent crime. Because
7 if you find that the murder was not committed, then you
8 can't find the corresponding possession of a weapon during
9 the commission of a violent crime. However, if you do
10 find the State met its burden of proving the Defendant
11 guilty beyond a reasonable doubt, then you would determine
12 whether the State has proven that he possessed a weapon
13 during the commission of a violent crime.

14 Ladies and gentlemen, the second verdict is as
15 to Brittany Jeter. Again, it says, To the charge of
16 attempted murder, we, the jury, unanimously find the
17 Defendant, Billy Lemurces Taylor, not guilty or guilty.
18 You make your election.

19 In each instance, Mr. Aiken, once the jury has
20 reached a unanimous verdict, you will sign and date as the
21 foreperson. When you come to a unanimous verdict, please
22 let the bailiff know, knock on the door and we'll come
23 back in and we'll receive the verdict.

24 Now, ladies and gentlemen, don't begin your
25 deliberations yet, okay. I'm about to let you begin your

1 deliberations. But at this point, the attorneys have the
2 opportunity to correct any mistakes that I have made with
3 regard to the law. I may have misstated something or I
4 may have left something out. They have the opportunity to
5 advise me of the same. If I've left anything out or I've
6 misstated a proposition of law, I'll bring you back in and
7 I'll correct it. So, just told tight for now. You'll
8 know when it's time to begin deliberating because when it
9 is, I'm going to send the bailiff back to you. He's going
10 to have, at the very least, these three documents, these
11 verdict forms in his hand and he's going to say,
12 Mr. Foreman, you may begin deliberating. It will be clear
13 and unequivocal. But don't start deliberating until you
14 get that word from me.

15 Okay. If you'll adjourn to your jury room,
16 please. Thank you.

17 (WHEREUPON, the jury left open court at
18 approximately 11:55 a.m.)

19 THE COURT: All right. Counsel, exceptions to
20 the charge?

21 MR. MOYER: No, Your Honor.

22 MR. EPPES: Your Honor, I renew my objection to
23 the charge regarding the hand of one hand of all.

24 THE COURT: Okay.

25 MR. EPPES: I, again, request a manslaughter

1 charge.

2 THE COURT: Okay. I respectfully deny those on
3 the same grounds.

4 Gentlemen, if you will, please, inventory the
5 exhibits and make sure that everything that should be
6 there is there. When you're satisfied, you can hand
7 them to bailiff to send back.

8 I do want to say to everyone in the courtroom,
9 first of all, to the attorneys, you did an excellent
10 job and I appreciate the professionalism and civility
11 with which you conducted yourselves.

12 I'll say the same to everyone in the courtroom.
13 I really do appreciate that everyone has been civil
14 and professional. That's not always the case,
15 particularly, when we have a very emotionally-charged
16 case. So, I want to thank you.

17 And, Mr. Taylor, I thank you. You've conducted
18 yourself very well during this trial. And I thank
19 you for it. I know it wasn't easy to do.

20 We need to maintain this posture and demeanor.
21 I don't know what's going to happen in the verdict.
22 And as I've said to you, I don't have a dog in the
23 fight. I know some of you do. You need to maintain
24 your civil and professional demeanor throughout.

25 So, good luck to both of you and, again, thank

1 you for having conducted yourselves so well this
2 week.

3 All right. I'm going to dismiss the alternates
4 from chambers. Okay. We'll be in recess until we
5 hear from the jury.

6 MR. MOYER: Judge, do you want to send the disk
7 back?

8 THE COURT: Yes, send it back. That may prompt
9 them to ask for a computer, so just make sure we have
10 a sterile computer to give to them, which by
11 definition means not Mr. Eppes's computer.

12 MR. EPPES: Yes, sir, do not have one here.

13 (WHEREUPON, deliberations began at approximately
14 12:00 p.m.)

15 (WHEREUPON, Court was in recess awaiting a
16 verdict.)

17 THE COURT: Okay, we're back on the record. I
18 had an in-chambers conference with the attorneys. We
19 have received a note from the jury, which I intend to
20 make a Court's Exhibit. I'm going to bring the jury
21 out and recharge them -- or excuse me, give them a
22 charge.

23 The jury question, Does the hand of one hand of
24 all apply to the possession of a gun? Can we see a
25 copy of the law? And do you have to be handling the

1 gun to be -- holding the gun to be in possession?

2 So, I am going to instruct them not with answers
3 to those questions because I think those are
4 questions which bear upon the facts, which is their
5 responsibility. I am going to give them further
6 instructions to assist them in moving forward.

7 (WHEREUPON, Court's Exhibit No. 1 was marked for
8 identification and received into evidence.)

9 (WHEREUPON, the jury came into open court at
10 approximately 1:46 p.m.)

11 THE COURT: All right, ladies and gentlemen,
12 I've read your note and I have possession of it. So,
13 I brought you back in here to give you a wholly,
14 unsatisfactory answer to your question. I can't
15 answer it directly. And I know you say yeah, typical
16 lawyer, you can't answer my question directly. But
17 the fact is, some of the questions that you posed to
18 me really are, ultimately, questions of fact for you
19 to determine and I can't give you a direct answer
20 because I can't comment on the facts. So, I'm going
21 to go through these questions and I'm going -- and
22 with respect to the first and third questions where
23 you're asking specifically about possession, I'm
24 going to give you -- you raised another matter,
25 another matter of law. So, I'm going to give you a

1 definition of possession, okay.

2 Possession can either be actual or it can be
3 constructive. And the State has, ultimately, the
4 burden of proving beyond a reasonable doubt that the
5 Defendant had both the power and intent to control
6 the disposition or use of the object. Now, actual
7 possession means that the object was in the actual,
8 physical custody of the Defendant. Constructive
9 possession means that the Defendant had dominion and
10 control or the right to exercise dominion and control
11 over the object. Mere presence at the scene is not
12 enough to prove possession. Understand that two or
13 more persons may have joint possession of an object.

14 I understand that doesn't answer your question
15 directly. But what you have to do is determine
16 whether there was actual or constructive possession
17 of the object.

18 Now, with respect to your second question, Can
19 we see a copy of law? Now, when I stood in front of
20 you, everything I said was the law. And you saw that
21 I wasn't reading it from any particular place. So,
22 with respect to some of it, the answer is, no. With
23 respect to some of it, maybe. You have to tell me
24 specifically what it is you want, okay? Then once
25 you tell me what it is that you want, the attorneys

1 and I will get together and we'll determine whether
2 it's appropriate to give you a copy of that law.
3 Sometimes I can. Sometimes I can't. But you need to
4 be as absolutely specific as you can be so I can
5 answer that question specifically. All right.

6 So, I'll ask you now, return to your jury room
7 and continue deliberations. Thank you, very much.

8 (WHEREUPON, the jury left open court at
9 approximately 1:50 p.m.)

10 THE COURT: Okay. Gentlemen, we'll be in recess
11 until we hear back from the jury. Thank you.

12 (WHEREUPON, Court's Exhibits Nos. 2 & 3 were
13 marked for identification and received into
14 evidence.)

15 (WHEREUPON, Court's Exhibit No. 4 was marked for
16 identification and received into evidence.)

17 THE COURT: All right. We're back on the
18 record. And I, again, have received a note from the
19 jury.

20 MR. EPPES: Your Honor, please wait on my
21 client.

22 THE COURT: Okay. I'm sorry.

23 MR. EPPES: Thank you, Your Honor.

24 THE COURT: I didn't notice that he wasn't in
25 here.

1 Okay, now, we're back on the record. I received
2 a note from the jury that they are currently at an
3 impasse. I've marked that note as Court's Exhibit
4 No. 4 and had the opportunity to discuss the same in
5 chambers with counsel. What I am going to do is I'm
6 going to release them for the evening and I'm going
7 to bring them back tomorrow morning at 9:00 a.m. At
8 9:00 a.m, I will give them the Allen charge and we'll
9 let them continue to deliberate.

10 All right. So, if you will bring the jury in,
11 please.

12 (WHEREUPON, the jury came into open court at
13 approximately 7:20 p.m.)

14 THE COURT: All right. Ladies and gentlemen, I
15 received your note and I recognize that you're
16 currently at an impasse. I don't necessarily blame
17 you and I don't envy your decision in this case
18 because I know it's a hard decision. So, what we're
19 going to do is take a break, a little pause, okay.
20 I'm going to let you go home for the evening, then
21 we'll come back tomorrow at 9:00..

22 Now, understand that, usually, I, and most
23 judges, are very reluctant to send a deliberating
24 jury home. And that's because a lot of things can
25 happen and most of those things, if not all of them,

1 are bad. First of all, while you're deliberating, if
2 you begin to discuss the case with someone else, that
3 poses a significant problem for proceeding in this
4 case. Also, if one of you didn't make it back
5 tomorrow, for whatever reason, then it would cause,
6 again, a significant problem for us proceeding in
7 this case. So, there are a lot of problems
8 associated with sending you home. But I don't want
9 you to stay until 1:00 or 2:00 in the morning. And I
10 don't intend to subject you to that, but I do want
11 you to come back tomorrow.

12 When you come back tomorrow at 9:00, we'll come
13 back to the courthouse and I'll talk to you in the
14 courtroom -- excuse me, and I'll talk to you a little
15 bit more, okay. Then I'll let you continue your
16 deliberations. Please when you go home tonight,
17 please don't discuss the case. Again, don't do any
18 self-help. It's always a very, very sensitive matter
19 during the conduct of the trial. It's also very
20 sensitive, if not more so, while you're conducting
21 deliberations.

22 So, just go home, get some sleep, come back
23 refreshed tomorrow and come to the courtroom and
24 we'll resume deliberations. Y'all have a good
25 evening and I'll see you back here tomorrow morning.