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S.C. SUPREME COURT

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Maite Murphy, Circuit Court Judge

Appellate Case No. 2017-001607

THE STATE

PETITIONER/RESPONDENT,

v.

SHANNON SCOTT,

RESPONDENT/PETITIONER.

JOINT APPENDIX

ALAN WILSON
Attorney General

ROBERT M DUDEK
Chief Appellate Defender

DONALD J ZELENKA
Deputy Attorney General

SCCID/Division of Appellate Defense
1330 Lady Street, Suite #401
Columbia, South Carolina 29201

MELODY J BROWN
Senior Assistant Deputy Attorney General

ALPHONSO SIMON, JR
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

HONORABLE DANIEL E JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202-0192

ATTORNEYS FOR PETITIONER/
RESPONDENT

ATTORNEYS FOR RESPONDENT/
PETITIONER

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ORIGINAL

**STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

APPEAL FROM RICHLAND COUNTY
The Honorable Maite Murphy, Circuit Court Judge

RECEIVED

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Appellate Case No. 2013-002124

S.C. Supreme Court

THE STATE,

APPELLANT,

v.

SHANNON SCOTT,

RESPONDENT.

RECORD ON APPEAL

ALAN WILSON
Attorney General

ROBERT M. DUDEK
Appellate Defender

JOHN W. McINTOSH
Chief Deputy Attorney General

SCCID/Division of Appellate Defense
P.O. Box 11589
Columbia, South Carolina 29211-1589
(803) 734-1330

DONALD J. ZELENKA
Senior Assistant Deputy Attorney General

ATTORNEY FOR RESPONDENT

ALPHONSO SIMON, JR.
Assistant Attorney General
South Carolina Attorney General's Office
PO Box 11549
Columbia, South Carolina 29211-1549
(803) 734-6305

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202-0192

ATTORNEYS FOR APPELLANT

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2 COUNTY OF RICHLAND) COURT
3 STATE OF SOUTH CAROLINA,)
4) TRANSCRIPT
5 -V-) OF
6) RECORD
7 SHANNON SCOTT,) 2010-GS-40-1457
8 DEFENDANTS.)

9 AUGUST 12 THROUGH 14, 2013

10 RICHLAND, SOUTH CAROLINA

11 B-E-F-O-R-E:

12 HONORABLE MAITE MURPHY, JUDGE; AND A JURY

13 A-P-P-E-A-R-A-N-C-E-S:

14 FOR THE PLAINTIFF:

15 DOLLY GARFIELD, ESQ.

16 APRIL SAMPSON, ESQ.

17 BRENT ARANT, ESQ.

18 FOR THE DEFENDANT:

19 TODD RUTHERFORD, ESQ.

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1 (The following proceedings were held on
2 August 12, 2013.)

3 THE COURT: Good afternoon, everyone. Are the
4 parties ready to proceed?

5 MR. RUTHERFORD: We are, Your Honor.

6 MS. GARFIELD: Yes, Your Honor. This is State v.
7 Shannon A. Scott, indictment number 2010-GS-40-1457. I'm
8 Darla Garfield from the solicitor's office and to my left is
9 Brent Arant and April Sampson for the solicitor's office.

10 Your Honor, he is represented by Todd Rutherford,
11 who has served us with a notice for a motion hearing for
12 immunity from this charge prosecution under South Carolina
13 code 16-11-440, subsection C. We're here today and prepared
14 to go forward with this hearing. There have been some facts
15 that the State and Defense have stipulated to. I have
16 drafted these. I will allow Mr. Rutherford -- here are
17 copies for Your Honor and -- Your Honor, we also have a
18 witness list.

19 THE COURT: Thank you.

20 MS. GARFIELD: Thank you.

21 THE COURT: Mr. Rutherford, are you ready to
22 proceed?

23 MR. RUTHERFORD: I am, Your Honor.

24 THE COURT: Be happy to hear from you.

25 MR. RUTHERFORD: Thank you, Your Honor.

1 At this time, the Defense calls Shade S [REDACTED]

2 MS. GARFIELD: At this time, we'd like to make a
3 motion to sequester the witnesses.

4 THE COURT: I think that would be appropriate.
5 Each of the sides could instruct their potential witnesses
6 with --

7 MS. GARFIELD: Other than the law enforcement.

8 THE COURT: Yes, ma'am. And your case officer.

9 MS. GARFIELD: For the record, that is Sergeant
10 Kevin Reese and Sergeant Arthur Thomas, who both jointly
11 worked on this case together.

12 THEREUPON,

13 SHADE S [REDACTED]
14 after having been duly sworn, testified as follows:

15 THE CLERK: Thank you. Please have a seat in
16 witness stand and state your full name to the record and,
17 please, spell your first name.

18 THE WITNESS: Shade S [REDACTED] S-H-A-D-E, S [REDACTED]
19 S [REDACTED]

20 Scott S- [REDACTED]

21 DIRECT EXAMINATION

22 BY MR. RUTHERFORD:

23 Q Ms. S [REDACTED] please, tell the Judge in this case how old
24 you are.

25 A Seventeen.

- 1 Q And what is your relationship to the Defendant
2 (indicating)?
- 3 A My father.
- 4 Q And on April 18th, 2010, can you tell this Court what
5 happened?
- 6 A We all was at a party at the Kia House off Two Notch --
- 7 Q When you say we all, who is we all?
- 8 A Me, Ashley, Asia, Crackle and Tone, Shade, Ivay, and
9 that all that was with me.
- 10 Q You said Crackle and Tone. Crackle's real name is?
- 11 A I'm not sure.
- 12 Q Okay. Do you know Tone's real name?
- 13 A No, sir.
- 14 Q Okay. I'm sorry. Go ahead. I didn't mean to
15 interrupt.
- 16 A We was at the party. Some girls started with me.
17 After the party, it lead to the parking lot.
- 18 Q Now, when you say she started with you, what do you
19 mean she started with you?
- 20 A We was in the party and she was flipping my hair, like
21 back flipping my hair trying to hit me, but she was
22 just flipping any hair.
- 23 Q Okay. Do you know who that was?
- 24 A Teesha Davis.
- 25 Q Okay.

- 1 A It lead to the parking lot. When we got to the parking
2 lot, Crackle put all of us in the car. We left the
3 party and they started following us.
- 4 Q Now, going back to the parking lot, as you all got into
5 the parking lot, did you immediately run to the car or
6 was there --
- 7 A No, we was walking to the car.
- 8 Q Okay.
- 9 A But we got there.
- 10 Q Did you see Teesha in the parking lot?
- 11 A Yes, I did.
- 12 Q What was she doing?
- 13 A Being like ready to fight.
- 14 Q Ready to fight you or?
- 15 A Me.
- 16 Q Okay. Was she saying things or was she just?
- 17 A She was saying things, but I can't remember exactly
18 what she was saying
- 19 Q Okay. And who were you with when you got outside?
- 20 A All of us, me, Asia, Ashley, Ivay, Crackle, Tone and
21 Shade.
- 22 Q Okay. So then you all get in the car?
- 23 A We all get in the car.
- 24 Q And who's driving?
- 25 A Crackle.

- 1 Q Where are you sitting?
- 2 A In the back seat.
- 3 Q Okay.
- 4 A We all leave the party. They start following us
- 5 Q You say they, who is they?
- 6 A I'm not sure who all was in their car, but I could for
- 7 a fact -- Keewee and Teesha, but I'm not sure who else
- 8 was in their car.
- 9 Q Okay. What kind of car were you in?
- 10 A Was in a Buick, I believe.
- 11 Q And they were in?
- 12 A I'm not sure. A truck, though.
- 13 Q So where did you all go when you left Kia House?
- 14 A Well, we was driving and we seen they was following us.
- 15 So we had came to a stop light and I guess they thought
- 16 we was going to stop The light was red. We,
- 17 actually, ran the stop light They pulled in the
- 18 median and they was getting out the car and we ran the
- 19 stop light.
- 20 Q I'm sorry, let me back up a little bit. Do you
- 21 remember where the stop light was?
- 22 A It was off Two Notch, right in front of that BP.
- 23 Q Okay.
- 24 A That green BP.
- 25 Q Okay. So the light was red?

- 1 A It was red.
- 2 Q And --
- 3 A They pulled in the median and I guess they was going to
4 get out the car because I guess they thought we was
5 going to stop, but we ran the red light. They got back
6 in their car and they started following us.
- 7 Q Now, before that, was anybody on the phone in your car?
- 8 A Not before that.
- 9 Q Okay.
- 10 A No, sir, not at all.
- 11 Q Okay.
- 12 A After we seen they started following us again, I called
13 my father.
- 14 Q Okay.
- 15 A I told my father that some girls was following us. And
16 Crackle said he seen the gun, so I told my dad, you
17 know, they had a gun. He told us to come to the house.
18 Well, we was riding down Two Notch and we made a right
19 (indicating) right there off Beltline right where the
20 McDonald's sit. We went all the way down that road and
21 they still followed us. We had turned in by the police
22 station where the [REDACTED] is at. We turned right there
23 and made a U-turn and was coming back up Beltline
- 24 Q Why did y'all go that way?
- 25 A Trying to get away from them.

- 1 Q But you weren't driving?
- 2 A I wasn't driving, Crackle was. Came back up Beltline,
3 made a right by McDonald's and we turned -- we was
4 going to my father's house, but we turned down the
5 wrong street. Well, they turned after us. We went
6 to some neighborhood. I don't know where we was at.
7 It was a circle in the neighborhood. We went around
8 the circle and they blocked us in, so we had to drive
9 through someone's yard.
- 10 Q When you say they, in the truck?
- 11 A In the truck.
- 12 Q Okay.
- 13 A We had to drive through someone's yard to get away from
14 them. So after we drove through the yard, they start
15 following us again. Finally, we made it to my father's
16 house. When we got there, we pulled in the backyard
17 I seen the truck go down the road and come back up with
18 their headlights off. And when I got in the backyard,
19 my daddy told all of us to go in the kitchen, that's
20 where we went. And I didn't see anything after that.
- 21 Q Now, when you pulled up to your house, did you see your
22 father?
- 23 A No.
- 24 Q Okay. And Denzel was still driving?
- 25 A Crackle?

- 1 Q Crackle, I'm sorry, Crackle was still driving?
- 2 A Yes, sir.
- 3 Q And Crackle pulled into the back?
- 4 A Yes, sir.
- 5 Q Okay. And you were sitting in the back seat. Were you
6 sitting on the driver's side of the passenger side?
- 7 A I was sitting in the middle.
- 8 Q In the middle?
- 9 A (The witness nodded head.)
- 10 Q Okay. And so did you see your mother at that point?
- 11 A No, sir.
- 12 Q Your stepmother?
- 13 A No, sir.
- 14 Q Okay. At that point, you just got out of the house and
15 --
- 16 A I got out of the car and then we all went in the
17 kitchen. We was all on the floor in the kitchen.
18 After that, I didn't see anything.
- 19 Q Why were you on the floor?
- 20 A Because we knew they had a gun and they parked on the
21 opposite side of the house, so common sense will tell
22 you, you know, I thought -- I thought they was going to
23 shoot and they, actually, did, so I got on the floor.
- 24 Q Were you afraid?
- 25 A Of course.

- 1 Q Were you afraid in the car on the way there?
- 2 A Of course.
- 3 Q Did you tell your father that?
- 4 A No, but, I mean, I'm pretty sure he knew.
- 5 Q When you all ran in the house, can you tell me what
- 6 happened after you all got in the house?
- 7 A All I know is we got in the house, everybody was in the
- 8 kitchen on the floor. My dad went outside and that's
- 9 all I know.
- 10 Q Okay. And when he came back in, what happened?
- 11 A He came back in and he told me — he told us to go to
- 12 my stepmother's house, which was in Burnswood. And we
- 13 went there and that's about it.
- 14 Q Okay. And did you all ever see a red Honda that night?
- 15 A I never seen a red Honda.
- 16 Q Okay.
- 17 MR. RUTHERFORD: Beg the Court's indulgence.
- 18 THE COURT: All right.
- 19 BY MR. RUTHERFORD:
- 20 Q When you were exiting the vehicle or — I'm sorry. At
- 21 some point, did you ever hear a gunshot?
- 22 A I did.
- 23 Q When?
- 24 A When I was in the house on the floor.
- 25 Q Okay. And that was the first time you heard a gunshot?

1 A Yes, sir.

2 Q Okay. And did you see anybody react to hearing the
3 gunshot?

4 A As far as who was in the kitchen with me?

5 Q Uh-huh.

6 A No, I mean, we all was on the floor, just -- there was
7 nothing else we could do

8 MR. RUTHERFORD: No further questions at this
9 time, Your Honor.

10 THE COURT: Solicitor.

11 CROSS-EXAMINATION

12 BY MS. SAMPSON:

13 Q All right. Ms. S [REDACTED] you just told us today that
14 Crackle was the one that saw the gun?

15 A He said he did.

16 Q He said he saw a gun? You didn't see a gun?

17 A I didn't.

18 Q And today, you said you called your father Did you
19 not call Rosalyn first?

20 A No, I called my father.

21 Q Who called Rosalyn?

22 A I'm not sure who called Rosalyn.

23 Q So you called your father?

24 A Yeah.

25 Q Do you remember talking to the investigators when you

1 went to the police station?

2 A I remember talking to them, but I don't remember what I
3 said.

4 Q Do you remember giving a statement to them?

5 A Yes.

6 Q Do you remember telling them that you called Rosalyn?

7 A (The witness shakes head.)

8 Q Okay. Now, you said in the -- the way that you were
9 going down the street when you were trying to get away
10 from them?

11 A Uh-huh.

12 Q You said you -- did you say you drove past the police
13 station?

14 A We made a U-turn in the police station.

15 Q You made a U-turn in the police station?

16 A (The witness nodded head.)

17 Q Didn't get out and tell the police --

18 THE COURT: If you could, when you answer your
19 questions, make sure you do it audibly.

20 MS. SAMPSON: I'm sorry.

21 THE COURT: The court reporter can't take down a
22 shake of your head. Okay.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: Thank you.

25

1 BY MS. SAMPSON:

2 Q So I'm going to repeat for the court reporter. You
3 said you went past the police station or you went into
4 the police station and turned around?

5 A We went into the police station parking lot and made a
6 U-turn.

7 Q You didn't get out and tell the police?

8 A No, because I was afraid of my life.

9 Q So that's a no, you didn't tell the police?

10 A No, I did not.

11 Q And you only saw one car following you; correct?

12 A Yes, ma'am.

13 Q You never saw a second car?

14 A No, ma'am

15 Q And you never told your father there was more than one
16 car following you?

17 A No, ma'am.

18 MS. SAMPSON: That would be it, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. RUTHERFORD:

21 Q Ms S [REDACTED] the police station you pulled into, was that

22 --

23 A No, it was past midnight

24 MS. GARFIELD. I'm sorry, I didn't hear the last

25 part.

1 THE WITNESS: It was past midnight.

2 MR. RUTHERFORD: No further questions.

3 THE COURT: Ms. S [REDACTED] you may step down. Thank
4 you

5 MR. RUTHERFORD: Your Honor, may she be excused?

6 THE COURT: Yes, sir.

7 Any objections from the State?

8 MS. SAMPSON: No, ma'am.

9 THE COURT: You may call your next witness.

10 MR. RUTHERFORD: Thank you, Your Honor. At this
11 time, we call Asia Mills.

12 THEREUPON,

13 ASIA MILLS,

14 after having been duly sworn, testified as follows:

15 THE CLERK: Thank you. Please have a seat in the
16 witness stand and state your full name for the record.

17 THE WITNESS: Okay.

18 THE COURT: Mr. Rutherford, before we get starts
19 with Ms. Mills, is it the parties' intention for the
20 witnesses to be sequestered just for the purposes of this
21 hearing or their initial testimony throughout?

22 MR. RUTHERFORD: It was not my motion

23 MS. SAMPSON: Just the initial testimony, Your
24 Honor. They're all family members, so after they present,
25 we're fine.

1 THE COURT: Okay. Just wanted to make sure.

2 MR. RUTHERFORD: Thank you, Your Honor.

3 THE WITNESS. My name is Asia Chante Mills.

4 MR. RUTHERFORD: Okay.

5 DIRECT EXAMINATION

6 BY MR. RUTHERFORD:

7 Q Ms. Mills, will you spell your middle name?

8 A C-H-A-N-T-E.

9 Q Ms. Mills, can you tell this Court -- first of all, how
10 old are you?

11 A Twenty.

12 Q Okay. Do you remember the night of April 18th, 2010?

13 A Yes, sir.

14 Q Can you tell the Judge what happened that night?

15 A Okay. Starting form the point when we was at the club?

16 Q Yes, ma'am.

17 A Okay. Okay. Inside the club, you know, everybody was
18 having a good time and whatever, except for my
19 stepsister because the girls was sort of kind of like
20 picking on her inside the party and whatever, but we
21 were trying not to pay it no attention. So when we got
22 out the club, she made this big scene that was like --

23 Q I'm sorry, she who?

24 A Teesha Okay. Teesha, she was just like, I'm about to
25 slap this girl and whatever. And I was like, Who you

1 talking about? And she was like, Shade and whatever.
2 And she was getting crazy. I was like, Shade, just go
3 get in the car and whatever. And she come walking up
4 behind her wanting to hit her in the back of the head.
5 So we get in the car. We got in the car, we pulled out
6 into the median in front of the club. When we was in
7 front of the club, we saw her running behind our car --

8 Q She who?

9 A Teesha. And I, actually, saw Teesha with the gun in
10 her hand and she was running behind us, which made us
11 flee and whatever. So after we done fled away, she
12 done got inside the truck, Teesha got in the truck.
13 When she got inside the truck, they followed us. We
14 took shortcuts and everything and they was still on our
15 tail. So after we had fled through that way, we had
16 accidentally turned into like a circle on Shannon's
17 neighborhood, in his neighborhood.

18 Q When you say Shannon, who are speaking of?

19 A (indicating) Pocko.

20 Q I'm sorry, you refer to him as Pocko?

21 A Yeah.

22 Q The Defendant (indicating)?

23 A Yeah.

24 Q Okay

25 A So when we turned in that circle, the truck blocked us

1 in and whatever where we couldn't get out the circle,
2 so we, actually, had to drive on somebody else's lawn
3 just to get out. We had turned in Pocko's -- on his
4 street, drove around to his backyard and I guess
5 because we was going so fast and they was on our tail,
6 they drove the street, they turned at that Auto State,
7 which is down the street from his old house And they
8 turned their lights off while we were still in the car
9 and they started shooting. Then mamma told us to come
10 inside the house We ran inside the house and I still
11 heard gunshots

12 Q Okay.

13 A And --

14 Q Where were you sitting in the car?

15 A The front passenger seat.

16 Q Okay. And when you pulled up to the house, did you see
17 Pocko standing outside?

18 A No.

19 Q Okay.

20 A I didn't really see anything. The only thing I was
21 just -- I was fear of my life because I know these
22 girls and I know when they say that they going to do
23 something or if they behind you like this, I know it's
24 going to be some trouble.

25 Q Did you ever see a second car following you?

- 1 A When -- the only time I saw the second car was when
2 they turned around at the Auto State and that was it.
- 3 Q Okay. Do you know what kind of car it was?
- 4 A It was dark, so the only thing I know probably had been
5 like just a small little four-door car and whatever. I
6 don't know what kind of car it was. But all I know is
7 was the color of the truck. The only thing I know is
8 the truck.
- 9 Q You say you heard gunshots, where were you when you
10 heard the first gunshot?
- 11 A Inside the car.
- 12 Q Could you tell where the gunshot came from?
- 13 A It sounded like from a distance, you know.
- 14 Q Okay. And once you got inside the house, can you tell
15 us what happened then?
- 16 A I heard more gunshots. Momma told us to get down. I
17 couldn't -- only thing -- I blocked everything because
18 I was scared for myself. The only thing I'm thinking
19 is I'm about to die or whatever. Because I never had
20 this happen to me before and whatever. So I'm just
21 like I'm about to die, so I'm just tuning everything
22 out, what everybody else talking about. And that was
23 just it.
- 24 Q You said you saw the truck go down and then make a
25 U-turn?

1 A Uh-huh

2 Q Did you notice anything about when it was coming
3 back -- or after it made the U-turn, I should say?

4 A No, they just -- when they -- after they made the
5 U-turn, they turned their lights out, the headlights
6 out and then that's when it started.

7 Q And after they turned their headlights off, did you
8 notice in which direction they were going?

9 A Huh-uh -- it -- okay, when they turned around and made
10 a U-turn, they was going like (indicating) up, back up
11 the street.

12 Q When you say back up the street, you mean coming back
13 towards you?

14 A Right

15 Q Okay. Okay. And they were coming back towards you and
16 you described them coming back towards you with your
17 lights off?

18 A Yeah.

19 Q With their lights off?

20 A With their lights off, yeah.

21 Q And that's when you heard the gunshots?

22 A Right.

23 Q Okay.

24 MR. RUTHERFORD: Beg the Court's indulgence.

25 THE COURT. Okay.

1 MR. RUTHERFORD: No further questions at this
2 time.

3 THE COURT: Any cross?

4 MS. SAMPSON: Yes, ma'am.

5 THE COURT: May it please the Court?

6 CROSS-EXAMINATION

7 MS. SAMPSON: If I could ask her to step down for
8 a second?

9 THE COURT: Sure
10 Counsel, do you need the pointer?

11 MS. SAMPSON: We have one there.

12 BY MS. SAMPSON:

13 Q I'm going to show you. This is [REDACTED] Avenue, this is
14 where Mr. Scott lives?

15 A Uh-huh.

16 Q I need you to say yes or no.

17 A Yes.

18 Q And this right here, that's Mr Scott's house?

19 A Yes, ma'am.

20 Q Now, you said that there's an All State, would it be
21 done here (indicating) around the bend?

22 A Yes, ma'am.

23 Q Okay. Now -- so the car is over here (indicating)?

24 A Okay.

25 Q When did you see it?

1 A We come down this street (indicating).

2 Q This street coming this way?

3 A Uh-huh.

4 THE COURT: Ma'am, I can't see.

5 MS. SAMPSON: Switch sides.

6 BY MS. SAMPSON:

7 Q Show me what you're talking about.

8 A Okay. We was coming down this street right here
9 (indicating), they was on our tail, so Denzel, he drove
10 to the backyard.

11 Q Okay.

12 A They was so close on us that I guess they drove down
13 the street, but they turned right here (indicating) --

14 Q Right there?

15 A Yeah. They turned around right there and they parked
16 their car (indicating).

17 Q I want you put for me -- use this black pen, an X where
18 their car stopped, if this is Mr. Scott's house.

19 A (Witness complied.)

20 Q So that's where they stopped?

21 A Uh-huh.

22 Q Is that --

23 A Yes, ma'am. I'm sorry.

24 Q That's okay. So this is where they stopped, yes?

25 A Yes, ma'am.

- 1 Q Okay. And this is where they turned their lights off?
- 2 A Yes, ma'am.
- 3 Q And you all are at this point where?
- 4 A (indicating) backyard.
- 5 Q You're in the backyard when you see the lights off?
- 6 A Yes, ma'am. I was the front seat, so that's just how
- 7 it was.
- 8 Q Okay. And it's back here when you hear the first shot?
- 9 A Yes, ma'am. See, we wasn't all the way inside the
- 10 backyard because his car was parked in the backyard.
- 11 So we was kind of like on the side, but in the back.
- 12 Q Okay. So you're back here?
- 13 A Uh-huh.
- 14 Q And you hear the shots?
- 15 A Right.
- 16 Q Just one?
- 17 A Yes, ma'am.
- 18 Q Okay.
- 19 A No, not one shot. I heard, at least, probably like two
- 20 while we was in the car. And when we was getting out,
- 21 momma was calling us from the back door to come inside
- 22 the house, which is where the kitchen area is --
- 23 Q Okay.
- 24 A -- and when we was in there, I heard more shots.
- 25 Q And where is Mr. Scott?

- 1 A To be honest with you, I didn't see him none that
2 night.
- 3 Q So you didn't see if he was in the front yard, in the
4 house, where he was when that shot was fired?
- 5 A Huh-uh.
- 6 Q I need you to say yes or no.
- 7 A I'm sorry. No, ma'am, I didn't see him.
- 8 Q Okay. And you said you did at some point notice a
9 second car?
- 10 A Yes, ma'am.
- 11 Q Was it on this street (indicating) when you saw it?
- 12 A Yes, ma'am.
- 13 Q Where was it?
- 14 A Only time I saw that car was when they was turning
15 around.
- 16 Q When who was turning round?
- 17 A When the person that was -- I think her name Kiwi or
18 something like that, Teesha. When they was inside that
19 car, that's when I saw them turned around because I
20 wanted to know --
- 21 Q I want to know when you're saying they?
- 22 A Okay.
- 23 Q You said they, Teesha, Kiwi, they went in there and
24 turned around and you put an X where they end up?
- 25 A Uh-huh.

1 Q Where is the second car? Does it do the same thing or
2 something different?

3 A No, I think -- I think they car had rode past their car
4 because I didn't see --

5 Q When you say they and they, we don't know who you're
6 talking about.

7 A Well, the little car.

8 Q There you go.

9 A Their car rode past their car.

10 Q The little car went this way (indicating) or came back
11 this way?

12 A That way.

13 Q Okay. So what you're saying is the little car followed
14 us, also turns around and then goes past their car --

15 A Uh-huh.

16 Q -- and keeps going?

17 A Uh-huh.

18 Q Yes, ma'am?

19 A Yes, ma'am.

20 Q So you don't see where the car ends up or do you?

21 A I wasn't really paying that car no attention because I
22 knew the truck was following us and whatever. I didn't
23 need to know who else was like with them and whatever.
24 All I know is that Teesha was trying to come after us.

25 Q And when Teesha stops here (indicating) with no lights

- 1 on, where is that little car?
- 2 A (indicating).
- 3 Q You need to answer.
- 4 A I don't know. Because we was right there in the back,
- 5 so I can't see whatever is going --
- 6 Q But you don't know whether here or back here or where
- 7 it is at all?
- 8 A Huh-uh.
- 9 Q Yes or no?
- 10 A No, ma'am.
- 11 Q Okay. All right. Thank you. You can sit back down.
- 12 A Up there on the stand?
- 13 Q Yes, ma'am.
- 14 A Okay. (witness complies).
- 15 Q Did you call anybody while you were in the car?
- 16 A No, ma'am.
- 17 Q Did you ever hear any conversations about -- in the
- 18 car, somebody calling either Mr. Scott or Rosalyn?
- 19 A I think I heard my stepsister call her daddy
- 20 Q Stepsister would be?
- 21 A Shade.
- 22 Q Shade called who?
- 23 A Pocko.
- 24 Q And what did she tell him?
- 25 A I can't remember everything. Only thing I remember is

1 they were getting on the phone calling my momma and
2 Pocko telling them what was going on. I wasn't calling
3 nobody. I was pretty much trying help the driver and
4 whatever --

5 Q Uh-huh.

6 A -- since I was in the front seat trying to tell him
7 exactly where to go at and stuff like that because I
8 been to his house before.

9 Q Okay.

10 A This was around the time my momma first started talking
11 to him.

12 Q So your mom is Rosalyn?

13 A Uh-huh.

14 Q Say yes?

15 A Yes, ma'am.

16 Q Okay.

17 A So, you know, I already knew where to go, so I was
18 trying to go ahead and direct him.

19 Q Okay. So to the best of your knowledge, Shade is
20 calling her daddy?

21 A Yeah, or either my mom one.

22 Q And she's just telling then that a truck of girls is
23 following y'all?

24 A Uh-huh.

25 Q Yes?

1 A Yes, ma'am. Sorry.

2 Q Did they -- she didn't mention anything about a second
3 car to the best of your knowledge?

4 A I'm not sure because I -- I mean, it could have been
5 other cars following it. It's just that, you know,
6 it's Two Notch Road, cars traveling and stuff like
7 that So I think our most concern was just that it was
8 that truck.

9 Q Correct. Your concern was the truck --

10 A Uh-huh.

11 Q -- that Teesha and -- in?

12 A Yeah, because we didn't hardly know if anybody else was
13 trying to come after us, but how they roll -- because
14 we done had situations with them before, so.

15 Q So the answer to my request is you don't know whether
16 Shade said anything about a second car to Mr. Scott?

17 A Huh-uh.

18 Q Yes or no?

19 A No, ma'am.

20 MS. SAMPSON: That's it, Your Honor.

21 THE COURT: Thank you. Anything further?

22 REDIRECT EXAMINATION

23 BY MR RUTHERFORD:

24 Q You said how they roll, what did you mean by that?

25 A Like, okay, because we -- I've been friends with them a

1 long time ago and whatever, so I mean I know exactly
2 how they operate. And I know exactly like if they mean
3 business, then they mean business.

4 Q When you saw they, who are you talking about?

5 A Teesha.

6 Q Okay. Now, you were describing how --

7 MS. GARFIELD: Your Honor, I object. He probably
8 need to make this an exhibit so we can refer to what the
9 witness is referring to.

10 THE COURT: Which one are you objecting to?

11 MS. GARFIELD: I'm not objecting. I'm just saying
12 we probably need to give it an exhibit number so we can
13 refer to it.

14 THE COURT: Any objection, Mr. Rutherford?

15 MR. RUTHERFORD: None, Your Honor.

16 THE COURT: Just for the record, we're marking
17 Exhibit 1, which is what we just used with Ms. Mills and
18 then we'll mark the one Mr. Rutherford is using as Exhibit
19 2.

20 (State's Exhibit No. 1 and 2 were marked
21 for identification.)

22 BY MR RUTHERFORD:

23 Q Now, you said that you all came into the backyard and
24 you marked that with an X; is that right?

25 A Yes, sir.

1 Q But you said the truck went down here and turned
2 around; is that right?

3 A Yes, sir.

4 Q And if you're looking on Exhibit 2, that would be about
5 right here (indicating) where the truck turned around;
6 is that right?

7 A Yeah, I think that All State is like right there close
8 on --

9 Q Do you need to step down?

10 A Well, I --

11 THE COURT: Mr. Rutherford, if you could move a
12 little bit closer My eyes aren't what they used to be.
13 Thank you.

14 MR. RUTHERFORD: I'm sorry.

15 THE COURT: I'm not quite that blind

16 (Laughter.)

17 BY MR. RUTHERFORD:

18 Q The turn around they would have made would have been
19 right here (indicating); is that right?

20 A Yes, sir.

21 Q And that's -- what is it?

22 A Close to like Beltline.

23 Q Okay. So that's Beltline Boulevard?

24 A Correct.

25 Q Is that a major street?

1 A Yeah.

2 Q Is it four lanes?

3 A Uh-huh.

4 Q Okay. So if they wanted to -- if they had passed the
5 house and they wanted to keep on going, when they got
6 to Beltline, it's a four-lane road; is that --

7 A Uh-huh.

8 THE COURT. Ma'am, you have to answer yes or no.

9 THE WITNESS: Yes, ma'am. I'm sorry.

10 BY MR. RUTHERFORD:

11 Q But you said they turned around at the All State. Now,
12 at that point -- and I'll refer to Exhibit 2 -- Exhibit
13 1, you were in the backyard. Could you see?

14 A I was in the front seat, so I could see. Then it was
15 dark, so I could see the lights. I saw tail lights and
16 when they turned around, I saw headlights.

17 Q And then you said they turned their headlights off when
18 they came back?

19 A Uh-huh. Yes, ma'am.

20 BY MR. RUTHERFORD:

21 Q And you said you saw another car?

22 A Uh-huh, yes, sir.

23 Q Do you know what kind of car it was?

24 A No, I mean, it was dark. It was like 11:00, 12:00 in
25 the morning, so I couldn't tell you the exact car that

1 it was, but I know it was another car.

2 Q And when you said earlier, you said you know how they
3 roll, does that mean that -- did you expect there to be
4 another car, is that what you're saying?

5 A I expected them to do what they did because I knew
6 that's exactly how they are.

7 Q All right.

8 MR. RUTHERFORD: No further questions.

9 THE COURT: Okay. May she be excused?

10 MR. RUTHERFORD. Yes.

11 MS. SAMPSON: Without objection.

12 THE COURT: Thank you Yes, ma'am.

13 THE WITNESS: Thank you.

14 THE COURT: You may call your next witness.

15 MR. RUTHERFORD: Thank you, Your Honor.

16 MS. GARFIELD: Your Honor, before we proceed, I

17 think we can stipulate when witnesses refer to Pocko, Pocko

18 would be the Defendant. That's his nickname.

19 THEREUPON,

20 AVE' FULLER,

21 after having been duly sworn, testified as follows:

22 THE CLERK: Thank you. Please have a seat in the
23 witness stand and say your full name for the record, and,
24 please, spell your first name

25 THE WITNESS. You said spell it?

1 THE CLERK: Yes, please

2 THE WITNESS. A-V-E.

3 DIRECT EXAMINATION

4 BY MR. RUTHERFORD:

5 Q Can you tell the Judge what your relationship is to Mr.

6 Scott?

7 A That's my stepfather.

8 THE COURT: Sir, can we back up just a second. I

9 think she just spelled her first name. Can we get her first

10 and last name before we proceed?

11 BY MR. RUTHERFORD:

12 Q Would you spell your first and last?

13 A It's A-V-E with a hyphen over the E, and my last name

14 is Fuller, F-U-L-L-E-R.

15 THE COURT: Thank you.

16 Your witness.

17 BY MR. RUTHERFORD:

18 Q Do you remember the night of April 18th, 2010?

19 A Yes, sir.

20 Q Can you tell us what happened that night?

21 A You want me to start from the party --

22 Q At Kia's house.

23 THE COURT: Speak up a little bit, please.

24 BY MR. RUTHERFORD:

25 A We was inside Kia house and we was all just partying

1 like regular people. And the girl, Teesha, started
2 slapping Shade's hair or whatever, so I told Shade to
3 come on or whatever. And that's when like after all
4 that was over, we went outside the party or whatever.
5 And Teesha was like, oh, I ain't got no problem with
6 y'all, but your stepsister, that little red girl, I'm
7 going to slap the S out of her. I'm not going to fight
8 her because she's too little or whatever. So my
9 sister, Asia, grabbed Shade or whatever and Teesha runs
10 towards her and hit her in the back of the head. So we
11 all got in the car and they started chasing us.

12 Q Now, when you went outside the club?

13 A Uh-huh.

14 Q Did you see Teesha at that point?

15 A Uh-huh.

16 Q What was she doing?

17 A She was yelling and cursing and – just like trying to
18 get to Shade.

19 Q And then is that when you got into the car?

20 A Uh-huh. Oh, yes, sir.

21 Q And then when you all were riding in the car, did you
22 hear any phone calls, did anybody make any phone calls?

23 (There was no response.)

24 Q Did you call anyone?

25 A No, my sister, Ashley, called my mom.

- 1 Q Okay. What were y'all doing in the car? Were you
2 talking about the weather or sports? What were y'all
3 talking about?
- 4 A I was -- to be honest I was scared because I didn't
5 know what to do. So, basically, I was panicking, to be
6 honest.
- 7 Q Okay. So when you all got to a red light, do you
8 remember what happened at the red light?
- 9 A I remember we was at the red light and they tried to
10 get out the car, but as soon as they got out the car,
11 the light turned green. We just went and they jumped
12 back in the car and they started back following us.
- 13 Q And where were you sitting in the car?
- 14 A I was sitting on the passenger side, close to the
15 middle.
- 16 Q Okay. And there were three people in the front of the
17 car?
- 18 A It was two in the front and -- like me, Crackle -- no,
19 me, Tone, Shade and my sister, Ashley, in the back.
- 20 Q Okay. And when you all got to the house, did you see
21 Pocko standing in the front yard?
- 22 A Him and my mom was standing on the front porch waiting
23 for us, but they didn't like -- I don't know.
- 24 Q Okay. And so you all pulled into the backyard?
- 25 A Uh-huh.

1 Q At any point did you hear a gunshot?

2 A Soon as we pulled in the backyard, the other car cut
3 their headlights off. I saw the gun hanging out the
4 window and they shot and we ducked down in the seat.

5 Q Okay. What did you do then?

6 A I started crying.

7 Q Okay. And then what did you do?

8 A Then my mom told us to run in the back, like through
9 the back door so they wouldn't see us and that's when I
10 heard more gunshots?

11 MR. RUTHERFORD: No further questions at this
12 time, Your Honor.

13 THE COURT: Any cross?

14 MS. SAMPSON: Yes, Your Honor.

15 CROSS-EXAMINATION

16 BY MS. SAMPSON:

17 Q All right. Ms. Fuller, when this incident occurred,
18 you spoke with the police; correct?

19 A Yes, ma'am.

20 Q You remember giving them a statement?

21 A Yes, ma'am.

22 Q Do you remember -- at the time, you were telling the
23 truth?

24 A Uh-huh.

25 Q You need to say yes or no.

1 A Yes, ma'am.

2 Q And you were trying to give them as much information as
3 possible?

4 A Yes, ma'am.

5 Q And you were trying to be as detailed as possible?

6 A Yes, ma'am.

7 Q And I'm going to show you a copy of your statement.
8 I'll give you a chance to look at it.

9 (brief pause.)

10 THE COURT: Ms. Sampson, would you like to mark
11 that for identification purposes?

12 (State's Exhibit No. 3 was marked for
13 identification.)

14 BY MS. SAMPSON:

15 Q I'm going to ask you, is that your statement?

16 A Yes, ma'am.

17 Q And it was made on April 18th; correct?

18 A Yes, ma'am.

19 Q And it says 1930, that would be military time for 7:30.
20 Does that sound about right to you?

21 A Yes, ma'am.

22 Q Okay. And you gave this to Investigator Reese?

23 A Yes, ma'am.

24 Q Do you see him here today?

25 A (indicating).

1 Q You need to say yes or no?

2 A Yes, ma'am.

3 Q All right. I want you to show me in this statement
4 where you say you saw a gun.

5 (brief pause.)

6 A I don't.

7 Q Okay. And could you -- in this statement, you say that
8 when you go in the house, Shannon and your mother are,
9 actually, in the house, not outside; correct?

10 A Yes, ma'am.

11 Q And you also say that you don't hear gunshots until you
12 are in the house; correct?

13 A Yes, ma'am.

14 Q And there's --

15 THE COURT: Ms. Sampson, ask the questions rather
16 than publish the document, which is not in evidence

17 MS. SAMPSON: I'm so sorry, I did not hear what
18 you just said.

19 THE COURT: You're publishing a document which is
20 not in evidence. If you want to cross her on it, I think
21 that's fine.

22 MS. SAMPSON: Okay At this time, Your Honor,
23 we'd ask to introduce the statement as State's Exhibit No
24 3.

25 MR. RUTHERFORD: Without objection.

- 1 THE COURT: Okay.
- 2 (State's Exhibit No. 3 was admitted into
- 3 evidence.)
- 4 BY MS. SAMPSON:
- 5 Q Now, I'll ask it again. There's nothing in your
- 6 statement about you seeing a gun; correct?
- 7 A No, ma'am.
- 8 Q And in your statement, you state that your mother and
- 9 Mr. Scott were inside the home when you got there;
- 10 correct?
- 11 A Yes, ma'am.
- 12 Q And you also say that you don't hear gunshots until you
- 13 are in the house; correct?
- 14 A Yes, ma'am.
- 15 Q And there's nothing in here and you didn't say anything
- 16 about this today about there being a second car?
- 17 A No, ma'am.
- 18 Q Did you see a second car?
- 19 A No, ma'am.
- 20 Q And did anybody when talking to your mom or Mr. Scott
- 21 tell him there was a second car?
- 22 A I'm not sure.
- 23 Q You didn't?
- 24 A No, ma'am.
- 25 Q Okay

1 MS. SAMPSON: No further questions, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. RUTHERFORD:

4 Q When you gave the statement, did they give you the
5 option of giving them a videotaped statement?

6 A No, ma'am.

7 Q They didn't tell you that you could videotape something
8 and submit it to them?

9 A No, sir

10 Q Did they tell you that you could record something on an
11 audio and take it and give it to them?

12 A No, sir.

13 Q Did they tell you that you could record something on
14 your Iphone and e-mail it to them?

15 A No, sir

16 Q They, in fact, told you to write it down; is that
17 right?

18 A Yes, sir.

19 Q And as you're writing down this statement, when was the
20 last time that you had to write something down for the
21 police?

22 A I don't remember.

23 Q So they didn't give you the option of audio taping?

24 A (The witness shakes head)

25 Q They didn't give you the option of videotaping. They,

1 in fact, told you to write down in your hand what you
2 had just told them; is that correct?

3 A Yes, sir.

4 Q So how long were you with them?

5 A With who?

6 Q With Investigator Reese?

7 A For like -- I was in the room for like an hour, I would
8 say.

9 MS. SAMPSON. I'm sorry, I can't hear her, Your
10 Honor.

11 THE COURT: Would you speak up, please?

12 BY MR RUTHERFORD:

13 Q I'm sorry, you were in Investigator Reese for how long?

14 A For like an hour.

15 Q So you were with in Investigator Reese for an hour and
16 it took you an hour to write that?

17 A Yes, sir.

18 Q So you started as soon as you got there, you started
19 writing and that took you an entire hour?

20 A Well, they was talking to me at first.

21 Q So they were talking to you at first?

22 A Uh-huh.

23 Q So they got statements out of you?

24 A Yes, sir.

25 Q And talked to you?

- 1 A Yes, sir.
- 2 Q And then they told you to write down what you had just
3 told them; is that right?
- 4 A Yes, sir.
- 5 Q Now, of all the things that you told them within this
6 hour -- during this hour proceeding, they then told you
7 to write that down. Does that look like you wrote down
8 exactly what you all talked about?
- 9 A Yes, sir.
- 10 Q It does?
- 11 A (The witness nodded head.)
- 12 Q Did you write down everything they said?
- 13 A What you mean?
- 14 Q Everything that they talked to you about, because y'all
15 went back and forth, I assume --
- 16 A (The witness nodded head.)
- 17 Q -- for an hour. Is all of that encapsulated in this
18 one page and four sentence statement?
- 19 A Yes, sir.
- 20 Q Okay. And so when you're writing something, if you had
21 left something out, would you have scratched through it
22 and backed up or how would you have done that if you
23 had made a mistake?
- 24 A I would have looked over it.
- 25 Q And once you looked over it and saw a mistake, how

1 would you have fixed it?

2 A I would scratched out and then wrote what I was
3 supposed to put

4 Q Okay.

5 MR. RUTHERFORD: All right. No further questions,
6 Your Honor.

7 MS. SAMPSON: Briefly, Your Honor.

8 RECROSS-EXAMINATION

9 BY MS. SAMPSON:

10 Q In fact, that statement, actually, isn't in your
11 handwriting; is it?

12 A This statement?

13 Q Yeah.

14 A Yes, ma'am.

15 Q It is your handwriting? Investigator Reese didn't
16 write that for you and then you signed at the bottom
17 and said that's yours?

18 A Oh, yeah, it's not my handwriting.

19 Q It's not your handwriting. He wrote it for you;
20 correct?

21 A Yes, ma'am.

22 Q And he, actually, gave you the opportunity to read over
23 it; correct?

24 A Yes, ma'am.

25 Q And he gave you the opportunity to make any changes you

1 wanted; correct?

2 A Yes, ma'am.

3 Q You didn't make any?

4 A No, ma'am.

5 Q You didn't make any additions?

6 A No, ma'am.

7 Q And at the end, you signed it saying it's the truth?

8 A Yes, ma'am.

9 Q Okay.

10 MS. SAMPSON: No further questions.

11 THE COURT: Thank you You may step down, ma'am.

12 Call your next witness.

13 MR. RUTHERFORD: Your Honor, at this time, the

14 Defense calls Rosalyn Scott.

15 Your Honor, if I could ask Ms. Scott to step back

16 out. I have two other witnesses that are not family members

17 who may want to go so they could be --

18 THE COURT: Sure.

19 MR. RUTHERFORD: -- released if that's possible.

20 So at this time, I would call Denzel Davis.

21 THEREUPON,

22 DENZEL DAVIS,

23 after having been duly sworn, testified as follows:

24 THE CLERK: Thank you. Please have a seat in the

25 witness stand and state your full name for the record and,

1 please, spell your first name.

2 THE WITNESS: Denzel, D-E-N-Z-E-L, Davis.

3 THE COURT: Your witness.

4 MR. RUTHERFORD: Thank you, Your Honor.

5 DIRECT EXAMINATION

6 BY MR. RUTHERFORD:

7 Q Mr. Davis, are you related to Shannon Scott?

8 A No, sir.

9 Q Okay. Now, on April 18th, 2010, can you tell -- can
10 you tell us what happened?

11 A There's a club on Two Notch called Kia House --

12 Q Can you move your chair up?

13 A There's a club called the Kia House on Two Notch Road
14 that was attending a party to. One of the members that
15 was my car that night that came with us to the party
16 apparently had some troubles with another person that
17 was in the party.

18 Q And who was the person in the party?

19 A I don't know the person. I couldn't tell you an exact
20 name because I didn't know her. I just knew there was
21 problems.

22 Q So you didn't know the person that was riding with you?

23 A No, I knew who was riding with me.

24 Q Who was the person that was riding with you?

25 A Shade.

1 Q Okay.

2 A Yeah. Okay. So the problems erupted as the club let
3 out and everybody got to leave near my car, which was a
4 '93 Grand Marquis. And once we pulled out the Kia
5 House, we were followed.

6 Q Now, your name is?

7 A Denzel Davis.

8 Q But your nickname is?

9 A Crackle.

10 Q Crackle?

11 A Yes, sir.

12 Q Okay. All right. Go ahead

13 A Okay. So as we pulled into the median, we couldn't
14 merge directly into traffic.

15 Q What time of night was it?

16 A I would say about 1:00 or 2:00 at night.

17 Q And there was that much traffic you couldn't merge into
18 it?

19 A No, it was not a lot of traffic. It was just traffic
20 coming from the direction I needed to merge into.

21 Q Okay.

22 A So at the point in time, there was truck behind us.
23 And I can't tell you the exact color because I don't
24 remember. But out came the truck was girl which I was
25 telling you the problems was with. And she didn't come

1 empty-handed. Can I just say that or do I need to say
2 exactly?

3 Q No, go ahead.

4 A Well, she had a gun in her hand. She didn't point it
5 at the car, but she had it in her hand when she walked
6 up to my car. So we follow up down Two Notch Road, and
7 she hops back in the truck and she follows us. As she
8 follows us, I'm driving at high speed. I made it
9 through a light that she did not make it through, but
10 came through any way to still keep behind us. I made a
11 left at Plaza on Two Notch across from the Rim Shop
12 where Mr. Muffler used to be. I want to say it was
13 Pine Straw. And I camped out there for a minute. We
14 were found at that time, then I pulled back out again.

15 So as I came out of that parking lot, I made a
16 right, then on I ended up on Pine Straw at that light.
17 I made it through that light. I went down Two Notch
18 Road. As I drove down Two Notch Road, I proceed the
19 direction to turn behind the Burger King. And when I
20 turned behind Burger King, I made a wrong turn and I
21 had to make another turn because I hit a dead end.

22 Q And when you hit this dead end, what happened?

23 A When I hit the dead end, I was blocked off, but —

24 Q By who?

25 A A truck.

- 1 Q The same truck that was following you?
- 2 A Yeah, the same truck that had been following us.
- 3 Q When you say blocked you off, what do you mean?
- 4 A Like the side that I to go on to get around, I was
- 5 blocked off at that same road that I had to go around.
- 6 The dead end was a circle. So once I came out that
- 7 road, I was then in the area of going to Mr. Shannon's
- 8 house. So once I got to the back of Mr. Shannon's
- 9 house --
- 10 Q So you pull up at -- you call him Mr. Shannon?
- 11 A Yes.
- 12 Q You pull up to Mr. Shannon's house, what did you see?
- 13 A A blue house.
- 14 Q All right. And behind you?
- 15 A The truck.
- 16 Q Okay. How close was it to you?
- 17 A It wasn't that close to being in the yard. I wasn't in
- 18 the yard, but they were passing by where I just pulled
- 19 in.
- 20 Q Right. Okay.
- 21 A And then once I got to the back of the house, I
- 22 received directions to go inside the back of the house
- 23 because of gunshots And this was for safety, of
- 24 course. And once I was inside the house, I was told
- 25 the get down.

1 Q Now, when you pulled in the backyard, at what point did
2 you hear the gunshots?

3 A When I still in the car.

4 Q So while you're still in the car, you heard a gunshot.
5 Did you notice where the truck had gone?

6 A No, sir. I couldn't see the truck from where my
7 position was.

8 Q Okay. So you then got out of the car and ran in the
9 house; is that right?

10 A I didn't run in the house. The women went first, and
11 then I went in the house afterwards.

12 Q Okay. What did you do once inside the house?

13 A I ducked down in the kitchen.

14 Q Okay.

15 MR. RUTHERFORD: Beg the Court's indulgence.

16 No further questions at this time, Your Honor.

17 THE COURT: Any cross?

18 MS. SAMPSON: Yes, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. SAMPSON:

21 Q Mr. Davis, I'm going to hand you what's been marked as
22 State's Exhibit No. 4. Do you recognize that?

23 A I can read the whole thing?

24 Q Yes.

25 (State's Exhibit No. 4 was marked for

1 identification.)

2 A Yes, ma'am.

3 (brief pause.)

4 Q Is that your handwriting?

5 A That is exactly my handwriting.

6 Q And it's dated April 18th, 2010. Is that the statement
7 you gave on that date?

8 A Yes, sir -- I mean, yes, ma'am.

9 Q And does this fairly and accurately represent the
10 statement that you gave?

11 A Just now?

12 Q The statement you gave back on -- the written statement
13 you gave back on April 18, 2010?

14 A Yes.

15 MS. SAMPSON: At this time, we'd offer State's
16 Exhibit No 4 into evidence.

17 THE COURT: Any objection?

18 MR. RUTHERFORD: Without objection, Your Honor.

19 THE COURT: Thank you

20 (State's Exhibit No. 4 was admitted into
21 evidence.)

22 BY MS. SAMPSON:

23 Q Mr. Davis, I'm going to ask you some questions about
24 your statement?

25 A Uh-huh.

- 1 Q Can you tell me in that statement where you say you see
2 any of the girls with a gun?
- 3 A No, ma'am.
- 4 Q Okay. And in this statement, can you show me where you
5 state that you heard gunshots before going in the
6 house?
- 7 A No, ma'am.
- 8 Q And, in fact, in this statement, you said you heard
9 gunshots after you got in the house; correct?
- 10 A I did.
- 11 Q And you said there were about two to three shots;
12 correct?
- 13 A Correct.
- 14 Q And you heard them about five to seven minutes after
15 getting in the house; correct?
- 16 A Correct.
- 17 Q And there's no mention of a second car. You didn't say
18 that today nor did you say that in your statement;
19 correct?
- 20 A No.
- 21 Q And you never saw a second car; correct?
- 22 A No
- 23 Q And just so we're clear, you wrote this statement?
- 24 A This one I have here in my hand?
- 25 Q Yes.

- 1 A Yes, ma'am.
- 2 Q And there are questions that are -- first, it's a
3 narrative, correct, where you're just writing out what
4 happened?
- 5 A It is.
- 6 Q And then later, there's some questions; is that
7 correct?
- 8 A Oh, I didn't flip the page.
- 9 Q On the second page starting on number two, it says Q,
10 when you get to the blue house, who let you in? That's
11 a question; correct?
- 12 A Absolutely.
- 13 Q And that's written by Investigator Menendez?
- 14 A I'm guessing.
- 15 Q -- when you were talking?
- 16 A Yes.
- 17 Q Okay. And he wrote questions downs?
- 18 A Uh-huh.
- 19 Q I'm sorry, you need to say yes or no.
- 20 A Yes, ma'am.
- 21 Q And he -- you then wrote the answers to the questions?
- 22 A Yes, ma'am.
- 23 Q Did he give you an opportunity to make any changes you
24 wanted?
- 25 A Yes, ma'am.

1 Q And, in fact, on some of these, you mark out where it's
2 wrong and put your initials where it's correct?

3 A Yes, ma'am.

4 Q All right. And he, actually, himself marked out a
5 question when he didn't want to ask you that; correct?

6 A Yes, ma'am.

7 Q And he put his initials there?

8 A Yes.

9 Q Oh, she, I'm so sorry. Apparently, Investigator
10 Menendez is a female. I've never met her.

11 A Uh-huh.

12 Q And so that is her handwriting where it's the question
13 and your handwriting as to the answer?

14 A There is another question under that and I answered
15 that one.

16 Q I'm just saying, in general, she would write her
17 question down, and then you would write the answer?

18 A Yes, ma'am.

19 Q And she gave you an opportunity to change whatever you
20 wanted?

21 A Yes, ma'am.

22 Q And you signed it at the bottom?

23 A Yes, ma'am.

24 Q And you signed every page; correct?

25 A Correct.

1 Q And Mr. Davis, when you were in the car driving, did
2 you hear any of the girls speaking on the telephone?

3 A Any of the girls in my car?

4 Q Yes.

5 A Yes.

6 Q Who were they calling, do you know?

7 A I would guess their mother.

8 Q Okay. And so they were calling their mother?

9 A Uh-huh.

10 Q Not Mr. Scott?

11 A I don't think so.

12 Q Okay. Was there any mention on the phone about there
13 being a gun?

14 A Possibly. I couldn't tell you. I was driving.

15 Q You couldn't tell me. And there was no mention of a
16 second car, though?

17 A No.

18 MS. SAMPSON: To further questions, Your Honor.

19 THE COURT: Any redirect?

20 MR. RUTHERFORD: Yes, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. RUTHERFORD

23 Q Now, Mr. Davis, when you were in with Investigator
24 Menendez, how long did you all talk before you started
25 writing the statement down?

- 1 A Being that this was three years ago, I would round it
2 up about 10, 15 minutes, maybe.
- 3 Q So y'all had a 10 to 15 minute-conversation before you
4 started writing; is that right?
- 5 A Possibly.
- 6 Q Then once you started writing, did you write down
7 everything that you just told us?
- 8 A Everything that I just told you now?
- 9 Q Yeah.
- 10 A No.
- 11 Q Did you write down everything you told her in 10 to 15
12 minutes?
- 13 A Yes.
- 14 Q So it took you 10 to 15 minutes worth of conversation
15 and you wrote down everything?
- 16 A Everything I could.
- 17 Q Or did you leave some stuff out?
- 18 A Probably left some stuff out because there's stuff
19 missing that I just told you.
- 20 Q And when you were talking to Investigator Menendez, is
21 it possible that you left some stuff out when you were
22 writing down everything because she asked you to write
23 it all down; is that right?
- 24 A Yes.
- 25 Q Okay. And so in writing it all down, you're trying to

- 1 -- tell me what you're trying to accomplish?
- 2 A I'm trying to accomplish a story here.
- 3 Q Right. But you -- she didn't allow you to give her a
- 4 videotape of it?
- 5 A No.
- 6 Q She didn't say you could record it on her Iphone and
- 7 send it to her?
- 8 A No.
- 9 Q She said you had to write it down, is that right?
- 10 A Yes.
- 11 Q Okay. So then when she would ask you a question -- she
- 12 would ask you a question?
- 13 A Uh-huh.
- 14 Q Do you remember, because it was three years ago,
- 15 whether that was exactly the question she would always
- 16 ask or would she sometimes ask you a question and then
- 17 rephrase it to get to the shortest answer?
- 18 A Yes, sir.
- 19 Q So this, although it is your handwriting and it is her
- 20 handwriting, it is not exactly what happened that
- 21 evening; is it?
- 22 A No, sir.
- 23 Q And so when you would write something down and you
- 24 would scratch through, you're trying to, according to
- 25 you, accomplish the story?

1 A Yes, sir.

2 Q But accomplish by writing down what you had just talked
3 about?

4 A Yes, sir.

5 Q And she's trying to do that as well, I guess, by --
6 because when you hear a rephrase of the question, she's
7 trying to get the shortest answer possible; is that
8 right?

9 A Yes, sir.

10 Q All right. So when stuff is left out -- a lot of stuff
11 was left out of the 15-minute conversation that you all
12 had prior to you making the statement --

13 A Yes.

14 Q -- is that right? And was, also, stuff not left out
15 when she started what we call the Q and A on the back
16 because she would say something, but she didn't write
17 down everything that she said; is that right?

18 A Yes, sir.

19 Q Okay

20 MR. RUTHERFORD: No further questions?

21 THE COURT: Redirect?

22 RECROSS-EXAMINATION

23 BY MS. SAMPSON

24 Q Mr. Rutherford just asked you about the question and
25 answer process I've just got a couple of questions

1 for you. You were there to talk about the shooting;

2 correct?

3 A Yes, ma'am.

4 Q And you were there to talk about the shooting that just

5 occurred that day?

6 A Yes, ma'am

7 Q Okay. And that day when she asked you about the

8 shooting, you said you heard gunshots after you were in

9 the house?

10 A Yes, ma'am.

11 Q Okay. And at that time when she's asking you about the

12 shooting, you don't mention anything about seeing a

13 gun?

14 A No, I didn't.

15 MS. SAMPSON: No further questions, Your Honor.

16 THE COURT: Okay. Mr. Davis, you may step down.

17 You may call your next witness.

18 MR. RUTHERFORD: Thank you, Your Honor. I call

19 Antonio Bennett.

20 Your Honor, Antonio Bennett is another passenger

21 in the car. And I think at this point, I could probably not

22 use him -- just as a matter of time -- but I don't want to

23 keep bringing in people to say the same thing over and over

24 again, essentially. So I think at this point, we could call

25 Rosalyn Scott now and ask excuse Antonio Bennett.

1 THE COURT: Well, Mr. Rutherford, that's within
2 your discretion. I don't want to tell you how to present
3 your case. I'm happy to hear from as many witnesses as you
4 feel necessary to present your case

5 MR. RUTHERFORD: Beg the Court's indulgence.

6 MS. GARFIELD: Beg the Court's indulgence.

7 (pause).

8 MR. RUTHERFORD: Your Honor, can we approach?

9 THE COURT: Certainly.

10 (Whereupon, a bench conference was held
11 off the record.)

12 THE COURT: We'll be in recess until 2:45.

13 (Whereupon, a luncheon recess was held at
14 1:35 PM)

15 THE COURT. Defense ready to proceed?

16 MR. RUTHERFORD: Yes, ma'am

17 THE COURT: State?

18 MS. GARFIELD: Yes.

19 THE COURT: You may call your next witness.

20 MR. RUTHERFORD: The Defense calls Antonio
21 Bennett.

22 THEREUPON,

23 ANTONIO BENNETT,
24 after having been duly sworn, testified as follows

25 THE CLERK: Thank you. Please have seat in the

1 witness stand and state your full name for the record.

2 THE WITNESS: Sparcus Bennett.

3 THE COURT: Your witness.

4 DIRECT EXAMINATION

5 BY MR. RUTHERFORD:

6 Q Mr. Bennett, I called you Antonio; is that not correct?

7 A Yes, sir.

8 Q So is your name Antonio Sparcus or Sparcus --

9 A My middle name is Antonio, my first name is Sparcus.

10 Q So Sparcus Antonio Bennett?

11 A Yes, sir.

12 Q And your nickname is?

13 A I go by Antonio

14 Q Antonio?

15 A Oh, Tone? Yeah, they call me Tone.

16 Q Tone?

17 A Yes, sir.

18 Q Okay. Tone, are you related to Mr. Scott?

19 A No, sir.

20 Q Okay. Did you know him before April 18th, 2010?

21 A I believe so, yes, sir.

22 Q Okay. And can you tell us what happened on April 18th,
23 2010?

24 A Yes, sir. When I was leaving, I noticed --

25 Q When you are leaving where?

1 A Oh, the Kia House, the club. When I was leaving, I
2 noticed an altercation that was happening between two
3 girls. I wasn't familiar --

4 Q Who were the two girls?

5 A Shade and the other girl I'm not familiar with. I saw
6 the altercation. My brother -- he was trying to
7 comfort Shade at the time. I didn't know what was
8 going on. So the closer I got, I noticed a security
9 guard was trying to get us to get in the car and go
10 home. So at that time, we was all getting in the car
11 at the same time, rushing because the security guard
12 was impatient. So we left the Kia House, we noticed --
13 someone noticed in the car the other car was following
14 us. At that time, we -- I know they followed us. My
15 brother was trying to lose them. Came to a red light
16 and we stopped. That's when one of the girls from the
17 other car hopped out and approached our car we was in
18 with the gun, knocked on the window and now we know
19 they got a gun. So my brother took off and the girl
20 ran back to the car and got in the car and started
21 following us.

22 At that time, someone in the car made a phone call
23 to their parent, I'm not sure who it was, but a phone
24 call was made and we was given directions to go to the
25 house. When we got to the house, I was in the middle

- 1 in the back seat of the car. When we got to the house,
2 everybody was getting out the car and given directions
3 to go in the house and get down. When I was getting
4 out. I heard the first gunshot.
- 5 Q All right. Let me back you up a little bit. The first
6 time you saw the young lady that you don't know with a
7 gun was when?
- 8 A We had approached a red light, that's when the car came
9 to a complete stop.
- 10 Q And you said she come running up to the car?
- 11 A Yes, sir.
- 12 Q And you were seated where?
- 13 A In the back seat.
- 14 Q You were seated in the back seat. You were looking
15 back, is that how you saw her?
- 16 A Yes, sir.
- 17 Q Okay. And she ran up to the car and you saw the gun in
18 her hand?
- 19 A Yes, sir.
- 20 Q Okay. And so later on, you said you pulled up to, I
21 guess, Mr. Scott's house; is that right?
- 22 A Yes, sir.
- 23 Q And then what did you do?
- 24 A I was in the middle, so everybody was came on the right
25 side and left side. I was the last one to get out.

- 1 And when I was getting out, that's when I heard the
2 first gunshot.
- 3 Q Could you feel where the gunshot was coming from?
- 4 A It was like toward the front of the house. And we was
5 on the side and the back of the house.
- 6 Q And then what did you do?
- 7 A Got out, went in the house, got down in the kitchen
8 like everybody else.
- 9 Q How many gunshots do you think you heard?
- 10 A Three, roughly.
- 11 Q Now, from the time you left the club, were you ever
12 afraid?
- 13 A Oh, yes, sir.
- 14 Q When?
- 15 A When I saw the gun in her hand. At first, it was like
16 these girls following us. It was a joke at the time.
17 But when we saw the gun, we notice how serious it was.
18 That when I believe everybody was frightened.
- 19 Q And did that fear ever go away when you pulled up to
20 the house?
- 21 A Oh, no, sir.
- 22 Q Why is that?
- 23 A I mean, I felt like my life was in danger. She had a
24 gun. It was serious. Everybody was panicking.
25 Everybody was hyped up. Everybody was trying to get to

1 safety. And we were all --

2 Q It was girl. You were afraid of a girl?

3 A The gun. The gun, yes, sir.

4 Q And did you see them -- once y'all pulled into the
5 house, did you see where they went?

6 A Oh, no, sir. I was no longer focused on the girl. I
7 was focused on getting to safety. I was trying to get
8 where everybody was at and trying to get down.

9 Q Did you ever see Mr. Scott?

10 A Oh, no, sir.

11 Q Okay.

12 MR. RUTHERFORD: No further questions at this
13 time.

14 THE COURT: Any cross?

15 MS. SAMPSON: Yes, ma'am.

16 CROSS-EXAMINATION

17 BY MS. SAMPSON:

18 Q Mr. Bennett?

19 A Yes, ma'am.

20 Q Okay. Do you remember giving a statement to the
21 police?

22 A Yes, ma'am

23 Q And I'm going to ask you to look at something. And
24 take your time and look at it and tell me if you
25 recognize what that is.

1 A (Witness complies.) Okay.

2 Q Do you recognize that?

3 A Yes, ma'am.

4 Q What is this?

5 A My statement

6 Q Is that an accurate copy of the statement you gave on

7 April 18th?

8 A Yes, ma'am.

9 Q You gave that that says at 1856, that would be 6:56

10 p.m. Do you agree with me on that?

11 A Yes, ma'am.

12 Q All right. And you said that's a true and accurate

13 copy of what you gave?

14 A Yes, ma'am

15 MS. SAMPSON: At this time, I'd like to introduce

16 State's No. 5 into evidence, Your Honor.

17 THE COURT Any objection?

18 MR. RUTHERFORD: Without objection.

19 (State's Exhibit No. 5 was admitted into

20 evidence.)

21 BY MS. SAMPSON:

22 Q Now, at the time you gave the statement, you were

23 trying to tell them what happened; correct?

24 A Yes, ma'am.

25 Q And they were there asking you about a shooting?

- 1 A Yes, ma'am.
- 2 Q You were trying be truthful?
- 3 A Yes, ma'am.
- 4 Q Honest?
- 5 A Yes, ma'am.
- 6 Q Can you tell me in this statement where you ever saw a
7 girl with a gun?
- 8 A No, ma'am.
- 9 Q Is this you writing this out or is the officer writing
10 it for you?
- 11 A Me.
- 12 Q Okay. I'm going to direct you to page two, in fact,
13 you talk about the girls driving behind you; don't you?
14 On page two, you talk about a big girl, is that Teesha
15 Davis?
- 16 A Yes, ma'am. I didn't know her name.
- 17 Q You didn't know her name?
- 18 A No, ma'am.
- 19 Q And you talk about as you pull off, a four-door truck
20 follows you; right?
- 21 A Yes, ma'am.
- 22 Q At first, you try to lose them?
- 23 A Yes, ma'am.
- 24 Q And then that Ashley was on the phone with her mother?
25 That's in your statement (indicating).

1 (There was no response.)

2 Q Is that in there?

3 A Yes, ma'am.

4 Q You write that Ashley was on the phone with her mother;
5 correct?

6 A Yes, ma'am.

7 Q And you write that she told us to come to house;
8 correct?

9 A Yes, ma'am.

10 Q And you write, so we turned around and proceeded to the
11 house; correct?

12 A Yes, ma'am.

13 Q And she still continues to follow when we were -- then
14 you talk about how ride around to the house; correct?

15 A Yes, ma'am.

16 Q And there's nothing about stopping at the stop light,
17 is there?

18 A No, ma'am

19 Q And there's nothing about seeing a girl with a gun;
20 correct?

21 A Yes, ma'am.

22 Q And you allowed to make additions to this; weren't you?

23 A I don't recall that.

24 Q Were you allowed to make corrections?

25 A I don't recall.

1 Q So where you marked that out, the officer did that or
2 you did that? On page two where you have things marked
3 out, where you wrote and then marked them out, is that
4 you marking them out or the officer marking them out?

5 A Oh, that was while I was writing. After I finished
6 writing, I was never told I can go back and make.

7 Q But while you're writing it, you're allowed to make
8 whatever changes you want to?

9 A Yes, ma'am, while I was writing it.

10 Q And when you're done writing out your statement, he
11 asks you some questions; correct?

12 A Yes, ma'am.

13 Q And the officer writes down the questions in his
14 handwriting; correct?

15 A Yes, ma'am.

16 Q And then you write the answer or does he write the
17 answer?

18 A I wrote the answer.

19 Q Okay. And the question is, did you see anybody
20 shooting a gun and you write no?

21 A Yes, ma'am.

22 Q And did you see anyone shooting from the car that was
23 following you and you put no?

24 A Yes, ma'am.

25 Q Okay. And again, nothing in there about seeing the

1 other people in the other car having a gun, nothing in
2 your statement about that?

3 A No, ma'am.

4 Q Okay. And nothing about hearing gunshots before you go
5 in the house; is there?

6 A No, ma'am.

7 Q Okay. And I want to ask you to look at a diagram for
8 me.

9 THE COURT: Ms. Sampson, here's there -- I want to
10 give you those.

11 BY MS. SAMPSON:

12 Q You can get up for me, please. And I'm going to give
13 you a pointer. I'm going to ask you to come up with me
14 so the judge can see what we're looking at.

15 Is that better?

16 THE COURT. Yes, ma'am. Thank you.

17 BY MS. SAMPSON:

18 Q If you could, with this pointer do it like that for me.

19 Assuming that this right here (indicating) is
20 Mr. Scott's house, would you agree with me?

21 A Yes, ma'am.

22 Q Where do you guys pull up?

23 A Right here (indicating).

24 Q And I'm going to ask you to put a X right there for me.

25 MS. SAMPSON: And this is going to be State's

1 Exhibit No. 6 for the record?

2 THE COURT: Any objection, Mr. Rutherford?

3 MR. RUTHERFORD: No, Your Honor.

4 (State's Exhibit No. 6 was marked for
5 identification.)

6 BY MS SAMPSON:

7 Q If you'll put an X where you guys pulled up for me.

8 A (Witness complied.)

9 Q And where is the truck that was following you when you
10 pulled up right there?

11 A In front of the house.

12 Q Where? Put an X there for me.

13 A (Witness complied.)

14 Q So the truck pulls into the yard?

15 A No -- oh, the street's right here?

16 Q Yeah, that's the street.

17 A Oh.

18 Q Okay. So the truck is pulled in right in front of the
19 house when you guys pull in the back?

20 A Yes, ma'am.

21 Q And at that point, does the truck have its lights on or
22 off?

23 A I don't remember.

24 Q You don't remember. And did you see where it went, did
25 it just stop right there?

- 1 A Yes, ma'am.
- 2 Q It just stopped. And which way is it facing when it
3 stops?
- 4 A This way (indicating).
- 5 Q So the truck comes in as you pull in here and it's
6 facing this direction (indicating)?
- 7 A This is --
- 8 Q Beltline?
- 9 A -- Beltline?
- 10 Q That's correct.
- 11 A No, it should be facing.
- 12 Q So the truck -- you guys come in from this way;
13 correct?
- 14 A I don't remember.
- 15 Q You don't remember?
- 16 A I know there's two ways in. I just remember pulling in
17 --
- 18 Q Okay. So which way did you come from?
- 19 A I don't remember.
- 20 Q You don't remember Did you pull on this side of the
21 house or this side of house (indicating)?
- 22 A I just know we pulled in, the car was following us, so
23 it was facing -- as we turned in, it was facing
24 wherever we was coming from.
- 25 Q So whichever way you guys were coming from, it never

1 turned round?

2 A I don't remember.

3 Q You don't remember?

4 A (The witness shakes head.)

5 Q And so you park here and get out and go in the house?

6 A My bother parked, yes.

7 Q I'm sorry, your car got parked and you guys get out?

8 A Yes, ma'am.

9 Q And the truck is here?

10 A Yes, ma'am.

11 Q Okay.

12 MS. SAMPSON: Beg the Court's indulgence.

13 You can sit down

14 MR. RUTHERFORD: Your Honor, before he does, it's

15 not an objection, but does she need to clarify the X's? He

16 wrote one and I think she asked and he wrote another one.

17 For the record, just --

18 THE COURT. So that it's clear, sir, if would you

19 like to --

20 BY MS. SAMPSON:

21 Q Why don't you circle this so it will be different from

22 the other X. Can you circle where the car was -- the

23 truck was when you last saw it.

24 A (Witness complied.)

25 Q That will work, close enough. Thank you. I'm going to

1 make it darker because the pen's running out -- maybe

2 I'll just get another one. I just made it darker, so.

3 All right. And I just want to go back to one

4 other thing I forgot, when you were in the car and

5 Ashley was on the phone?

6 A Yes, ma'am.

7 Q Could you hear the conversation going on?

8 A No, ma'am.

9 Q Do you know who she was talking to?

10 A No, ma'am.

11 MS. SAMPSON: No further questions.

12 THE COURT: Thank you.

13 Any redirect?

14 MR. RUTHERFORD: Yes, ma'am.

15 REDIRECT EXAMINATION

16 BY MR RUTHERFORD:

17 Q When you were being questioned by the police, how long

18 did that interrogation last or the questioning last, I

19 should say?

20 A It took a while.

21 Q What's a while?

22 A It was an hour and two.

23 Q An hour or two?

24 A (The witness nodded head.)

25 Q Okay. And in that investigation, were you told why you

- 1 were being questioned?
- 2 A When I was writing my statement?
- 3 Q Uh-huh, or before that. Were you told while you were
- 4 talking to the police? Did you assume that you were
- 5 there because some people followed you all home from
- 6 the club or did you know why?
- 7 A Oh, I knew what.
- 8 Q So you knew that somebody had been shot?
- 9 A Yes, sir.
- 10 Q And so the focus of the investigation was on somebody
- 11 who had been shot; is that correct?
- 12 A Yes, sir.
- 13 Q It was not on a red light?
- 14 A No, sir.
- 15 Q He didn't go into detail about the girl at the club or
- 16 at the red light?
- 17 A No, sir.
- 18 Q And whether she had a gun at the red light or not was
- 19 not the focus of the investigation; is that correct?
- 20 A No, sir.
- 21 Q And your point in writing this statement was in trying
- 22 to assist law enforcement with what he was asking you
- 23 about; is this correct?
- 24 A Yes, sir.
- 25 Q So had he gone into more detail, would you have gone

1 into more detail about what happened at the red light?

2 A Absolutely, yes, sir.

3 Q Is it -- do you often write three-page statements?

4 A No, sir.

5 Q When was the last time you would say that you wrote
6 something that was three pages long? Do y'all write in
7 school now or do y'all type stuff on the computer?

8 A Type.

9 Q So you type it on the computer even in school?

10 A Yes, sir

11 Q So when somebody asked you to write something out in
12 your handwriting, is that -- does it create something
13 in your mind that you're just trying to get it done,
14 get it over with?

15 A Yes, sir.

16 Q So had you been given the opportunity to videotape or
17 audio tape it, there might have been more detail in
18 your statement?

19 A Yes, sir.

20 Q Okay.

21 MR. RUTHERFORD. No further questions, Your Honor.

22 RECROSS-EXAMINATION

23 BY MS SAMPSON:

24 Q You just said that you knew why you were there?

25 A Yes, ma'am.

1 Q Okay. You were there to answer questions about a
2 shooting?

3 A Yes, ma'am.

4 Q Correct? You didn't know who they were looking at for
5 doing the shooting; did you?

6 A (No response.)

7 Q You didn't know who the suspect was or anything like
8 that?

9 A No, ma'am.

10 Q You were telling them everything you knew about the
11 shooting?

12 A Say that again.

13 Q You were telling them everything you knew about the
14 shooting?

15 A Yes, ma'am.

16 Q And at that time, you didn't tell them about a girl
17 having a gun?

18 A No, ma'am.

19 Q You didn't tell them about hearing shots before you
20 went in the house?

21 A No, ma'am.

22 MS. SAMPSON: No further questions

23 THE COURT: Thank you. You may step down

24 Next witness.

25 MR. RUTHERFORD. At this time, the Defense calls

1 Rosalyn Scott.

2 THEREUPON,

3 ROSALYN SCOTT,

4 after having been duly sworn, testified as follows:

5 THE CLERK: Thank you. Please have a seat in the
6 witness stand. State your full name for the record.

7 THE WITNESS: Rosalyn Scott.

8 THE COURT: Your witness.

9 DIRECT EXAMINATION

10 BY MR. RUTHERFORD:

11 Q Can you spell your first name for us?

12 A R-O-S-A-L-Y-N.

13 Q Ms. Scott, how are you related to Shannon Scott?

14 A He's my husband.

15 Q And do you call him Shannon or do you call him Pocko?

16 A Both.

17 Q Okay. And Ms. Scott, going back to April 18th, 2010,
18 were you all married back then?

19 A No, we were engaged

20 Q Okay. Can you tell the Court what happened that night?

21 A Yes, sir

22 Q Go ahead.

23 A Okay. That night, I texted my daughter, Ashley, trying
24 to figure out why I haven't received a text from her
25 because I told them to be home at a certain time

1 because at that time, I spent the night at Pocko's
2 house. So when she didn't respond back to me, then I
3 got another text from her, like shortly after saying,
4 Mom, they're following us. So I'm texting her back.
5 I'm like, Who's following you? And she was like,
6 Teesha and them.

7 So I was like, Can you call me? Because at that
8 time, she didn't have any talk time, she just only had
9 texting. And she called me from, I think, from Shade's
10 cell phone and she was like, Mom, they're following us
11 They're following us. What do I do? I was like --

12 Q Let me back up. Where you are at this point?

13 A I was on [REDACTED] Avenue.

14 Q When you say on [REDACTED] Avenue, were you standing in the
15 road?

16 A No. I was inside, in the bed, actually.

17 Q Okay. You were asleep?

18 A I was asleep.

19 Q Okay. And so you woke up to text your daughter to see
20 where she was?

21 A Right.

22 Q Okay. And where was Shannon at that point?

23 A He was beside me.

24 Q Was he asleep or do you know?

25 A Yeah, he was

1 Q Okay. So you woke up to text your daughter to ask her
2 where she was?

3 A Right.

4 Q Okay. And how long would you say it was before she
5 responded?

6 A Between like, maybe, like, three to five minutes.

7 Q And you didn't call her because she didn't have talk
8 time?

9 A She didn't have talk time, no.

10 Q Okay. And of all the people that were out that night,
11 you texted your daughter?

12 A She was -- she's the oldest, she's my oldest child.
13 She was 18 at the time.

14 Q Okay. And so she -- that's the reason why you texted
15 her?

16 A Right.

17 Q Okay. And so she responds by saying what now?

18 A Mom, they're chasing us.

19 Q Okay. And did you know who they was?

20 A I had a feeling who they were because we've had
21 incidents with Teesha and a whole bunch of girls prior
22 to this happening.

23 Q And so then what did do you?

24 A When they called me from someone's cell phone, I think
25 she called me from Shade's phone. She called me from

- 1 Shade's phone, you could hear her in the background
2 yelling, Mom, mom, they're chasing us --
- 3 Q You could hear who in the background yelling?
- 4 A I can hear Ashley yelling and you can also hear Shade
5 yelling as well. She's Mom, mom, they're chasing me.
6 They're chasing me. They're chasing us. I was like,
7 Who's chasing you? She was like, Teesha and them. I
8 was like, Where are you? And she was like, We're
9 trying to go home. And I was like -- I thought, I was
10 like, oh, my God, if they go home, you know, it's going
11 to be bad because I'm not there.
- 12 Q Home where?
- 13 A Home on [REDACTED]. We was living on [REDACTED] Avenue at the
14 moment, at that time.
- 15 Q Can you spell that for me?
- 16 A [REDACTED]
- 17 Q And where is that in relation to [REDACTED]?
- 18 A That's off of [REDACTED].
- 19 Q Okay. So it's about how far in minutes?
- 20 A Maybe 15 minutes.
- 21 Q Okay And you were -- you said you were worried
22 because nobody was there?
- 23 A Yeah, no one was there like me. I wasn't home. And
24 when those girls came, they came in droves. You know,
25 it was so many of them. And I was afraid --

- 1 Q You said those girls, who are you --
- 2 A Teesha and her sister and whomever girls they could
- 3 round up to come with them to want to fight Shade.
- 4 Q They had come before?
- 5 A Oh, yes.
- 6 Q Okay. And when you say they came in droves, meaning
- 7 they?
- 8 A Oh, my God, it was just so many of them. You could
- 9 never keep a count. But it was always the main girls,
- 10 Teesha, Kadeshia, her sister, Kyasia. It was always
- 11 those main girls that was there, but they would always
- 12 like recruit other girls to come with them.
- 13 Q Okay. And when you say come with them, come with them
- 14 to your house?
- 15 A To our house, yes.
- 16 Q Okay. To do what?
- 17 A To fight Shade.
- 18 Q Okay. And on this -- this evening, she -- you're
- 19 hearing them in the car?
- 20 A Right
- 21 Q And they're saying they're following us?
- 22 A Right.
- 23 Q And that they were going to -- they were going home?
- 24 A Right.
- 25 Q And then you told them?

1 A I told them don't, don't go there.

2 Q Okay.

3 A And that's when I was, you know, nudging -- I was like,
4 Pocko, wake up, wake up. You know, those girls are
5 following them. I was like, you know, what can we do.
6 He was like, Let's let them come here. Just tell them
7 to come here. We'll take them home. We'll all go home
8 together. And so then Ashley was like, Mom, they got a
9 grown lady driving them, you know, it's a grown lady
10 driving them. And at this moment, I'm like, I'm fed up
11 with it. I'm like, you know what, I'm going to beat
12 her behind when she gets here. You know, this grown
13 lady driving the kids. You know, that's it. That's
14 enough.

15 So I got up, put on some clothes and was waiting
16 for the kids to come. And it just seemed like it took
17 them forever to get to us. And I'm trying to figure
18 out what's -- you know, what's taking them so long, you
19 know, why aren't they out there. So time had passed
20 by. I'm not exactly sure how much time passed by. So
21 at that time --

22 Q Why are you thinking that. Did do you know where Kia
23 House was?

24 A I know Kia House is on Two Notch Road.

25 Q Okay. And so in relation to your house, you just felt

1 like -- where you were, you felt like it was taking a
2 long time?

3 A Yeah, especially when you have your kids in the
4 background saying someone is chasing them and given the
5 situation you knew, you know, what had escalated in the
6 past with those girls, you just couldn't help but think
7 okay, you know, it's taking too long, something has
8 gone wrong, you know, something has happened, you know,
9 so.

10 Q Okay. And so you're dressed at this point, you're
11 waiting on them. And then?

12 A Yeah. And it just seemed like it took them forever to
13 come. So that's when Shannon and I went outside and
14 stood and the porch and was waiting. And all of a
15 sudden, you could hear tires like screeching. It
16 wasn't on the street, but you could just hear the
17 tires. It was just so loud. And I was like what is
18 that. Next thing I know Crackle's car was just coming
19 down the street. At this point, I couldn't really tell
20 you exactly which direction he was coming. All I know
21 it was coming so fast. And as he was coming, he was
22 trying to turn into the yard because Shannon was
23 telling like turn, just come in the yard, come in the
24 yard. And as he was turning in the yard, he was coming
25 so so fast and there was this other car like right

1 behind them on his tail as if this were towing them.
2 And he was coming in the yard so fast, I thought to God
3 that they were going to hit the tree or either lose
4 control and hit the house. That's just how fast he had
5 to go like around the house because Shannon didn't want
6 them to stay -- he was like, Go around, just go around,
7 just go around, like that.

8 Once that car noticed that they had turned off,
9 they went down the street. And when they went down the
10 street, they immediately made like a turn right by the
11 All State building. And when they made this turn by
12 the All State building, I saw another car do the same
13 exact turn. And I'm like, Oh, shit, you know, what is
14 this? What is this?

15 At that point, Shannon and I went back inside the
16 house trying to round up the kids to get them inside
17 the car. I'm going through the back door to where the
18 kitchen is, I heard a shot.

19 Q Let me back you up. If the truck or whatever it was
20 passed by the house and ended up at the end of that
21 road, at the end of [REDACTED] what street is that?

22 A Beltline.

23 Q And is that a main road?

24 A Yes, it is.

25 Q So if they had intended to keep going, they could have

1 turned right or left onto Beltline?

2 A Correct.

3 Q Even if they were lost, when they hit Beltline, they
4 would have --

5 A Known exactly where to go.

6 Q So when they turned around, how did that make you feel?

7 A My God, scared because I didn't know what was going to
8 happen. My initial thought was okay, let me get these
9 kids inside this house. Let me get them in here.
10 Because I don't know what's going to go down. And like
11 I said, as I ran back inside there to the back door to
12 go outside and get those kids inside the house, I heard
13 a shot. And I was like, Y'all, come on, come on, come
14 on. And as I was getting them inside, I heard Shannon
15 say, Call 911, call 911. And as I was trying to call
16 911, he, at that point, was back outside I heard him
17 say, Don't -- you know, don't do it, don't do it. And
18 I heard another shot. And at that time, I'm on the
19 phone calling 911 telling them to, you know, please,
20 get here, hurry up. They're shooting at us. I was
21 like, They're shooting at us. And I'm like trying to
22 run back and forth, back and forth, back and forth. I
23 couldn't really see exactly what was going on at that
24 point in time and stuff like that. All I know is that
25 Shannon was on that porch telling them don't do it,

1 don't do it And I was going back in there trying to
2 check on the kids telling them to stay down, stay down.
3 And that's it.

4 Q Okay.

5 MR. RUTHERFORD: Your Honor, this is the 911 tape.
6 It's marked 911, [REDACTED] that I'd to play at this
7 time.

8 THE COURT: Any objections?

9 MS. SAMPSON: Without objection.

10 THE COURT: Has it been marked as an exhibit?

11 MS. SAMPSON: It was stipulated to come in. So
12 it's State's 7.

13 (State's Exhibit No. 7 was admitted into
14 evidence.)

15 THE COURT: Mr. Rutherford, you want to take a
16 break with this witness until we can find another computer?

17 MR. RUTHERFORD: I think I need to ask her
18 questions about that.

19 THE COURT: I don't want to prevent you from doing
20 that. Just so we don't waste time, let's move on to the
21 next witness and we can come back to her when we can play
22 the tape.

23 MR. RUTHERFORD: Okay.

24 MS. SAMPSON: Sorry.

25 MR. RUTHERFORD: That's fine.

1 MS. SAMPSON: If you just give us two minutes. We
2 went to go get Ms. Garfield's.

3 THE COURT: That's fine.

4 (pause.)

5 (Whereupon, 911 CD was played for the court.)

6 BY MR. RUTHERFORD:

7 Q Now, that was you calling 911; is that right?

8 A Yes.

9 Q And in the background, you could hear someone telling
10 you where they were, who was that?

11 A That was Shannon.

12 Q And where was he at that point?

13 A In the living room.

14 Q What phone were you on?

15 A My cell phone.

16 Q Where were you standing?

17 A At the kitchen door.

18 Q At the kitchen door. Which -- if we're looking at the
19 house -- looking at Exhibit 1, if you're looking at the
20 house, where is the kitchen door?

21 A Oh --

22 Q Oh, I'm sorry, this is the house right here
23 (indicating).

24 A Inside -- the kitchen is off to the back, but the
25 living room sits -- when you walk in, there's the

- 1 living room and --
- 2 Q As you walk in, that would be the front door of --
- 3 A Right, it would be the front door So when I'm
- 4 walking, I'm at the back right at the kitchen, right at
- 5 the door at the time kitchen, so in between the living
- 6 room and the kitchen. So I'm right there.
- 7 Q Okay. And where is Shannon?
- 8 A He's inside the living room like looking out the
- 9 window.
- 10 Q Okay. So he's inside the living room --
- 11 A He's inside --
- 12 Q I'm sorry?
- 13 A Yes, sir.
- 14 Q And he's telling you where they are?
- 15 A Right.
- 16 Q And before you -- what made you call 911?
- 17 A Hearing the gunshots.
- 18 Q That scared you?
- 19 A Heck, yeah. I thought we were going to die.
- 20 Q Okay. And so once you heard the gunshots, that's when
- 21 you called 911?
- 22 A Yes.
- 23 Q And where was Shannon, do you remember, when you heard
- 24 the gunshot?
- 25 A When I heard the gunshot, he was inside the house.

1 Q And then what happened?

2 A Oh, my God, it just -- it just seemed to surreal. He
3 went past me, came back out and that's when I heard him
4 say don't move, you know, don't move. And that's when
5 I heard the other shot, you know, as if he sent off a
6 warning shot or something like that, but that's when I
7 heard and it was just -- it was just so surreal.

8 Q Okay. And so after he went outside, you heard another
9 shot. What else do you remember?

10 A Just making sure that those kids were down and making
11 sure that they were safe.

12 Q When you say making sure the kids were down, where were
13 the kids?

14 A Oh, they were inside the kitchen under the table, all
15 up against the back door

16 Q So how many kids were in the house?

17 A It was like seven of them.

18 Q Okay. And who else was in the house with you?

19 A It was Geezy and Shantay.

20 Q Okay. So altogether, there were between eight and ten
21 people in the house; is this right?

22 A Yes, sir.

23 Q And Geezie is who?

24 A Shannon's roommate, Lenny.

25 Q Okay. And do you know where Geeze and his girlfriend

1 were?

2 A When it all happened, they were in their bed.

3 Q Okay.

4 A They were in the bed.

5 Q Okay.

6 A And I can only remember them coming into the kitchen
7 like once the fire -- the shots were fired or once like
8 Shannon went back there and woke them up or what have
9 you, but all I know is that they were all in that
10 kitchen area as well.

11 Q Okay. And so once Shannon went outside and you heard
12 another gunshot, can you tell us what happened next?

13 A I just remember just hearing the shots. And I don't
14 know, everything just seemed like it happened just so
15 so fast. And when he came back on the inside, he was
16 asking was everyone okay. And it seemed like a
17 lifetime had passed. And an officer came on the scene
18 We spoke to an officer, let them know what went on and
19 everything like that. And once we told them what went
20 on, we like high tailed it out of there because we
21 didn't know if anybody was coming back or not, you
22 know, because like I said, we didn't know who was who.

23 Q So why did you leave the house?

24 A Why did we leave?

25 Q Right.

1 A Because we didn't want to be sitting ducks for anyone
2 to come back.

3 Q When you say for anyone to come back, who are you
4 talking about?

5 A Like Teesha and them. We never know because, like I
6 said, when they come to my home and wanted to fight
7 they girls, they came with so many people, you never
8 knew.

9 Q You talking about on this occasion or on another
10 occasion?

11 A On the other occasion. But as well, like I said, when
12 they went down that street and made that turn at that
13 All State, there was another car behind them that did
14 the exact same thing. And I didn't know if they were
15 together or not

16 Q Okay. And when the officer came -- you said you spoke
17 to a police office?

18 A I spoke to a uniform cop.

19 Q And what did he do?

20 A He asked us --

21 Q Was it a male or a female?

22 A It was a white male.

23 Q Okay.

24 A I didn't get a name or anything like that because it
25 was -- everything was so just so fast and we were

1 telling him what went on and trying to tell them what
2 way we think that they possibly would have went in and
3 stuff like that. And we told them that we wasn't going
4 to be there when they came back, that we were leaving.

5 Q Okay. And what did he do?

6 A He got back inside his car and he pursued -- you know,
7 he went off, he went on.

8 Q He went in the direction that you all told him that the
9 car had gone?

10 A Yes.

11 Q So that left you all there with no police protection?

12 A No police protection at all, not knowing if any one was
13 going to come back. We let the kids get back in --
14 because all of us couldn't fit in the one car that I
15 had, so they all got back in and that's when we decided
16 we were going over to my home on [REDACTED] Avenue.

17 Q And can you tell us when it was that throughout this
18 evening when you got scared?

19 A I think I initially got scared when I saw them turn
20 around. And it was like, okay, what is this? Is this
21 a drive-by or something?

22 Q And you were in fear that someone was going to shoot up
23 the house?

24 A Exactly.

25 MR. RUTHERFORD: No further questions at this

1 time, Your Honor

2 THE COURT. Any cross-examination?

3 MS. SAMPSON: Yes, ma'am.

4 (State's Exhibit No 8 was marked for

5 identification.)

6 CROSS-EXAMINATION

7 BY MS. SAMPSON:

8 Q Ms. Fuller, I want to ask you -- I'm sorry, Ms. S

9 I'm going to ask you to look at State's Exhibit 8, do

10 you recognize that?

11 A Yes, ma'am.

12 Q What is it?

13 A It's the statement that I gave to the police detectives

14 the next day

15 Q Is that your handwriting or their handwriting?

16 A This is my handwriting

17 Q Okay. And I want to ask you one other question.

18 Today, you mentioned that you -- at that time, you

19 lived on ?

20 A I did

21 Q Is that within the City Limits of Columbia or is that

22 in the County?

23 A It's in the City.

24 Q Now, today, you mentioned a second car?

25 A Yes.

- 1 Q Is that anywhere in your statement that there's a
2 second car?
- 3 A It's not in my statement.
- 4 Q Okay. And you talked about the truck went down to the
5 All State, turned around. What kind of car was that?
- 6 A It was an Expedition. It was an SUV.
- 7 Q What color?
- 8 A I don't -- I can't remember the color right now.
- 9 Q What about the second car?
- 10 A Like I said, I can't remember the second car color.
11 All I know is I saw the headlights that turned, when
12 they turned.
- 13 Q Was it a car, an SUV?
- 14 A It was a car.
- 15 Q Okay. And you say it did the exact same thing?
- 16 A Yes.
- 17 Q Did it come back up the street?
- 18 A As far as I know of, it did.
- 19 Q As far as you know, did you not look?
- 20 A Once they did that, I ran. It was like haul tail.
- 21 Q So you didn't see anything once they turned around?
- 22 A Once they turned around, no, ma'am, I did not see.
- 23 Q Okay. I'm going to ask you to step down for me,
24 please.
- 25 MS. SAMPSON: And ask is this close enough?

1 THE COURT Come a little bit closer. Thank you.

2 BY MS. SAMPSON.

3 Q All right. I'm going to ask you to use this. Assuming
4 this is the house you lived on [REDACTED]?

5 A Uh-huh.

6 Q Okay.

7 A Uh-huh.

8 Q Where did the kids -- which way did they come from?

9 This is the front of the house and this is the back of
10 the house.

11 A Oh, this is the front of the house.

12 Q Yeah, this is [REDACTED] Avenue?

13 A They come from the opposite direction from -- yeah,
14 they came from the opposite direction. So they wasn't
15 coming from Beltline

16 Q This is Beltline.

17 A Oh, well, they came from the opposite way. Because
18 they didn't come from Beltline. They come the opposite
19 direction.

20 Q Okay. And they came and they pulled in to the back?

21 A Yes, they -- I mean, he -- Crackle was driving so fast,
22 like I said, he came -- when he came in, there's a tree
23 that's like on the side of Shannon's house and
24 everything like that, he almost hit that tree he was
25 coming so fast

1 Q Okay. And this right here (indicating), is this the
2 All State that you're talking about?

3 A Yes, ma'am.

4 Q Show me -- using this red marker, can you put an X
5 where you saw the car turn and turn its headlights off?

6 A When they turned, they, you know, turned into the
7 parking lot, to the driveway. There's a side entrance
8 on that side. So they turned into it, turned back
9 around, pulled out and came behind.

10 Q Okay Now, on the 911 tape, you said they were parked
11 in the All State office?

12 A Yes.

13 Q So they were parked where?

14 A When they were parked --

15 Q Can you put an X where they were? Can you put an X
16 with the red marker, please?

17 MS. SAMPSON: This is on State's Exhibit No. 6

18 BY MS. SAMPSON:

19 Q That's where they were parked?

20 A Yes, ma'am.

21 Q That's where they were when you called 911?

22 A When I called 911, they had positioned themselves in
23 the street. They had already came out --

24 Q Where?

25 A -- into the street

1 Q Put an X where they were, please.

2 A (Witness complied.)

3 Q So that's where they were?

4 A Yes, ma'am.

5 Q When you hear the shot, that's where they are?

6 A Yes, ma'am.

7 Q Okay. Thank you.

8 MS. SAMPSON: No further questions, Your Honor.

9 THE COURT: Any redirect?

10 MR. RUTHERFORD: Nothing, Your Honor.

11 THE COURT: You may step down, Ms Scott. Thank
12 you.

13 Call your next witness.

14 MR RUTHERFORD: Your Honor, at this time, the

15 Defense calls Shannon Scott

16 THEREUPON,

17 SHANNON SCOTT,

18 after having been duly sworn, testified as follows:

19 THE CLERK: Have a seat in the witness stand and
20 state your full name for the record.

21 THE WITNESS: Shannon Scott.

22 THE COURT: Your witness.

23 MR. RUTHERFORD: Thank you, Your Honor. May it
24 please the Court.

25 DIRECT EXAMINATION

1 BY MR. RUTHERFORD:

2 Q Mr. Scott, how old are you?

3 A Thirty-six

4 Q Where do you work?

5 A I work two jobs. I work at Jiffy Lube and a gas
6 station.

7 Q How many days a week do you work?

8 A Seven days a week.

9 Q How many children do you have?

10 A Eleven

11 Q You have 11 children?

12 A Yes, sir, including all -- including my newborn, yes,
13 sir.

14 Q And do you remember the night of April 18th, 2010?

15 A Yes, sir.

16 Q Can you start us off with what you remember?

17 A Starting off, it was a night -- it was nightmare.

18 Something I can't get out of my head. My children -- I
19 got a call from my children.

20 Q You said you got a call, did they call you?

21 A My wife was in the bed -- my wife and I were in the bed
22 and she was, Shannon, where's the kids at? They
23 haven't called us yet. We haven't heard from them yet.
24 She started texting our children -- or Ashley. And
25 that's when we got the phone call from Shade a little

1 bit after saying somebody's chasing us. And they were
2 going to go to [REDACTED] Avenue where Ms. Rosalyn was her
3 house at that time. I also had the house on [REDACTED]
4 Avenue. We weren't married at the time, so we weren't
5 living together, but we were staying together back and
6 phot. So since no one was home at [REDACTED] Avenue, we
7 told them to come to [REDACTED] Avenue.

8 Q Okay. And then what happened?

9 A When they were coming to [REDACTED] Avenue -- I seen -- I
10 heard --

11 Q Well, let me stop you there.

12 A Okay.

13 Q Did you ever get on the phone with any one in the car?

14 A No, sir. My wife was on the phone with somebody.

15 Q What was she telling them?

16 A She was getting hysterical because she was telling me
17 that the girls are messing with our girls again.

18 Q Did you know what girls she was talking about?

19 A I have never personally met these girls, but they would
20 also come and ride around the house and scream and make
21 threats and provoke my daughter, just harassing.

22 Q So she tells you that the girls are chasing our girls?

23 A Yes, sir.

24 Q And what else did she tell you?

25 A She told them just to come on to [REDACTED] Avenue because

1 that's where we were at. And that's where they were
2 starting to come. So after they was coming to the
3 house -- or as they were coming to the house, I just
4 heard tires screeching --

5 Q Where are you at this point?

6 A I'm in the living room waiting on them.

7 Q Okay.

8 A I hear tires screeching. I hear engines revving up,
9 similar to Dukes of Hazard, like a race, like cars
10 racing, but I couldn't see anything. That's when I
11 opened the door. And that must have been when they was
12 on the wrong street stuck in a cul-de-sac, a dead-end
13 where they got trapped at. And that must be where they
14 was trying to get out of that circle away from --

15 Q You say that because you could hear them --

16 A I could hear, but I couldn't see. That was just the
17 next street over. That dead-end that they were trapped
18 on was the next street over. So they got off that
19 street and came around onto the correct street, [REDACTED]
20 Avenue. As they were coming down the street, it was
21 like a race. Like I said, it was just two cars top
22 speed, bumper to bumper almost. I was in the front
23 yard, but they were -- I was at the front door saying
24 go around back because they were being chased, pointing
25 around back, but being that they were hysterical, I

1 guess nobody saw me or paid any attention to me and
2 they went on to the side of the house.

3 Q Now, you say you were at the front door?

4 A Yes, sir.

5 Q What was in the yard?

6 A My vehicle.

7 Q So there was a car in the yard?

8 A My vehicle was, yes, sir.

9 Q In front of the door?

10 A Yes, sir.

11 Q Okay. So they would have had to swing around the
12 vehicle and the house in order to get to the backyard;
13 is that --

14 A Yes, sir.

15 Q Okay. And so they pull up and they -- you see them
16 swing to the backyard. What do you do?

17 A While they're going into the backyard, I see the truck
18 coming down and some more headlights behind it. I go
19 into the kitchen, which is in the back of the house, to
20 see -- to open the back door to tell them to come on in
21 the back door. I hear a pow. My wife is trying to get
22 the kids in the house, but it's a pow during that
23 what's going on. So there -- they're kind of
24 stuttering. I hear them hollering. Everybody is
25 hysterical. They come on in the house. And while they

1 come in the house —

2 Q And I'm sorry. When you say they're hysterical, you
3 mean they're laughing, it's funny to them?

4 A No, sir, they were screaming. They were scared. They
5 were so scared, it was odd to me because I never seen
6 all of them together and scared. They were scared.
7 And my daughter was just dad, daddy, dad, dad, just
8 screaming. And at that time of night, the neighborhood
9 is quite, so it's very loud. That's probably why the
10 tires were very loud and the motors I could hear very
11 clearly.

12 Q Okay. So you hear the gunshot, you're at the door,
13 then what do you do?

14 A I went into my roommate's room, and I know where he
15 kept his handgun. And he was asleep. I grabbed it
16 from out of his — the side of his bed. He has a
17 dresser or whatever.

18 Q His door was opened?

19 A No, his door was closed and I just went in there
20 without his permission and grabbed it and ran outside
21 toward the front door.

22 Q So as you're running to the front door?

23 A My wife is on the phone with 911.

24 Q Why did she call 911?

25 A She was — she called 911 because she heard that shot

- 1 being fired.
- 2 Q And as she's calling 911, you can hear you on the tape
- 3 yelling to her. Where were you at that time?
- 4 A I was toward the front door and she was toward the back
- 5 door trying to help the kids come in while I was
- 6 trying -- kind of looking out the window watching the
- 7 vehicles out front.
- 8 Q Okay. And you then go outside?
- 9 A Not all the way. I'm just right there at my step, yes,
- 10 sir.
- 11 Q Okay. Then what happened?
- 12 A The SUV went down, it turned around at All State.
- 13 There was another car that was behind it. I seen the
- 14 headlights. The SUV came back up. As it came back up,
- 15 it cut the headlights off and it was proceeding to come
- 16 my way, maybe 3-miles per hour, very slow and I let off
- 17 a warning shot, straight in the air Kind of like a
- 18 farmer would do if trespassers came on their property.
- 19 You know, just a warning shot straight in the air
- 20 Q Did you say anything?
- 21 A Yes, don't come any farther because they were going to
- 22 either come in the yard, to the back of the yard to
- 23 where the children had parked at or they was going to
- 24 come in the front yard or park and try to fight or
- 25 something. I just didn't want them to come any closer.

1 Q And at this point, your attention is where, what are you
2 looking at?

3 A I'm looking at two vehicles in front of my home, which
4 was a Honda Accord and a gray Expedition or silver.

5 Q Now, who else is in the front yard with you?

6 A In the front yard, my wife was back and forth, but not,
7 actually, in the yard because for safety, I wouldn't --

8 Q I'm sorry, I said yard. You said you were on the, I
9 guess, the stoop, would that be --

10 A Yes, sir, just like maybe a step away from the front
11 door, out the front door.

12 Q Okay.

13 A Yes, sir.

14 Q All right. So you're standing there and you fire a
15 warning shot?

16 A Yes, sir.

17 Q What happens next?

18 A After I fire the warning shot, the car proceeded to
19 come closer and I heard another shot. I ducked down
20 over the front hood of my vehicle that was parked up
21 front all the way to the porch. And as I was ducking
22 down and going back into the house at the same time, I
23 shot back again. I shot and went back into the house.

24 Q How many shots do you think you --

25 A Two, possibly three.

- 1 Q Okay. When you say two, possibly three, I mean, you
2 were shooting a gun, why is it that you don't remember
3 exactly how many times you fired?
- 4 A Probably because I was trying to forget that night, but
5 I just can't and I don't want to -- I don't want to
6 lie I know I shot maybe twice, possibly three.
- 7 Q Okay. And you say you were ducking down behind the car
8 and running back in the house?
- 9 A Yes, sir.
- 10 Q Why were you going back in if you were trying to shoot
11 somebody?
- 12 A Because someone was shooting at me.
- 13 Q Okay. And where was your family at this point?
- 14 A In the kitchen on the floor. All my children were on
15 the floor laying down scared.
- 16 Q And so they were laying on the floor because they
17 always do that?
- 18 A No, sir, they don't never do that. The look of them
19 reminds of you how kids would be in an elementary
20 school kind of like in a tornado drill, just side by
21 side, you know, ducked down, tucked.
- 22 Q And so after you fired a warning shot, did you notice
23 the cars moving?
- 24 A Yes, sir, they continued to move slowly. They,
25 actually, stopped in front of the house. They were

1 posted up before --

2 Q When you say they?

3 A Yes, sir.

4 Q What are you seeing and when do you see this?

5 A I see two vehicles stopped in front of my house not
6 going anywhere, posted up, just standing still. And I
7 see some arms out of a gray truck, SUV. How many arms,
8 I can say. Kind of like hanging out the window.

9 Q And let me take you back to the second car that you've
10 talked about. If you could just focus on that car,
11 what did it do? From the time you saw it until the
12 time you didn't see it, what did it do?

13 A The red Honda Accord?

14 Q Yes, sir

15 A It was behind the gray truck.

16 Q When is this?

17 A When the gray truck was coming down.

18 Q Uh-huh.

19 A The Honda Accord was not on its tail like the gray
20 truck was on my children's tail, but it was right
21 behind it. They stopped in front of the house. As the
22 gray truck was turning around and I went back into the
23 house, they must have turned around somewhere in front
24 of my house in the driveway because by the time I came
25 back out, the gray truck was facing the opposite

1 direction as it originally came and the Honda Accord
2 was facing a different direction as it originally came.
3 But they weren't going anywhere. They were just in
4 front of the house.

5 Q Okay. And is that the last you remember about the
6 Honda Accord? Did it do anything else in front of the
7 house?

8 A No, sir.

9 Q Okay. And so as you fired your gun to defend yourself,
10 not the warning shot, but the shot to defend yourself
11 --

12 A Yes, sir.

13 Q -- do you remember where you were aiming?

14 A No, sir, not directly, no, sir.

15 Q Okay. Did -- now, you didn't go to Kia House that
16 night; did you?

17 A No, sir.

18 Q You never met Teesha before; had you?

19 A Only what I hear. Never met her personally, never seen
20 her before, only what I hear about what happens to my
21 children every time they bump into my children.

22 Q But you wouldn't know her if she was standing in front
23 of you back on April 18th; is that correct?

24 A I wouldn't know her if she was in this courtroom right
25 now, sir.

1 Q And you did not wake up on April 18th intending to kill
2 any one; did you?

3 A No, sir.

4 Q You -- when you fired the second shot, not the warning
5 shot, you didn't intend on killing Teesha or shooting
6 Teesha?

7 A No, sir. I never intended on hurting or killing
8 anybody, just only in defending myself and my children
9 for our lives, that's it.

10 Q Did you feel like your life was in jeopardy?

11 A Definitely, yes, sir.

12 Q Did you feel like your children's life was in jeopardy?

13 A Definitely, it was. If they had went to [REDACTED] Avenue
14 where nobody was and went to the driveway, they would
15 have got mostly likely shot up.

16 Q And you believe that?

17 A Yes, sir, definitely

18 Q Do you believe that had you not had a gun, had you not
19 gone to get your roommate's gun, do you believe that
20 they would have shot up the house that night?

21 A Definitely.

22 Q Do you believe --

23 A They were -- they were maybe one second away from doing
24 that And the only thing that stopped them was me
25 being out front.

1 Q And you don't know who was in -- you did not know who
2 was in any one of those cars when you started shooting;
3 did you?

4 A No, sir, I did not.

5 Q After you fired the second or third shot and you came
6 back in the house, what happened?

7 A I came back in the house. We already called 911. We
8 were waiting on the officer. I assured that everybody
9 was all right. I checked on the children. Everybody
10 was okay, just very scared. And we -- it was about a
11 couple of minutes before the officer arrived. The
12 officer arrived, my wife and I went outside and talked
13 to the officer. We were scared that somebody was going
14 to come back after the officer left, we left that home

15 Q We who, who left?

16 A Everyone that was in that house that night left,
17 including my roommate. He went to his mother's house
18 because he didn't feel safe.

19 Q Now, when you say the left the home, that's your house?

20 A Uh-huh.

21 Q Why didn't you just stay and get more guns or call
22 other people over there and get more guns and be ready
23 for them when they came back?

24 A Well, I don't have any guns and I don't have any more
25 people. I have friends and a brother, but no one owns

1 guns. So we were just in fear for our lives and best
2 thing that I could think of to keep my children out of
3 harm's way was to just leave that address right there
4 at that time.

5 MR. RUTHERFORD: No further questions at this
6 time, Your Honor.

7 THE COURT. Cross-examination?

8 MS. SAMPSON: Yes, Your Honor. Beg the Court's
9 indulgence.

10 CROSS-EXAMINATION

11 BY MS. SAMPSON:

12 Q Mr. Scott?

13 A Yes, ma'am.

14 Q When this all started, when your wife starts texting
15 your daughters --

16 A Yes, ma'am.

17 Q Her daughter and your daughter --

18 A Yes, ma'am.

19 Q You don't talk to your either your daughter or her
20 daughter directly; correct?

21 A Not directly, indirectly.

22 Q Everything came through Ms. Scott, your wife?

23 A Yes, ma'am. I was right with her at the time.

24 Q And you were never told that anybody in the truck had a
25 gun, correct?

- 1 A Not at that moment that I can remember.
- 2 Q So when they're calling telling you someone's following
3 us, nobody said someone with a gun is following us?
- 4 A I believe so.
- 5 Q They did?
- 6 A I believe so, but I'm not positive.
- 7 Q You're not positive. You didn't just tell us that when
8 Mr. Rutherford was asking questions?
- 9 A Tell you what?
- 10 Q That somebody said there was a gun involved when you
11 were on the phone with them?
- 12 A No, ma'am. I didn't tell him that.
- 13 Q And you stated on direct that you hear them before you
14 see them?
- 15 A Yes, ma'am.
- 16 Q Okay Did you guys call 911 and let them know your
17 daughters were being followed?
- 18 A No, ma'am. We called 911 after the shots were fired.
- 19 Q After, all right. When they pull up, y'all don't call
20 911 at that time, do you, when they first pull up?
- 21 A When they first pull up?
- 22 Q Correct.
- 23 A Well, when they first pull up, shots were fired not too
24 long after.
- 25 Q But when the first pull up -- the answer to my question

- 1 is no, when they first pull up, you don't call 191?
- 2 A No, ma'am.
- 3 Q Okay And you stated just now that from the -- the
- 4 whole time you saw two cars?
- 5 A The whole time, there was an SUV up front and I seen
- 6 headlights in the back. I couldn't tell what kind of
- 7 car it was.
- 8 Q Okay. But you gave us a description of a second car?
- 9 A Yes, ma'am.
- 10 Q So there were two cars the whole time?
- 11 A The whole time that I was at home, yes.
- 12 Q Okay. And we heard the 911 call, your wife only talks
- 13 about one car; correct?
- 14 A In the 911 call?
- 15 Q Uh-huh.
- 16 A I believe so.
- 17 Q And you only -- when you're talking and we could hear
- 18 you in the background, you're only talking about the
- 19 one car; correct?
- 20 A Yes, ma'am.
- 21 Q Okay. And that one car -- I'm going to ask you to step
- 22 down.
- 23 A (Witness complied.)
- 24 Q I'll give you this and you push the red button.
- 25 A Yes, ma'am.

- 1 Q This is your home, correct, where the X's are?
- 2 A Yes, ma'am.
- 3 Q I want you to mark with this pen -- or if you can tell
- 4 me, if the red marks that your wife put here, is that
- 5 where the cars were?
- 6 A They came from this direction and went down to the X.
- 7 Q And where the X is, that would be where the truck was?
- 8 A Where the truck turned around at, yes, ma'am.
- 9 Q Okay. And when you hear the first shot, where's the
- 10 truck?
- 11 A The trucks are parked -- it came up a little bit.
- 12 Q So I want you to put with this green marker where you
- 13 saw the truck when you hear the first shot?
- 14 A It came up from All State, so maybe right there
- 15 (indicating).
- 16 Q Where is the car?
- 17 A The car is coming down -- the car must have made the
- 18 U-turn from -- between here (indicating) and down here,
- 19 it had to make a turn around somewhere.
- 20 Q Okay. My question is where is it when you hear the
- 21 first shot?
- 22 A When I hear the first shot?
- 23 Q Yes.
- 24 A The first car is coming down
- 25 Q Is it in front of your house? Is it here (indicating)?

- 1 Is it over by [REDACTED] where is it?
- 2 A More closer to [REDACTED]
- 3 Q When you hear the first shot, the car is over here
- 4 (indicating)?
- 5 A Yes, ma'am.
- 6 Q Which direction is it pointing in?
- 7 A The car is pointing in -- going back
- 8 Q Going become towards Two Notch?
- 9 A Yes, ma'am.
- 10 Q And the truck is back here (indicating)?
- 11 A The truck was --
- 12 Q Or coming this way?
- 13 A In front of the house.
- 14 Q When you hear the first shot?
- 15 A When I hear the first shot, the truck was coming up
- 16 toward the house.
- 17 Q And the car is over here (indicating)?
- 18 A The car was in front of the house.
- 19 Q Okay. But the truck is still back here?
- 20 A Yes, ma'am.
- 21 Q Okay. And when you fire the warning shot, where is the
- 22 truck?
- 23 A When I fired the warning shot, the truck was almost to
- 24 the house (indicating), somewhere up in here.
- 25 Q Where's the car?

- 1 A The car was about in front of the house.
- 2 Q So it's still headed the other way?
- 3 A It wasn't moving. It was posted.
- 4 Q It was just sitting there?
- 5 A Yes, ma'am, stopped.
- 6 Q And your car -- is your car where that X is?
- 7 A Yes, ma'am.
- 8 Q Okay. You can go take your seat.
- 9 A Thank you.
- 10 Q And you said -- I understand there was a bunch of chaos
- 11 going on. Your wife calls 911; right?
- 12 A Yes, ma'am.
- 13 Q And you guys stay until the police officer shows up?
- 14 A Yes, ma'am.
- 15 Q What do you tell the police officer?
- 16 A That some -- a vehicle was shooting at the house and I
- 17 gave a description of what I saw.
- 18 Q Did you tell them you shot at the vehicles?
- 19 A At the time, no.
- 20 Q Did you tell them that you shot a warning shot up in
- 21 the air?
- 22 A No, ma'am, I did not tell them that.
- 23 Q And when the police come back and start looking at
- 24 the -- because there's a dead body in a car sitting in
- 25 the neighbor's yard; correct?

- 1 A Correct.
- 2 Q When they come back to ask you about that, did you tell
3 them then that you shot in the air?
- 4 A They did not come back --
- 5 Q You were gone at that point; weren't you?
- 6 A I was gone, yes, ma'am.
- 7 Q When did you go tell police that you shot in
8 self-defense?
- 9 A Couple days later, I went to my church --
- 10 Q Uh-huh.
- 11 A -- and ask me pastor if he could call Richland County.
- 12 Q Uh-huh.
- 13 A And turn myself in.
- 14 Q So you didn't tell them the day it happened when they
15 were there standing in front of you?
- 16 A No, ma'am.
- 17 Q And you don't go the next day when your wife goes and
18 makes a statement, you don't go with her and tell them;
19 do you?
- 20 A No, ma'am.
- 21 Q And when your daughters go and talk to the police, you
22 don't go and tell them then; do you?
- 23 A No, ma'am.
- 24 Q Okay. And you stated that you just ran in your
25 roommate's room and grabbed a gun?

- 1 A Yes, ma'am.
- 2 Q Did you tell him to get down?
- 3 A Tell him to get down?
- 4 Q Uh-huh
- 5 A I don't believe I told him -- I said they're shooting,
6 man. He -- when I walked -- busted up in his room, he
7 was like what's going on? What's happening? I was
8 like, they're shooting man and I grabbed his gun.
- 9 Q So y'all had a situation when you go in his room?
- 10 A Not really a conversation. It was --
- 11 Q But you talk to him?
- 12 A It was maybe a split second.
- 13 Q You say something to him?
- 14 A Yes, I think I did say something to him like, they're
15 shooting. I didn't tell him I was grabbing his gun,
16 but I just busted in his room and grabbed his gun and
17 it happened real fast.
- 18 Q And you're sure you told him they were shooting when
19 you go in his room?
- 20 A Well, he knew for himself because he heard the shots in
21 front of his window.
- 22 Q Oh, he heard the shots. Did he tell you he heard
23 shots?
- 24 A No, ma'am.
- 25 Q Okay. What about his girlfriend, did she say oh, I

1 heard shots?

2 A To me, it was — she couldn't tell me that that fast.

3 I mean, I just ran into the room.

4 Q Okay.

5 A It wasn't like a sit-down conversation.

6 Q I mean, they didn't say anything to you went you came

7 into the room about hearing shots?

8 A No, ma'am.

9 Q Okay.

10 MS. SAMPSON: Beg the Court's indulgence.

11 Q When you leave, do you see the car when y'all all

12 finally leave?

13 A When we left the house, I seen the car on the side of

14 the road, but we flew out the driveway. And somebody

15 in my vehicle, might have been my wife, I think I heard

16 somebody say is there somebody in there? I did not

17 see —

18 Q Where was the car? Was it in somebody's yard, on the

19 street, do you remember?

20 A Partially in some -- I think it was partially in

21 somebody's yard and partially in the street, but cars

22 park on the side of that road, so it looked kind of

23 normal, so I wasn't sure.

24 Q And did you know that that was the same car you had

25 just seen or?

1 A I kind of flew out of my house like a bat out of hell
2 and I didn't pay that car any attention.

3 Q Even when the police officer was standing there with
4 you?

5 A When the police officer was standing with me, we didn't
6 even notice the car there.

7 Q Okay.

8 A Yeah.

9 MS. SAMPSON: Beg the Court's indulgence.
10 (pause).

11 MS. SAMPSON: No further questions, Your Honor.

12 THE COURT: Redirect?

13 MR. RUTHERFORD: Nothing, Your Honor.

14 THE COURT: All right. Sir, you may step down.

15 THE WITNESS. Thank you, Your Honor.

16 THE COURT: You may call your next witness.

17 MR. RUTHERFORD: Your Honor, beg the Court's
18 indulgence. Your Honor, at this time, the Defense rest.

19 THE COURT: All right. Would the parties like to
20 approach?

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

23 THE COURT: So we will be in recess until 10:00
24 tomorrow morning.

25 (The proceedings were concluded for August

1 12, 2013.)

2 (The following proceedings were held on
3 August 13, 2013.)

4 THE COURT: Parties ready to proceed?

5 MR. RUTHERFORD: Yes, ma'am, Your Honor.

6 MS. GARFIELD: State's ready.

7 MR. RUTHERFORD: Defense is ready, Your Honor.

8 However, we would remind everyone in the courtroom about the
9 sequestration motion yesterday for all of the witnesses for
10 those who were not here yesterday.

11 And, Your Honor, I would, on behalf of the
12 Defense, make a motion to sequester the police officers only
13 during their testimony so that one officer is not in while
14 the other officer is testifying. After that, they're
15 welcome to come back in and sit down.

16 THE COURT: All right. I think, certainly, the
17 case officer is entitled to stay.

18 MR. RUTHERFORD: Well, once the case officer is on
19 the stand, I would ask the other officer be outside.

20 THE COURT: Ms. Garfield, what's your position on
21 that?

22 MS. GARFIELD: We object to that. Investigator
23 Thomas and -- or at the time Investigator Thomas and Reese
24 are now sergeants. They worked together on this case. They
25 were both lead case officers at the time. Columbia Police

1 MR. RUTHERFORD. Thank you, Your Honor.

2 MR. ARANT. State calls Lenny Williams

3 THEREUPON,

4 LENNY WILLIAMS,

5 after having been duly sworn, testified as follows:

6 THE CLERK: Thank you. Please have a seat in the
7 witness stand and state your full name for the record.

8 State your full name.

9 THE WITNESS: Lenny Eugene Williams.

10 THE COURT: Your witness.

11 DIRECT EXAMINATION

12 BY MR. ARANT:

13 Q Hey, Lenny.

14 A Hey.

15 Q How are you today?

16 A I'm all right.

17 Q Can you tell the Court how old you are?

18 A Thirty-three.

19 Q Thirty-three. And what do you do?

20 A I'm on --

21 Q Okay. I'm going to take you back to the night of
22 August 17, 2010, early morning of August 18th. Do you
23 remember that night?

24 A I remember a little bit about it.

25 Q And you lived at a house on [REDACTED] Street?

- 1 A Yeah, [REDACTED] Avenue.
- 2 Q At that time?
- 3 A Yeah.
- 4 Q What was the address?
- 5 A I don't know what the address.
- 6 Q But you'd agree that it was on [REDACTED] Avenue?
- 7 A Yeah.
- 8 Q Did anyone else live with you at that time?
- 9 A My roommate, Pocko, and my girlfriend stayed there with
- 10 me.
- 11 Q You said Pocko?
- 12 A Yeah.
- 13 Q Who is that?
- 14 A Shannon.
- 15 Q You refer to Shannon Scott as Pocko?
- 16 A Yes.
- 17 Q Okay. And your girlfriend stayed with you?
- 18 A Right.
- 19 Q Okay.
- 20 A At the time.
- 21 Q And your name was on the lease?
- 22 A Yeah, both of us.
- 23 Q Okay. So Pocko rented from you and both of y'all were
- 24 on the lease?
- 25 A Right.

1 Q Is that correct? Okay. And he rented a room from you
2 in this house?

3 A Right.

4 Q Okay. On that night, who all was at the house
5 initially?

6 A Well, I wasn't there. When I got home -- I was at the
7 cookout earlier.

8 Q Okay.

9 A So --

10 Q Tell us -- tell us about how you were at a cookout and
11 then you came home?

12 A Yeah. I came home. Picked up my girlfriend, went
13 home. We sat in the car for a minute. I think it was
14 around about 12 or one. I think it was around about
15 12. Sat in the car for a minute. Went in the house
16 and then we ate. Then we end up going back in the room
17 laying down.

18 Q Then --

19 A And that's when I ended up -- I messed around and start
20 dozing, going to sleep.

21 Q So you're in your bedroom around this time?

22 A Right.

23 Q What time do you think that was?

24 A I think it was around about -- it had to be around
25 about 12.

- 1 Q Around about 12?
- 2 A Yeah.
- 3 Q And y'all were in y'all's room eating?
- 4 A Right.
- 5 Q And you said you were dozing off?
- 6 A Right
- 7 Q Then what happened?
- 8 A After that, about a couple like – round about like
- 9 hour later on or whatever, my roommate, he ran in the
- 10 room and went and got my gun. I was like – like I
- 11 said, I was dozing off so I didn't know what was going
- 12 on. Then like a few minutes later, I heard some
- 13 gunshots.
- 14 Q Did he say anything when he came into your room and got
- 15 the gun?
- 16 A No.
- 17 Q He just grabbed your gun?
- 18 A Right.
- 19 Q And where was your gun at?
- 20 A On my coffee table.
- 21 Q Is that where you keep it?
- 22 A Right.
- 23 Q Had he ever borrowed your gun before?
- 24 A No.
- 25 Q So he just came in and took your gun?

- 1 A Yeah.
- 2 Q He didn't say anything?
- 3 A No
- 4 Q Didn't tell you to get down?
- 5 A No. Because like I said, when he came in, I was a
6 little dozed off, so I ain't know what he was doing.
7 So I really ain't paid him no attention.
- 8 Q But he didn't tell you to get down or tell you someone
9 was shooting or to take cover?
- 10 A No.
- 11 Q None of that Then what happened? You said there were
12 gunshots?
- 13 A Yeah. Then I started hearing gunshots.
- 14 Q How many?
- 15 A That's when I got -- me and my girl, we had got on the
16 floor.
- 17 Q How many gunshots did you hear?
- 18 A If I'm not mistaken, I think I heard about three.
- 19 Q Three gunshots?
- 20 A Yes.
- 21 Q Did you hear them all at the same time or how did that
22 happen?
- 23 A It's like -- it was like space in between the three.
24 One sound close, the other sound further away, the
25 second one.

- 1 Q Okay. You heard a first shot?
- 2 A Right.
- 3 Q And where -- where did --
- 4 A The first seemed like --
- 5 Q You said that was closer?
- 6 A -- close to the yard.
- 7 Q Close to the yard?
- 8 A Right.
- 9 Q Okay. Then you heard another shot?
- 10 A Yeah That -- that was farther away though.
- 11 Q Okay. Farther away?
- 12 A Right.
- 13 Q Okay. So you do -- how many shots do you think you
- 14 heard?
- 15 A Like three. It could have been more, but I ain't --
- 16 I'm not sure
- 17 Q About three shots?
- 18 A Yeah.
- 19 Q But the first one came from you said your yard?
- 20 A Right.
- 21 Q Okay. And you -- have you heard gunshots before? Are
- 22 you familiar with the sound of gunshots?
- 23 A In that neighborhood, yeah.
- 24 Q Okay.
- 25 A A lot of times

1 Q Okay. Where -- where is your bedroom located at in
2 this house, the front, back, side?

3 A Like on the front, close to the -- in the back close to
4 the front

5 Q Okay. And did you hear any shots before the Defendant
6 came and got the gun?

7 A No, I don't think so. I'm not --

8 Q Did you hear any shots before he came and got the gun?

9 A Huh-uh.

10 Q Okay. Did you hear any commotion, anybody coming in
11 the house or anything like that before or after?

12 A No. I just heard -- sound like I heard people in my
13 kitchen, but they was talking on top of each other, so
14 I really didn't know what was going on.

15 Q Is this before or after he got the gun?

16 A It was -- I think it was either -- I think it was
17 after. I'm not really sure.

18 Q Okay. So you're not sure if you heard any commission
19 before or after he got the gun?

20 A Right.

21 Q Okay.

22 MR. ARANT: Beg the Court's indulgence

23 THE COURT: Yes, sir

24 BY MR. ARANT:

25 Q After this transpired, what happened after the gunshots

1 and so forth?

2 A After I heard everything stop, the gunshots stopped, I
3 peeked out my room window and seen like a -- I think it
4 was like an Expedition. It was -- and had the lights
5 out.

6 Q Did -- and after this happened, did the Defendant tell
7 you anything, they shot at the car or anything like
8 that?

9 A No, I couldn't say because after that happened, my
10 adrenaline was pumping. I was just trying to get up
11 out the house and leave there.

12 Q Okay. Then y'all left, y'all left the house?

13 A Yeah, me and Shawnta did.

14 Q You're not sure if Shannon Scott --

15 A No, I was just trying to get up out the house because
16 she was scared, so.

17 MR. ARANT: No further questions

18 MR. RUTHERFORD: No questions, Your Honor.

19 THE COURT: Thank you.

20 Sir, you may step down.

21 Next witness.

22 MR. ARANT: State calls Shawnta Bowen.

23 MR. RUTHERFORD: Your Honor, no objection to Mr.
24 Williams being excused.

25 THE COURT: Thank you.

1 THEREUPON,

2 SHAWNTA BOWEN,

3 after having been duly sworn, testified as follows:

4 THE CLERK: Thank you. Please have a seat in the
5 witness stand and state your full name for the record.

6 THE WITNESS: Shawnta, S-H-A-W-N-T-A.

7 THE COURT: And your last name?

8 THE WITNESS: Bowen, B-O-W-E-N.

9 THE COURT: Your witness.

10 DIRECT EXAMINATION

11 BY MR. ARANT:

12 Q Ms. Bowen, how old are you?

13 A Twenty-three.

14 Q Okay. And going to go back to the night of April 17th,
15 morning of April 18th, you were with Lenny Williams
16 that night?

17 A Uh-huh.

18 Q You're his?

19 A Girlfriend

20 Q Your his girlfriend?

21 A Uh-huh.

22 Q And y'all stayed together?

23 A Uh-huh.

24 Q Okay. Y'all are --

25 THE COURT: Ms. Bowen, if you could answer audibly

1 say yes or no.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: That way, the court reporter can write
4 down what you're saying.

5 THE WITNESS: Yes, ma'am.

6 Q And y'all were girlfriend and boyfriend?

7 A Yes, sir.

8 Q And y'all are currently that today?

9 A Yes, sir.

10 Q The night of April 17th, y'all were at a cookout?

11 A Yes, sir.

12 Q Then what happened with y'all?

13 A We came home.

14 Q Okay. Where is -- you're talking about home, where is
15 that?

16 A On [REDACTED] Avenue.

17 Q [REDACTED] Avenue?

18 A Uh-huh.

19 Q Who else resides there at that house?

20 A Shannon Scott.

21 Q And he was there that night?

22 A Yes.

23 Q Okay. So y'all -- so take me back to that night.

24 Y'all got home and what did y'all do once you got to

25 y'all's house on [REDACTED] Avenue?

- 1 A I got home and I warmed up some food that he brought me
- 2 from the cookout.
- 3 Q Okay. Where were you -- you were eating this food?
- 4 A Yeah, I was eating watching T V.
- 5 Q Where at?
- 6 A In the bed in my bedroom.
- 7 Q In Lenny's room?
- 8 A Uh-huh.
- 9 Q Okay. Then what happened?
- 10 A And then Shannon ran in and got a gun off the table and
- 11 I heard the screen door close and that's it.
- 12 Q Did he say anything to you?
- 13 A No.
- 14 Q He didn't tell you to get down?
- 15 A No, sir.
- 16 Q He didn't tell you to take cover?
- 17 A No, sir.
- 18 Q He didn't say someone was shooting at you?
- 19 A No, sir.
- 20 Q Shooting at the house?
- 21 A No, sir.
- 22 Q Then what happened? Did you hear any gunshots or --
- 23 A Yes
- 24 Q Explain that.
- 25 A I heard, I think, one or two shots.

1 Q Okay. Where were those shots coming from?

2 A It sounded like it was on [REDACTED] Avenue.

3 Q Okay. Close to the house?

4 A Yeah, close.

5 Q Is that fair?

6 A Yes

7 Q And then what happened once you heard the gunshots?

8 A I told Lenny that I wanted to leave.

9 Q Is this what y'all did?

10 A Yes.

11 MR. ARANT: I have no further questions

12 MR. RUTHERFORD: No questions, Your Honor.

13 THE COURT: Thank you.

14 May Ms. Bowen be excused?

15 MR. ARANT: No objection.

16 THE COURT: You may be excused, Ms. Bowen. Thank

17 you

18 You may call your next witness.

19 MS. GARFIELD: Thank you, Your Honor. The State

20 calls Sergeant Kevin Reese.

21 THEREUPON,

22 KEVIN REESE,

23 after having been duly sworn, testified as follows:

24 THE CLERK: Thank you. Please have a seat in the

25 witness stand and state your name for the record.

1 THE WITNESS: My name is Kevin Reese.

2 MS GARFIELD: Beg the Court's indulgence.

3 THE COURT: Your witness, Ms. Garfield

4 DIRECT EXAMINATION

5 BY MS. GARFIELD:

6 Q Sergeant Reese, where are you employed?

7 A City of Columbia Police Department.

8 Q How long have been with the Columbia Police Department?

9 A I am on my second time around there. I started there

10 in 1980, left in '85 and went back to school. I came

11 back in '91. I been there since then.

12 Q What are your duties currently with the Columbia Police

13 Department?

14 A Right now, I supervise a unit that investigates

15 homicides, robberies and other violent crimes

16 Q In fact, you're the sergeant over that unit?

17 A Yes, I am.

18 Q Were those your same duties back in April of 2010?

19 A Back then, I was an investigator in that unit.

20 Q And was the organization of the Columbia Police

21 Department as far as violent crimes were concerned a

22 bit different at the time?

23 A It was.

24 Q Okay. Can you just explain to the Judge how you became

25 involved in this particular case at hand?

1 A Yes, I can. Your Honor, on the 14 – the 18th of
2 April, 2010, I was at home and I received a call of a
3 possible homicide that occurred at [REDACTED] Avenue
4 in the City Limits of Columbia and I responded, along
5 with other investigators from our unit. Our unit, the
6 acronyms are VCAP, which is Violent Crimes Against
7 Persons. Generally, when you have an incident like
8 this, we will roll out a team of investigators.

9 Q And were you one of those investigators that rolled out
10 to investigate this case?

11 A Yes, ma'am.

12 Q Were you eventually designated as the lead
13 investigator?

14 A I was.

15 Q Was anyone else designated as the lead along with you?

16 A It would have been now Sergeant Thomas. Back then, he,
17 too, was an investigator

18 Q And you did arrive on scene to [REDACTED] Avenue?

19 A Yes, ma'am.

20 Q When you arrived, was the crime scene still intact?

21 When I say like that, was the victim still present?

22 A That's right.

23 Q Sergeant Reese, I'm going to ask you to step down so
24 the judges may view the chart I have created or a
25 picture I've created.

1 THE COURT: Has this been marked for ID?

2 MS GARFIELD: I'm getting ready to.

3 THE COURT: Sorry.

4 MS. GARFIELD: Just give me a minute to get set
5 up, Judge

6 (State's Exhibit No. 9 was marked for
7 identification.)

8 BY MS. GARFIELD:

9 Q Sergeant Reese, you are looking at what's been marked
10 as State's Exhibit No. 9. And can you just describe
11 for the Judges what this picture reflects?

12 A Okay. Your Honor, this is the -- what you're looking
13 at is the area in which the crime scene -- this area
14 here would encompass the crime scene. When I speak of
15 the crime scene, I'm talking in particular about the
16 area in which the vehicle was and that Mr. Mile's body
17 was in when we got there.

18 This is [REDACTED] Avenue (indicating). If you are
19 not familiar -- I'm not sure if you're from Columbia,
20 but if you are, if you going back this way
21 (indicating), this way here would be Beltline
22 Boulevard. If you're going this way, it would be Two
23 Notch Road. And so those two main streets encompass
24 the [REDACTED] Street area.

25 Q And investigator -- Sergeant Reese, this is --

1 A That's right.

2 Q In Richland County?

3 A Right.

4 Q And were you -- when you arrived on scene, were you
5 able to locate the victim?

6 A I did.

7 Q And the victim is Darrell Niles; is that correct?

8 A That's right.

9 Q And can you just explain to the Judges the state that
10 the victim was in at the time?

11 A Okay. When I arrived on the scene -- can I refer to
12 my --

13 Q Sure.

14 A -- notes real quick?

15 MR. RUTHERFORD: Your Honor, while he does that,
16 just a point of clarification. I think he said to the left
17 is Two Notch and I think that's Beltline, and to the right
18 is Two Notch.

19 MS. GARFIELD: I think you're correct. We'll
20 stipulate to that.

21 THE WITNESS: I'm approaching it from the wrong
22 side.

23 Your Honor, when I arrived on scene, I approached
24 the car, it was a red Honda.

25

1 BY MS. GARFIELD:

2 Q And I'm going to hand you a blue marker, if you can
3 mark for us where you -- visualize where you saw that
4 Honda?

5 A Okay. The Honda would have been in front of this house
6 here (indicating). This would be the house where
7 Mr. Scott was living (indicating). And as you can see,
8 there's another house in between these two houses here
9 (indicating). The car would have been right here
10 (indicating) in this area here parked in front of his
11 house (indicating) -- well, not parked, but, actually,
12 stopped right there in front of that house.

13 Q Was the car still running?

14 A The car was running, had to be shut off by the
15 officers.

16 Q Were the doors opened or closed?

17 A The passenger, right passenger door was opened. The
18 driver's door had been opened from when the officers
19 opened it. And Mr. Niles was sitting in the driver's
20 seat and he was laying forward against the steering
21 wheel. I noticed that the -- I observed that there was
22 a hole in the driver's side window. The lights were on
23 on the car and the passenger side door was opened as
24 well.

25 Q And can you also for purpose of establishing a record,

1 can you put an X where the Defendant Shannon Scott
2 resided?

3 A Okay. Mr. Scott resided right here (indicating), at
4 this house here.

5 Q And if you would just be S where it represents Shannon
6 Scott.

7 A (Witness complied.)

8 Q Thank you. And can you explain to the Judges what this
9 street appears to be on this map (indicating)?

10 A This street here?

11 THE COURT: Members of the audience, if you feel
12 upset at any time and you feel you can't control your
13 emotions, it's perfectly okay to get up and leave, that way
14 we will not disrupt the proceedings. Thank you.

15 MS. GARFIELD: Thank you.

16 THE COURT: You may proceed.

17 BY MS. GARFIELD:

18 Q Sergeant Reese, I'm sorry, if you will just show the
19 Judges to familiarize them with this area what that
20 street appears to be or roadway.

21 A Your Honor, this street right here (indicating) would
22 be called [REDACTED] Circle And that's just what it is,
23 it's a circle, a cul-de-sac. Back here (indicating)
24 would be a dead end. If you went from [REDACTED] Avenue
25 down this street here, you would have to turn around.

1 There's a circle there and you'd have to turn around
2 and come back out, then you go these ways -- to the
3 right or to the left. There's no other way out.

4 Q And on that note, Sergeant Reese, I'm going to show you
5 State's Exhibit No. 6 that's already been introduced
6 into evidence?

7 MS. GARFIELD: And before I forget, Your Honor, at
8 this time, can I introduce State's Exhibit No. 9 into
9 evidence?

10 THE COURT: Any objection?

11 MR. RUTHERFORD: None from the Defense, Your
12 Honor.

13 THE COURT: Thank you.

14 (State's Exhibit No. 9 was admitted into
15 evidence.)

16 BY MS. GARFIELD:

17 Q Just to show a different perspective of the same area,
18 Sergeant Reese, what I'm pointing to, is this what --
19 the [REDACTED] Circle that you're referring to?

20 A That's correct.

21 Q And if you will use your pointer just to explain again
22 to the Judges how it is a cul-de-sac and how you
23 travel?

24 A Your Honor, you can see this right here, that shows the
25 circle where the street breaks off this way from this

1 road here (indicating) [REDACTED] Avenue. And there's that
2 circle there. It circles around, then you have to come
3 back out.

4 Q And again, in your blue marker, Sergeant Reese, if
5 you'll just put an X on what appears to be the
6 Defendant's home?

7 A (Witness complies).

8 Q And again, if you'll put an X where when you arrived to
9 the scene where you found the deceased's Honda?

10 A (Witness complies.)

11 Q Thank you. You can take your seat.

12 A (Witness complies.)

13 Q Sergeant Reese, did you -- oh, I'm sorry. Did you have
14 an opportunity to see the victim's vehicle?

15 A I did

16 Q And did you -- were you able to observe the driver's
17 side window?

18 A Yes, ma'am.

19 Q And can you explain to the Judge the condition you
20 observed that window to be in?

21 A That window was rolled up and it had a hole in it and
22 it was also shattered.

23 MS. GARFIELD: Madam Court Reporter, if I may have
24 these two photographs marked.

25 MR. RUTHERFORD. Without objection, Your Honor.

1 (State's Exhibit Nos. 10 and 11 were
2 marked for identification.)

3 BY MS. GARFIELD:

4 Q I'm going to hand you what's been marked for
5 identification State's Exhibit No. 10. Do you
6 recognize that photograph?

7 A Yes, ma'am.

8 Q And what does that photograph reflect?

9 A This is the victim's -- the car the victim was riding
10 in that shows the window rolled up and a hole in it
11 with the glass shattered.

12 Q And that's the way it looked when you arrived on scene?

13 A Yes.

14 MS. GARFIELD: Your Honor, at this time, I would
15 like to introduce State's Exhibit No. 10 into evidence.

16 MR. RUTHERFORD: Without objection.

17 (State's Exhibit No. 10 was admitted into
18 evidence.)

19 BY MS. GARFIELD:

20 Q And not to be too redundant, but State's Exhibit No.
21 11, is that a photograph of the vehicle as well?

22 A Yes, it is.

23 Q And is that the condition the car was in when you
24 arrived?

25 A I believe it was, yes.

1 Q And that's where that car was located?

2 A It was.

3 Q In that same spot?

4 A That's right.

5 MS. GARFIELD: Your Honor, at this time, we
6 introduce State's Exhibit No 11.

7 MR. RUTHERFORD. Without objection.

8 (State's Exhibit No. 11 was admitted into
9 evidence.)

10 BY MS. GARFIELD:

11 Q Now, obviously, Sergeant Reese, as one of the chief
12 investigating officers on this case, you reviewed
13 police reports?

14 A Yes.

15 Q And you've also spoken to other officers that were on
16 the scene?

17 A Yes.

18 Q And you've been a part of several witness interviews?

19 A Yes, ma'am

20 Q As well as consulted with other law enforcement that
21 conducted interviews?

22 A That's right.

23 Q And you've reviewed police statements?

24 A That's right.

25 Q Did you have the opportunity to talk to the initial

1 arriving officer on the scene?

2 A I did.

3 Q What condition did they tell you the car was in as far
4 as mode of operation?

5 A I spoke with Officer -- Bradley, who told me that the
6 car was in drive and had to be put in park. Said he
7 allowed -- EMS was summoned and they responded to the
8 scene. He also told me about the -- pretty much what
9 you see on the picture he described.

10 Q So the car had to be put in park?

11 A According to the officer.

12 Q So it was in a driving gear at the time?

13 A Right.

14 Q That law enforcement initially arrived on the scene?

15 A Right.

16 Q And law enforcement, actually, put the car in park for
17 safekeeping?

18 A Yes, ma'am.

19 Q Is that your understanding?

20 A Uh-huh.

21 Q I'm going to show you what's been marked as State's
22 Exhibit No 12?

23 THE COURT: Any objection?

24 MR. RUTHERFORD. Without objection.

25 (State's Exhibit No. 12 was marked for

1 identification.)

2 Q Would you agree with me this is a photograph reflecting
3 four different pictures?

4 A Yes, I would.

5 Q And can you just explain for the record what these
6 pictures reflect?

7 A These are photographs of Mr. Scott's residence or
8 residence he was living in. It shows his house, the
9 front of his house. We also focused on a particular
10 window at the house. The other photos show shell
11 casings on the ground in front of the house. This
12 photograph was taken by Investigator Thomas on
13 April 20th, 2010. We went back out to the residence.

14 Q And why was it important to you to focus on that
15 window?

16 A Because of the sign that's in the window.

17 Q And for the record, can you explain what sign you
18 observed and what it's content was?

19 A Your Honor, there's a sign in the window that gathered
20 my attention as well as the other investigators that
21 says fight crime, shoot first. We thought that was
22 interesting in relation to this case here.

23 Q Thank you. Sergeant Reese, after you -- I'm going to
24 kind of jump ahead and then come back. I know you've
25 interviewed several witnesses involved in this case.

- 1 Am I correct on that?
- 2 A Yes, that's correct.
- 3 Q And would you agree that your conclusion of your
- 4 investigation that, essentially, three cars were
- 5 involved on the night in question?
- 6 A Yes, ma'am.
- 7 Q Okay First car that we have already heard
- 8 testimony -- you've been in court all yesterday;
- 9 correct?
- 10 A Yes, ma'am.
- 11 Q Were you able to identify the occupants of the first
- 12 car? Let the record reflect, I'm just going to make a
- 13 chart to help the Judges be familiarized with who all
- 14 is in each car. Do you have the names of car number
- 15 one?
- 16 A Yes, I do.
- 17 Q Can you just rattle them off for me slowly and I'll
- 18 write them on this chart?
- 19 A Okay. The occupants of car number one would have been
- 20 Denzel Davis. He was the gentleman that was here
- 21 yesterday that goes by the nickname of Crackle.
- 22 Spartacus Bennett, who also went by the name of
- 23 Antonio. Shade S [REDACTED] Asia Mills, Ashley Mills and
- 24 Ave' Fuller. Those are the names of the people that
- 25 were in the first car.

- 1 Q Who did you say after Shade S [REDACTED]?
- 2 A Asia, A-S-I-A, Mills.
- 3 Q Okay. And the last two?
- 4 A Ashley Mills, they are the sisters, and Ave' Fuller.
- 5 Q That was car number one's occupants; correct?
- 6 A That's correct.
- 7 Q Were you able to ascertain the occupants of car number
8 two?
- 9 A Yes, we were. There was one person that we were never
10 able to identify. It's our understanding that it was
11 possibly four people, but the names we do have is
12 Kiwiana Carter, that's K-I-W-I-A-N-A Carter.
- 13 Q Okay.
- 14 A Kyasia Corbit, K-Y-A-S-I-A, Corbit, and Teesha Davis,
15 TE-E-S-A-H, Davis.
- 16 Q And you said there was a fourth person?
- 17 A We were never able to ascertain who that fourth person
18 was, I don't believe.
- 19 Q Did you have any kind of name?
- 20 A I would have to check with my notes here.
- 21 Q Okay. But there is a fourth person unknown?
- 22 A That was our understanding.
- 23 Q Okay. And there was a third car, would you agree with
24 me, involved in this case?
- 25 A Yes, ma'am. That would be the Honda that was being

1 driven by Darrell Niles.

2 Q Anyone else with Mr. Niles?

3 A At the time, his passenger would have been Eric

4 Washington

5 Q Sergeant Reese, in car number one, who did you

6 ascertain was the driver?

7 A The car was driven by one of the gentleman. I think it

8 was Mr. Davis, but I'd have to check.

9 Q Okay. I believe that was testimony yesterday.

10 Would you agree with me that Kiwiana Carter was

11 the driver of the second car?

12 A I would.

13 Q And who was the driver of the third car of the

14 deceased?

15 A Mr. Niles himself.

16 Q And he's our victim?

17 A Yes, ma'am.

18 Q Correct Okay. So when you begin your investigation,

19 obviously, you begin to interview witnesses?

20 A When I arrived there, the officers had spoken with a

21 couple of people. There was a -- one of the kids,

22 Mr. Washington was not at the scene when we got there

23 It was my understanding from the officers on the scene

24 that Washington had, in fact, been in the car with the

25 victim And, of course, the things happened the way

1 they happened. He ran, he felt from the scene He
2 called his mother's boyfriend, who, in turn, called the
3 police and they brought him back to the scene.

4 Q And you're getting this information while you're on the
5 scene; correct?

6 A That's right.

7 Q And, Sergeant Reese, I'm just going to take you to the
8 second page of your investigative report, the first
9 paragraph. Were you able to come into information
10 obtained by Officer Jergins?

11 A I'm sorry, ask me that again.

12 Q Your second page of your investigative report, the
13 first full paragraph, I believe you were able to come
14 into some information obtained from Officer Jergins?

15 A Investigator Menendez interviewed Officer Jergins,
16 that's right.

17 Q And Officer Jergins was one of the first responding
18 officers on scene; is that correct?

19 A That's correct.

20 Q And what did Officer Jerkins relay to you had been
21 reported to him or relay to law enforcement that had
22 been reported to him?

23 A Told Investigator Menendez that he had been approached
24 by a black male from [REDACTED] Avenue, who was waving
25 to the officers. He told Menendez that a silver Ford

- 1 Expedition had been shooting and left the scene.
- 2 Shortly afterwards, the officers stopped the vehicle.
- 3 Is that the information you talking about?
- 4 Q Yes, sir You later obtained this information had come
- 5 from the Defendant Shannon Scott; is that correct?
- 6 A That's correct.
- 7 Q And at no time did Officer Jergins provide you any
- 8 information relating to a Honda involved in this
- 9 incident?
- 10 A No. No.
- 11 Q So the only information provided to the initial officer
- 12 on the scene was related to the silver Expedition?
- 13 A That's right.
- 14 Q And then from there, did you continue to interview
- 15 various witness?
- 16 A Either I interviewed the witnesses or I instructed
- 17 other investigators to interview them. Some of them, I
- 18 went back and reinterviewed those witnesses.
- 19 Q But as the chief officer, you and Sergeant Thomas
- 20 reviewed everything that eventually wound up in the
- 21 case jacket; is that right?
- 22 A That's right.
- 23 Q And, Specifically, you were privy to an interview
- 24 conducted by Shade S [REDACTED]?
- 25 A Yes, I was

1 Q And Shade S [REDACTED] reported to you that she had called
2 Rosalyn; is that correct?

3 A That's correct.

4 Q Did she ever give you or provide you any information
5 that she had also called her father on this incident
6 date?

7 A No, she just said that -- I believe Rosalyn is her
8 mother. She called Rosalyn and let her know what was
9 happening.

10 Q And in the course of your investigation, did Shade
11 Scott ever provide any information relating to a second
12 car following them and causing them fear?

13 A I'm sorry?

14 Q At any time, did Shade S [REDACTED] relate any information to
15 law enforcement related to a second car following them
16 can causing them to be in fear?

17 A Can you give me a moment to look --

18 Q Absolutely --

19 A -- at her statement? She has a rather lengthy
20 statement. Can you give me a second to read it?

21 Q Absolutely I want you to testify completely truthful.

22 (pause.)

23 A I'm sorry, Counsel, you're asking me if she was talking
24 about the second vehicle.

25 Q I guess I'll try to make this shorter. You interviewed

1 several witnesses involving the first car?

2 A That's right.

3 Q Did any one in the first car and during your
4 investigation, Denzel Davis, Antonio Bennett, Shade
5 Scott, Asia Mills, Ashley Mills, Ave' Fuller, did any
6 of those individuals ever report to law enforcement
7 they were having trouble or they were in fear from a
8 second car being followed -- following them?

9 A No, they didn't, not immediately.

10 Q Did any of those individuals, Denzel Davis, Spartacus
11 Antonio Bennett, Shade S [REDACTED], Asia Mills, Ashley Mills
12 or Ave' Fuller ever report to you that an individual by
13 the name of Teesha Davis had run down Two Notch Road
14 with a gun pointed at them?

15 A No.

16 Q Did any of the individuals ever report to you that
17 while they were in the bark yard of the home where
18 Shannon Scott resided, that while they were in the
19 backyard they heard gunshots?

20 A Not while they were in the backyard, no.

21 Q When did they report to you, if anyone did, when did
22 they report to you that they heard gunshots?

23 A They said that while they were in the house, they heard
24 gunshots.

25 Q After they were inside house?

1 A After they were inside the house on the kitchen floor.

2 Q Let's talk about an interview that was conducted with
3 Rosalyn Fuller, at the time, her name was Rosalyn
4 Fuller. She has since married the Defendant; is that
5 correct?

6 A That's correct.

7 Q In her statements to law enforcement, Sergeant Reese,
8 did she ever inform law enforcement that she and her
9 family members, specifically, her daughters had had
10 ongoing problems with an individual by the name of
11 Teesha Davis.

12 A No, she did not.

13 Q Did she ever report to you that they had problems with
14 an individual by the name of Teesha Davis who often
15 arrived on scene with droves of people?

16 A No. And I interview her, she did not mention that.

17 Q When did you first learn of that information?

18 A The information about the troubles they were having.

19 Q Yes, sir.

20 A In court yesterday. I only knew about an incident that
21 occurred at the club, they said occurred at the club.

22 Q And you did listen to the 911 call, I believe; is this
23 correct?

24 A I did.

25 Q And is the correct assessment that Rosalyn Fuller tells

1 the 911 operator that the silver Expedition that she's
2 referring to as being troublesome was parked at the All
3 State parking lot?

4 A That's correct.

5 Q I'm going to show you what's been marked as State's
6 Exhibit No. 6. I hate to make you walk down.

7 MS. GARFIELD: Judges, if you have a problem
8 seeing this, if you'll just ask us --

9 THE WITNESS: I can come down.

10 THE COURT: That's fine.

11 BY MS. GARFIELD:

12 Q Can you show us again where on this diagram, State's
13 Exhibit No. 6, where the Defendant's home is.

14 A This would be the Defendant's home (indicating).

15 Q Can you show me where All State parking lot would be?

16 A That's the All State parking lot here It's close to
17 Beltline.

18 Q And you would agree with me, Sergeant, there's some
19 distance between the two?

20 A Yes, I would. As a matter of fact, we went back out to
21 the scene and you cannot see from where the Defendant's
22 home is and because there's that break in the curve and
23 there's a lot of trees there, you can't see this far
24 don't the road, particularly at night. So you wouldn't
25 know what's going on down at the end of the road there.

1 Q Thank you, Sergeant. Now, Sergeant Reese, you
2 indicated that you collected shell casing in the
3 Defendant's front yard?

4 A We did.

5 Q We'll go to the second car. There were several
6 interviews with members of people in the second car; is
7 that correct?

8 A That's correct.

9 Q And did Kiwiana Carter ever make any admissions to you
10 regarding a gun?

11 A Yes, she did.

12 Q Can you just explain to the Judges what her version of
13 the story is briefly?

14 A Your Honor, when we interviewed Ms. Carter, she told us
15 about the incident at the club and the conflict they
16 had with the other group of girls. She admitted that
17 they followed the vehicle. She said once she got into
18 the community on [REDACTED] Avenue, she drove past
19 Mr. Scott's house. I think one of the girls in the
20 house recognized them standing out and they knew -- one
21 of them knew the father when they -- when she saw him.
22 She then went down to the -- down the road toward Belt
23 line and she -- she turned her car around. She was
24 driving the Ford Excursion. She turned the car around
25 She parked it just in front to the right beyond the

1 parking lot for the All State insurance company. I
2 believe that parking lot has a fence around it and it
3 also has hedges around it. You wouldn't have been able
4 to see her parked back up in the parking lot and she
5 wouldn't have been able to see anything. She said they
6 parked there in front of the hedges on the street. At
7 one point, she heard a shot, then she heard another
8 shot. A couple of the girls that was in the vehicle
9 that she was in feel down to the floor board of her
10 vehicle. Said she wanted -- whoever was shooting, she
11 couldn't see who was shooting. She wanted whoever was
12 shooting to know that she, too, had a gun. She states
13 that she fired the gun that she had into the air and --
14 well, prior to firing the gun in the air, I think
15 she -- or shortly after that, she backed her car into
16 the parking lot for the -- of the All State. Shortly
17 after that, she left and drove past Mr. Scott's house
18 As they were driving past, they saw Mr. Miles's car.
19 They didn't know it was Mr. Miles' car or if that --
20 according to them, if that car had anything to do with
21 this incident. They just saw it at the edge of the
22 road. The door was open, lights on They drove past
23 it.

24 Q So her testimony that she's not the first one to shoot;
25 is that correct?

1 A That's correct, that's her testimony.

2 Q And after being the chief officer, you came into
3 possession of the statement by Ms. Carter?

4 A I did.

5 Q Sergeant Reese, do you recognize State's Exhibit No.
6 13?

7 A This should be Ms. Carter's statement, yes.

8 (State's Exhibit No. 13 was marked for
9 identification.)

10 MS. GARFIELD: Your Honor, at this time, I would
11 like to introduce State's Exhibit No. 13 into evidence for
12 purposes of this hearing only.

13 MR. RUTHERFORD: Without objection.

14 THE COURT: Thank you.

15 (State's Exhibit No. 13 was admitted into
16 evidence.)

17 BY MS. GARFIELD:

18 Q Did you also have an opportunity to interview Teesha
19 Davis?

20 A I did.

21 Q Can you explain to the Judge the narrative of Teesha
22 Davis's version of the events that occurred?

23 A I interviewed Mr. Davis along with Investigator
24 Menendez. She told us that she had gotten into a
25 verbal altercation at a club called Kia's Club with a

1 female that was known to her as Shade. And she named
2 other girls in the -- in Shade's group. She called
3 them Ashley, Ave' and Asia. And she said that while
4 leaving the club, she got into another confrontation
5 with the same group of girls. And when it was over,
6 her group got into an SUV that was driven by Ms.
7 Carter. Said Ms. Carter produced a handgun and all the
8 girls told her to put it away.

9 She said they began following the other group of
10 girls away from the club. She thought they were riding
11 in a silver Crown Victoria. They were accompanied by a
12 group of boys according to her. Said the car was being
13 driven by a black male, approximately 18 years old,
14 braids in his hair. They followed the to [REDACTED]
15 Avenue. The Crown Victoria pulled into a yard and
16 Carter drove past the house. She said she saw a black
17 female along with a heavy set male and Shade's father
18 standing in the yard. She knows the father by sight.

19 Ms. Davis said that at the time she was in the
20 back seat while Carter was driving the car. The car
21 went down the street and pulled over on the other side
22 of the road. They heard a shot, at which time one of
23 the other young ladies in the car with her, Shataray,
24 ducked to the floor. They heard another shot. At this
25 time, she said that Carter backed the car up and fired

1 a shot from her gun.

2 Davis said she could not see if Carter fired the
3 shot in the air or elsewhere, that was when she was down on
4 the floor board. She said Carter then backed into the
5 parking lot of a nearby business, that would be the All
6 State parking lot. Said Carter made a threat to do a
7 driveby shooting at the house, Mr. Scott's house. They
8 pretty much talked her out of it. Carter and Shataray
9 switched seats with Shataray now driving the car. They
10 drove toward the house, Mr. Scott's house on [REDACTED] Avenue.
11 She said that Carter never fired a shot at that point. She
12 said what she described as a burgundy car at the curb next
13 to [REDACTED] Avenue with its driver door opened and she
14 said they left the area.

15 Q I believe you're referring to a statement Teesha Davis
16 provided?

17 A Yes, I was. What I was just reading from is my case
18 notes based on summarizing her statement.

19 (State's Exhibit No. 14 was marked for
20 identification.)

21 BY MS. GARFIELD:

22 Q Is State's Exhibit No. 14 the same statement you were
23 just referring to?

24 A Yes, ma'am.

25 MS. GARFIELD: Your Honor, at this time, I would

1 like to move State's Exhibit No. 14 into evidence.

2 MR. RUTHERFORD: Without objection.

3 THE COURT: Thank you.

4 (State's Exhibit No 14 was admitted into
5 evidence.)

6 BY MS. GARFIELD:

7 Q And you were referring to Shataray, does law
8 enforcement believe Shataray would be the fourth person
9 unidentified?

10 A That's correct.

11 Q And you made a diligent search for this person; is that
12 correct?

13 A That's correct. I think it's important to note that,
14 you know, in incidents like this, a lot of people will
15 not make themselves available to law enforcement. And
16 at that time, we just have to move on.

17 Q And at any time did Teesha Davis report that any one in
18 the car she was a passenger fired a weapon first?

19 A No, she didn't.

20 Q Did you also have the opportunity to interview Kyasia
21 Corbit?

22 A Yes, I did.

23 Q And at any time when Kyasia Corbit was interviewed by
24 law enforcement, did she report that any passenger in
25 he car had fired first?

1 A No, she did not.

2 (State's Exhibit No. 15 was marked for
3 identification.)

4 BY MS. GARFIELD:

5 Q I'm going to show you what's been marked as State's
6 Exhibit No. 15, which is a statement of Kyasia Corbit.
7 Are you familiar with this?

8 A Yes, I am.

9 Q And is that her statement?

10 A Yes, ma'am.

11 Q A copy of her statement?

12 A Yes, ma'am.

13 MS. GARFIELD: For purposes of this hearing, Your
14 Honor, I'd like to introduce State's Exhibit No. 15.

15 MR. RUTHERFORD: Without objection.

16 THE COURT: Thank you.

17 (State's Exhibit No. 15 was admitted into
18 evidence.)

19 BY MS. GARFIELD:

20 Q And due to the nature of being unable to identify the
21 fourth person, no interview was ever made; is that
22 right?

23 A That would be right.

24 Q Out of the three individuals you were able to interview
25 that were passengers or a driver or occupants of the

- 1 second car, did any one every report to you about a car
2 following them?
- 3 A No, none of them knew anything about a car following
4 them.
- 5 Q Teesha Davis didn't report that?
- 6 A No.
- 7 Q Kyasia Corbit did not report that?
- 8 A No, ma'am.
- 9 Q And Kiwiana Carter didn't report that?
- 10 A No, ma'am.
- 11 Q Now, Kiwiana Carter admits to you that she has a weapon
12 in the car; correct?
- 13 A Yes, she did.
- 14 Q I believe, Sergeant Reese, she bought that gun legally?
- 15 A She did.
- 16 Q And did she provide that gun to you?
- 17 A Yes, ma'am, we seized it
- 18 Q And you also collected shell casings out of the front
19 yard of the home of Shannon Scott, is this correct?
- 20 A That's right
- 21 Q Were you able to come into possession at any time with
22 a second gun?
- 23 A Yes, we did
- 24 Q And can you explain to the Judges how y'all came --
25 y'all being law enforcement, how y'all came into

1 possession of the second weapon?

2 A Your Honor, on the onset of the investigation, I sent a
3 couple of investigators to interview Lenny Williams.
4 When they did, myself and Investigator Thomas went back
5 at some point and interviewed Mr. Williams. And his
6 statement is pretty much what he told on the stand here
7 earlier. He did tell us about a gun and that Mr. Scott
8 had came into his bedroom and took his gun. Shortly
9 after, he said he heard shots outside in his front
10 yard.

11 Q Once collecting the guns and the shell casings in the
12 front yard, you were also able to collect a fired
13 bullet from the body of Darrell Niles?

14 A Yes.

15 Q And were any ballistic tests done of these guns, shell
16 casings and bullets?

17 A We -- we sent the weapons to the -- and the bullets to
18 South Carolina Law Enforcement Division. They did do
19 the test. I'm not in possession of their results just
20 yet.

21 Q Would you like to review those results?

22 A Please.

23 (State's Exhibit No. 16 was marked for
24 identification.)

25

1 BY MS GARFIELD.

2 Q Sergeant Reese, can you identify State's Exhibit No.
3 16?

4 A Exhibit No 16 is the documents from South Carolina Law
5 Enforcement Division, their firearms department that
6 summarizes their findings on the weapons and the
7 bullets that we submitted to them for this case.

8 Q And the bullet that was retrieved -- the fired bullet
9 that was retrieved from the body of Darrell Niles, was
10 it able to be matched by any weapon based on the
11 results of the SLED examination?

12 A Yes, it was.

13 Q What weapon did it belong to or what weapon was it
14 concluded to be fired from?

15 A It was fired from a 380.

16 Q And who was it determined in this investigation had
17 armed himself with a 380?

18 A That would have been Mr. Scott.

19 Q And would you agree with me that the victim died as a
20 result of a gunshot wound to the head from the bullet
21 that was recovered --

22 A Yes, I would.

23 Q -- fired by the Defendant?

24 A Yes, ma'am.

25 MS. GARFIELD: Your Honor, at this time, I would

1 introduced State's Exhibit No. 16 into evidence for purposes
2 of this hearing.

3 MR. RUTHERFORD: Without objection.

4 THE COURT: Thank you.

5 (State's Exhibit No. 16 was admitted into
6 evidence.)

7 THE COURT: Thank you.

8 BY MS. GARFIELD:

9 Q Just to backtrack to kind of cover things, Sergeant
10 Reese, even when you arrived on scene, you found the
11 vehicle still running that contained the deceased body
12 of the victim, Darrell Niles. Can you just describe
13 for the Judge the angle the car was presented when you
14 arrived?

15 A The -- Your Honor, the angle of the car -- the car
16 itself would have been on the wrong side of the road.
17 It would have been on the opposite side of the road of
18 the path of travel. It was angled with it's right --
19 with its left front corner facing the house that it had
20 stopped in front of. And I believe it had hit a bush,
21 not a tree, but a bush and it came to rest at that
22 point.

23 Q Was it facing toward the home of Shannon Scott or away?

24 A It would have been facing away from Mr. Scott's
25 residence.

1 Q Do you recall the angle of the steering wheel or the
2 wheels?

3 A I'd have to see the photos, but if I recall correctly,
4 the wheels were not straight, they would have been
5 angled a little to the right side of the vehicle.

6 Q Would it be consistent with making a right turn?

7 A It would have been consistent with making a right turn.
8 And I also need to point out, Your Honor, that it was a
9 bush that was -- the vehicle had stopped in front of
10 and had the vehicle been going any great distance of
11 speed, that bush would have not been able to sustain an
12 impact like that without giving in.

13 Q In summary, Sergeant, did any witness that you
14 investigated, other than Eric Washington, I'm not
15 talking about Eric Washington, talk to you about a
16 third car involved in this incident?

17 A No.

18 Q Before the shooting?

19 A No.

20 Q No one in car number one?

21 A No one in car number one, no.

22 Q Anyone in car number two?

23 A No, ma'am.

24 Q Anyone in the home inside the residence of [REDACTED]

25 Avenue?

1 A No, ma'am.

2 MS. GARFIELD: Beg the Court's indulgence.

3 BY MS GARFIELD:

4 Q No witness reported to you that Teesha Davis had a gun?

5 A No, ma'am

6 Q Did any witness report to you hearing gunshots while
7 they were outside of the home from car number one?

8 A No.

9 Q Did anyone in car number two report that a gunshot came
10 first from their car?

11 A No, ma'am. All the witnesses from car number that
12 talked about hearing gunshots heard -- talked about
13 hearing gunshots only after Mr. Scott left out the
14 front door.

15 Q Is there any evidence in your possession that was
16 reported that a weapon was ever involved in car number
17 three?

18 A No, no weapons.

19 Q Thank you, Sergeant?

20 THE COURT: Cross-examination.

21 MR. RUTHERFORD: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. RUTHERFORD:

24 Q Sergeant Reese, what traffic light did they stop at
25 where Teesha got out of the car and ran up to car

1 number one?

2 A It was my understanding that when Ms. Davis approached
3 their car, they were still in the club at the -- in the
4 parking lot at the club. Yesterday was the first time
5 I heard anything about her getting out at a traffic
6 light and running up behind their car.

7 Q And --

8 A Never anybody told me anything about a gun.

9 Q Can you show me in your questions, in your Q and A,
10 which would be on their questions, which is on exhibits
11 --

12 THE COURT: Here you go.

13 BY MR. RUTHERFORD:

14 Q I show you Exhibit No. 4, Exhibit No. 8, Exhibit No. 5
15 and Exhibit No. 3. So 3, 4, 5 and 8, which were
16 entered in yesterday. Were you or another investigator
17 requested that they tell you whether they saw Teesha or
18 Kyasia with a gun?

19 A I'm sorry, say that again.

20 Q Can you look at those statements and see whether there
21 was a direct question to anyone in car number one as to
22 whether they saw Kiwana, Teesha, Kyasia or the unknown
23 person with a gun?

24 A I don't think you're going to find those questions in
25 here.

- 1 Q So you didn't ask?
- 2 A I did not ask them, no.
- 3 Q Okay. So Teesha and Kiwiana, which one had the gun?
- 4 A It would have been Ms. Carter.
- 5 Q So who is Kiwiana?
- 6 A She would have been the driver of vehicle number two.
- 7 Q Okay. And I'll give you some -- because I know it's
- 8 kind of confusing, at least, confusing to me. Kiwiana
- 9 started off with the gun at the club; is that right?
- 10 She admitted that she had the gun at the club, but she
- 11 didn't think anybody else saw it; is that right?
- 12 A All the girls saw it, as I recall, and they told her to
- 13 put it away.
- 14 Q All the girls in car number two saw the gun that
- 15 Kiwiana had?
- 16 A Right. I don't know anything about whether any of the
- 17 other young ladies would have seen the gun at the club.
- 18 Q And there's no question on there about whether they saw
- 19 a gun at the club; is that right?
- 20 A No.
- 21 Q Okay. And Kiwiana was not the one that slapped Shade
- 22 in the back of the head, that would have been Teesha?
- 23 A I think it was Teesha, that's right.
- 24 Q And Teesha went running up to the car at some point,
- 25 whether it was at a red light or whether they were in

- 1 the median; is that right?
- 2 A At the club is my understanding, not at any red light
- 3 or anything.
- 4 Q But there's no Q and A about that either?
- 5 A No. You've got to have -- you got to know what
- 6 questions to ask. If that never came up, we wouldn't
- 7 have asked that question.
- 8 Q Fair answer. And the reason why, your investigation
- 9 was regarding a murder on [REDACTED] Avenue; correct?
- 10 A And what precipitated this incident.
- 11 Q Right. So your questions, I imagine, to Kiwiana and
- 12 Teesha at that point because you're not sure who shot
- 13 Mr. Niles; isn't that right?
- 14 A Am I sure who --
- 15 Q Right. When you're investigating this, you're not sure
- 16 which bullet shot Mr. Niles, is that right?
- 17 A In the beginning, we weren't sure because I didn't know
- 18 anything about even the existence of Mr. Scott. It was
- 19 only after we went back.
- 20 Q Right. So your conversation with Kiwiana and Teesha is
- 21 potentially that one of them may have shot Mr. Niles;
- 22 is that right?
- 23 A Well, we --
- 24 Q Or did you know at that point that they did not?
- 25 A No, we wouldn't have know that, but we, certainly,

1 entertained that.

2 Q Right. So your conversation with them and your
3 statements with them are regarding whether they would
4 have shot Mr. Niles, not necessarily regarding whether
5 somebody could have seen them with a gun at the club or
6 whether they jumped out the car at a light because it's
7 regarding whether they shot at Mr. Niles; is that
8 right?

9 A I would say that's a pretty fair assessment.

10 Q But then Teesha lied to you; isn't that right? Was it
11 Teesha or Kiwana, which one lied?

12 A Tell me which lie you're talking about.

13 Q I guess, which lie. But you had to go back and
14 reinterview because it was clear that she told you
15 things that Kiwana disagreed with; isn't that right?

16 A You're talking about Teesha?

17 Q Yes, sir.

18 A I -- I don't -- that's one reason I would reinterview
19 people. Another reason I would reinterview people is
20 because I'm not all together clear on what was being
21 told to the other investigator, so for clarification
22 purposes, that's what I would do. Now, in respect to
23 your question now, I'm not sure what drew me back to
24 reinterview.

25 Q Okay. But Kiwana admitted that they were going to do

- 1 a driveby; is that right?
- 2 A Yeah, I understand that's right.
- 3 Q And in doing --
- 4 A That's what she wanted to do.
- 5 Q Right. And in doing so, she, actually, switched seats?
- 6 A Right.
- 7 Q She got out of the driver's side and got in the -- I
- 8 guess you asked, the rear passenger side or the rear
- 9 driver's side?
- 10 A I think she got in the back.
- 11 Q But it would be the one closest to the house, I guess,
- 12 if you're going to do a driveby or did you ask?
- 13 A What?
- 14 Q Did you ask her which seat she got in?
- 15 A She got in the back left side, that would have been
- 16 closest to the house.
- 17 Q Right. So they, actually, switched seats to go and do
- 18 think driveby; is that correct?
- 19 A That's what they told me, right.
- 20 Q And according to what the State -- I guess, you all's
- 21 theory on this case is that they then sat in a parking
- 22 lot at All State and shot up in the air and then left?
- 23 A That was based on what they told me and Investigator
- 24 Thomas at the time.
- 25 Q Is that they switched seats to do the driveby at the

- 1 All State parking lot and shot up in the air and then
2 drove past the house where they thought somebody was
3 shooting at them, but they didn't do anything?
- 4 A No, sir, they -- according to them, they heard two
5 shots and Ms. Carter, who had a gun, decided that she
6 was going to fire up a shot in the air, according to
7 her From that point, Mr. Carter wanted to do -- she
8 switched over the driver seat with the other young lady
9 and she wanted to do a driveby. She wanted the young
10 lady to drive by the house and she was going to do a
11 driveby, according to her. She didn't lie about that.
12 She just did not do it.
- 13 Q According to her?
- 14 A According to her.
- 15 Q Now, why didn't you arrest them?
- 16 A Why didn't I arrest?
- 17 Q Yes, sir. These are people that admitted to following
18 a car from a club, shooting in the air inside the city
19 limits. Why didn't you lock them up?
- 20 A I just didn't
- 21 Q Okay. So if you had asked the question of anyone in
22 car number one as to whether they saw Kiwiana Carter,
23 Kyasia Corbit, Teesha Davis or Shataray, I believe, is
24 the unknown person whether they saw them with a weapon,
25 they would have been charged with or could have been

- 1 charged with pointing and presenting; could they not?
- 2 A If you asked me if the young ladies in the car number
- 3 one --
- 4 Q Uh-huh, yes, sir.
- 5 A -- told me that they saw anybody in car number two --
- 6 Q Yes, sir
- 7 A -- would they have been charged?
- 8 Q Could they have been?
- 9 A They could have been, depending on what they told me.
- 10 Q Okay. Well, regardless of what they told you, you
- 11 heard from Kiwiana and Teesha that they intended to do
- 12 a driveby, that they, actually, shot up in the air,
- 13 that they switched seats. So at that point, they are
- 14 guilty of, at least, criminal conspiracy because they
- 15 have taken an action, fired in the air, so they are
- 16 guilty of criminal conspiracy, which is also a felony,
- 17 because they are conspiring to do something that is
- 18 illegal; were they not?
- 19 A It would have been based on what they told me and what
- 20 I could prove.
- 21 Q Right. Investigator Reese, given the fact that
- 22 Kiwiana, Kyasia and Teesha all admitted to things that
- 23 were potential felons, why didn't you charge them with
- 24 felony murder?
- 25 A I just didn't, Counsel.

- 1 Q Okay. According to the information that you gave on
2 direct, you couldn't see the All State Agency from the
3 backyard of Shannon Scott or from the front?
- 4 A I believe there's a lot of bushes on Mr. Scott's -- the
5 side of his house that would have been on the side that
6 the All State is. I wouldn't have been able to see it
7 from there.
- 8 Q And when you -- I don't mean to interrupt, but when you
9 say you couldn't see it, can you further define that?
10 Because if you stand in Mr. Scott's yard, you can see
11 Beltline; can't you?
- 12 A I couldn't. I don't think so, no. Beltline?
- 13 Q Yeah. I mean, this is the end of [REDACTED] so there's
14 nothing there. I mean, you can see Beltline when you
15 stand there and look to the right.
- 16 A No, sir.
- 17 Q You couldn't see it?
- 18 A No.
- 19 Q Okay. Well, can you -- the All State Agency has a blue
20 All State sign or they've got a sign?
- 21 A Uh-huh.
- 22 Q Correct? Did you have any pictures taken from the
23 Defendant's house toward that direction?
- 24 A I'd have to check and see what crime scene -- CSI did.
25 I didn't do it.

1 Q Because if you lived where Shannon Scott lived and if
2 you were standing there at night and you saw a vehicle
3 go down and do something back there (indicating), would
4 you not know where he was?

5 A I'm not sure I'm following you.

6 Q If Beltline is right in front of that and if you look
7 at the map, right behind the All State Agency, there
8 are houses, so the individual that goes down that
9 street and does whatever down there is either on
10 Beltline or at the All State Agency; isn't that right?

11 A In this particular case, the car was on [REDACTED] just in
12 front of the All State, but there's a bend in the road.
13 You wouldn't have been able to -- I went out there, I
14 wasn't able to see.

15 Q You would have to -- Shannon Scott's house sits there
16 on the bend. Standing right there in the yard, you can
17 see Beltline?

18 A No, his house does not sit on the bend. The bend is
19 further down the road a little bit.

20 Q Okay. All right. All of the people in car number one
21 say that the car went to the All State Agency; correct?

22 A Uh-huh.

23 Q And all the people in car number two say the car was in
24 the All State Agency; correct?

25 A Yes, sir.

- 1 Q But your theory is that the people in car number one
2 couldn't tell that that's where they were, they just
3 guessed it and were right?
- 4 A That would be fair to say.
- 5 Q Okay. So what kind of gun did Eric Washington have?
- 6 A I don't know anything about Eric Washington having a
7 gun.
- 8 Q Did you ask him?
- 9 A I don't think I did.
- 10 Q So --
- 11 A I believe -- no, back up a minute, Counselor.
- 12 Q I'll show you the statement if you want me to.
- 13 A I don't need the statement.
- 14 Q Okay.
- 15 A That would have been one of the first questions we
16 asked him, whether he or Mr. Niles would have had a
17 gun.
- 18 Q Is it on the Q and A or --
- 19 A It won't -- you won't find it in his statement. It's
20 not put in his statement.
- 21 Q It wasn't important?
- 22 A You asked me if I asked him the question. I just told
23 you yeah, I asked him
- 24 Q Now, I'm asking whether it was important as to whether
25 he had a gun or not?

- 1 A That's the reason that he was asked the question, did
2 he or Mr. Niles have a gun. And the reason for that
3 was to find out if either one of them in way whatsoever
4 contributed to what happened out there that night.
- 5 Q But if it was important, why wouldn't you get him to
6 write down that he did not have a gun?
- 7 A Again, just I didn't do that.
- 8 Q Okay. And so what was his answer when you asked him
9 whether he had a gun?
- 10 A I'm sure it was no. If it was yes --
- 11 Q But you didn't put that in your notes?
- 12 A -- we would have had that gun. No, sir.
- 13 Q And you didn't ask him to write it down?
- 14 A No, sir
- 15 Q And Eric Washington, after the shooting stopped,
16 according to Mr Washington, or at some point, he got
17 out of his -- he got out of the car that he was riding
18 in and ran; isn't that right?
- 19 A Yes, sir.
- 20 Q Did he run behind the nearest house and knock on the
21 door and ask them to call the police?
- 22 A He ran to McDonald's on the corner of Beltline and Two
23 Notch according to him.
- 24 Q Did he have a cell phone?
- 25 A I don't -- I don't -- I think he did. He might have

1 called his mother's boyfriend or something.

2 Q So it wasn't important as to whether he had a cell
3 phone and used his cell phone to call or whether he --
4 because I don't guess -- I don't think there are any
5 pay phones around there any more, are there? You just
6 don't see them anymore. It wasn't clear in the report
7 as to whether he went to a pay phone or had a cell
8 phone and I'm asking whether you know what he used to
9 call his girlfriend or boyfriend?

10 A You're asking me and if you give me a chance to look at
11 his statement --

12 Q Yes, sir.

13 A -- I can probably tell you. You want to do that?

14 Q Yes, sir.

15 A Okay.

16 (pause.)

17 A I'm still looking for the statement that he gave me.

18 Q Well, let me avoid that and go in another direction.
19 How far is it from Shannon Scott's house to the
20 McDonald's? How long would it take you to walk or run
21 from Shannon Scott's house to McDonald's?

22 A Ten-minute run, 15-minute walk.

23 Q So if he then told you that he ran 10 minutes to get
24 away from a shooting where he says that the vehicle
25 that was involved in the shooting had already passed

- 1 him, did he tell you why he continued to run for 10
2 minutes?
- 3 A I'm telling you about how long it would take me to run.
- 4 Q Well, I didn't -- you started the force in 1911, so
5 we're not going to base on how long it would take you.
6 How long would it take him to run?
- 7 A I --
- 8 Q Just if he was a fit young man in his teens, seven
9 minutes?
- 10 A I don't know. I'm going to give you the distance in
11 blocks. And I think --
- 12 Q Okay.
- 13 A I think roughly four or five blocks.
- 14 Q Okay.
- 15 A Yeah
- 16 Q Did he ever tell you why he ran so far when the threat
17 was over if he had his cell phone to call the police?
- 18 A I'm -- I don't know whether he had a cell phone. I'm
19 looking back through my notes. But he said the reason
20 that he ran was because he was scared
- 21 Q Right, but he also said that the SUV passed him, so the
22 threat what was involved in the shooting was over. And
23 he ran all the way to the McDonald's to call?
- 24 A He told me about seeing a male standing in the yard,
25 Mr. Scott's yard with a white tee shirt on that was

1 firing shots. He didn't say anything about thinking
2 that the SUV was firing shots. Then the SUV drove past
3 him, he didn't go past the SUV.

4 Q Now, as the SUV drove past him, did he say that the
5 gentleman standing in his hard chased him?

6 A Did Mr. Washington say that the gentleman --

7 Q Right.

8 A -- chased him?

9 Q Right.

10 A He didn't say anything like that.

11 Q Did he say he looked in his direction as if he was
12 going to point a gun at him and shoot him or did he
13 just say that he was -- that he saw the gentleman
14 standing in his yard?

15 A He said he saw someone standing in that yard. And he
16 took me back because we wanted to make sure we knew
17 what yard he was taking about. Had a white tee shirt
18 on and that person was firing shots.

19 Q Okay. Now, as it relates to Mr. Washington, did you
20 all do a test on his hands to see if he had fired a
21 weapon?

22 A I'd have to look at the CSI report on that if I'm going
23 to answer it correctly.

24 Q But you don't recall?

25 A No, I don't recall

- 1 Q Did you check to see whether he owned a weapon?
- 2 A No, sir.
- 3 Q When the officers found Mr. Niles's vehicle, were the
- 4 lights on or off?
- 5 A The lights were on.
- 6 Q The lights were on?
- 7 A (The witness nodded head.)
- 8 Q That's in the report?
- 9 A I'd have to see a copy of the report.
- 10 Q If you could.
- 11 A If I could add this, Mr. Rutherford?
- 12 Q Yes, sir.
- 13 A My observations when I got there were that the lights
- 14 were on.
- 15 Q Okay. Good enough. So if someone were standing out in
- 16 their yard, they would have noticed the car that had
- 17 its headlights on; correct?
- 18 A Are you talking about Mr. Scott's yard?
- 19 Q Yes, sir.
- 20 A I would imagine so, yes.
- 21 Q Well, I mean, you made the X's on here and, certainly,
- 22 if they were standing out there -- what time was this?
- 23 A Around 2:30 in the morning, somewhere around there.
- 24 Q So around 2.30 in the morning, potentially, there are
- 25 only two cars out there, the SUV and the red Honda; is

1 that right?

2 A That would be right.

3 Q Okay. Now, let me take you back to Kia House. How far
4 is Kia House from Shannon Scott's house?

5 A I don't know in distance. From what I understood, was
6 that it was somewhere near the sheriff's department,
7 that club.

8 Q Okay. And Eric Washington told you, did he not, that
9 they were following the second SUV?

10 A Right

11 Q And he didn't know who Mr. Niles knew out of the entire
12 group of 10, 11, but that he knew somebody?

13 A That's right.

14 Q And so, in fact, Mr. Niles may have, actually, been
15 going to help somebody in car number one?

16 A I'm not going to sign off on that.

17 Q I'm not -- I'm just saying it's a possibility because
18 Mr. Washington did not know why Mr. Niles was following
19 them except that he knew somebody; isn't that right?

20 A Other than what Mr. Niles told him.

21 Q Right. Mr. Niles told him he knew somebody in one of
22 those cars.

23 A Right.

24 Q And would it surprise you to know that Shade S [REDACTED]
25 knows or knew Darrell Niles?

- 1 A No, it wouldn't surprise me.
- 2 Q Did you ask her that?
- 3 A No, I don't think so. I don't recall if I did or not.
- 4 Q Did you ask anybody else in car number one whether they
- 5 knew Darrell Niles?
- 6 A I don't recall if I did or not.
- 7 Q So how long would it have taken for Mr. Niles and
- 8 Mr. Washington to get from the sheriff's department to
- 9 Mr. Scott's house?
- 10 A Are you asking me how long it took or how long it would
- 11 have?
- 12 Q If you know how long it took, then you can tell me. If
- 13 you can guess how long it would have taken --
- 14 A No, I can't tell you that. I can only tell that they
- 15 said they were speeding. They ran traffic lights. So
- 16 it's 2:30, 3:00 o'clock in the morning. There's hardly
- 17 no traffic. There are variables, so I really couldn't
- 18 tell you all that.
- 19 Q Well, I ask you to guess because the Judges are not
- 20 from Columbia, so they don't know that it's not around
- 21 the corner. It's up Two Notch Road
- 22 A I'm not trying to give you a hard time, but I think it
- 23 would be unfair for me to guess.
- 24 Q Would it take five minutes?
- 25 A Five minutes?

- 1 Q Uh-huh.
- 2 A It depends on how fast they were going, I would assume.
- 3 Q Okay. All right So they followed the SUV who was
- 4 following the other car and they did so for about five
- 5 minutes?
- 6 A You say five minutes, I'm telling you I don't know
- 7 Q Well, you never drove it to see?
- 8 A No.
- 9 Q So Mr. Washington told you that they followed these
- 10 girls home, who were being chased, and you never
- 11 bothered to see how long it would take?
- 12 A No.
- 13 Q And so you don't know the path that the girls took
- 14 either; do you?
- 15 A They told me they came straight down Two Notch Road,
- 16 made a left turn from the club, made a left turn onto a
- 17 street --
- 18 Q What street?
- 19 A -- to go behind -- they didn't give me the street
- 20 names.
- 21 Q Did you go back and look?
- 22 A They made a left turn on the street to go behind the
- 23 McDonald's. And without telling you the names of all
- 24 of those streets back there, I could tell you -- tell
- 25 you we went -- couple of times with the solicitor's

1 office, but from the club wherever it is on Two Notch
2 Road near the sheriff's department, I can't tell you
3 that. I don't even know if they told me anything about
4 going into -- into the [REDACTED] Apartments and passing
5 the police station there without looking in my notes
6 there. And they may have told another investigator
7 that, I don't know.

8 Q How many turns would you estimate that they took trying
9 to evade vehicle number one; do you know?

10 A If they went straight from out by the sheriff's
11 department, I would think roughly two or three

12 Q Two or three turns would have been a left on Beltline
13 and a right on [REDACTED] that's two. That's the quickest
14 way. They didn't do that; correct?

15 A A left on -- off of Two Notch onto the street behind
16 the Burger King.

17 Q Right, you said McDonald's, which would be on the other
18 side?

19 A I'm sorry, I mean, the Burger King.

20 Q Okay.

21 A The Burger King is the fast foot restaurant across from
22 McDonald's.

23 Q Right. Yes, sir.

24 A They would have made a left turn there off of Two Notch

25 --

- 1 Q Right.
- 2 A -- behind the Burger King. If you go back up into the
- 3 community, there are a couple of other streets,
- 4 depending on which route you took that you have to
- 5 cross over and then you make another left turn while
- 6 you're on [REDACTED]. So you know, roughly, two.
- 7 Q So for, at least, five minutes and two turns into a
- 8 neighborhood, they were following someone that was
- 9 being chased; is that right?
- 10 A Yes, sir.
- 11 Q They knew that they were being chased?
- 12 A Who you mean?
- 13 Q Mr. Washington knew that vehicle number two was chasing
- 14 vehicle number one?
- 15 A That's correct.
- 16 Q And they followed them?
- 17 A That's correct.
- 18 Q Okay. When Mr. Washington says they got to, in front
- 19 of Mr. Scott's house, what did he say they did?
- 20 A Mr. Washington's car?
- 21 Q Yes, sir.
- 22 A The car he was in?
- 23 Q (The witness nodded head.) Yes, sir.
- 24 A They went -- they came in from the Two Notch Road area
- 25 side.

- 1 Q Right.
- 2 A The -- I think they saw the -- they lost contact with
3 the cars at some point back up in those streets. When
4 they reencountered the cars, they were on [REDACTED] They
5 saw the first car as the lights were going into the
6 yard where Mr. Scott lives. The SUV went on down the
7 street, according to them, Mr. Washington, they turned
8 onto a street, which would have been [REDACTED] and
9 turned around. Once they turned around, they stopped
10 right there at that intersection.
- 11 Q So if they turned onto [REDACTED] -- this is [REDACTED]
12 Circle, I believe you indicated earlier; correct?
- 13 A That's right.
- 14 Q They would have been almost right in front of
15 Mr. Scott's house; correct?
- 16 A They would have been -- Mr. Scott could have seen them.
17 They would have been --
- 18 Q Well, he would have obviously seen them because you
19 testified that his headlights were on?
- 20 A That's --
- 21 Q So if he turned around, he'd be coming directly at Mr.
22 Scott with his headlights on; wouldn't he?
- 23 A If he turned around?
- 24 Q Yes, sir. You said he went up and turned around?
- 25 A No, Mr. Scott's house would have been two houses down

- 1 and on the left of that intersection.
- 2 Q But you would agree with me that between Mr. Scott's
- 3 house and [REDACTED] Circle, there's nothing but grass?
- 4 A I see a couple of houses there.
- 5 Q No, sir. That's his house, that's [REDACTED] Circle.
- 6 There's grass right here between those two houses.
- 7 A Well, yeah, if you want to be that way with it.
- 8 Q Yeah.
- 9 A That's his house there (indicating). There's some
- 10 trees there. There's a house there. That's the road
- 11 there.
- 12 Q Right, but right here as they come back down, he would
- 13 have seen or could have seen their headlights; isn't
- 14 that right?
- 15 A Well, definitely, he would have seen them.
- 16 Q Right, because it was 2:30 in the morning and there was
- 17 nobody else out there but those two cars?
- 18 A Right.
- 19 Q So he would have been assessing a threat coming from an
- 20 this SUV that had gone down and turned around and
- 21 according to what you're saying, a Honda that had gone
- 22 up and turned around; is that right?
- 23 A Yeah, but I -- you know, I failed to see how he could
- 24 have assessed that as a threat.
- 25 Q Okay. Let's get to that. Did Mr. Washington say that

1 they rolled down the window and said hey, Mr. Scott,
2 we're friends?

3 A No.

4 Q So how would he not? How would Mr. Scott not assess
5 them as a threat?

6 A I think because the young ladies only mentioned about
7 the SUV.

8 Q And you would agree with me that they had been chased
9 home from a club, that they were now in the backyard of
10 their house and at whatever point, shots were being
11 fired. They were laying down in their kitchen on the
12 floor. And so at that point, is that when he was
13 supposed to ask how many cars?

14 A Well, let me put it to you like this here, Counsel, see
15 the biggest problem -- this is one of the -- and I've
16 been investigating homicides for quite some -- many
17 years, you know that.

18 Q Yes, you and I have worked on four or five of them?

19 A Absolutely.

20 Q Yes, sir.

21 A This is one of the saddest homicide cases I've ever had
22 to deal with in respect to both the victim and the
23 accused.

24 Q Yes, sir.

25 A I wish it hadn't happened this way.

1 Q Yes, sir.

2 A My biggest problem with this is that when that car went
3 and turned up [REDACTED], came around that circle and
4 came back down, that could have been, let's say, an
5 undercover narcotic agent who had no dog in this fight.
6 That could have been an 89-year-old lady leaving her
7 house that time of the morning maybe going to a
8 pharmacy. When he fired that shot, my investigation
9 showed that he did it without due caution. That could
10 have been anybody out there. While they did not stand
11 there and say Mr. Scott, we're friends, they also
12 didn't stand there and say Mr. Scott, I've got a gun
13 and I'm about to shoot you.

14 Q Yes, sir. I'm glad you brought that up. You are
15 familiar with the South Carolina code of laws. And I
16 assume that you've read the section as it relates to
17 property crimes, 16-11-440; is that correct?

18 A I can read it now to familiarize myself with it.

19 Q All right. Well, did you know that the general
20 assembly, that the law now says that one should be free
21 from violence, one should believe that they are safe in
22 their castle. Would that surprise you that that's the
23 law?

24 A Absolutely not.

25 Q If Mr. Scott was safe in his castle and Kiwana Carter,

1 Kyasia Corbit and Teesha Davis came with the intent to
2 do a driveby, switched seats, fired a shot in the air,
3 at what point is he supposed to go back in his house
4 and lay on the floor with everybody else according to
5 the law in South Carolina?

6 A My issue --

7 Q Not your issue, tell me what he's supposed to do?

8 A You want me to read that and then I can answer that
9 question for you?

10 Q Yes, sir.

11 A You're asking me what point? If you're asking me is
12 that in the statute, it's not in the statute.

13 Q The statue says --

14 A Right.

15 Q -- that he's fine (indicating). He's in his yard. And
16 none of your investigation revealed that he went to Kia
17 House; correct?

18 A That he went to Kia's house?

19 Q Yes, sir. He didn't drive over to Kia House?

20 A No.

21 Q He didn't chase anybody home from Kia House?

22 A No.

23 Q Your investigation from talking to Mr. Williams and
24 others is that he was at home in his bed; correct?

25 A That's correct.

1 Q Somebody called him and woke him up and said they were
2 chasing his children; isn't this correct?

3 A That's correct.

4 Q And so at that point when they got to his house, what
5 was he supposed to do, but what he did?

6 A I think he should have used due caution when firing
7 shots into the wind

8 Q Okay.

9 A That is the reason that I brought these charges against
10 him.

11 Q But you would agree with me that the law says,
12 16-11-440 --

13 A That he does not have to retreat

14 Q That's right. Now, in using due caution, does that
15 mean be a better shot?

16 A No, that's not what that means. That --

17 Q But you would agree it would be a lot easier if he had
18 shot Kiwiana Carter, Kyasia Corbit, somebody in that
19 car that testified that they shot in the air, that
20 would be lot easier in terms of your investigation;
21 correct?

22 A I'm not going to agree with that

23 Q Okay.

24 A You know me better than that.

25 Q Okay. So when you say exercise due caution, what you

1 mean is that he should have been a better shot or he
2 should have been clearer who his target was? What do
3 you mean?

4 A I think he should have been clear and very clear of
5 what his target was. You know, that his target had
6 something to do with this incident. Now, let's not
7 lose sight that these two young men were on a public
8 road.

9 Q Yes, sir.

10 A All right. So they had all the right, regardless of
11 the fact that it's 2:00 and 3:00 o'clock in the
12 morning, all the right to be on that public road. What
13 he did not have the right to do was just fire random
14 shots at anything moving.

15 Q At 2:30 in the morning -- I'm sorry.

16 A At 2:30 in the morning, it could have been you out
17 there.

18 Q At 2:30 in the morning, that same car that had followed
19 his girls home from the club, who then turned around
20 following the other car that was shooting, according to
21 your testimony, according -- that was shooting at him,
22 one car turned around, the other car turned around?

23 A Well, the first time anybody knew anything about the
24 red Honda is when it went across the road and hit that
25 bush.

- 1 Q You said anybody, meaning who?
- 2 A Anybody that's in this whole --
- 3 Q No, Mr. Scott testified he saw the red Honda. It's
- 4 clear he's standing out in his yard at 2:30 in the
- 5 morning --
- 6 A He saw the red Honda up the street where it was.
- 7 Q The red Honda up the street where it was?
- 8 A Yeah, on [REDACTED].
- 9 Q You said Mr. Washington testified it went up and came
- 10 back down?
- 11 A No, no, no. The red Honda went up.
- 12 Q [REDACTED]?
- 13 A Yeah, the circle
- 14 Q Yes, sir. And when it came back down, it would have
- 15 been facing where Mr. Scott was?
- 16 A No, it was not facing where Mr Scott was.
- 17 Q Okay. But at 2:30 in the morning, there's a car with
- 18 headlights on coming this way and there's one coming
- 19 this way with no headlights on and you're saying what
- 20 he should have done was just shoot better?
- 21 A Again, I am saying he should have used caution.
- 22 Q Now, you would agree with me that nothing in your
- 23 investigation showed that Mr. Scott intended to shoot
- 24 Darrell Niles?
- 25 A I'm not saying that he knew Darrell Niles or Eric

1 Washington or whatever else was in the car. He shot
2 into a car. Regardless of whether the person was
3 Darrell Niles or Eric Washington or his child, God
4 forbid, he shot into a car.

5 Q And nothing in your investigation shows that there was
6 any prior disagreement between Mr. Scott and Mr. Niles;
7 is that correct?

8 A That's correct.

9 Q Nothing in your investigation shows that he knew
10 Mr. Niles; is that correct?

11 A That's correct.

12 Q So as far as his intent to take a life that evening,
13 there was nothing in your investigation that showed
14 that Mr. Scott intended to take the life of Mr. Niles?

15 A I think you can pretty much assume that when you're
16 firing a gun into a car that is occupied by somebody,
17 it's fair to say that that bullet is going to hit
18 somebody.

19 Q You said that and let me ask you this, did you in your
20 investigation show that Mr. Scott was an expert
21 marksman?

22 A No, sir.

23 Q Did you show that Mr. Scott, when he shoots, he always
24 hits what he aims at?

25 A I didn't show that either.

- 1 Q Did you show that Mr. Scott when under fire, when under
2 pressure, when there's a vehicle parked outside his
3 house that has chased his girls home from the club that
4 is admitting they're about to do a driveby, did it show
5 that Mr. Scott always knows exactly where to aim in
6 that situation?
- 7 A This vehicle was not outside his house, sir.
- 8 Q This -- okay, sorry. If you're saying that -- so your
9 testimony is that [REDACTED] as it runs into [REDACTED] is
10 not outside of his house?
- 11 A I don't think it's outside the house in the context you
12 want me to say or anybody else in here to believe. It
13 is not right outside of his house. It never went --
14 drove past his house. It went to [REDACTED] turned
15 around and came back down.
- 16 Q According to your testimony, he never went past Shannon
17 Scott's house; is that right?
- 18 A That's right.
- 19 Q So as soon as he saw them turn in the driveway -- got
20 to go up [REDACTED]; is that right?
- 21 A When you say he, who you talking about?
- 22 Q I'm talking about whoever told you that because you
23 said they didn't go past the house?
- 24 A Oh, okay. In that case, Mr. Washington said they just
25 went -- came from the area by the Two Notch Road area,

- 1 from that way, hit [REDACTED], went up in the
2 circle and turned around.
- 3 Q Can you point at the specific question in your Q and A
4 with Mr. Washington as to whether he ever went past
5 Mr. Scott's house?
- 6 A I don't think that's documented in there, but I do know
7 that's what he told us.
- 8 Q Okay. Can you show us in your notes where you wrote
9 that down that he never went past Mr. Scott's house?
- 10 A It's not documented, but I do recall what he told us.
- 11 Q Okay. Now, Teesha told you, did she not, that there
12 were three people in the yard when she drove by; isn't
13 that right?
- 14 A You're saying that's in her statement?
- 15 Q In her statement.
- 16 A Do you have that?
- 17 Q Yes, sir. I'm sorry, that's not where I wanted to go.
18 I apologize that. I retract that. Teesha told you
19 that Keewee intended to follow the girls and shoot at
20 them; isn't that correct?
- 21 A Can you show me that in there, what you're saying?
- 22 Q Yes, sir. It said shot, but?
- 23 A That's right.
- 24 Q So rather than the burden being placed on Mr. Scott,
25 who is at home and awoken by a phone call in the middle

1 of the night, why was the legal burden not on Kiwana,
2 Kyasia and Teesha for what they indicated to you that
3 they intended to do?

4 A We just didn't charge them with anything, sir.

5 Q Okay.

6 MR. RUTHERFORD: No further questions at this
7 time.

8 THE COURT: Redirect?

9 MS. GARFIELD: Thank you, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. GARFIELD:

12 Q Sergeant Reese, at the time of your investigation back
13 in April of 2010, did anyone that was interviewed in
14 this case ever report to you or any other law
15 enforcement officer that Teesha Davis was armed with a
16 weapon at any time?

17 A No.

18 Q Had a witness of any sort, where it was car number one,
19 car number two or car number three or anyone in the
20 home had told that you Teesha Davis had been armed with
21 a weapon, would that have caused you to ask a question
22 about Teesha Davis in a different light than other
23 witnesses?

24 A Yes, it would.

25 Q You were also asked that when you arrived on scene the

1 condition of the victim's car in relation to were there
2 lights in working order?

3 A Right.

4 Q Is that right?

5 A Right.

6 MS. GARFIELD: Madam Court Reporter, what number
7 would this be for the State?

8 MADAM COURT REPORTER: Seventeen.

9 BY MS. GARFIELD:

10 Q I'm going to show you what's been marked as State's
11 Exhibit No. 17?

12 MR. RUTHERFORD: Without objection.

13 (State's Exhibit No. 17 was marked for
14 identification.)

15 BY MS. GARFIELD:

16 Q Is this a photograph of the car as driven by Darrell
17 Niles in April of 2010 when you arrived?

18 A Yes, it is.

19 Q Had it been disturbed in any way?

20 A No, other than the paramedics coming there, that's
21 about it.

22 Q Had any other – other than turning the car into a
23 parked position, had any other changes to the car's
24 devices been made?

25 A No.

1 Q And what condition were the lights as reflected in this
2 picture?

3 A You could see that the headlights were on as well as
4 the rear lights.

5 Q Rear lights or red lights?

6 A The back lights.

7 Q And is -- where the car is positioned in that
8 photograph, is that where the car was found by law
9 enforcement on that evening or early morning?

10 A That's right.

11 MS. GARFIELD: Your Honor, at this time, we would
12 introduce State's Exhibit No 17 into evidence.

13 THE COURT: Sir, without objection?

14 MR. RUTHERFORD: Without objection.

15 THE COURT: Thank you.

16 (State's Exhibit No. 17 was admitted into
17 evidence.)

18 BY MS. GARFIELD:

19 Q And where that car was found, Sergeant Reese, is that
20 on [REDACTED] Avenue?

21 A That's on [REDACTED] Avenue.

22 Q And is that at the end of [REDACTED] Circle?

23 A It's at the end of [REDACTED] Circle and a little to the
24 right of it.

25 Q To the right?

- 1 A That's correct.
- 2 Q And in what direction would be the home of Shannon
- 3 Scott coming from that direction of [REDACTED] Circle?
- 4 A Mr. Scott's home would be in the other direction.
- 5 Q To the left?
- 6 A It would be to the left.
- 7 Q I'm going to ask you to step down if you don't mind,
- 8 Sergeant Reese.
- 9 A (Witness complies.)
- 10 Q State's Exhibit No. 18. To the left side of this
- 11 diagram or this photograph, Sergeant Reese, what do you
- 12 see to the left side of this picture?
- 13 A Your Honor, this is [REDACTED] Avenue. The left side would
- 14 be -- this is the house that Mr. Scott was living in at
- 15 the time of this incident.
- 16 Q So, obviously, in front of the house would be his front
- 17 yard; correct?
- 18 A Correct.
- 19 Q And show to the Judge where the end of [REDACTED] Circle
- 20 comes to [REDACTED] Avenue.
- 21 A If you go back up the road here, that would be -- this
- 22 is his house, travel up the road, there's another house
- 23 over here And this is [REDACTED] Circle right here.
- 24 Q And approximately from this position, where was the car
- 25 driven by the deceased, Darrell Niles, located?

1 A The car would have been -- again, Your Honor, this is
2 Mr. Scott's house at the time. There's another house
3 here and then there's a house right here (indicating).
4 You can see clearly that this house is beyond the
5 intersection here. So Mr. Niles's vehicle was here.
6 It was here (indicating). Travel over to the right and
7 it was hedges right here that it stopped.

8 Q So the intersection between [REDACTED] and [REDACTED] Circle,
9 is that directly in front of Shannon Scott's house?

10 A No, that's not.

11 MS. GARFIELD: Your Honor, at this time, I'd like
12 to introduce State's Exhibit No. 18 into evidence.

13 THE COURT: Any objection?

14 MR. RUTHERFORD: Without objection.

15 (State's Exhibit No 18 was admitted into
16 evidence)

17 BY MS. GARFIELD.

18 Q You can retake the stand, sir. Sergeant Reese, in your
19 investigation, it was reported to you that the
20 Defendant Shannon Scott was in his front yard?

21 A That's right.

22 Q When the shots were fired?

23 A That's right.

24 Q He was not in his home?

25 A Not in the house, no, ma'am.

1 Q And was there any evidence presented to you by any
2 person in car number one or inside the home of Shannon
3 Scott that would relay to you they knew a driveby was
4 about to occur?

5 A No, no information.

6 Q To your knowledge and in your investigation, was any
7 evidence presented to you that anybody in car number
8 two was armed with a weapon to Shannon Scott?

9 A Can you -- I'm sorry?

10 Q Sure. That was kind of a complicated question. In
11 your evidence anywhere, do you have that Shade S [REDACTED]
12 told her father there was a driveby about to happen?

13 A No

14 Q Did Shade S [REDACTED] ever report that Teesha Davis was armed
15 with a gun?

16 A No

17 Q Did Spartacus Bennett ever make such a report?

18 A No, ma'am.

19 Q Did Denzel Davis ever make such a report?

20 A No.

21 Q Did Asia Mills ever make such a report?

22 A No, ma'am.

23 Q Did Ashley Mills ever make such a report?

24 A No, ma'am.

25 Q Did Ave' F [REDACTED] ever make such a report?

1 A No, ma'am.

2 Q And I don't believe Ashley Mills testified in court,
3 but you did have an opportunity to interview her; is
4 that correct? Or interviewed by law enforcement?

5 A Yeah, she would have been interviewed by law
6 enforcement.

7 Q And I'm going to show you what's been marked State's
8 Exhibit No. 19. Is that a copy of her statement?

9 A This is she was interviewed by Investigator Dowell.

10 Q And is that an accurate copy of her statement?

11 A That's right.

12 Q And in her interview to Investigator Dowell, I believe
13 she's the one that reports that she made the phone call
14 to her mother?

15 A Yes, ma'am.

16 Q And in that phone call to her mother that she makes
17 from the car driven -- the first car driven, does she
18 report to law enforcement that she related any
19 information to her mother about a gun, a shooting,
20 anything of a violent nature regarding a weapon?

21 A No.

22 MS. GARFIELD Your Honor, at this time, I would
23 like to introduce State's Exhibit No. 19 into evidence

24 MR. RUTHERFORD: Without objection.

25 THE COURT: Okay.

1 (State's Exhibit No. 19 was admitted into
2 evidence.)

3 MS. GARFIELD: Beg the Court's indulgence.

4 Thank you, Sergeant Reese. Nothing further.

5 RECROSS-EXAMINATION

6 BY MR. RUTHERFORD:

7 Q Looking at State's Exhibit No. 19, can you tell me who
8 interviewed Ashley Mills?

9 A That would be Investigator Dowell.

10 Q What time did Ashley Mills arrive at the headquarters?
11 Is that where that was taken?

12 A It was taken at our office, yeah. And the time the
13 statement was taken was 7:58 on the 18th of April

14 Q Right. What time did she arrived at CPD?

15 A I don't know what time she arrived.

16 Q So do you know how much time elapsed between the time
17 she got to CPD and the time she wrote that statement?

18 A Elapsed from the --

19 Q From the time she got to CPD and the time she gave
20 Investigator Dowell that statement?

21 A When you -- I need to be very clearly what you're
22 asking me.

23 Q When she got to headquarters, when she walked in 811
24 Washington -- is that the address?

25 A Right, No. 1 Justice Square.

- 1 Q No. 1 Justice Square?
- 2 A Right.
- 3 Q Do you know what time it was?
- 4 (There was no response.)
- 5 Q It's not on there; is it?
- 6 A No, the -- the time is 1958, which is 7:58. It just
- 7 says what time the statement was taken, I don't know
- 8 what time she got there.
- 9 Q How long did Investigator Dowell talk to her before he
- 10 took the statement?
- 11 A I don't know right offhand.
- 12 Q How many questions did he ask her before he took the
- 13 statement?
- 14 A I don't know.
- 15 Q Would you recognize Investigator Dowell's handwriting?
- 16 (There was no response.)
- 17 Q Do you believe that to be Investigator Dowell's
- 18 handwriting or Ashley Mills's handwriting?
- 19 A No, I don't think this is Dowell's handwriting.
- 20 Q Okay. So is it fair to say that Ashley Mills arrived
- 21 at the police department, at some point was interviewed
- 22 by Investigator Dowell and at 7:58 started writing that
- 23 statement; is that correct?
- 24 A You could say that
- 25 Q Where is the rest of the interview?

1 A I don't know.

2 Q So how do you know what she told Investigator Dowell?

3 A I'm just going by what's in her statement.

4 Q But you're telling me that you know that time elapsed
5 between the time that Ashley Mills got there and the
6 time that statement was written and that there was a Q
7 and A and that there was dialogue between Ashley Mills
8 and Investigator Dowell, is that correct?

9 A That's right.

10 Q And so during that time, what is discussed is not
11 known; is that correct?

12 A That would be correct.

13 Q And so what is known is what's written down in that
14 statement; is that correct?

15 A Generally, the investigators will go over the
16 conversation with whoever is giving the statement. In
17 this case, he let her write down, but I'm not sure
18 whether -- or how long the Q and A took place with her
19 or he just simply went in, told her okay -- talked to
20 her a moment and said okay, write down what happened.

21 Q And it's fair to say that Investigator Dowell is
22 investigating a murder, correct?

23 A That's correct.

24 Q And there's nothing to indicate that Ashley Mills shots
25 Darrell Niles, correct?

- 1 A No, sir.
- 2 Q So he's doing essentially a background investigation;
3 is that correct?
- 4 A Taking statements
- 5 Q So there's nothing on that paper to indicate that the
6 direct question was asked of Ashley Mills did you ever
7 see Teesha Davis with a gun?
- 8 A No, that's not on there.
- 9 Q You say that's not right?
- 10 A I said that's not on there.
- 11 Q Right.
- 12 A That's what you're saying me, right?
- 13 Q Yes. And as far as every other witness goes that was
14 interviewed in this case, is it fair to say that they
15 arrived at CPD, that there was dialogue between them
16 and the investigator and at some point, it was reduced
17 to writing?
- 18 A Yes.
- 19 Q And in reducing it to writing -- I know there was one
20 statement earlier that Investigator Menendez wrote for
21 the person. They, actually -- she, actually, wrote the
22 statement out rather than have the subject write the
23 statement out. Do you remember that?
- 24 A I'd have to see what you're talking about, but that's
25 possible.

1 Q Right. Sometimes the investigator writes it and

2 sometimes --

3 A It happens.

4 Q -- the subject writes it

5 A Right.

6 Q If the subject can't write, the investigator would

7 write it out; is that right?

8 A That's right.

9 Q And sometimes you record it?

10 A Yes, sir.

11 Q Is that right?

12 A (The witness nodded head.)

13 Q If it's a murder investigation and an issue is going to

14 come up like whether someone in car number one saw

15 anyone in car number two with a gun, why not videotape

16 the individuals that come to give statements from the

17 time they walk into CPD? That way we would know what

18 was said, whether any guns were mentioned, whether red

19 lights were mentioned, why not do that?

20 A Videotape?

21 Q Yes, sir.

22 A All departments don't videotape. My department is one

23 that doesn't.

24 Q Yes, sir. And so what we're left with is an

25 incomplete, inaccurate representation of what happened

1 that evening because you don't know what Ashley Mills
2 told Investigator Dowell prior to reducing it to
3 writing; isn't that correct?

4 A No, that's right, I don't know what she told him.

5 Q And in each of those statements, you don't know what
6 the discussion was unless you were, actually, in there
7 before they reduced it to writing; isn't that right?

8 A That would be right.

9 Q And you would agree that you and I have had discussions
10 with an individual who fabricated a story, who said
11 things that weren't true at first, but then by the time
12 they reduced it to writing, they may have changed their
13 story; isn't that right?

14 A I would agree with that, right.

15 Q And so what you're looking at, what's in writing is
16 what the investigator is trying to get out of the
17 person they're interviewing; isn't that right?

18 A Yes, sir.

19 Q Not necessarily the entire story that the person came
20 to tell; isn't that right?

21 A That's right.

22 Q And so sometimes things are inadvertently left out
23 because the investigator or the subject may not know
24 that it's important; isn't that right?

25 A Yes, sir.

1 Q Okay. Now, as it relates to the headlights on the car,
2 we agree that Eric Washington never says that Darrell
3 Niles turned his headlights off; correct?

4 A He never said that, no.

5 Q Right. So from all that we know, the car always had
6 its lights on, was always present on [REDACTED] or
7 [REDACTED] correct?

8 A From -- the car was on [REDACTED] and it was on [REDACTED]

9 Q Yes, sir.

10 A Right.

11 MR RUTHERFORD: No further questions, Your Honor.

12 THE COURT: Thank you.

13 Anything further?

14 MS. GARFIELD: Nothing further.

15 THE COURT: At this time, we will go ahead and
16 take our lunch recess. We will reconvene at 2:00 o'clock.

17 MS. GARFIELD: Thank you, Your Honor.

18 THE WITNESS: Step down, Your Honor?

19 THE COURT: Yes, sir. Please do not discuss your
20 testimony during the lunch break.

21 THE WITNESS: I'm sorry.

22 THE COURT: Don't discuss your testimony during
23 the recess.

24 THE WITNESS: I understand.

25 (Whereupon, a luncheon was held.)

1 THE COURT: Call your next witness.

2 MS. GARFIELD: Thank you, Your Honor. The State
3 calls Eric Washington.

4 THEREUPON,

5 ERIC WASHINGTON,
6 after having been duly sworn, testified as follows:

7 THE CLERK: Thank you. Please have a seat in the
8 witness stand and state your full name for the record.

9 THE WITNESS: Eric Washington.

10 THE COURT: Your witness.

11 DIRECT EXAMINATION

12 BY MS. GARFIELD:

13 Q Mr. Washington, may I call you Eric?

14 A Yes, ma'am.

15 Q Eric, how old are you?

16 A Twenty.

17 Q And where are you from?

18 A Columbia, South Carolina.

19 Q And where did you go to high school?

20 A W.J. Kenner High School.

21 Q Did you graduate from high school?

22 A Yes, ma'am.

23 Q What did you do after graduation from high school?

24 A I got a full basketball to Presbyterian College.

25 Q And are you currently enrolled at Presbyterian College?

- 1 A No, ma'am. I transferred to Miami of Ohio this year.
- 2 Q And you will be leaving for Miami of Ohio shortly?
- 3 A Yes, ma'am
- 4 Q And what year are you?
- 5 A I will be a junior.
- 6 Q Do you know the victim in this case, Darrell Niles?
- 7 A Yes, ma'am.
- 8 Q And can you just share with the Judges your
- 9 relationship with Mr. Niles? How did you know him?
- 10 A I just met him through high school, basketball. We
- 11 kind of just built a relationship on and off the court
- 12 kind of. We was always at the gym, you know, just
- 13 hanging out. At lunch, we just kind of always
- 14 together, you know, just.
- 15 Q How many years would you say your friendship lasted?
- 16 A Probably about five years, five or six years.
- 17 Q And he went to the same high school as you?
- 18 A Yes, ma'am.
- 19 Q And you both were on the same basketball team?
- 20 A Yes, ma'am.
- 21 Q Was he as good as you?
- 22 (Laughter.)
- 23 A He could shoot better than I could, so.
- 24 Q Were you with Darrell on the night that he ultimately
- 25 died?

- 1 A Yes, ma'am.
- 2 Q And that was back in April of 2010?
- 3 A Yes, ma'am.
- 4 Q And earlier before the incident on [REDACTED] Avenue, let's
- 5 go back a little bit, where had you -- just tell the
- 6 Judge briefly about the events of the night you and
- 7 Darrell shared?
- 8 A We just went to a friend's party.
- 9 Q Sit just a little bit back from the microphone, we're
- 10 getting some feedback.
- 11 A We just went to a friend's party. And we left there
- 12 and kind of just went to another party because we were
- 13 just -- you know, just hanging out, didn't have nothing
- 14 else to do.
- 15 Q Where was this party -- where was the second party
- 16 located?
- 17 A At Kia House.
- 18 Q Do you know what part of town that is?
- 19 A Two Notch.
- 20 Q Do you know around -- I mean, Two Notch is a long road.
- 21 Do you know near where it is?
- 22 A Columbia Mall.
- 23 Q All right. And you were at this party Were you
- 24 drinking?
- 25 A No, ma'am.

- 1 Q Was Darrell drinking?
- 2 A No, ma'am.
- 3 Q And did you -- obviously, you eventually left this
- 4 party?
- 5 A (The witness nodded head.)
- 6 Q Why did you leave?
- 7 A Because it was over with.
- 8 Q Okay. And do you know about what time of night it was?
- 9 A No, ma'am
- 10 Q All right. Was there anybody else with you and
- 11 Darrell?
- 12 A No, ma'am.
- 13 Q Did you observe any type of altercation that evening?
- 14 A Yes, ma'am, afterwards.
- 15 Q Share with the Judge, explain to the Judge what you
- 16 remember regarding the altercation?
- 17 A From what I remember, I just -- there was a group of
- 18 girl, you know, just kind of just making little
- 19 commotion. I wouldn't say they were fighting or
- 20 anything, but you could tell they were arguing.
- 21 Q Did you know any of these girls?
- 22 A No, ma'am.
- 23 Q At the time when you're at the Kia House, did you know
- 24 if Darrell knew any of those girls?
- 25 A Yeah, he did say he knew a few of them.

- 1 Q Did he tell you which ones at that time he knew?
- 2 A No, ma'am.
- 3 Q Did you and Darrell go to the same middle school?
- 4 A No, ma'am.
- 5 Q What middled school did you go to?
- 6 A Summit Parkway.
- 7 Q And do you know what middle school Darrell went to?
- 8 A I want to say Gibbs.
- 9 Q Okay So different middle school, but you went to the
- 10 same high school?
- 11 A Right.
- 12 Q Okay So after you see the altercation, what do you
- 13 do?
- 14 A We just kind of just get in the car and go – we were
- 15 going to go get something to eat and then we kind of
- 16 see the cars pull off, so.
- 17 Q The cars what?
- 18 A Pull off.
- 19 Q Okay. And when you say the cars pull off, I'm going to
- 20 back up a little bit, Eric. The girls that were in the
- 21 altercation, did you see them get into any cars?
- 22 A No, ma'am, not at the time.
- 23 Q You didn't see them?
- 24 A Huh-uh.
- 25 Q Okay. Then you go and get into a car?

- 1 A Right.
- 2 Q Who's car was that?
- 3 A Darrell's car -- well, it wasn't his car, but he was
- 4 driving it.
- 5 Q Okay. Do you know who the car belonged to?
- 6 A Not -- no.
- 7 Q But it wasn't his car?
- 8 A Right.
- 9 Q Do you remember what kind of car it was?
- 10 A It was like a -- I would say red, burgundy, but I'm not
- 11 sure what type, though.
- 12 Q Okay. Fair enough. And who's driving?
- 13 A He was.
- 14 Q Where were you?
- 15 A In the passenger seat.
- 16 Q Anyone else in the car?
- 17 A No, ma'am.
- 18 Q And when you left the Kia House -- it's located on Two
- 19 Notch Road; correct?
- 20 A Right.
- 21 Q What was your next plan of action, where were you
- 22 going?
- 23 A We were going to get something to eat, but we kind of
- 24 just -- you know, just kind of just in the -- I guess
- 25 you would say riding around kind of, just following, I

- 1 guess.
- 2 Q Who were you following?
- 3 A The girl he said he knew.
- 4 Q And you don't know who that was?
- 5 A No.
- 6 Q What kind of car was the girls that Darrell said he
- 7 knew in?
- 8 A It was like a tannish-beige car.
- 9 Q Was it a truck or was it a car?
- 10 A It was a car.
- 11 Q Not -- wasn't an SUV?
- 12 A Huh-uh.
- 13 Q And from then on, what did you do?
- 14 A Kind of just drove on.
- 15 Q And were you following any car?
- 16 A Yes, ma'am.
- 17 Q Okay. Explain what car you were following.
- 18 A Just the -- the -- the silver truck following the beige
- 19 car.
- 20 Q Explain to the Judges, just what you remember, Eric,
- 21 why were you following the truck and the beige car?
- 22 A Just kind of making sure that those girls, I guess,
- 23 were all right. That's what I remember him saying.
- 24 Q You remember who saying?
- 25 A Darrell.

- 1 Q Exactly what did Darrell say to you that you remember?
- 2 A He was like -- he said he knew the girl in that first
- 3 car He was just like oh, we got to make sure they're
- 4 straight or make sure they're okay.
- 5 Q And was this still traveling down Two Notch Road?
- 6 A Yes, ma'am.
- 7 Q How close were you to these two cars?
- 8 A Not that -- not that close. It was kind of a distance.
- 9 Q Were you able to make out their license tag numbers?
- 10 A No, ma'am.
- 11 Q And did you continue to follow them?
- 12 A Right.
- 13 Q Did you ever get behind them at a red light or anything
- 14 like that?
- 15 A No, ma'am.
- 16 Q And you just continued to follow them down Two Notch?
- 17 A Right.
- 18 Q Eventually, did you make any turns?
- 19 A Yes, eventually, kind of like at Burger King.
- 20 Q On Two Notch Road?
- 21 A Right.
- 22 Q Okay. And why did you turn by the Burger King on Two
- 23 Notch Road?
- 24 A That's where we saw them go.
- 25 Q Who is them?

- 1 A The two cars.
- 2 Q And the two cars, are you referring to the first that
3 you described as a tan, beige-colored car?
- 4 A Right.
- 5 Q And the second car would be described, I believe you
6 said, as a truck?
- 7 A Right.
- 8 Q And again, Eric, did you know any of the individuals in
9 either of those cars?
- 10 A No, ma'am.
- 11 Q So once you turned onto the street by the Burger King,
12 where did y'all next travel?
- 13 A We just took a right into that neighborhood.
- 14 Q Okay. Did you know where you were going?
- 15 A No, ma'am.
- 16 Q Eric, had you ever been in that neighborhood before?
- 17 A No, ma'am.
- 18 Q To your knowledge, did Darrell express to you if he had
19 ever been in that neighborhood?
- 20 A No, ma'am.
- 21 Q Okay. And then where did y'all continue to go in the
22 neighborhood?
- 23 A We kept going straight and we kind of really got lost,
24 so we kind of just turned down a random road.
- 25 Q Okay. You got lost?

- 1 A Yes, ma'am.
- 2 Q And I'm kind of going to back up just a little bit,
3 Eric, from leaving the Kia House all the way to the
4 point where you are getting lost, are you in constant
5 sight of these two cars?
- 6 A No, ma'am.
- 7 Q And explain to the Judge why not?
- 8 A There were just kind of up ahead, so, I mean, I
9 really -- they were just kind of up too far I guess.
- 10 Q Did you ever lose sight of them?
- 11 A Yes, ma'am.
- 12 Q And then what -- when you lost sight of them, what did
13 you decide to do?
- 14 A We just kept going down the road.
- 15 Q And you eventually saw them again?
- 16 A Right.
- 17 Q And then you turned at the Burger King?
- 18 A (The witness nodded head.)
- 19 Q And, ultimately, got lost?
- 20 A Right.
- 21 Q Okay. When you got lost, do you still see these two
22 cars?
- 23 A No, ma'am.
- 24 Q I'm sorry?
- 25 A No, ma'am.

- 1 Q No, ma'am. Okay. And so what did you decide to do
2 after you got your whereabouts with you?
- 3 A Say again.
- 4 Q What did you decide to do -- once you realize you're
5 lost, you don't see the other two cars, what do you two
6 decide to do?
- 7 A We turned down -- we make a left down some road
- 8 Q Okay. When you made a left down some road -- you're
9 not familiar with this neighborhood?
- 10 A Right.
- 11 Q Did you know the name of the road?
- 12 A No, ma'am.
- 13 Q What did you do?
- 14 A Kind of just kept going down and kind of got to this
15 turn where we saw the cul-de-sac and we started to turn
16 around.
- 17 Q All right. Before you began to turn around in the
18 cul-de-sac, what do you observe?
- 19 A I noticed that we turned on the same road where that
20 car went and I saw that silver truck parked.
- 21 Q Okay. Was the silver truck parked as if it was driving
22 towards you or away from you?
- 23 A Towards me.
- 24 Q Okay. And did you see anyone else in any yard?
- 25 A Coming down?

- 1 Q Anywhere?
- 2 A Coming down, not at the time, no.
- 3 Q Okay. And as you began to turn the cul-de-sac, did you
- 4 observe anything else?
- 5 A I saw a man come out of the house.
- 6 Q And where did you see a man come out of the house?
- 7 A What do you mean where?
- 8 Q Where was he? What house? I mean, you're turning
- 9 around in a cul-de-sac, what house? Was it a house
- 10 along the cul-de-sac?
- 11 A No.
- 12 Q Was it a house on that street you were originally on?
- 13 A Right.
- 14 Q What did the man do?
- 15 A I saw him start shooting at the silver truck.
- 16 Q Okay. And y'all continued to turn around in the
- 17 cul-de-sac?
- 18 A Right.
- 19 Q And did you observe the man do thing else?
- 20 A Other than shooting, no.
- 21 Q Other than shooting at the silver truck?
- 22 A Right.
- 23 Q Did you successfully turn around in the cul-de-sac?
- 24 A Yes.
- 25 Q Okay. And what happened while you were turning around

- 1 in the cul-de-sac?
- 2 A Right when we were turning out the cul-de-sac to make a
- 3 right to go back up the -- to go the other direction up
- 4 the road, that's when he shot at the car.
- 5 Q Shot at what car?
- 6 A The car we was in.
- 7 Q How did you know you have been shot at?
- 8 A I think the glass broke
- 9 Q And what was your next response?
- 10 A Kind of just got down and I felt the car like -- start
- 11 to like swerve off a little bit. So I called his name
- 12 and that was kind of it, so.
- 13 Q You called whose name?
- 14 A Darrell's name.
- 15 Q And, Eric, I know this is hard for you. How many times
- 16 did you call his name?
- 17 A Probably twice before I looked at him.
- 18 Q When you looked at him, what did you see?
- 19 A He just had his eyes closed.
- 20 Q At any time -- I'm going to back up just a little bit,
- 21 Eric, just so we all understand. Before you turned in
- 22 that cul-de-sac, did you drive down past the house
- 23 where the man was with the gun?
- 24 A No, ma'am.
- 25 Q Did you ever drive past the house?

1 A No, ma'am.

2 Q Did you drive to the end of the road where the house
3 was where the man had a gun?

4 A No, ma'am.

5 MS. GARFIELD: Beg the Court's indulgence.

6 BY MS. GARFIELD:

7 Q Eric, I'm going to get you to step down. If you will
8 walk up here with me. We're showing the Judge, okay?

9 A Okay.

10 Q If you stand right there (indicating), I'm going to
11 hold this up.

12 A (witness complies.)

13 Q Would you agree with me that this is [REDACTED] Avenue,
14 okay? And this is towards Beltline, that's towards Two
15 Notch.

16 A All right.

17 Q Okay. Show me what direction you and Darrell Niles
18 were coming from?

19 A You going to have say it again. What is this right
20 here?

21 Q This is Beltline. This is Two Notch where the Burger
22 King and the McDonald's would be

23 A Okay. This is inside the neighborhood?

24 Q Uh-huh.

25 A So --

1 Q Where were you coming from?

2 A The house is right here (indicating)?

3 Q Uh-huh. Where did you turn?

4 A We turned, made this left into the cul-de-sac and took
5 a right.

6 Q And about where were you when you saw -- when you heard
7 the shots and when you knew the car --

8 A About halfway into the cul-de-sac.

9 MS. GARFIELD: I'm sorry, I didn't mark this.

10 Your Honor, at this time, I would like to introduce State's
11 Exhibit 20 into evidence.

12 THE COURT: Any objection?

13 MR. RUTHERFORD: Without objection.

14 (State's Exhibit No. 20 was admitted into
15 evidence.)

16 BY MS. GARFIELD:

17 Q Go on and have a seat. You can give me that.

18 A (Witness complies).

19 Q Eric, did the car eventually come to a stop?

20 A Yes, ma'am.

21 Q Once it came to a stop, what did you do?

22 A I first noticed that he was -- that his eyes were
23 closed, so I shook him. I kept shaking him and
24 eventually kind of just, you know, set in. And I kept
25 hearing gunshots, so I got out.

- 1 Q And what did you do when you got out the car?
- 2 A I ran up the road.
- 3 Q Did you run in the direction you had come from or did
- 4 you run in the direction further down?
- 5 A I ran in the opposite direction where he was at.
- 6 Q Where the person firing the gun was?
- 7 A Right.
- 8 Q So back in the direction that you had traveled?
- 9 A Right.
- 10 Q And while you were running, what did you do?
- 11 A I kind of just found my way out the neighborhood and
- 12 called the police
- 13 Q And did you have a cell phone?
- 14 A Yes, ma'am.
- 15 Q Did you call the police from your cell phone?
- 16 A Yes, ma'am.
- 17 Q When did you do that?
- 18 A Like, specifically, when did I do it?
- 19 Q If you remember, yes, sir.
- 20 A I guess when I found my way out the neighborhood than.
- 21 You know, because at first I didn't know where I was at
- 22 so I was trying to find my way out. So once I found
- 23 out I was out the neighborhood, then I called.
- 24 Q Was that once you made it back to Two Notch Road?
- 25 A Right.

- 1 Q Did you make any other phone calls?
- 2 A Then I called my mother.
- 3 Q Okay. And what was the purpose of calling your mother?
- 4 A Just tell her what happened and so I could have a ride,
- 5 to get me.
- 6 Q Where did go to wait on your mother?
- 7 A It was like a little -- like a house -- not a house,
- 8 but like a store right across the street from
- 9 McDonald's.
- 10 Q Is that where you waited?
- 11 A Yes, ma'am.
- 12 Q And did your mother come pick you up?
- 13 A Yes, ma'am.
- 14 Q And who was with your mother?
- 15 A She was by herself.
- 16 Q And after your mother picked you up, what did you do
- 17 next?
- 18 A I went to the house.
- 19 Q And when you say the house, who's house was that?
- 20 A Her house.
- 21 Q Okay. Once you got to the house, what -- did you call
- 22 the police again?
- 23 A Uh-huh.
- 24 Q Did you call or did someone else call?
- 25 A I'm not sure -- I think she called.

1 Q Okay. The police were called again?

2 A Right, yes.

3 Q At that time, you -- the police got in touch with you?

4 A Right.

5 Q And you spoke with them?

6 A Right.

7 Q Now, none of the girls involved in this you knew?

8 A No, ma'am.

9 Q Is that right? So you didn't know -- did you know any
10 of the guys involved in this?

11 A No, ma'am.

12 Q Did ever see any shots fired from that second car?

13 A No, ma'am

14 Q Did you ever see -- other than the man in the yard
15 shooting, did you ever see anyone else with a gun that
16 evening?

17 A No, ma'am.

18 Q Did you ever see anyone else with a gun while you were
19 driving down Two Notch Road?

20 A No, ma'am

21 MS. GARFIELD: Beg the Court's indulgence.

22 BY MS. GARFIELD:

23 Q Eric, did you have a gun that night?

24 A No, ma'am.

25 Q Did Darrell Niles have a gun that night?

1 A No, ma'am.

2 Q To your knowledge, was there any weapon in your car?

3 A No, ma'am.

4 Q Was there any weapon possessed by your or Darrell Niles
5 at any point during the night?

6 A No, ma'am

7 Q Did anyone that had been with you that night have a
8 gun?

9 A No, ma'am.

10 Q Thank you, Eric. Please answer any questions the
11 Defense counsel has.

12 THE COURT: Cross-examination.

13 MR. RUTHERFORD: Thank you, Your Honor. May it
14 please the Court.

15 CROSS-EXAMINATION

16 BY MR. RUTHERFORD:

17 Q Mr. Washington, you gave a statement to someone at the
18 Columbia Police Department, do you remember that?

19 A Yes, sir.

20 Q And in that statement, you said that, and as we
21 followed them to the last street, we noticed this guy
22 was shooting at the car and we immediately turned
23 around And I guess --

24 THE COURT: Mark it for identification if you
25 want --

1 MR. RUTHERFORD: I'm sorry, yes.

2 (Defendant's Exhibit No. 1 was marked for
3 identification.)

4 BY MR. RUTHERFORD:

5 Q And I guess when the man saw us, he started to shoot
6 the car, is that right?

7 A Right.

8 Q So you're coming back down the hill, back down [REDACTED]
9 after turning around; is that correct?

10 A When?

11 Q When you went to turn around in the circle?

12 A Right

13 Q Y'all are coming back down the hill. You see the
14 gentleman in his yard?

15 A Uh-huh

16 Q In the white shirt?

17 A Right.

18 Q Like how much of his body do you see?

19 A I saw his whole body.

20 Q So you could see him?

21 A Right.

22 Q Could you see his face?

23 A I could tell he was light-skinned.

24 Q So you could tell he was light-skinned?

25 A Right.

- 1 Q And you could see that he had something in his hand?
- 2 A Right.
- 3 Q So you could see him that well even at night that you
- 4 could tell he had something in his hand and that he --
- 5 you could see his whole body and tell that he was
- 6 light-skinned?
- 7 A You could see his arm raising and you could hear the
- 8 sounds, so I just put two and two together.
- 9 Q But you couldn't see the gun or could you?
- 10 A Yeah, I could see the gun.
- 11 Q Okay. And could he see you? Not in the car with the
- 12 headlights, but could he see the car?
- 13 A Well, obviously, yeah.
- 14 Q Okay. So he could see the car?
- 15 A Right.
- 16 Q And you're only halfway down, coming down [REDACTED] and
- 17 he could see the car?
- 18 A I didn't see him when I was coming down the road then.
- 19 Q When you say down, you mean down [REDACTED]? I'll use
- 20 State's Exhibit No. 20. You came down this direction I
- 21 believe you had indicated earlier; is that correct?
- 22 A Yes, sir.
- 23 Q And then you made a left on -- not you, but y'all made
- 24 a left on [REDACTED]; is that correct?
- 25 A Yes, sir.

- 1 Q And then you indicated that about halfway down, you
2 could see a gentleman standing in the yard; is that
3 correct?
- 4 A Right.
- 5 Q So way up the street, you can see the gentleman in the
6 yard and that he had a gun in his hand; correct?
- 7 A Yes, sir.
- 8 Q Did you see him look in your direction?
- 9 A No, sir.
- 10 Q So you never saw him look in your direction?
- 11 A No, sir.
- 12 Q But y'all had your headlights on; correct?
- 13 A Yes, sir.
- 14 Q Were there any other cars in the neighborhood that you
15 noticed?
- 16 A Other than the silver truck.
- 17 Q Okay. Now, tell me where when you were coming back
18 down the street, because you all were coming back down
19 [REDACTED] and you're about halfway down, and if the
20 house is here (indicating) where the gentleman was
21 standing (indicating), where was the silver truck?
- 22 A From where I was, it looked like it was right in front
23 of the house.
- 24 Q So at that point, the silver truck was almost right in
25 front of the house?

1 A Right.

2 Q Do you know -- do you remember whether it had its
3 lights on or not?

4 A No, sir.

5 Q But you all were halfway up, and from here, you could
6 see him and he could see you (indicating), and you
7 could see the silver truck; is that correct?

8 A Right.

9 Q Okay. Now, you don't know who Darrell knew in any of
10 those two cars; do you?

11 A No, sir.

12 Q So if I told you that the Defendant's daughter knew
13 Darrell, would that surprise you or you just don't
14 know?

15 A He said that he knew someone in that first car, so.

16 Q Okay. And he just was going to help out?

17 A Right.

18 Q Wanted to make sure she was okay?

19 A Right.

20 MR. RUTHERFORD: No further questions, Your Honor.

21 THE COURT: Anything on redirect?

22 MS. GARFIELD: Just one question.

23 REDIRECT EXAMINATION

24 BY MS. GARFIELD:

25 Q Eric, were the windows in the car you were in, were

1 they up or down?

2 A They were up.

3 MS. GARFIELD. Thank you, nothing further. May
4 this witness be excused?

5 THE COURT: Any objection?

6 MR. RUTHERFORD: Without objection.

7 THE COURT: Mr Washington, you're excuse. Thank
8 you.

9 MS SAMPSON. Your Honor, may we take a break?

10 THE COURT: Sure. Would you like to approach?

11 (Whereupon, a bench conference was held
12 off the record.)

13 THE COURT: All right. We'll be in recess for
14 about 20 minutes or so.

15 MS. SAMPSON: That should be --

16 THE COURT: Thank you.

17 MS. SAMPSON: Thank you.

18 (The proceedings were concluded for August
19 13, 2013.)

20 (The following proceedings were held on
21 August 14, 2013.)

22 MS. GARFIELD: Yes, ma'am. Just to put on the
23 record, after evidence has come forth regarding Teesha Davis
24 through the course of testimony, Columbia Police Department
25 did do a search on any incident reports that Teesha Davis

1 was named in and one did appear that is somewhat relevant to
2 the case at hand I have provided a copy of that for
3 Mr. Rutherford. If he wants to make it an exhibit, the
4 State has no objection to that.

5 THE COURT: All right.

6 MR. RUTHERFORD: Do we need to publish it for the
7 record?

8 THE COURT: That would be --
9 (Defendant's Exhibit 2 was marked for
10 identification.)

11 THE COURT: Ms. Garfield, just for the record, can
12 you give a little bit of background as to how this exhibit,
13 Defendant's Exhibit No 2 came up?

14 MS. GARFIELD: When we were doing testimony on
15 Monday and Ms. Rosalyn fuller was saying that she had
16 numerous problems with Teesha Davis, I asked April, Ms.
17 Sampson asked on cross if she lived in the City of Columbia.
18 At that time, Kevin Reese did a search for Teesha Davis as a
19 subject in incident reports and that appeared and he gave it
20 to me last night.

21 THE COURT. Okay. Thank you
22 Is that correct, Mr. Rutherford?

23 MR. RUTHERFORD: That's my understanding, Your
24 Honor.

25 THE COURT Okay.

1 MS. GARFIELD: It was nothing that was withheld.
2 We didn't have it beforehand. And I never thought to search
3 it. The State did not know that she was an issue before
4 this incident until the testimony.

5 THE COURT: So, certainly, as the testimony was
6 elicited, then you went to search for it?

7 MS. GARFIELD: Yes, ma'am.

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

9 MS. GARFIELD: Uh-huh.

10 THE COURT: Are we ready to proceed?

11 MS. GARFIELD: Yes, ma'am.

12 THE COURT: You may call your next witness.

13 MS. GARFIELD: Thank you, Your Honor. The State
14 calls Sergeant Arthur L. Thomas.

15 THEREUPON,

16 ARTHUR L. THOMAS,
17 after having been duly sworn, testified as follows:

18 THE CLERK: Thank you. Please have a seat in the
19 witness stand and state your full name for the record.

20 THE WITNESS: All right. Arthur L. Thomas

21 THE COURT: Your witness.

22 MS. GARFIELD: Thank you, Your Honor.

23 DIRECT EXAMINATION

24 BY MS. GARFIELD:

25 Q Sergeant Thomas, where are you employed?

- 1 A City of Columbia Police Department.
- 2 Q And how long have been employed with the department?
- 3 A For 23 years
- 4 Q And what are your duties -- or back in 2010, what were
- 5 your duties with the Columbia Police Department?
- 6 A I worked the homicide division, VCAP, for the city.
- 7 Q All right. It's already been testified to, but just
- 8 for the record, what does VCAP stand for?
- 9 A It's a violent crimes against persons unit.
- 10 Q And at that time, what was your rank?
- 11 A At that time, I was an investigator.
- 12 Q And, currently, what are your duties with the Columbia
- 13 Police Department?
- 14 A I supervise the special victims unit as a sergeant.
- 15 Q So you supervise investigators assigned to that unit?
- 16 A That is correct.
- 17 Q Is that the same organizational chart that was in
- 18 existence with the Columbia Police Department back in
- 19 2010?
- 20 A That's correct.
- 21 Q And there has been some changes made as far who's
- 22 assigned and who's supervising and whatnot?
- 23 A That is correct
- 24 Q And back in April of 2010, were you assigned to assist
- 25 the investigation of a case where there was a shooting

1 on [REDACTED] Avenue?

2 A I was.

3 Q And during the course of your investigation, did you
4 have the opportunity to interview several witness?

5 A I have.

6 Q You are familiar with -- and, Sergeant Thomas, you have
7 been in the courtroom for all of these proceedings with
8 the exception of Sergeant Reese's testimony; is that
9 correct?

10 A That is correct.

11 Q You're familiar that this case essentially involves
12 occupants in three different cars?

13 A That is correct.

14 Q In the course of your investigation, are you with the
15 statements given by occupants in car number one?

16 A Yes.

17 Q As well as are you familiar with statements given by
18 occupants in car number two?

19 A Yes.

20 Q And lastly, are you familiar with statements given by
21 the one survivor of car number three, Eric Washington?

22 A Yes.

23 Q And in the course of the statements that were given,
24 obviously, you had an opportunity to review all those
25 statements?

- 1 A Yes.
- 2 Q As well as you were actually privy to some of the
3 interrogations?
- 4 A That is correct.
- 5 Q At any time during the course of your investigation was
6 it reported to you that Teesha Davis was armed with any
7 type of weapon?
- 8 A It was not.
- 9 Q And at any time, was it reported to you or anyone else
10 to your knowledge that Teesha Davis had been a threat
11 to the family of Shannon Scott or, at the time, fiance
12 of her children?
- 13 A There was not.
- 14 Q At any time, was it reported to you that the occupants
15 of car number one were in fear of two cars following
16 her — following them?
- 17 A Not at the time of investigation, no.
- 18 Q Did you also have the opportunity to actually interview
19 Kiwiana Carter?
- 20 A Yes.
- 21 Q Sergeant Reese [sic], was that interview audio
22 recorded?
- 23 A It was.
- 24 Q Are all the interviews with the witnesses involved in
25 this case or, actually, in general audio recorded?

1 A Not all of them.

2 Q Can you just explain to the Judge as far as policy from
3 the police department, why is that?

4 A It is not currently in our policy to record. In fact,
5 Investigator Reese and I, actually established
6 recording out interviews, so most of the cases we have,
7 there will be some recordings. If we use other
8 investigators to interview, they choose whether they
9 want to record or not. So in this case, I think
10 Dowell, Menendez, Mahoney, some of the other
11 investigators did the standard converse, take a
12 statement and so forth. When I interviewed Ms. Carter,
13 I did what my procedure is, is to record.

14 Q And that recording was eventually turned over in your
15 case jacket to the solicitor's office?

16 A That is correct.

17 Q Are you familiar the solicitor's office, myself,
18 requested that audio recording be transcribed?

19 A Yes.

20 (State's Exhibit No 21 was marked for
21 identification.)

22 BY MS. GARFIELD:

23 Q I'm going to show you what's been marked as State's
24 Exhibit No. 21. Are you familiar with this
25 transcription?

1 A I am.

2 Q And that is a transcribed interview of who?

3 A This is a transcribed interview of myself and
4 Ms. Carter.

5 Q That would be Kiwiana Carter?

6 A Kiwiana Carter, correct.

7 Q And Kiwiana Carter would be later identified by other
8 witnesses and herself as being the driver of the second
9 car?

10 A That is correct.

11 Q Have you had an opportunity to review that transcript?

12 A I have.

13 Q And is it accurately reflected as a transcription of
14 the statements made on the audio recording that you
15 taped between you and Ms. Carter?

16 A Yes, it does

17 MS. GARFIELD: Your Honor, I would like to
18 introduce State's Exhibit No. 21 into evidence.

19 MR. RUTHERFORD: Without objection.

20 THE COURT: Thank you.

21 (State's Exhibit No. 21 was admitted into
22 evidence.)

23 BY MS. GARFIELD:

24 Q I'm going to direct your attention just to a couple of
25 question, Sergeant Reese?

- 1 A Thomas
- 2 Q I'm sorry, Sergeant Thomas.
- 3 A Just for the record.
- 4 (Laughter.)
- 5 Q I do apologize. I'm not sure who should be insulted,
- 6 but anyway, I'll move on.
- 7 (Laughter)
- 8 Q I'll direct you to page two of that transcript?
- 9 A Okay.
- 10 Q I'm sorry. I mean, page 16.
- 11 A Page 16. All right. All right. Page 16.
- 12 Q Just a second, Sergeant. Actually, I'm going to take
- 13 you to page 15?
- 14 A Fifteen.
- 15 Q Line 18. At that time, are you questioning Ms. Carter
- 16 about the incident that occurred on the night in
- 17 question?
- 18 A I am.
- 19 Q And does she give you some description of what she's
- 20 seen on that night, specifically line 18?
- 21 A She did.
- 22 Q And can you just read into the record what her response
- 23 is. If you want to go up to 15 and read what your
- 24 question was followed by the response?
- 25 A Okay. Starting with line 15, okay, all right. After

1 firing and why did fire you that round?

2 Q And what was Ms. Carter's answer?

3 A Starting at 18, because they shot at us two times. And
4 at the time, I had gotten a little frightened. I just
5 wanted them to know that I had a weapon, too, because
6 the guy that was in the back to the left on the
7 passenger side said he was -- said, excuse me --
8 passenger side was doing a whole bunch of threatening
9 and saying that we were just a bunch of females and
10 that we did not -- that we were not going to do
11 anything. And y'all forgive me for that.

12 Q Did you follow up with another question?

13 A Yes, I did.

14 Q If you will just follow with line 25 at the bottom of
15 15 through line 10 on the next page?

16 A Okay. He said -- oh -- did he not, then on this one he
17 said you ugly things. What was that? What did he say?

18 He said you're a bunch of, and she pauses and then
19 she repeats again on line nine. He said oh, they're
20 just a bunch of bitches. They ain't going to do shit.

21 Q And that was reported by Ms. Carter; is that correct?

22 A That's correct.

23 Q And that was in reference to someone that had been in
24 car number one?

25 A That is correct.

- 1 Q And then you continued with your interrogation. I'm
2 going to take you to page 33. Take you to line 10. I
3 believe at this point, the transcript is obvious,
4 Sergeant, that your interrogation with Ms. Carter is
5 beginning to wrap up
- 6 A Okay.
- 7 Q Is that an accurate statement?
- 8 A Yes, toward the end here, yeah.
- 9 Q So if you will just begin with the question you posed
10 to Ms. Carter beginning on line 10?
- 11 A Okay. Is there anything that you can think of that I
12 have not asked you or that we have not discussed in
13 this initial interview.
- 14 Q What was Ms. Carter's reply?
- 15 A When we leaving --
- 16 Q You can start with the beginning of it.
- 17 A Okay. No, sir, other than when we were leaving, I said
18 the guys were standing in the middle of the road. They
19 were yelling oh, we going to get y'all. It's not over.
- 20 Q And that is in reference to her leaving the incident
21 location?
- 22 A That's correct
- 23 Q And Ms. Carter would be the person that drove to the
24 incident location?
- 25 A That is correct, in the Expedition.

1 Q In the second car?

2 A Correct.

3 MS. GARFIELD: Beg the Court's indulgence.

4 BY MS. GARFIELD:

5 Q Sergeant, if you can just comment on practices for

6 investigators. I believe you just testified that not

7 all investigators audio tape their interviews?

8 A That is correct. It is the preference of the

9 investigator. Myself and Investigator Reese think it's

10 more prudent to do so. It clears up some things and so

11 forth for our investigation. Other investigators still

12 choose not to do so.

13 Q Is it common practice before obtaining a written

14 statement from a witness --

15 A Uh-huh.

16 Q -- do you have little one on one discussion?

17 A Yes. I found through the years that people have a

18 different way of viewing what they saw, particularly

19 trying to place it chronologically. So a lot of times,

20 you'll have people who will start at the rear of

21 everything and they're excited and they can't put it

22 together. So prior to doing some things, we may talk

23 about it, try to see if we can it in chronological

24 order where it makes sense and then proceed from there.

25 Q There's been several statements that have been

1 introduced during the course of this proceeding, but to
2 your knowledge whether statements or one on one
3 interviews, no one ever reported to you the threat of a
4 second car?

5 A No, there was never a second car mentioned.

6 Q Thank you, Sergeant.

7 THE COURT: Cross-examination?

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

10 CROSS-EXAMINATION

11 BY MR. RUTHERFORD:

12 Q Ms. Carter, in her statement, also told you that she
13 pulled her weapon out at Kia House; didn't she?

14 A If you can give me a reference.

15 Q If you go back to the beginning of her statement.

16 A You know what area that was?

17 Q Like the very beginning. I don't know. Mine doesn't
18 have line numbers on it. She said she pulled it out of
19 her center console and moved it to her glove box.

20 A If I had a line number, I could reference it and answer
21 correctly for you. Not that I don't --

22 Q While I'm looking for it in the transcript, I will show
23 it to you in her written statement.

24 A Okay In the written statement, I do observe --

25 Q Where she said that she moved her gun from her center

1 console to her glove box?

2 A Correct.

3 Q So it would be her testimony to you that she had been
4 threatened by somebody in the car -- by somebody in car
5 number one (indicating); is that right?

6 A Her statement to me was that one of the cohorts in her
7 vehicle was looking to fight --

8 Q Right

9 A -- with the Defendant's daughter

10 Q Right.

11 A There was some type of commotion --

12 Q But you said a male threatened her; is that right?

13 A Yeah, male made comments at some point.

14 Q Did she say who?

15 A I don't think she knew any of these people by name.

16 Q Did she indicate who she thought it would be? Did you
17 show her pictures and try to get to who she was taking
18 about?

19 A In reference to which point?

20 Q In reference to who threatened her?

21 A Again, she acknowledged to me that she didn't know any
22 of the people in the car. She only talked about skin
23 complexion, approximate age during the whole interview.
24 She had no reference to who these folks were. She, I
25 believe, was in her late 20's or better. All of these

- 1 young people were in their teens and so she made
2 reference that these are younger kids and I'm only
3 associated through one of the friends.
- 4 Q Right. But she also said that somebody had threatened
5 her. There are only two guys in the car. So I assume
6 at some point, she could have said the one -- I don't
7 know how they looked. Did both of them have dreads
8 back then, did one have dreads and the other didn't?
- 9 A I think she mentioned one with dreads. She said
10 something about dreads.
- 11 Q But she didn't say that, but did she say when this
12 occurred that when she was threatened that she felt so
13 threatened she took her gun out of her center console
14 closest to her and moved it further away from her in
15 her glove box?
- 16 A Again, I don't know what her intents were. That's just
17 what she put in her statement.
- 18 Q Right.
- 19 A I know in this state, you must -- if you drive, you're
20 supposed to have it in your glove box. She have
21 mentioned that --
- 22 Q You can have it in the center console, too, actually,
23 but --
- 24 A Most people --
- 25 Q Yes. But if -- in telling you that somebody in the

1 other car had threatened her and nobody else mentions
2 that and in the course of being threatened, she takes
3 her gun and she moves it further away from her. She
4 didn't say she put it under the seat. She said she
5 moved it from the center console right beside her to
6 further away from her --

7 A Right.

8 Q -- and she never explained why she did that?

9 A No, she didn't.

10 Q Did it occur to you then or is it occurring to you now
11 that she was just making the whole thing up?

12 A No, I believe she gave a very candid interview.

13 Q Okay. And by candid, you mean she couldn't describe
14 who it was threatened her?

15 A Correct.

16 Q She wanted to get you to believe that she took her gun
17 and moved it closest to her when she was being
18 threatened to further away from her? By candid, you
19 mean that she described someone taunting her from the
20 car, but nobody else said anything about it? What do
21 you mean by candid?

22 A I mean that in the totality of her statement, it was
23 quite candid. She was very detailed and it
24 corroborated with information that we received from
25 other witnesses during the course of the investigation

- 1 Q Okay.
- 2 A Down to the number of rounds fired.
- 3 Q What other witness said that she moved the gun from the
- 4 center console to the glove box?
- 5 A Well, no one else but she said that because that's her
- 6 action.
- 7 Q Okay.
- 8 A I don't even know if the other people paid attention to
- 9 that.
- 10 Q Okay. Did the other witnesses indicate that at some
- 11 point someone in the car was taunting Kiwiana?
- 12 A Repeat that again.
- 13 Q Kiwiana was the driver of the second car, correct?
- 14 A Uh-huh.
- 15 Q She would lead you to believe that she was being
- 16 threatened and that somebody said it was not over.
- 17 Yet, she continued to chase the car for about -- how
- 18 long would you say they were chasing the first car?
- 19 A No, I think that -- I think that part of the interview
- 20 was at the very end of the shooting incident itself
- 21 when she makes the statement of people in the roadway
- 22 saying it's not over.
- 23 Q Right.
- 24 A Right.
- 25 Q So --

1 A So that's not in the beginning of the chase itself.

2 That's after everything is over.

3 Q Right But my point is, no one else says anything

4 about that except for her, isn't that right? Did any

5 one else report hearing somebody say it's not over?

6 A Not to my recollection

7 Q Okay.

8 A I didn't interview everyone, so I cannot recall each

9 statement to that regard.

10 Q And Kiwiana at this point -- because you are

11 interviewing her about the murder of Darrell Niles?

12 A Correct.

13 Q And so she's being clear on the fact that I didn't kill

14 Darrell Niles?

15 A Correct.

16 Q And that's what the statement is geared towards;

17 correct?

18 A Correct.

19 Q So she tells you that somebody else must be the

20 aggressor, somebody else had to be because, in fact,

21 once we were driving by, they said it's not over?

22 A That's her statement, yes.

23 Q Right.

24 A Uh-huh.

25 Q But she's the same person that said she was being

1 threatened and so she chased the car for five, ten
2 minutes?

3 A Now, again in her candor in her statement, it's my
4 recollection she said that she was chasing the car
5 because of the altercation in the club with her
6 associates. And they -- she was candid about saying
7 they were trying chase the vehicle down to fight.

8 Q So they're chasing a car?

9 A Uh-huh.

10 Q Down the street?

11 A Uh-huh.

12 Q Did you ascertain from them whether they ever made any
13 stops as they chased them from Kia House to Shannon
14 Scott's house?

15 A Now, in her statement, there was no mention of any
16 stops where they exited the vehicle. There was a stop
17 at a light where subjects apparently went through the
18 light, which was stated earlier.

19 Q Do you know which light that was?

20 A Somewhere off of Two Notch and Bettline or something
21 like that.

22 Q Okay.

23 A Uh-huh.

24 Q So they went through the light Was any mention of
25 Teesha Davis getting out of the car and running up to

- 1 —
- 2 A No, no mention of that.
- 3 Q So Kiwiana at this point has chased them to Shannon
- 4 Scott's house and is in the parking lot at All State;
- 5 would that be correct that that's where they at some
- 6 point --
- 7 A According to her statement, yes.
- 8 Q Right. And she said that she shot -- did she or Teesha
- 9 shoot out the window?
- 10 A In her statement, she advises that after being shot at
- 11 twice, persons in the car said they were busting at us
- 12 and busting at us. She claims she goes into the glove
- 13 box, pulls the weapon out, winds the window down and
- 14 she fires up one in the air.
- 15 Q Did you ask her why they didn't just leave?
- 16 A I don't know if I asked that or not. I can't recall.
- 17 Q Okay. Because you would get that where they said they
- 18 were --
- 19 A Uh-huh.
- 20 Q -- was in the All State parking lot on Beltline
- 21 Boulevard; correct?
- 22 A Correct.
- 23 Q And if they exited the All State parking lot, they
- 24 could have just hit Beltline in less than a second and
- 25 --

- 1 A Absolutely.
- 2 Q Okay. So why was it they were sitting in the parking
3 log, according to Kiwiana --
- 4 A Uh-huh.
- 5 Q -- with a gun, what were they doing?
- 6 A Well, again, according to Kiwiana, her gun was not out
7 until after being fired upon twice. And I can only --
8 I can only reference the statement.
- 9 Q Yes, sir.
- 10 A And, again, according to her statement, their whole
11 intent was to have this physical altercation between
12 the two groups.
- 13 Q At what point did her intent in talking to her --
14 because you recorded the statement, but prior to
15 pressing record, you had some dialogue with her; is
16 that correct?
- 17 A I did.
- 18 Q How much dialogue with her do you think you had?
- 19 A I think it was only a few minutes because I believe she
20 was already ready to talk. So, again, like I said
21 earlier, I just wanted make sure she would go
22 chronologically, take me from the club all the way
23 through in as much detail as possible.
- 24 Q Right. So do you remember from her statement from
25 anything she told you prior to you pressing record --

1 A Uh-huh.

2 Q -- at what point it turned into -- turned -- or went
3 from trying to have a physical altercation to we're
4 going to do a driveby?

5 A Well, in accordance to her statement, it did not change
6 until after fired upon twice.

7 Q Okay.

8 A And that's, again, according to her statement.

9 Q Right. And is that when she switched seats with
10 Teesha?

11 A I believe after she shoots one round -- after the two
12 rounds are fired, she fires one to let them know that
13 they were armed, then they made a plan to switch seats.

14 Q Is that when she got out of the car and tried to get
15 her shell casing?

16 A I don't know anything about trying to get a shell
17 casing.

18 Q She mentions trying to pick up her shell casing,
19 doesn't she?

20 A I don't recall that. She may have. If you reference a
21 location, I will --

22 Q Yes, sir.

23 A -- look at it.

24 Q So they then drive back in front of the house; is that
25 right, according to her statement or according to

1 everything that you understand?

2 A Again, to my recollection, after being fired upon,
3 after firing her round, they switch. There's a
4 different driver. She's in the back. Then at some
5 point, they, actually, do leave and that's when they
6 see the other vehicle with the driver slumped over and
7 the lights on in the vehicle.

8 Q And there's no dispute about the fact that that other
9 vehicle would have been past Shannon Scott's house;
10 correct?

11 A That's correct.

12 Q So they're so afraid or whatever it is they are in the
13 All State parking lot on Beltline Boulevard that they
14 don't leave again and go to Beltline, they switch
15 passengers, roll their windows down and then drive back
16 past the house?

17 A Now, I'll be honest with you --

18 Q Yes, sir.

19 A -- in speaking with this young lady, I did not --

20 Q Sense fear?

21 A -- sense that they were that afraid

22 Q Yes, sir.

23 A I'll be honest with you.

24 Q So they then are going to drive back past the house?

25 A Right

- 1 Q And it would be then that Eric Washington says that he
2 sees them driving back past the house as he's making
3 the U-turn?
- 4 A I recall him saying the car was in motion as they were
5 trying to turn.
- 6 Q Right. He identified -- right in front of the house?
- 7 A I think that's the statement he made.
- 8 Q So at that point, he and Mr. Niles would have been
9 coming back down [REDACTED] as they are coming back in
10 front of the house with their windows down with the
11 intent on doing a driveby?
- 12 A Well, I don't know about any intent on doing a
13 driveby --
- 14 Q Well, they said it. I mean, she said they switched
15 drivers, she got in the back passenger seat so that --
16 back driver's seat so she could roll down the window
17 with the intent on busting on them?
- 18 A I believe at the end of the statement, they just drove
19 off the driveby thing.
- 20 Q It never happened?
- 21 A Yeah, it never transpired --
- 22 Q But that was what she switched seats for; wasn't it?
- 23 A Yeah, but there was no action to that effect.
- 24 Q But she switched seats?
- 25 A There was a switching of seats.

- 1 Q She had a gun?
- 2 A That's correct.
- 3 Q And at that point --
- 4 A Uh-huh.
- 5 Q -- they're driving back by the house. Now, Mr. Scott
- 6 does not know that they're not going to shoot; does he?
- 7 A I cannot speak for --
- 8 Q He would have no way of knowing that?
- 9 A Right.
- 10 Q They never talked to him. They weren't having dialogue
- 11 on the cell phone?
- 12 A To my knowledge, there was no conversation between the
- 13 two.
- 14 Q So at that point, they're driving back in front of his
- 15 house?
- 16 A Uh-huh.
- 17 Q When Eric Washington says, I see them driving back in
- 18 front of the house and we're turning around coming back
- 19 down [REDACTED] And at that point, Darrell Niles is
- 20 still alive because --
- 21 A Again --
- 22 Q -- Eric Washington said he was turning around in the
- 23 car and he saw it. And he says that he saw that car in
- 24 front of that house before he heard the window shatter;
- 25 isn't that right?

- 1 A Again, you have to refer back to Mr --
- 2 Q Well, I'm just taking the whole --
- 3 A -- statement itself, investigation and the information
- 4 I had is that one vehicle was parked at one end of the
- 5 road, the other vehicle was in motion already closest
- 6 to the home and was already in the motion of turning
- 7 and during that --
- 8 Q Which vehicle?
- 9 A This is the Honda.
- 10 Q Okay. Okay.
- 11 A Turning in the cul-de-sac.
- 12 Q Okay.
- 13 A And at the point of turning around, there was gunfire,
- 14 the subject was hit and was killed.
- 15 Q Right.
- 16 A Now, the motion of the other vehicle and its
- 17 positioning, I can't speak to.
- 18 Q The other vehicle being the SUV --
- 19 A Correct.
- 20 Q -- that was wanting to do a driveby, but didn't?
- 21 A That vehicle?
- 22 Q Yes, sir.
- 23 A I can't speak to that.
- 24 Q Now, Investigator Thomas, if people have the intent and
- 25 they manifest this intent by switching seats, by arming

1 themselves and they tell you that they intend on doing
2 -- they intended on doing a driveby, wouldn't that be a
3 felony?

4 A The intent or the act?

5 Q Well, the act because they at that point switched seats
6 and they were armed?

7 A From the information on that we were given, the
8 switching of the seats and so forth, that wouldn't
9 be --

10 Q Well, that's criminal conspiracy; is it not? I mean,
11 they had intended to --

12 A There was no crime committed. They just switched
13 drivers.

14 Q But switching drivers with the intent to do a driveby,
15 is that not criminal conspiracy and the --

16 A If --

17 Q The one --

18 A If it was actually fired at some point driving off and
19 someone committed it, yeah, of all that would be
20 intent.

21 Q So you would disagree with me that simple switching
22 seats, getting a gun, rolling down your windows and
23 driving in front of a house is not a crime?

24 A Not a crime.

25 Q Okay. So is that why you didn't charge with them with

- 1 felony murder?
- 2 A It was not her bullet that struck the victim.
- 3 Q Right. So that's why it had to be felony murder?
- 4 A It was not her bullet.
- 5 Q But if they switched seats?
- 6 A Uh-huh.
- 7 Q In front of one, Judicial Square, whatever the address
- 8 is at CPD?
- 9 A Correct.
- 10 Q And one of them had a gun?
- 11 A Correct.
- 12 Q In the back seat and they rolled the windows down?
- 13 A Correct.
- 14 Q And they were driving by, how far they going to get
- 15 before y'all open fire?
- 16 A Again, if there's no conduct or action of a threat,
- 17 they would drive by like anybody else. The only
- 18 persons that knew that any of that transpired were the
- 19 parties in the vehicle.
- 20 Q No, sir --
- 21 A No one mentioned to us from the other side or the
- 22 Defendant's side that they saw any switching of seats
- 23 or anything of that nature.
- 24 Q Right.
- 25 A So the only parties that are privy to any of that

- 1 action were those parties in the vehicle and it wasn't
2 until long after that we got that information.
- 3 Q You're neglecting the gunshot that preceded that.
4 Remember, she said she fired a shot?
- 5 A She did.
- 6 Q Before driving back in front of the house?
- 7 A And her statement was she fired a shot after being
8 fired upon twice.
- 9 Q Okay. But remember, she could have gone the opposite
10 way?
- 11 A I agree.
- 12 Q She could have gone this way?
- 13 A I do agree.
- 14 Q She didn't?
- 15 A I do agree
- 16 Q She chose to go back in front of the house while armed
17 in the passenger seat. Mr. Scott had obviously heard
18 that gunshot.
- 19 A Uh-huh.
- 20 Q Even if he preceded that shot with two --
- 21 A Correct.
- 22 Q -- he still heard that gunshot?
- 23 A Correct.
- 24 Q And here they come in front of his house?
- 25 A Correct.

1 Q If he's standing there --

2 A Uh-huh.

3 Q -- and there's a moral to every criminal story -- every
4 criminal story should end with a lesson of what he
5 should not have done. If he's standing in his front
6 lawn?

7 A Uh-huh.

8 Q After his daughters had been chased home from a club,
9 as his entire family is laying on the kitchen floor --

10 A Uh-huh.

11 Q -- in fear of their lives?

12 A Okay.

13 Q He has just heard a gunshot and he sees a car with its
14 lights off, and windows down that has just fired a round
15 is now coming back in front of his house, what should
16 he have done?

17 A He should not have fired at the vehicle, if that's your
18 question. He should have not have fired. He should
19 have went back into his home and called law
20 enforcement. I really believe that when the children
21 called the mother and father and stated we're being
22 chased by these crazy people. We can't loose them.
23 Daddy saying come home. Then and there, I felt that
24 911 should have been called. My children are being
25 chased. They're somewhere off of Beltline. They're

1 coming to my house Can you be here by the time they
2 get here? Is what I felt he should have done.

3 Q Yes, sir. But now, you would agree with me after we
4 found the statement that the mother had already made
5 against Teesha Davis, they had already called, right?
6 They called five days prior to; isn't that right?

7 A Say it again, I'm sorry.

8 Q Whatever the incident report that was handed to me this
9 morning --

10 MS. GARFIELD: Judge, I'm going to object to this.

11 I think we stated on the record and agreed for it to be an
12 exhibit because all of us -- this came to our knowledge last
13 --

14 MR. RUTHERFORD: I'm not saying he had prior
15 knowledge, Your Honor. My point is they had already called
16 the police and then this same girl was back in front of the
17 house.

18 MS. GARFIELD: I don't think Sergeant Thomas had
19 information --

20 MR. RUTHERFORD: No, I'm not saying that he did.
21 I don't believe anybody did.

22 THE WITNESS: Well, to answer.

23 THE COURT. Hold on.

24 Objection overruled. I think he can ask him
25 whether he has information to that effect.

1 BY MR. RUTHERFORD:

2 Q I don't believe that you knew about that incident
3 report this morning. I know better.

4 A Right.

5 Q It's more in their minds they had already called the
6 police on this same girl, who was now chasing their
7 daughters again. Mr. Scott, from information that you
8 all gathered, was in there in the house with his wife.
9 His wife was on the phone with 911 because you all at
10 that time had the 911 call. You knew -- you could hear
11 him in the background while his wife was on the phone
12 with 911 and this car is in front of their house. This
13 car is now rolling their windows down and driving by
14 after firing a shot.

15 A Uh-huh.

16 Q And my question to you is, if you were standing there
17 with your family on the kitchen floor in fear for their
18 lives, you knew that your wife had called the police
19 five days earlier on this same girl, she had just fired
20 a shot, she's driving back in front of your house after
21 you fired a warning shot, what would you do?

22 A Again, my answer to you and I'll reiterate is that I
23 would have called 911, had law enforcement in route
24 prior to the parking of the vehicle, prior to the
25 stationing up, preparing for driveby or anything of

1 that nature. Would have had my family where he had
2 them, toward the rear of the house.

3 Q You would agree with me now that after reading the
4 Castle doctrine of law, the legislature passed it, the
5 legislature no longer requires you to turn your back on
6 somebody that is driving by your house and about to
7 shoot at your, you would agree?

8 A I would agree there's some legislation out there that
9 is of that opinion.

10 Q You would agree with me that even prior to this
11 legislation being out there --

12 A Uh-huh.

13 Q -- nothing required you to turn your back on somebody
14 that had already -- you had already called the police
15 on, that had fired a shot and she says was a warning
16 shot, Mr. Scott doesn't know where that bullet was
17 aimed; does he?

18 A He does not

19 Q So he knows that somebody was firing a shot from that
20 car and they're now driving back in front of the house.
21 Prior to this law passing --

22 A Uh-huh.

23 Q -- is there anything that required him to turn his back
24 and go back in the house while they shot it up?

25 A Well, again, he's put in that position. He has to make

1 a decision. He made one and it was the wrong one.

2 Q And he's was put in that position by who?

3 A By the situation and its totality.

4 Q So who did that? Who chased his daughters from the
5 club?

6 A The individuals in the truck

7 Q That being Kwiana Carter?

8 A Correct.

9 Q Who had a gun outside of his house?

10 A He did and they had one down the street in the vehicle.

11 Q And did they fire it?

12 A They fired. He fired.

13 Q Did they tell you that they were intending on doing a
14 driveby?

15 A It was mentioned, yes

16 Q Okay. And so given all of that, you still suggest that
17 he should have turned his back and went back in the
18 house while they drove back in front of his house?

19 A Yes. I suggest that other action should have been
20 taken.

21 Q Now, calling 911 doesn't put a bullet proof shield
22 around your house; does it?

23 A It does not.

24 Q It does not. And you've seen that house. It's not one
25 that -- it's not brick. It isn't hardy plaque. It

1 isn't a fortress?

2 A Right.

3 Q A 380 might have gone all the way through the house,
4 would you agree?

5 A I don't know the making of the house, but rounds could
6 have hit the house, yes, I do agree.

7 Q Right. And so as he went back in the house, under your
8 theory and called 911, it would have provided him no
9 protection from anything they were doing outside; is
10 that correct?

11 A Well, a home would definitely provide cover. I mean,
12 we have less cover --

13 Q I didn't say cover, I said protection?

14 A Cover, protection, it would have provided better than
15 being out there firing upon them and getting in the
16 shoot out. I think he opened himself up more by
17 standing in the roadway or standing outside as they
18 were coming back, to be honest with you.

19 Q Now, you would agree with me -- and I'll sit down, that
20 a store owner or a store clerk --

21 A Uh-huh.

22 Q -- who is presented with somebody trying to rob the
23 store, who then pulls his weapon and fires at that
24 gentlemen who he believes is going to fire at him and
25 that store owner hits somebody that happens to be

1 completely innocent, you would agree with me that the
2 proper charge in that case is felony murder against the
3 person trying to rob the store; would you not?

4 A If all weapons are presented at the same time, you're
5 saying?

6 Q I'm saying if somebody tries to rob a store?

7 A Uh-huh.

8 Q And the store clerk pulls his weapon and fires at the
9 gentleman who is trying to rob the store and by mistake
10 hits somebody innocent in the store, the proper charge
11 in that scenario is not murder against the store owner,
12 it is felony murder against the person trying to rob
13 the store; is it not?

14 A Well, again, I can't agree to that because each
15 situation differs per case. You know, that's a nice
16 analogy that you're putting together there, but just
17 like this case, you would have to take the totality of
18 everything --

19 Q Well, what's different about totality? Why does the
20 store owner in your opinion as a law enforcement
21 officer -- or clerk not have the right to defend
22 themselves? Are you suggesting they have to wait until
23 he fires on them?

24 A Again, I could -- with a case like that, I would have
25 to work that case like --

- 1 Q I mean, just tell me, working it, what's he supposed to
2 do?
- 3 A Again, without having real base witnesses and so forth,
4 I cannot say that he's justified in any way.
- 5 Q Now, I would imagine -- and I apologize. I was, I
6 guess, asking for your opinion?
- 7 A Correct.
- 8 Q What does the law require that he do?
9 (There was no response.)
- 10 Q When somebody has a gun pointed at them?
- 11 A Uh-huh.
- 12 Q What does the law of South Carolina require that they
13 do?
- 14 A Well, if the gun is pointed at him, he's required to
15 defend himself.
- 16 Q If someone believes their life is in jeopardy, what
17 does the law require them to do?
- 18 A Again, in your scenario as given --
- 19 Q No, no, I'm not --
- 20 A All right.
- 21 Q If someone believes --
- 22 A Uh-huh.
- 23 Q -- that their life is in jeopardy, what does the law
24 require them to do?
- 25 A You have it in front of you. If he believes certain

1 things, he can take certain actions.

2 Q Because the next question is what does the law allow
3 him to do?

4 A Again, he can take certain actions.

5 Q And those certain actions are defending himself and his
6 family; is that not right?

7 A He can take those actions. He has choices.

8 Q And he has the absolute right given to him by the State
9 of South Carolina to do that; does he not?

10 A He has the right to make those choices, yes, sir.

11 Q And here is the finding of general assembly. You can
12 pull out the law if you would like. Show me in there
13 where it says he is must shoot straight. I'll wait.

14 A There's nothing in there that would say that he must
15 shoot straight, but there is a responsibility any time
16 you take an aggressive action.

17 Q And that aggressive action was taken by Kiwiana Carter,
18 Kyasia Corbit, Teesha Davis and they were let go; isn't
19 that right?

20 A That action did not lead to the death of an innocent
21 person turning his car around to leave.

22 Q Had they not come to their house --

23 A Uh-huh.

24 Q -- would anybody be dead?

25 A Had the totality of the circumstances not take place,

1 no.

2 Q Specifically, had they left down Beltline, would
3 anybody be dead?

4 A Had the totality of the circumstance not taken place,
5 he would not be dead. It's actions and it's totality.

6 Q Yes, sir.

7 MR. RUTHERFORD: No further questions, Your Honor.

8 THE COURT: Any redirect?

9 MS. GARFIELD: Briefly, Judge.

10 REDIRECT EXAMINATION

11 BY MS. GARFIELD.

12 Q Sergeant Thomas, going back to the threats that were
13 made in the club or the allegations that Mr. Rutherford
14 are making that were down at the club, Shannon Scott
15 was never at the club?

16 A He was not

17 Q He was never at Kia House?

18 A He was not

19 Q Rosalyn Fuller Scott was never at Kia House?

20 A She was not.

21 Q On your investigation, no witness reported to you that
22 Shannon Scott or Rosalyn Fuller were told of any weapon
23 at the club?

24 A No.

25 Q And there was no report of any weapon by anybody at the

- 1 club or along the way to the house?
- 2 A There was not
- 3 Q When was the first time you heard Teesha Davis being
- 4 armed with a weapon in the middle of Two Notch Road?
- 5 A That was in court on Monday.
- 6 Q On Monday this week?
- 7 A This week.
- 8 Q In this hearing?
- 9 A Was the first time we heard that.
- 10 Q For purposes of deciding if Shannon Scott is immune
- 11 from his actions?
- 12 A That's correct
- 13 Q And to your knowledge and through your investigation
- 14 and witnesses you've interviewed, when Shannon Scott
- 15 was in his house and when he armed himself with a gun,
- 16 he had no knowledge that anyone else surrounding this
- 17 incident had a weapon?
- 18 A Not when he initially took the weapon, no, sir.
- 19 Q No one told Shannon Scott a driveby might be about to
- 20 occur?
- 21 A No, they did not.
- 22 Q Shannon Scott never had a conversation with any one in
- 23 car number two, is this correct?
- 24 A He did not.
- 25 Q To this date that you're aware of?

- 1 A No.
- 2 Q Never had a conversation?
- 3 A No, he did not.
- 4 Q And you were never aware that any report had been filed
5 regarding any one in car number two previous to this
6 incident?
- 7 A No, I was not.
- 8 Q And when you were -- you've been to -- I assume in your
9 investigation, Sergeant, you have been to the home of
10 Shannon Scott?
- 11 A Oh, yes.
- 12 Q If you were standing in his front yard as if you were
13 leaving his house, what direction was the car driven by
14 the occupants in car number two, to the right or to the
15 left?
- 16 A If you're at his home, it would be to the right.
- 17 Q And where is this turn around that Eric Washington
18 testified to that he and Darrell Niles were turning
19 around? What direction would that be, left or right?
- 20 A It was to the left of the home.
- 21 Q So you would agree with me that car number two and car
22 number three were in opposite directions?
- 23 A Total different directions, correct.
- 24 Q Mr Rutherford was asking about if someone believes
25 their life is in jeopardy, what does the law require

1 them to do. Regardless from an investigation
2 standpoint, is your standard looking at it what a
3 reasonable person would do?

4 A That is correct.

5 Q Is that what y'all used in looking at this case?

6 A That is correct.

7 Q And lastly, there is no felony murder statute in our
8 state; is there?

9 A I'm not aware of a felony murder statute, no, but the
10 terminology is used quite frequently.

11 Q Sergeant Thomas, if you were driving down the street --
12 let ask you this. Is [REDACTED] Road a public street?

13 A It is.

14 Q If you're driving down a public street and a home owner
15 begins to shoot at you, based on our current law, can
16 the person in the car shoot back?

17 A If the homeowner shoots at you?

18 Q If you're driving down a public road where you have a
19 right to be according to this statute --

20 A Right.

21 Q -- and you're shot at, may you return fire?

22 A Yes.

23 Q Thank you. Nothing further.

24 MR RUTHERFORD: No redirect?

25 THE COURT: You may step down, thank you.

1 You may call your next witness.

2 MS. GARFIELD: Your Honor, at this time, the State
3 rests.

4 THE COURT: Do y'all need a minute for closing
5 arguments or are you ready to proceed?

6 MS. GARFIELD: I believe Mr. Rutherford has a
7 reply witness, but since we do have appellate options in
8 this case, we do renew all of our objections in the case

9 THE COURT: Yes, ma'am, so noted.

10 MR. RUTHERFORD: Same objection.

11 THE COURT: Okay.

12 Do you have any reply witnesses?

13 MR. RUTHERFORD: None, Your Honor.

14 THE COURT: All right. Are y'all ready to proceed
15 with closing or do you need a quick break?

16 MR. RUTHERFORD: No, Your Honor, we're ready to
17 proceed.

18 THE COURT: All right. I will be happy to hear
19 from you.

20 MR. RUTHERFORD: Thank you, Your Honor. May it
21 please the Court.

22 I think that the most significant thing that was
23 said was what was said by Investigator Thomas. What
24 Investigator Thomas said, in fact, is the reason why we
25 passed this statute. This statute was passed so that

1 Mr. Scott would never be sitting here, that someone who is
2 standing in their yard, in their castle does not have to
3 make the decision to go back in the house and hope that the
4 calvary is going to come. That they are at that point
5 allowed to defend themselves, to not be placed -- to not
6 place their lives in jeopardy, to not place the lives of
7 their family in jeopardy by criminals who would seek to do
8 them harm. There was no doubt as to whether they sought to
9 do them harm. They had already fired a gunshot.

10 The State has made great efforts to try and show
11 Your Honor as to when those shots were fired, who got their
12 gun first. None of that matters. None of that matters.
13 All that matters is that Mr. Scott felt his life was in
14 jeopardy And we know that because every one there thought
15 their lives were in jeopardy. We know that because the
16 statements by Kiwiana Carter, Kyasia Corbit, Teesha Davis
17 indicate that they should have thought that their lives were
18 in jeopardy.

19 Investigator Thomas told you that Teesha David
20 didn't seem to be scared. Well, a lack of fear and driving
21 in front of somebody's house with a gun in the car indicates
22 what her intent was. As Mr. Scott stood in that front yard,
23 as he looked at what was described by Eric Washington
24 because Eric Washington says they turned around on [REDACTED]
25 and he came back and he could see Mr. Scott in his yard. He

1 described what he had on and described that he could see him
2 so well he saw a gun in his hand (indicating), a gun that
3 big (indicating) in his hand. And when the question was
4 asked of him, where was the SUV, he says right in front of
5 the house.

6 So at that point, it doesn't matter what preceded
7 that because what Mr. Scott knew, what everybody else in
8 that house knew, what everybody else at the house testified
9 to is that a shot had been fired from that SUV, be it one,
10 be it two, be it 30, from an SUV that had a way out, that
11 had simply to go down Beltline Boulevard, a major four-lane
12 road. They were parked in a business on Beltline Boulevard.
13 All they had to do was exit and go that way (indicating) and
14 they chose to come back in front of his house. And we know
15 that they came back in front of the house not because of
16 what Mr. Scott says, but because of what Eric Washington
17 said.

18 I believe, Your Honor, after listening to
19 Mr. Washington that Darrell Niles, the victim in this case,
20 was probably on his way to my client's house to help my
21 client's daughter. Of all the witnesses I've talked to, she
22 is the only one that knew him. The only one that had any
23 prior relationship with him. All of the people in the
24 second car indicate they didn't know him. I believe that he
25 probably tried to help, but after following two cars, one

1 chasing the other for between five and ten minutes and
2 ending up the neighborhood at what we believe between 1:00
3 and 1:30 in the morning on a street where somebody's about
4 to do a driveby, where my client and his wife live, that he
5 simply ended up being in the wrong place at the wrong time
6 trying do a good thing.

7 But there's a solution to that, as Your Honor
8 knows. It's called felony murder. Whether there's a
9 statute on it or whether we use it in common parliament.
10 It's felony murder. You cannot put somebody's life in
11 jeopardy and not expect them to act. And when they do act,
12 they cannot be expected to shoot straight always because
13 they are not supposed to have their life in jeopardy
14 Teesha Davis, Kyasia Corbit, Kiwiana Carter knew what they
15 were doing that night. They intending on doing. And they
16 should have been charged with felony murder. They switched
17 seats intending to do a driveby. Thinking of doing a
18 driveby is not a felony. Getting your gun out and switching
19 seats makes it a felony. That's that one step that you need
20 for the conspiracy to be acted on. That's that one step.
21 At that point, they admitted to law enforcement that they
22 were about to do a driveby. They should have been the ones
23 charged with felony murder. They should be the ones sitting
24 at that table.

25 I ask over and over again, everybody I see when I

1 talk about this case, law enforcement and otherwise, tell me
2 what he should have done. And I talked to Investigator
3 Thomas about the same thing, tell me the moral of the story
4 here. Tell what he should have done. As you talk to your
5 family, as you talk to your kids, you try and tell them
6 there was this guy in front of me today who pled guilty and
7 let me tell you what you should never do in life. But at no
8 point can anyone tell me if Mr. Scott had gone back in the
9 house and called 911 that one of family members would not be
10 dead. Nobody can say that Investigator Thomas can't say
11 that. Investigator Reese can't say that. Nobody could.

12 Because, in fact, what they know is that Kiwiana Carter,
13 Kyasia Corbit and Teesha Davis intended, but did not follow
14 through with the driveby

15 So what we do know is that Mr. Scott found himself
16 in the front yard of his home faced with an imminent threat
17 and what he thought was an imminent coming from another
18 vehicle. Nobody testified that they saw another car. They
19 all told the truth. We simply didn't. But the only person
20 in the front yard was Shannon Scott. He was the only one
21 that could see and assess what the threats were. And that's
22 exactly what he did and it's what the law requires him to
23 do. I asked Investigator Thomas over and over again, tell
24 me what the law requires him to do. Well, he should have
25 gone back in. Gone back in while people are shooting at

1 you? That's exactly what the general assembly says you
2 don't have to do. You do not have to retreat. That is
3 non-sensible to expect that someone is going to retreat from
4 someone that has already fired on them once and they fire on
5 them again. That house was not a castle in the sense that
6 it had thick brick walls. It did not have a -- outside.
7 The only person that was left outside to guard his family
8 and guard his life was Shannon Scott.

9 Shannon Scott testified he didn't have a gun. He
10 didn't go in his room. He went in the roommate's room and
11 grabbed a gun from his roommate. And he did so after
12 believing that he was in fear. He testified that he did it
13 after he heard the first shot. Whether the State would have
14 you believe that he never heard a shot, whether he fired
15 first, it doesn't matter. What is significant is he did not
16 go out and there was no testimony from anybody in the second
17 car -- their affidavits that as soon as they drove by, he
18 started shooting at them. He had access to a gun prior to
19 them ever driving by the house. He didn't do it. Before he
20 ever did anything, you hear them on that 911 tape saying
21 they are shooting at us. You hear him talking to his wife
22 as she calls 911 and she tells you where she is. She is in
23 the kitchen with her children as they lay on the floor in
24 fear of their lives. Every single one of them said it.
25 Whether they heard the gunshot in the car, in the backyard

1 as they went in the house, what difference does it make?
2 How many people deserve to be shot at by a bunch of women
3 thugs that intended to do a driveby.

4 So the question over and over again, Mr. Scott,
5 what you should have done is I just don't know what to tell
6 you except that I'm sorry that you're sitting here and I'm
7 also very thankful that the general assembly thought to
8 codify exactly what we intended, which is you do not have to
9 retreat in your home. You do not have to retreat in your
10 yard. You do not have to turn your back on people who you
11 believe are shooting at you even if those people are coming
12 from an opposite direction from the car that you believe the
13 shots to be coming from, but they're headed back down and
14 they're looking at you and you're looking at them

15 The proper charge in this case is felony murder
16 for Kiwiana Carter, Kyasia Corbit, Teesha Davis and whoever
17 the unknown person is that left. It is not murder against
18 Mr. Scott. And that is why Mr. Scott should be given
19 immunity from prosecution in this case. Mr. Scott is
20 exactly the example that the legislature intended. And we
21 know that not because we've set up this pretrial motion to
22 allow Mr. Scott to say that he should be given immunity. We
23 know that because we are -- to find something to tell
24 Mr. Scott that he should have done that night standing there
25 after somebody fired a shot at him with his family laying on

1 the floor in the kitchen. We went into great detail about
2 what happened at the club and the drive down and how long
3 and where, but none of that matters. All that matters is
4 that Mr. Scott stood there in his yard, the only thing
5 between his children and people that intended to do them
6 harm. Thank you.

7 THE COURT: Solicitor.

8 MS. SAMPSON: Thank you, Your Honor. May it
9 please the Court. Darrell Niles was in the wrong place at
10 the wrong time doing absolutely nothing wrong and for that,
11 he received a bullet in his head and he's not here today.

12 Shannon Scott killed Darrell Niles, let's not get
13 that confused, killed him. And now wants to be immune from
14 prosecution for his actions. That may be what he wants, but
15 according to South Carolina law is not what he gets.

16 I find it amusing that Mr. Rutherford made the
17 law, but in his entire closing never told you what it is.
18 In 16-11-440, section C, which is what we're here to talk
19 about, it gives specific guidelines when you can be immune
20 from prosecution. It is up to the defendant to prove beyond
21 preponderance of the evidence, that he's entitled to
22 immunity. Quite simply, in this case, he isn't.

23 Now, normally, as a Judge, you are only the trier
24 of the law. You never even really have to listen to the
25 facts. You can listen, look at your Ipod, look at the

1 computer, but, normally, it's up to the jury to decide what
2 those facts are. You just tell them what the law is. But
3 in this case, thanks to the legislature and Mr. Rutherford,
4 they have given you great power. And with great power comes
5 a lot of responsibility. Today, you not only have to decide
6 the law, you have to decide the facts. And so because of
7 that, I normally would tell jurors to look at to decide the
8 credibility of witnesses because dispute what Mr. Rutherford
9 just told you, it does matter.

10 He would like you to believe that just because
11 people came in here and said thing, it's so. It just isn't
12 true. Otherwise, Casey Anthony would be in prison, so would
13 Mr. Zimmerman. Just saying something doesn't make it so.
14 You have to look at the credibility of the witnesses.
15 Normally, again, you all don't have to do that. So I'm
16 going go over what you normally look at to decide The
17 demeanor of the witnesses on the stand, were they forthright
18 or hesitant, was their testimony consistent, and in this
19 case that is, I will say, the most important one and was it
20 corroborated? In this case, not one single witness put up
21 by the defense was consistent. Their testimony changed when
22 it mattered.

23 And let's talk about consistencies. They matter
24 despite what Mr. Rutherford told you. In this case, the
25 first witness was Shade S [REDACTED]. She got up there and she

1 told you I called my dad.

2 THE COURT: Ms. Sampson, could you move that a
3 little bit for me?

4 MS. SAMPSON: Oh, I'm sorry.

5 THE COURT: I'm sorry, I didn't mean to interrupt
6 you.

7 MS. SAMPSON: I don't mind. Is that better?

8 THE COURT: Yes.

9 MS. SAMPSON: In this case, Shade S [REDACTED] who was
10 the first witness, told you that she called her dad. All of
11 the other witnesses told you no, she didn't. They called
12 Rosalyn Fuller. That's important because Rosalyn Fuller
13 didn't go out on the porch and do anything. She's the one
14 with the information. It goes to whether you can believe
15 Shade S [REDACTED]. When her father is here facing murder charges
16 and looking at going to prison, her story conveniently
17 changes. So did the statement of Denzel Davis, the
18 statement of either one because not one single person told
19 you Teesha Davis had a gun. Back when their memories were
20 freshest, back in April of 2010 when this happened, nobody
21 mention Teesha Davis having a gun. Mr. Rutherford would
22 have you believe it was up to the officers to ask them.
23 You're in a police department talking to them about
24 shooting, wouldn't you mention that somebody other than
25 you're father, your friend, whomever, had a gun pointed at

1 you? Do we have to ask you or should you just know to tell?
2 Or is it today when you're asking for immunity and it
3 matters where there's a treat to you that you suddenly see a
4 gun?

5 When the first shot was fired. Very important,
6 again, despite what Mr. Rutherford said, because it matters.
7 You don't get immunity in this state if you fire first.
8 According to Mr. Rutherford and all his friends in the
9 legislature, you have the right to be safe in your occupied
10 vehicle. Under the same law he wants to protect Mr. Scott,
11 it would also protect Teesha Davis, Kyasia and Kiwiana, who
12 according to them got shot at first. That same statute,
13 which I can quote, says you have the right to meet force
14 with force. If you're in a place where you have the lawful
15 right to be and you fear imminent danger or great bodily
16 injury, according to what he just said (indicating) and
17 according to what Ms. Cater said, Ms. Corbit said and Ms.
18 Davis said (indicating), Mr. Scott shot first.

19 Now, Mr. Rutherford would like you to believe just
20 his witnesses. I'm just saying you got to take the whole
21 thing. And if you talk to our witnesses and the officers
22 and everyone else, he shot first (indicating). And they had
23 a right to meet force with force and shoot back. Who shot
24 first matters. He has to poof by a preponderance of the
25 evidence that our people shot first. He can't do it.

1 Preponderance of the evidence is a scale like we've all
2 talked about, one way or the other. One group says that our
3 -- that Teesha Davis and Kiwiana Carter shot first. One
4 group said, oh, no, Shannon Scott shot first. That's an
5 equal scale, ladies and gentlemen, equal scale. Not one way
6 or the other. It's up to you to decide if it tips one way
7 or the other. And you just can't believe these people
8 because they change their statement because back in 2010
9 when this happened, when none of that mattered, when they
10 didn't know the law, when they didn't have an attorney
11 telling them what the law was, they said they heard shots
12 from the yard first and then they heard shots from far away.
13 Today, when the law matters and they know it, oh, he shot
14 before we even got in the house, there were shots at us
15 first and then he went and got a gun and shot back. Not
16 what they said in 2010. It matters.

17 Where the truck was when the shots were fired.
18 We've shown you pictures and you're going to be able to see
19 it. But the best picture we have and we have them marked
20 all over it is this one. This is the All State. We can't
21 change that. That's where it is (indicating). This is
22 where they did turn around (indicating). His house is here
23 (indicating). His front yard is here (indicating). I don't
24 care where the truck ended up, it's still to his right
25 (indicating). It's never ever ever to his left where he

1 shoots and kills Darrell Niles, ever

2 Now, today it was somewhere around here

3 (indicating) when he shoots. And I'll give him a little

4 closer, but back in 2010 when nobody knew the law, way down

5 here (indicating). That car was never a threat to them,

6 ever. That was -- and for the record, that was Exhibit No.

7 6 Sorry, Your Honor.

8 Whether a statement was made to Lenny. And,

9 again, Lenny's testimony, I will tell you, to me is the most

10 neutral of everybody because maybe Kiwiana Cater and Kyasia

11 Corbit want to protect themselves because they know they're

12 in trouble and that Mr. Rutherford is going to be here

13 saying they should be charged with felony murder, so maybe

14 they don't tell the truth Maybe Mr Scott and his family

15 who don't want him to go to prison for 30 years is over

16 there not telling the truth. Lenny miller doesn't have a

17 dog in this fight. What did he tell us? He's sitting,

18 dozing off talking to his girlfriend, eating a late dinner

19 at 1:30 in the morning, suddenly, his roommate comes in and

20 grabs his gun. Not we heard a shot or two and then my

21 roommate comes and grabs my gun, but nothing's happening, he

22 comes in and grabs my gun and then I hear the door slam and

23 then I hear a shot. And he told you he hears shots in the

24 neighborhood all the time. He knows what a gunshot sounds

25 like. And never heard one before his roommate came and got

1 that gun That never changes. And his roommate wants to
2 say oh, I told them there was a shooting. I told them
3 something was going down. But Lenny Williams's statement
4 never changed, always been huh-uh, he never told me nothing.
5 He just came and got the gun. That is important because,
6 again, as the judges of the facts, you've got to decide what
7 they are

8 So we're going to take about how you decide, talk
9 about credibility. So let's look at the consistencies. The
10 victim was not involved in the altercation at the club.
11 Therefore, he's never a threat, ever. They say there's
12 girls coming. I don't think there's ever been a problem or
13 a concern that Mr Niles is a female. This is between
14 females. He's not a part of the altercation. No one told
15 the Defendant they were being chased by two cars Ever. So
16 why is he afraid of a second car? They said girls are
17 following us. Darrell Niles and Eric Washington are males
18 in a car.

19 No one saw the victim or Eric Washington with a
20 gun or shooting. Always been that way, always will be We
21 can try this case two years from now and that will still be
22 what it is. They weren't armed You heard from Mr.
23 Rutherford, they know the people in the first car. They are
24 not a threat to Mr. Scott.

25 And, again, I've already talked about the car and

1 the truck being parked. They are parked. They're not even
2 in the same direction. It could have been his neighbor for
3 all he knew coming down the street. If they lived in the
4 middle of Gaston or Hopkins like where I have some of my
5 cases and they're the only people on the road, then,
6 perhaps, you know that the people coming to your house must
7 be the only people coming to your house. But they're in a
8 neighborhood. For all he knew, it's a neighbor pulling out
9 his yard and driving off. So you get to shoot at him, too?
10 Because according to Mr. Rutherford, you wouldn't be in
11 trouble for that either.

12 The Defendant did not tell police that he shot a
13 gun when he was first asked. Mr. Rutherford would like you
14 to ignore that fact. In fact, he didn't talk about it. But
15 it's important. As I tell my children, I have two, if you
16 do something wrong, you'll get in way less trouble if you
17 tell me now than if you try to cover it up and I find out
18 later. That's exactly what he did. Because remember,
19 police showed up. They called 911, police are Johnny on the
20 spot and they get there. Does he give them his name? No.
21 Does he say I shot at a car because it shot at me? No.
22 Does he stay? No. If you did absolutely nothing wrong and
23 you were asking in self defense, say so from the minute
24 you're asked. He runs. If we were in trial, we could use
25 that to show guilt. He doesn't tell because it didn't

1 happen that way.

2 MR. RUTHERFORD: Your Honor, objection. There's
3 been no testimony about the officer that came as to what he
4 was told by Mr. Scott. She said it twice and I let it go
5 the first time. But I didn't hear anybody testify that
6 Mr. Scott did not tell that officer what happened. She
7 asked Mr. Scott, but I don't know what the officer would say
8 if he were here because he didn't testify.

9 THE COURT: That's correct, the officer did not
10 testify.

11 MS. SAMPSON: Your Honor, we, actually, had
12 Investigator Reese testify as to what the officer wrote down
13 and that they told -- a black male came and they had to
14 figure out that was Shannon Scott that he spoke to. We did
15 have testimony about that.

16 THE COURT: -- officer asked Mr Scott?

17 MS. SAMPSON: But my point is that he talked to
18 him and he didn't tell him because it would be in the report
19 is he told him.

20 THE COURT: Well, he was not here to say that,
21 though.

22 MS. SAMPSON: Mr. Scott didn't say it either, I
23 asked him.

24 THE COURT: Okay. It's still the same difference.

25

1 MS. SAMPSON: Then I'll rephrase.

2 THE COURT: Okay.

3 MS SAMPSON: When I asked Mr. Scott on the record
4 yesterday did he tell the officer, he said no. I asked him
5 when he stayed and talked to them, did he tell them I was
6 shooting at people? No. We didn't need the officer because
7 I asked him (indicating). He didn't tell anybody he left.
8 If you're innocent or if you're shooting in self-defense,
9 just say so. We might not be here because that goes to
10 whether you're telling the truth and whether you're
11 credible, the story's changed.

12 Now, again -- I'm almost done. I'm talking longer
13 than Mr. Rutherford, and I apologize for that, but I think
14 it's important to point out what the law actually is. The
15 law specifically states that you can meet force with force.
16 But first, you've got to show that there is some. There
17 wasn't any. He shot first. He should not be immune from
18 prosecution.

19 But let's take that out of the equation. Let's
20 say you believe him. Let's say that, as Mr. Rutherford just
21 told you, he had to look at the totality of the
22 circumstances and assess what was going on And that
23 somehow he assessed that a car that is to his left was a
24 threat is to his right is somehow a threat. He still has
25 problems because what Mr. Rutherford can never get around in

1 this law that he created is that you must meet force with
2 force. And there is absolutely no force coming from Darrell
3 Niles. Darrell Niles was just a high school student playing
4 basketball with another high school student he played
5 basketball in a car. That's all he was.

6 If this law were to apply the way Mr. Rutherford
7 is asking you to apply it, you could have shot a
8 four-year-old playing in her front yard and he still would
9 be immune from prosecution if you believe Mr. Rutherford, so
10 long as you just think there's a threat. Now, that is
11 self-defense. And what you all need to understand is
12 self-defense and this act are two separate and distinct
13 incidents. He's right, under self-defense, you can act
14 under appearances, you can shoot first, you don't have to
15 wait. You also, though, under self-defense, have a duty to
16 retreat. And therein lies the difference between
17 self-defense and this act. And he's mixing the two. You
18 shouldn't do that.

19 Now, no matter what you ladies decide today,
20 you're making law for this court, for this state and for the
21 union. Because if you do what Mr. Rutherford is asking you
22 to do -- and I researched this, it will be the first time
23 any state in this union that has the stand your ground act
24 allows an innocent party to be shot, killed and the person
25 that did it, that fired the bullet use immunity. We haven't

1 done it. Florida hasn't done it. Georgia hasn't done it.
2 But he's asking you to allow it. He's telling you that as
3 long as you think there's a problem, you should be immune
4 from prosecution if you then act. That's not what it says.
5 That is not what it says.

6 He had a sign in his window that said fight crime,
7 shoot first and that's what he did.

8 Darrell Niles did nothing wrong. The act says,
9 and I quote, A person who is not engaged in an unlawful
10 activity and who is attacked in the place where he has a
11 right to be -- and we'll all agree, he had a right to be in
12 his front yard, has no duty to retreat and has the right to
13 stand his ground and meet force with force, including deadly
14 force if he reasonably believes it is necessary to prevent
15 death or great bodily injury. Darrell never used force.
16 Darrell Niles was not a threat. It was not reasonable for
17 him to believe someone to his left was a threat when the
18 people to his right were the ones that were the treat. If
19 that had been his neighbor, we'd still be here. If that had
20 been a four-year-old sitting in a front yard, we'd still be
21 here because that's exactly what we have.

22 Now, you all are making the law today. And if you
23 want to make it the wild wild west, do what Mr. Rutherford
24 says. Say you don't have to act with care when you think
25 you're scared, that you can shoot someone who's not a threat

1 to you, who is not using force against you because that's
2 what you're going to be doing.

3 This act also protects people in their car and
4 that's what we're asking you to do today. Darrell Niles had
5 a right to feel safe in his castle, which was at that time
6 his car, but he wasn't safe because Shannon Scott
7 (indicating) shot him in the head and killed him when he was
8 a threat to no one. And we're just asking that you let a
9 jury decide whether he's guilty or not. Thank you.

10 THE COURT: All right.

11 Ms. Sampson, let me ask you a couple questions on
12 the State's perspective or anybody from the solicitor's
13 office that can answer these questions. You know,
14 obviously, the Defendant at this stage has the burden of
15 proof, but whatever brings up questions to the Court as to
16 A, where is the ballistics? We have no ballistics as to
17 which angles were shot, whether the shell casings were
18 recovered. We have none of that. Was there GSR test
19 conducted on anybody? And do we have that?

20 MS. SAMPSON: Well, Your Honor, part of it we did
21 stipulate to and part of it did come out. Investigator
22 Reese talked about that the caliber of gun that killed the
23 victim was the caliber of gun used by the Defendant. And
24 the thing we don't have to prove in this case, yes --

25 THE COURT: Well --

1 MS. SAMPSON: We did --

2 THE COURT: You're not understanding my question.

3 You also have the trajectory to prove the direction that the
4 bullets came were consistent where it's in the hole where
5 we're saying the car is. Why don't we have an accident
6 reconstruction that can basically where the car was hit,
7 it -- to prove whether or not it was in this street or
8 whether or not it was in front of the house.

9 MS SAMPSON: I -- we don't have some of that
10 because the car kept going. There would be no way for us to
11 get those angles. We have the direction -- physically the
12 car was faced the other direction from the house. And
13 that's not disputed by anybody. I -- my understanding is
14 the dispute is where he first saw the car, but that there's
15 no dispute that at the time that it rest, it is facing the
16 other direction. We -- they were not able to do those types
17 of things. If we go to trial we're not going to have that.

18 THE COURT: So what you're saying is you don't --
19 City of Columbia does not have an accident reconstruction
20 scene?

21 MS. GARFIELD: It just wasn't done, Your Honor.
22 We presented the evidence we have.

23 THE COURT: Okay. Just making sure.

24 MS SAMPSON: And part of it for this hearing, if
25 we may at some point have to do that or need to do that, but

1 in terms of this hearing, there were certain things that we
2 stipulated to and we were not in dispute about.

3 THE COURT: Okay.

4 MS. SAMPSON: That's why some ballistics we didn't
5 move in, we just agreed to.

6 THE COURT: Counsel, what we'd like to do at this
7 point is allow the Court to review the actual statements
8 that were submitted into evidence. We have not had an
9 opportunity to read them. So review those statements before
10 we issue a ruling. So we'll take a break to allow us that
11 opportunity. And if you could gather them for us, we,
12 certainly, would appreciate that, the statements of the
13 witnesses that were taken and were submitted into evidence,
14 all of them.

15 MS. SAMPSON: And if I could ask, Your Honor,
16 because of what you just said, I think you're -- I'm not
17 telling you what do that, but what we've done in the past,
18 we normally submitted orders, proposed orders to Your Honors
19 since we know this is going up, so we usually have -- both
20 sides have submitted written orders. And then the Honors
21 have given us back what they do as far as -- because the
22 facts has to be taken in. Because all of this is going up
23 no matter what you decide.

24 THE COURT: Sure. I think what we'll do,
25 obviously, is we'll issue a ruling on the record and then

1 ask for the proposed order from one party or the other.

2 MS. SAMPSON: Thank you.

3 THE COURT: Okay.

4 MR. RUTHERFORD: Thank you, Your Honor.

5 END OF PROCEEDINGS

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303

WITNESSES

(S) Kevin E Reese - Columbia Police
Department

Al Thomas[✓] (CPD)

ARREST WARRANT NUMBER

K642742

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: *[Signature]*

MAY 14 2010

VERDICT

Foreperson of Petit Jury
Date.

DOCKET NO. 2010-GS-40-1457

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

MAY TERM 2010

87

**THE STATE
vs.**

SHANNON A. SCOTT

**Indictment for
MURDER**

**SC Code: 16-03-0010
CDR Code: 0116**

After being fully advised as to my
legal rights, I hereby waive presentment
to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead
guilty to the within indictment or to

Defendant

Witness:

C C.C. PLS AND G.S.

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

INDICTMENT

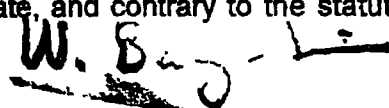
At a Court of General Sessions, convened on May 12, 2010, the Jurors of Richland County present upon their oath:

MURDER

CDR: 0116 16-03-0010,0020

That SHANNON A SCOTT did in Richland County, on or about April 18, 2010, willfully, feloniously, and intentionally kill the victim, DARRELL NILES, with malice aforethought, either express or implied, by means of gunshot wound to the head, and the victim did die as a proximate result thereof. All in violation of Section 16-03-0010, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


WARREN B. GIESE, SOLICITOR

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

The State of South Carolina,)

vs.)

Shannon Scott,)

Defendant.)IN THE COURT OF GENERAL SESSIONS
FOR THE FIFTH JUDICIAL CIRCUITWarrant Numbers: K642748²NOTICE OF MOTION FOR HEARING
PURSUANT TO S.C. CODE § 16-11-440(c)

TO: ASSISTANT SOLICITOR DOLLY GARFIELD

YOU ARE HEREBY NOTIFIED that the above-captioned Defendant, through his attorney will move before the Court the week of August 5, 2013 for a hearing pursuant to S.C. Code § 16-11-440(c), and for such other relief as requested in the attached motion.


J. Todd Rutherford, Esquire
2113 Park Street
Post Office Box 1452
Columbia, South Carolina 29202
(803) 256-3003

Attorney for Defendant

Columbia, South Carolina

This 26th day of July, 2013

RICHLAND COUNTY
FILED
2013 JUL 30 PM 1:00
JEANETTE W. McGRIDE
C.C.P. & G.S.

STATE OF SOUTH CAROLINA)

IN THE COURT OF GENERAL SESSIONS
FOR THE FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND)

Warrant Numbers: K642748

The State of South Carolina,)

vs.)

MOTION FOR HEARING PURSUANT
TO S.C. CODE § 16-11-440(C)

Shannon Scott,)

Defendant.)

The above-captioned defendant, through his attorney, J. Todd Rutherford, hereby moves that a hearing be heard pursuant to S.C. Code § 16-11-440(c)

1. Defendant was arrested in Richland County on or about April 21, 2010 and charged with Murder.
2. The Defendant, through his counsel, requests a hearing pursuant to S.C. Code § 16-11-440(c), as he is immune from prosecution under this provision.

NOW THEREFORE attorney for Defendant moves that this Court conduct a hearing regarding Defendant's immunity from prosecution under S.C. Code § 16-11-440(c) and enter such Order deeming Defendant immune from prosecution.

Respectfully Submitted,


J. Todd Rutherford, Esquire
2113 Park Street
Post Office Box 1452
Columbia, South Carolina 29202
(803) 256-3003

Attorney for Defendant

Columbia, South Carolina

This 26th day of July, 2013

2013 JUL 30 PM 1:00
JANETTE M. McBRIDE
C.C.P. & G.

RICHLAND COUNTY
FILED

STATE OF SOUTH CAROLINA)	IN THE COURT OF GENERAL SESSIONS
COUNTY OF RICHLAND)	FOR THE FIFTH JUDICIAL CIRCUIT
The State of South Carolina,)	
vs.)	Warrant Numbers: K642748
Shannon Scott,)	
Defendant.)	MOTIONS ENFORCE THE PROTECTIONS
	OF 16-11-45(a)

Shannon Scott, through undersigned Counsel, respectfully moves this Court for a pretrial grant of immunity from criminal prosecution for the above captioned charge. This motion is predicated upon the Fourth, Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Article I, § 1, 3, 8, 9, 11, 12, 14, and 15 of the Constitution of the State of South Carolina.

§ 16-11-450. Immunity from criminal prosecution and civil action; law enforcement officer exception; costs.

(A) A person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force, unless the person against whom deadly force was used is a law enforcement officer acting in the performance of his official duties and he identifies himself in accordance with applicable law or the person using deadly force knows or reasonably should have known that the person is a law enforcement officer.

In addition, the only South Carolina appellate court that has had an opportunity to rule on the statute has stated:

"The Act by codifying the common law Castle Doctrine, creates substantive rights for citizens. The Act extends the Castle Doctrine to include an occupied vehicle and the person's place of business. The Act also gives citizens the right to protect themselves, their families and others from intruders and attackers without fear of prosecution." State v. Dickey 380 S.C. 384, 669 S.E. 2d 917 (S.C. App. 2008) (emphasis added).

On April 18, 2010 the Defendant received a phone call from his daughter, Shade' S. [REDACTED] that indicated that she along with her other two stepsisters were being chased home by a group of

RICHLAND COUNTY
FILED
2013 APR 30 PM 4:00
JEANETTE W. McBRIDE
CLERK
J.C.D. & S.

teenagers. As the Defendant's daughters were entered their neighborhood, they were being chased by two vehicles. From his home, the Defendant could hear tires squealing. The Defendant instructed his daughter to drive to the back of the house and go in through the back door. The Defendant and his daughters felt that they were in grave danger because the two vehicles that had chased his daughters home were now sitting in front of his house. Seeing that the threat to his daughters was now in front of his home and not leaving, the Defendant went to retrieve his roommate's gun. The Defendant saw what he thought to be a gun branded in one of the vehicles so the Defendant fired a warning shot. The Defendant heard shooting coming from one of the vehicles and he fired a second warning shot. The Defendant was later informed that the alleged victim in this case was deceased.

The Defendant would seek an order of immunity under 16-11-450(a) as his actions are in conformity with 16-11-440(a) and (c).

WHEREFORE, for the foregoing reasons and any others that may appear to this Court after a hearing, counsel for Shannon Scott, respectfully requests this Court issue an Order granting the Defendant immunity from the above captioned indictment and dismissing the indictment with prejudice.

Respectfully Submitted,

Todd

J. Todd Rutherford, Esquire
2113 Park Street
Post Office Box 1452
Columbia, South Carolina 29202
(803) 256-3003
Attorney for Defendant

Columbia, South Carolina

This 30th day of July, 2013

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	FOR THE FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
	)	Warrant Numbers: K642748
The State of South Carolina,	)	
	)	
vs.	)	MOTIONS ENFORCE THE PROTECTIONS
	)	OF 16-11-45(a)
Shannon Scott,	)	
	)	
<u>Defendant.</u>	)	

I certify that on this date I served the Notice of Motion for Hearing Pursuant to S.C. Code § 16-11-440(c) in the above-captioned case on The State of South Carolina by delivering copies of these documents to the State's attorney of record, Assistant Solicitor Dolly Garfield, by delivering said copies to her office located at The Office of the Solicitor, Fifth Judicial Circuit, Richland County Judicial Center, Third Floor, 1701 Main Street, Columbia, South Carolina 29201, and leaving them with her clerk or other person of authority at said office.

Tracy Braswell
Tracy Braswell
Paralegal

The Rutherford Law Firm
2113 Park Street
Post Office Box 1452
Columbia, South Carolina 29202
(803) 256-3003

JEANETTE W. McBRIDE
C.P. & G.S.

2013 JUL 30 PM 1:00

FILED

RICHLAND COUNTY

Columbia, South Carolina
This 30th day of July, 2013

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

The State of South Carolina)

-vs-)

Shannon Scott)

Defendant.)

IN THE COURT OF GENERAL SESSIONS

STIPULATION OF FACTS FOR PURPOSE OF
HEARING PURSUANT TO S.C. CODE 16-11-440(C)

Indictment Numbers: 2010-GS-40-1457

K64274Z

The Defendant, by and through his attorney, Todd Rutherford, stipulates to the following relevant facts for purposes of this hearing:

- 1) Hearsay testimony is admissible.
- 2) A prior dispute occurred between Shade' S [REDACTED] and Teesha Davis at the Kia House on Two Notch Road.
- 3) Pursuant to the prior dispute, Denzel Davis, Spartacus Bennett, Shade' S [REDACTED], Ave' Fuller, Asia Mills and Ashley Mills entered a Crown Victoria vehicle and travelled on Two Notch Road. Denzel Davis was the driver.
- 4) Coincidentally, Kiawane Carter, Teesha Davis, K'Asia Corbett, and Shatare (LNU) entered a Ford Excursion and travelled on Two Notch Road, following the Crown Victoria. Kiawane Carter was the driver.
- 5) Lastly, Darrell Niles (deceased victim) and Eric Washington entered a burgundy Honda and also travelled on Two Notch Road in the direction of the Crown Victoria and Ford Excursion. Darrell Niles (deceased victim) was the driver.
- 6) Darrell Niles (deceased victim) and Eric Washington were not parties to the original prior dispute at the Kia House on Two Notch Road.

JEANETTE W. MCBRIDE
C.C.P. & G.S.

2010 AUG 12 PM 12:21

RICHLAND COUNTY
FILED

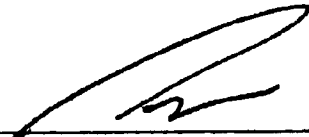
- 7) All parties eventually ended up on the vicinity of [REDACTED] Drive (incident location).
- 8) Darrell Niles (deceased victim) ultimately died of a gunshot wound to the head on his left side.
- 9) Ballistics examination results indicate the recovered bullet was fired from a .380 caliber gun fired by the Defendant, Shannon Scott.
- 10) A gun was fired by Kiawane Carter from her Ford Excursion vehicle in the [REDACTED] Street area. It is disputed regarding time of shot.
- 11) A custodian of record is not needed to authenticate the 911 tape recording for it to be introduced for the purposes of this hearing.
- 12) The written statements of witnesses who cannot be located at this time can be admitted as court exhibits for the purposes of this hearing.



Dolly Justice Garfield
Assistant Solicitor

Columbia, South Carolina

This 12th of August, 2013



J. Todd Rutherford
Attorney for Defendant

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

Page ____ of ____

Date 4-18-10 Time 1930 Place #1 Justice SqI am Ave L. Fuller My birthday is [REDACTED]My address and phone number are. [REDACTED]I am giving this statement concerning Shooting on [REDACTED] Ave
to K. Reese who has identified himself as Inv.

we were at the club and Teesha was bothering shade'. So later on we left the club and while outside of the club Teesha threatened to slap shade'. She then hit shade' in the head. So we got into the car and was leaving the club. Teesha was running behind the car but crackle pulled away from her. I saw her get into the truck and they started following us. We were trying to loose them but they caught up with us. We kept going but they ran the red light to catch up to us again. My sister Ashley called my mom to tell her what was happening. Mom told us to come over on [REDACTED] Ave. when we got there crackle pulled in the back yard. We all went in the house thru the back door. When we got in the house we told mom and Shannon that the car had followed us all the way home. Shannon who is my mom's boyfriend and my mom told us to get on the kitchen floor. Shannon went outside and then I heard gunshots. I don't remember how many. After the shots Shannon came back in the house. All the lights were out so I didn't see if he had a gun.

Sworn and subscribed to me this
18th day of April 2010
[Signature]
 OTARY PUBLIC OF SOUTH CAROLINA
 MY COMMISSION EXPIRES 2012

IS/ X Ave Fuller
 IS/ _____



_____ received a copy of this statement consisting of _____ pages
 from _____ IS/ X Ave Fuller

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

We left then to go out the back door to go home.
We got in crackle's car. Once we got in our neighborhood
we noticed a white car following. We went behind
Somebody's house and sat there for a while. When
we came out the car was gone. We went on home.

Sworn and subscribed to me this
18th day of April 2010
[Signature]
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 2012

/s/ *X Aie Fuller*
/s/ _____

_____ received a copy of this statement consisting of _____ pages
from _____, /s/ *X Aie Fuller*

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 3Date: 04/18/2010 Time 1800 Place 1 JUSTICE SQUARE*I am DAVID DERRAL (CRICKLE) *My birthday is [REDACTED]

* My address and phone number are [REDACTED]

I am giving this statement concerning SHOOTINGto MENENDEZ who has identified himself as INVESTIGATOR

We were attending a party at his house of unity, but after the party a bigger female tried to slug upon some one who was riding with me from the party and the police told the girl they didn't want to take her so she let my home girls take her to that time party when we pulled out to the median the girl came running towards my car so I pulled off, when we got on the road we noticed that the girl hopped into a truck and was then following us every turn made and light stopped even pulling aside us and yelling. The girl like my sister (Ashley) called someone she knew that lived nearby where we'd be to go to see if we could go there so we did it. The girl was given direction on how to get there and when arrived in the back yard of the house, the truck stopped at the house so we went into the back door and entered into the kitchen, we also took guns while at this house and stayed at the police car until the vehicle was taken away. I also stayed.

Sworn and subscribed to me this

day of APRIL 2010

[REDACTED]

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES 01/12/11IS/ DAVID DERRAL

IS/ [REDACTED]

DERRAL DAVIDreceived a copy of this statement consisting of 3 pagesfrom INV MENENDEZIS/ DAVID DERRAL

(2)

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: WHEN YOU GOT TO THE BLUE HOUSE WHO LET YOU IN?

A: A woman in which in dressing my sister was on the phone with minutes before, then as the lights off in the house and we were told to duck down the most intimidating the woman is he looks ^{stubby} not very tall and had on a white shirt with a kinda heavy voice, she was maybe in her late twenties

Q: HOW LONG WERE YOU IN THAT HOUSE?

A: I was maybe in there it ²⁰ ~~was~~ about ten to fifteen minutes

Q: WHO ELSE WAS IN THAT HOUSE?

A: It was everyone that was in my car, the woman who let us in and possibly a man and woman, I don't know; what is going on, this

Sworn and subscribed to me this

16th day of APRIL 2010

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08/1/2014

ISI Dominic J. Davis

ISI

_____ received a copy of this statement consisting of _____ pages

from _____ ISI Dominic J. Davis

3316

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: WHEN DID YOU HEAR THE GUN SHOTS?

A: Maybe five to seven minutes after arriving there

Q: How many gun shots did you hear?

A: From about 2 to three shots

~~Q: How long were you in the car?~~

Q: How long after the gunshots before you saw the blue lights go by out front?

A: Maybe about five minutes after the shots

Q: WHEN YOU LEAVE IS THERE ANYTHING HAPPENING IN FRONT OF THE HOUSE?

A: I don't see anything else in the streets. I pulled out to leave I stopped them cars and then we make sure everything was okay then we headed home to my house

Signed and subscribed to me this
18 day of April 20 10
SMITH, [Signature]
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 01/2014

ISI [Signature]

ISI

_____ received a copy of this statement consisting of _____ pages
from _____ ISI [Signature]

317

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 3Date: 4-18-2010 Time 1:56 hrs Place: # JUSTICE SQUAREI am X Spartacus Bennett My birthday is 1/1/1988My address and phone number are X [REDACTED]I am giving this statement concerning 100010295to INU Dow who has identified himself as POLICE INVESTIGATOR

Denzel Davis a.k.a "Crackle" and I - left the house around 8:30 pm to go pick up our friend Benjamin from Shuman cross. After we pick him up we then leave to go get the girls. When we arrive to the house Ashley Asa, Avery, Shadonay, an another girl also named Shadonay entered the grand marquis which was the car we were riding in. Then we pull off and go to the Kru house which is a teen club on two notch. We arrive there around 9:15 pm, we enter and party untill around 1:30am, then we leave, as we left Denzel and I posted up on the wall as the girls ~~exited~~ ex.t. They (Ashley, Asa, Avery, Shadonay and Shadonay) were ready to leave, however, ~~we~~ Denzel and I like to stay untill everybody leaves. So as we continue to stand their one of the near by officers tell us to leave that area in front of the building so we did. Every body went to the car but I stayed back to call a female I had met me. As I got her number I heard shouts and cursing so I turned my head and I saw a girl (but I was unsure her name was) hit Shadonay on the head or the head so I walked over there and Asa started

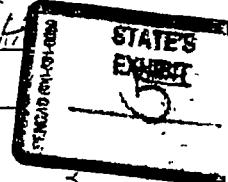
Sworn and subscribed to me this

18 day of April 2010

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES 12 April 2012ISI X Spartacus Bennett

ISI

X Spartacus Bennett received a copy of this statement consisting of 3 pagesfrom INU DowISI X Spartacus Bennett

-2-

**COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION**

Shardoney and pulled her back as near by officers break it up. After the big girl left we all piled up in the car. As we leave we see the big girl running after the car so we pull of as the big girl then gets into a four-door truck and starts to follow us. At first we were going to loose them by driving through a neighborhood but Ashley was on the phone with her mother and she told us to come to the house so we turned around and proceeded to the house and the car still continues to follow. When we arrive to the house we pull in and park the car in the backyard and we enter the back door and Ashley mum tells us to get down so we all sit down in the kitchen I then hear 2-3 gun shots shortly after, Shardoney's Dad enters in the kitchen, and ask if everyones OK and tells us they are shooting at us and to get down then he goes to the back of the house (I think to check up on Shorty) ~~and he~~ ~~do not~~ and he also told us that another car arrived and I don't really remember anything else until we left the house and proceeded to the mother's house. As we get by Columbia College we noticed a white car started to follow us, we then got it and got to the house.

Sworn and subscribed to me this

15 day of April 20 10.

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 12 April 2011

IS/ Shardoney Shardoney

IS/

1/ Shardoney Shardoney

received a copy of this statement consisting of 3 pages

from Shardoney Shardoney

IS/ Shardoney Shardoney

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

When we were in the house in the Kitchen
~~there~~ we were all ~~sitting~~ sitting down kind of crammed
together I had my legs on Ashley, and Shardane's legs
were on me.

In the car I was seated in ~~the~~ the back on the left
behind the driver (Denzel) Shardane was on my lap, Aray was
in the back in the middle and the other Shardane was in the
back seated behind the passenger, Ashley was in the passenger
seat and Asia was in the front between Denzel and
Ashley.

The house we ~~went~~ went to when we left the
house off two notch where the shooting went down, a was
by euclair

Q. DID YOU SEE ANYONE SHOOTING A
GUN?

A. NO

Q. DID YOU SEE ~~THE~~ ^{CHANGED} ANYONE SHOOTING
FROM THE CAR THAT WAS FOLLOWING YOU?

A. NO

Sworn and subscribed to me this

12 day of April 2010.

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 12/31/2016

IS/ [Signature]

IS/

I, Shardane Barrett received a copy of this statement consisting of 3 pages

from

John Doe

IS/

[Signature]

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

Page ____ of ____

Date 4-18-10 Time 19:30 Place #1 Justice Sq.I am Rosalyn E. Fuller My birthday is [REDACTED]My address and phone number are [REDACTED]I am giving this statement concerning Shooting onto K. Reese who has identified himself as INV.

Ashley called my phone to let me know that they were coming but was being followed. I instructed Ashley to tell Crackle to drive to Shannon's house. Ashley called me when they were close to the house I went outside and I could hear Crackle car screaming and as he drove into the yard the SUV was close on their trail - he drove so fast into the yard he almost lost control - I then went into the house went to the back door and let the kids inside - At that point the SUV went down - turned around turned off their lights and began to drive - We instructed the kids to get down on the kitchen floor Shannon went outside instructed them to please don't come any further the car began speeding up and a shot was fired - I stayed in kitchen began calling 911 and heard the car speed up and heard another shot -

Police came Shannon & I tried to give description of the SUV - I wanted to get out of there because I didn't want to wait for anyone to come back so I told the kids to go home - I got in car and we drove fast up the street but I looked back out of the rearview and saw a car with door open & light on - I didn't see anyone because we were moving fast - Before all of this happened I told Ashley to let her know that she was breaking curfew and she ~~put~~ me back to let me

Sworn and subscribed to me this
18 day of April 2010NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES 2017IS/ [Signature]

received a copy of this statement consisting of ____ pages

from

IS/ [Signature]

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

I know that they were being followed and that Shade was about to be jumped. I didn't find out until later that morning that Shannon thought he might have hit someone. So we prayed together and I told him that everything would be ok.

Roxalyn E. Fuller
4/18/10

Sworn and subscribed to me this

10th day of April 2010

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 2012

/S/

/S/

received a copy of this statement consisting of _____ pages
from _____ /S/

Tape

COLUMBIA S C POLICE DEPARTMENT
STATEMENT FORM

Page 1 of 7

Date 04-18-10 Time 1:10 PM Place #1 Justice SqI am Kiawanae Carter My birthday is [REDACTED]

My address and phone number are. [REDACTED]

I am giving this statement concerning Accidentto INUwho has identified himself as Thomas AL

On Saturday April 17 around 10 something almost 11 we arrived at the Kia House located on Znotch rd. We were inside of the Club and Teesha Davis noticed ~~KEVIN~~ a young girl Shadaisha was in there and that Shadaisha is the girl that's trying to fight her best friend Shetara. Teesha told me inside of the Kia House that she in fact slapped Shadaisha in the face. When the ~~club~~ Club was getting ready to end I went outside first to beat the rushing crowd before they exited the Club. Teesha, Kyasia, and a girl name Shatarra were my passengers but at the time only me and Shatarra were in my vehicle. It was mentioned that I took my weapon out in the parking lot and I did, but it was only to

Sworn and subscribed to me this
day of APRIL 2010NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES 08/2014Kiawanae Carterfrom INU MENENDEZreceived a copy of this statement consisting of 7 pagesby Kiawanae Carterby [REDACTED]

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

It never made a threat to anyone not just in the parking lot of the Kia House

I remove it from the middle console to the glove box. I never, once in the parking lot threatened anyone or said anything to anyone, because I didn't know anyone. I drove out of the Kia House parking lot and went across the street to the Vip Lenox parking lot. Kyasra walked to my truck and got in on my front passenger side. Teesha was still out of the vehicle. I can't quite remember who noticed that the silver crown vic was leaving, but all I know is I saw Teesha running down the street behind the car, so I pulled over in the median and she jumped in and said go sis go sis. We were following behind the silver crown vic and we got to a red light and at the red light Teesha tried to jump out, but the light ended up turning green so she wasn't able to do anything. It was a young fellow a little brown skinned with a white hat who

Sworn and subscribed to me this
16 day of APRIL 2010
[Signature]
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 03/12/2014

/s/ Kiwanne Carter

/s/

received a copy of this statement consisting of _____ pages
from _____ /s/ Kiwanne Carter

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

-STACK UP his finger and told us to ~~take~~ come on. He went down this back dark road. that had an dead end, and we ended up in a neighborhood located off of [REDACTED] Avenue. The silver Crown Vic then made a right into a yard with a Blue and white house. They turned their car when they parked. 6 people exited their vehicle and it was already some one there at the house at this time I drove down [REDACTED] Avenue and turned around and went up a little bit by a brown light pole that sits in front of the blue and white house that the silver Crown Vic pulled into. At this time white ~~is~~ Me Kawanae, Teeshia, Kyasia, Sherona are sitting in my SUV two shots were fired from the blue and white house. At this time I back up just a little and reached for my weapon out of the glove box that I placed in there leaving the Ho House. I rolled

Sworn and subscribed to me this

day of APRIL 2010NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08/11/2014by Kawanae Carter

ISI

_____ received a copy of this statement consisting of _____ pages
 from _____, ISI Kawanae Carter

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

down my window with my left hand
 and shot in or fired in the air one
 time. We waited to see what was
 gonna happen and then Kyasia said
 sis bust at their ass they bust at
 us, so then Shatara said sis let me
 drive, I backed up a little more into
 this building that ~~is~~ sits to the right
 of me at this time on the corner of
 [REDACTED] Avenue. I hopped out of the drive
 seat in hopped in the back of my SUV
 where I'm now sitting next to Teesha
 who is saying sis let me bust that
 shit, I never gave her the weapon.
 O and Shatara is the driver at this
 time. Nothing else happen at this point
 other then when we were leaving ~~there~~
 I noticed that the boys were standing
 in the middle of the road behind us
 And that two more shots were fired
 from behind. While we were leaving
 with Shatara still being the driver ~~we~~ I
 noticed that there was a Burdette

Sworn and subscribed to me this

10 day of ~~APR~~ 20 10

/s/ Kwamame Carter

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08/11/2014

/s/ _____

_____ received a copy of this statement consisting of _____ pages
 from _____, /s/ Kwamame Carter

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Honda to the left of us and Teesha
 said that car has been there from the
 time we got here. So we are out of the
 neighborhood we left and drive back
 round and Teesha said that's the police
 I said no its not, because it didn't
 look like a police car, but it was so
 the officer turned on their blue lights
 and we made ~~left~~ a right into a church
 parking lot because I told Shatera to
 pull over Teesha and Kyasta kept saying
 go and I said no we ain't gonna run.
 So once we pulled over ~~at~~ the officer
 wasn't behind us, the car kept going. At
 this time I took back over the
 driver seat and made a left onto Zorer
 rd, that's when the blue lights came again
 and I pulled over into the Fantasy Island
 Strip Club parking lot. The officer say he
 pulled us over due to the fact that my
 vehicle matched the description of the
 vehicle that was given. He asked for
 my license went to his car and came back

Sworn and subscribed to me this
 day of April 2010.

NOTARY PUBLIC OF SOUTH CAROLINA
 MY COMMISSION EXPIRES 08-11-2014

ISI Vivianne Carter

ISI _____

_____ received a copy of this statement consisting of _____ pages
 from _____ ISI Vivianne Carter

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

- and handed me my license and asked if we had heard gun shots and I said yes but everyone was telling me to say no, and by everyone I mean Teesha, Kwaka I can't remember if Shatara told me anything, but I didn't ever tell the officers that the gun shots that were heard was from us being shot at and from me shooting one time. So at this point the officers let us go and then one of Teesha friend called and said they were in a fight and asked if I could drop them off at home since I had to go on Broad river rd. We went to get them and starting making sounds to unload my vehicle. I dropped 3 people off in the Bentleys at Broad river rd. 2 off by Columbia High school, 1st which was Shatara the girl who took over driving in the neighborhood called [REDACTED] located off of [REDACTED] drive, and I on the same street into [REDACTED] apartments and my last one I dropped off on Broad river was in a

Sworn and subscribed to me this

Day of April 2010

by [REDACTED] Kwamane Carter

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 06/12/2014

by [REDACTED]

received a copy of this statement consisting of _____ pages
from _____, by [REDACTED] Kwamane Carter

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

neighborhood located behind the Stripp
Club called Crush. And the me Kiwanan.
Teesha, Kyasia made a left out of the
parking lot and went down river drive
and made a left by my mom's Church
Central Baptist to head to [REDACTED] rd
which is where Teesha stays, but Kyasia
went home with her. And then
I went home and my day began aro
9 in the morning on April 18, 2010 with
a phone call from investigators. This
is my story of the incident that
occurred on April 17, 2010 leading to
April 18, 2010

Kiwanan Carter
April 18, 2010

Sworn and subscribed to me this
18 day of April 20 10.
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08/11/2014

/s/ Kiwanan Carter
/s/

received a copy of this statement consisting of _____ pages
from _____, /s/ Kiwanan Carter

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 4Date: 04/18/2010 Time: 1315 Place: 1 JUSTICE SQUAREI am Teesha Davis My birthday is [REDACTED]

My address and phone number are [REDACTED]

I am giving this statement concerning SHOOTINGto MENEÑDEZ who has identified himself as INVESTIGATOR

Last night at about 12 we was at the Kia house and me and a female name Shade was arguing in the party. When we got outside me and her were arguing again and this was like at 1. W tried to hit each other but my friends were holding me and her sister were holding her. So we could not have hit each other. They put her in a silver or dark green crown vick and I walked to the side walk and I saw Kimi in her trunk listening to music ^{to} pointing her gun Kyaisa said put that gun down girl and I said yes girl put that down. And Kyaisa said don't shot that gun and Kimi was on sis I ain't gone shot yet. And we was playing in the street and they were playing like they was gone leave me. So I ran after the car and as im running I see the girls in the car (Shade, ashely, asia, ave and other people a boy was driving) And Kimi said we can follow them and shot at them because I told her I wasn't going to fight the girl because she is little. So she was still talking about shooting at them.

Sworn and subscribed to me this
18th day of APRIL 2010ASI Teesha DavisNOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 09/17/2014

ISI

TEESHA DAVIS / LATIPAH DAVIS received a copy of this statement cor
from INV MENEÑDEZ ASI Teesha Davis



②

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

- And so we follow them all the way down the street we thought they was playing because of the way they was driving. So we was still behind them. ~~They~~ ^{T.D} They went behind bagen king and we was trying find a way out because we got lost and thought they was playing and ain't know where they was going. They got behind us and still was playing and then came from behind us and was back in front of us again. We then came on [REDACTED] street. And they pulled up in the yard so we kept going slow and then they was pointing at us and we heard them talking. We ain't know what they were about to do so we turned the car around and stayed in the middle of the street. And then we heard one gun shot ~~that~~ ^{T.D} that came from them me and another girl got under the ~~car~~ ^{T.D} seat. Then we heard another one kiwi backed up a little bit and then she shot her gun. Then she was saying she ain't got her shell and then was I don't care man ~~for~~ ^{T.D} fuck that shell so we pulled up in the parking lot behind us. Her and the girl switched ~~the~~ ^{T.D} seats so kiwi could shot at the people house but she told the girl to stop so she can find her shell. She really didn't look so she got back in the car and we was trying to leave but they wanted to go back.

Sworn and subscribed to me this
12th day of APRIL 2010
William M. [REDACTED]
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08/1/2014

ISI William M. [REDACTED]
ISI _____

_____ received a copy of this statement consisting of _____ pages
from _____, ISI _____

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

- So they turned around after we was trying find our way out. And I said lets go and she didnt care, so we saw the police and he stopped us but he aint ask ^{to} us nothing. He we got some food and went home.

Q: WHO WAS IN THE CAR YOU WERE IN?

A: Kyasia, Kiwi, And the girl Shiteane, and me Teesha

Q: WHO'S CAR WERE YOU ALL IN?

A: Kiwi Truck (Gold) Ford Expedition

Q: WHERE WERE YOU SITTING IN THE TRUCK?

A: I am in the back seat behind ~~the~~ ^{to} ~~the~~ ^{to} Kiwi
When I heard the other people shot and I was under the seat laying on the floor when Kiwi was shooting also.
I got behind Kyasia in the back seat when Kiwi got in the back seat and the girl Shiteane got in the driving.

Sworn and subscribed to me this
18 day of April 2010
an Minister
NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08/2014

ISI Teesha Davis
ISI _____

_____ received a copy of this statement consisting of _____ pages
from _____ ISI _____

(4)

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: WHAT CARS DID YOU SEE AT THE HOUSE
ON [REDACTED] AVE.?

A: A Red car and A Blue car. They were in the
blue house yard next door to the house with the band in
the yard.

Q: Did you say earlier that the RED
Cadillac was Sade's Daddy's Car?

A: I don't know if that's his car but I always
see him in it when I see that car. And people have told
me that's her daddy's car.

Sworn and subscribed to me this
18 day of APRIL 2010.

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: 08112014

ISI [Signature]

ISI

_____ received a copy of this statement consisting of _____ pages
from _____ ISI _____

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 8Date 04/18/2010 Time 1307 hrs Place #1 Justice SquareI am KYASIA CORBITT My birthday is [REDACTED]

My address and phone number are [REDACTED]

I am giving this statement concerning MURDERto Inv. L.C. Reeves who has identified himself as Police Officer

- We was at the Kia house. Teesha wanted to slap Shardee. After the party was over Teesha was about to slap her, but she got in the car. We ~~the~~ followed them to ~~the~~ whoever house it was. They got out the car - Ava, Shardee, Asia, and Ashly. Two other boys that I don't know. Then we heard two gun shots. Kiwi said she was going to shoot in the car to scare them. She did. Then we left. We rode back half way and seen the police. We passed by. Thought they were behind us. So we pulled over to the church. The officer passed by so we left from the church grounds. And went towards the Mt. Zion. Then we seen the police again. We pulled over. They talked to us and got Kiwi's license and let us go.

Q. What car were you in when you heard the shots being fired and where were you sitting?
 A. The Gold Expedition in the front seat passenger seat K.C.

Sworn and subscribed to me this
day of _____NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES _____

Kyasiah Corbett received a copy of this statement consisting of 8 pages
 from Inv. L.C. Reeves



COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: Who was in the expedition with you? *see*
A: Kiwi, Teesha, Shar-tar. K.C

Q: What are the government names of the
persons in this expedition? *see*

A: Kiwane Carter (Kiwi), Teesha Davis, Shar-tar. K.C

Q: Who was driving the expedition? *see*
A: Kiwi. K.C

Q: What car were ya'll following after leaving
the KIA House? *see*

A: 4 door. Light color. Older car. K.C

Q: Who was in this car? *see*

A: Ava, Asia, Ashley, Sharclae, and two boys I don't
know. K.C

Q: What are these Gov't names? *see*

A: I don't know their last names. But these are not
nick names. K.C

Sworn and subscribed to me this
day of _____ 20____.

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

/s/ Kyasia Corbett
IS/ _____

KYASIA CORBETT

from *Inv. L. C. Reeves*

received a copy of this statement consisting of 2 pages

/s/ Kyasia Corbett

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: Where was the other ~~car~~ ^{car} light colored car at when you heard the ~~for~~ two gun shots? ~~see~~
A: The back of the house they went to. K.C

Q: Where was your car when the two shots were heard? ~~see~~
A: On the corner of [REDACTED] at the parking lot. ~~see~~ ^{K.C}
Facing towards two Notch. K.C

Q: What happened after the car pulled behind the house?
A: Ava, Asia, Ashley, and the two other boys I don't know. Came to the front of the house and then we heard the two shots. K.C

Q: Did you see any other people in the yard as they were walking around to the front of the house? ~~see~~
A: The man was in the doorway, and a lady was standing on the porch. K.C

Q: Can you describe these two people? ~~see~~
A: The man light skin, short low hair cut. The lady short hair, brown skin. K.C

Sworn and subscribed to me this
day of _____ 20____.

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

by Kyasia Corbitt
from Mr. L.C. Reeves

IS/ Kyasia Corbitt
IS/ _____

received a copy of this statement consisting of 8 pages

IS/ Kyasia Corbitt

4/8 336

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: How do you know the persons that were in the light colored car? ~~See I~~ know them through
A: I know them through School and Friends. K.C.

Q: What happened after ya'll heard the two shots? ~~See~~
A: Kiki said she was going to shoot in the air to scare them. She did. C.C.

Q: Where was she when she shot in the air? ~~See~~
A: Sitting in the driver seat shot out of the driver side window. K.C.

Q: What kind of gun did you see her shoot? ~~See~~
A: I've heard her call it a nine. Silver and black. K.

Q: How many times did she fire the gun while you were in the car? ~~See~~
A: One time. K.C.

Sworn and subscribed to me this
day of _____ 20____.

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

Kyasia Corbett
from Inv. L.C. Reeves

Kyasia Corbett

/s/

received a copy of this statement consisting of 8 pages

Kyasia Corbett

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: What did ~~you~~^{you'll} do after she fired the gun?
 A: We sat there for a minute and then drove off.
 Going past there house. K.C

Q: Did you see another vehicle on the roadway ~~at that time~~ during or after the shooting?
 A: Yes. A Small Honda Burgandy. K.C

Q: Where was this car at?
 A: As I'm facing the house it would be on the right hand side. 3 houses down from where the truck was at. K.C

Q: What did you notice about this car?
 A: The front passenger door was open. A guy was in it. I seen just his white shoes and the bottom of his blue jeans. He was in the passenger seat. K.C

Q: What did Kiwi do with the gun after she shot it?

A: As we left she put it in the glove box. K.C

Sworn and subscribed to me this
 day of _____ 20____.

/s/ Kyasia Corbett

NOTARY PUBLIC OF SOUTH CAROLINA
 MY COMMISSION EXPIRES: _____

/s/ _____

Kyasia Corbett

received a copy of this statement consisting of 8 pages

from Mr. L.C. Reeves

/s/ Kyasia Corbett

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: Did you or anyone else in the car touch this gun? Yes

A: No. K.C.

Q: So there should be no reason that your fingerprints or DNA should be on this gun? Yes

A: We've touched it in the past K.C.

Q: When was the last time you've touched the gun? Yes

A: A couple weeks ago. K.C.

Q: Did you see anyone else touching that gun within the last 24 hours? Yes

A: No. K.C.

Q: Where was the gun when the police stopped your vehicle last night? Yes

A: In the glove box. K.C.

Sworn and subscribed to me this
day of _____ 20____.

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

K. ASIA CORBITT

from Inv L.C. Reeves

K. ASIA CORBITT
/s/ _____

received a copy of this statement consisting of 8 pages

K. ASIA CORBITT
/s/ _____

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COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: Did anyone else in ~~the~~ your car shoot
any other guns besides the one you've already
told me about? ~~yes~~

A: No. K.C.

Q: Why did Teesha want to slap Sharada? ~~yes~~
A: ~~They're~~ She was upset about a previous accident

Q: Do you know who shot and kill the
person that was in the Burgandy car? ~~yes~~
A: No. K.C.

Q: Do you know any of the people that
was in the Burgandy car? ~~yes~~
A: No. K.C.

Q: Do you want to change or add anything to
your statement? ~~yes~~
A: Mrs. Sharitar and Kiwi switched seats. After
she had already shot one time in the air. K.C.

Sworn and subscribed to me this
___ day of ___ 20___

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: ___

Kyasia Corbett
from Trv. L.C. Reeves

ISI Kyasia Corbett
ISI

received a copy of this statement consisting of 8 pages

ISI Kyasia Corbett

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

Q: Do you Swear OR Affirm that the
Statement you gave is the truth to
the best of your knowledge?

A: Yes. K.C.

No further

Sworn and subscribed to me this
____ day of _____ 20____.

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES: _____

by KyAsia Corbett
from Mr. L.C. Reeves

/s/ KyAsia Corbett
/s/ _____

received a copy of this statement consisting of 8 pages

/s/ KyAsia Corbett

SOUTH CAROLINA LAW ENFORCEMENT DIVISION

FORENSIC SERVICES LABORATORY REPORT



REGINALD I. LLOYD
Director

Kevin E. Reese
Columbia Police Department
1 Justice Square
Columbia, SC 29201

FIREARMS DEPARTMENT
August 18, 2010
SLED LAB L10-04260
Your Case No. 100010299
Incident Date. 04/18/2010
[V-Deceased] Darrell Niles

This is an official report of the South Carolina Law Enforcement Division Forensic Services Laboratory and is to be used in connection with an official criminal investigation. These examinations were conducted under your assurance that no previous examinations of person(s) or evidence submitted in this case have been or will be conducted by any other laboratory or agency.

Reginald I. Lloyd, Director
South Carolina Law Enforcement Division

ITEMS OF EVIDENCE:

Item 5 One fired bullet.

Item 6 One Ruger 9mm Luger caliber pistol, Model SR9, serial number 330-75099, with one magazine, one American Eagle brand cartridge box containing 29 unfired 9mm Luger caliber cartridges, and 13 unfired 9mm Luger caliber cartridges taped together

Item 7 One Talon Industries 380 Auto caliber pistol, Model T100, serial number 001698, with one magazine and one black holster (No exam of holster)

Note: On the SLED packing slip, the Ruger pistol was listed as Item 7 and the Talon pistol was listed as Item 6; however, the Ruger was received in evidence box #6 and the Talon was received in evidence box #7.

RESULTS:

The Item 6 and 7 pistols were examined, test fired with the submitted magazines, and found to be in working order. The unfired cartridges submitted with the Item 6 Ruger pistol were the correct caliber for use in that pistol

The Item 5 bullet was microscopically compared to test bullets from the Item 6 and 7 pistols and it was concluded that the Item 5 bullet was fired by the Item 7 Talon pistol

Test specimens from Items 6 and 7 were entered into the Integrated Ballistics Identification System (IBIS). Should any "hits" be developed against these entries, you will be notified. Please retain these items for a minimum of two years in order to maintain their availability for any future comparisons that may be dictated by IBIS activity



SLED LAB No. L10-04260
August 18, 2010

Page 2 of 2



Kenneth H. Whitler
Forensic Scientist



COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORMPage 1 of 2Date 4-18-2010 Time 1950 HRS Place #1 JUSTICE SQUAREI am X Ashley Mills My birthday is XMy address and phone number are XI am giving this statement concerning 100010295to INN DOW who has identified himself as POLICE INVESTIGATOR

X Around 9:45 Crackie arrived to my house to pick me
my sister AS. a Ave Shade and the other Shade up also one
was in the car when we go to the party we just did
our normal thing which is having fun and dancing. After
A while like around 11:00pm Shade and Ave was dancing
and while they was ~~dancing~~ dancing Shade and Ave came
to tell me and AS. a that Teesha was smacking her
hair while she was dancing so Ave told her to come over
to me and AS. a after that the party was beginning to
end as we was walking to the car Teesha was telling me
since that she didn't want to fight her because she was
so little but instead she said I will sleep with her
my sister was with her Teesha wanted to go with ~~Shade~~ Shade
Shade on the back of her head so AS. a drove her in the
car after that we all go to the car which was Crackie. Tell
me AS. a Ave Shade and the other Shade while Crackie
was driving Teesha got out of the car she was in the car and
started running towards the car but she couldn't catch us so

Sworn and subscribed to me this

1st day of April 2010

NOTARY PUBLIC OF SOUTH CAROLINA

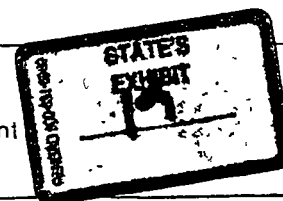
MY COMMISSION EXPIRES 12-31-2011

X Ashley Mills

received a copy of this statement

from Inn DowISI X Ashley Mills

ISI

ISI X Ashley Mills

-2-

COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT CONTINUATION

She ran back in the car. After that the gold truck that she was in ~~the~~ started following behind Cracks car. We would think that ~~at~~ when we got to the red light that ~~the~~ there car would stop but instead the driver of there car ran the red light and kept following us. We then arrived by Mc Donalds. Once again Teesha ~~the~~ got out the car and ran towards Cracks car then around 1:30 I got a phone call from my mother because we wasn't in the house before 1:00 so I told her about what went on at the party and told her that we was coming to where she was at which was at Paco house. When we arrived to his house my mother and Paco was outside waiting for us to get there ~~then~~ so we pulled up to the backyard and Paco told us to go in the house and lay down while we was laying down I heard about 3 to 4 gun shots ~~and~~ coming from two different directions and one was from Paco direction and the other was from Teesha and her people's directions. After the gun shots ended Paco told us to go to the car and go to the house which is my house. While we was driven home we noticed that a white car was following us so we made a different turn to lose the car. After we lost the car we arrived at my house and was laughing about how much fun we had in the party to kill time then around 3:00 Cracks and I went home and everyone else went to sleep.

Sworn and subscribed to me this

18 day of Sept, 2010./s/ Ashley Mills

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 12/31/2016

/s/

Ashley Mills

received a copy of this statement consisting of 2 pages

from

Tim Dora/s/ Ashley Mills

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1
2 UNIDENTIFIED MALE SPEAKER: All right, today's
3 date is April 18th, 2010. The time is 1:12 P.M. I'm
4 in an interview room with Kiawanae Carter, and this
5 interview is in reference to a homicide that occurred
6 off of the [REDACTED] block of [REDACTED] Avenue in the early
7 hours of this morning.

8 Kiawanae has given a verbal recollection of what
9 happened out there in, in reference to her vehicle
10 and the people in her vehicle, and she's agreed to
11 give a recorded version of the events starting from
12 an incident that occurred at the club. Is that
13 right, Ms. Carter?

14 MS. CARTER: Yes, sir.

15 UNIDENTIFIED MALE SPEAKER: Okay. Just speak
16 clearly into this thing here, but hold on a second.
17 In the interview room presently is Investigator A. L.
18 Thomas. Investigator Clarence Sumpter exited but
19 will probably reenter the room. I will note his
20 presence upon his reentry.

21 Ms. Carter, if you'd plea -- please speak in the
22 mic clearly. It should pick you up. All right, I
23 want you to start with your incident as far as what
24 happened at the club leading up to -- winding up on
25 [REDACTED] Avenue, okay?

1 MS. CARTER: Yes, sir.

2 UNIDENTIFIED MALE SPEAKER: All right. Go
3 ahead.

4 MS. CARTER: We were at the club, the kiddy club
5 on Two Notch Road called the Kia House. We were in
6 there for a little bit, mangling, chi -- chilling,
7 talking, dancing, or whatever. Teesha Davis, which
8 was one of my passengers, noticed that the girl Sha,
9 Shadasia (PHONETIC) was inside of there. Shadasia
10 has been picking on one of their friends named Shalea
11 (PHONETIC), but Shadasia's actually younger than
12 Shalea.

13 She brought it to Kyasia's attention. They
14 would never tell me because the kids were -- they're
15 younger than me. Nothing happened inside of the
16 club, but Shadasia I guess bumped into Teesha, and
17 Teesha felt some type of way about it. The cl, the
18 club was getting ready to close. They were thanking
19 the guests for coming out. I was trying to leave
20 before the crowd came so I could go get the vehicle
21 to make sure that Teesha and Kyasia were okay.

22 Leaving out of the club, I went to go get my
23 truck. The security bouncers at the club asked me to
24 move my truck because he was fixing to start
25 spraying. Shadasia and them went to a silver Crown

1 victoria. It's a Crown Victoria vehicle, and she
2 tried to slap Teesha, and Teesha tried to slap her
3 back. I then drove across the street to the club
4 called --

5 UNIDENTIFIED MALE SPEAKER: Who tried to slap
6 Teesha? Sha --

7 MS. CARTER: Shada -- Shadasia.

8 UNIDENTIFIED MALE SPEAKER: Shadasia?

9 MS. CARTER: When did he say her name?

10 UNIDENTIFIED MALE SPEAKER: Okay.

11 MS. CARTER: Shadasia.

12 UNIDENTIFIED MALE SPEAKER: Shadasia --

13 MS. CARTER: Yeah.

14 UNIDENTIFIED MALE SPEAKER: -- tried to slap
15 Teesha --

16 MS. CARTER: Teesha, and then Teesha tried to --

17 UNIDENTIFIED MALE SPEAKER: -- and Teesha was
18 supposed to ride with you.

19 MS. CARTER: Mm-hmm.

20 UNIDENTIFIED MALE SPEAKER: Okay.

21 MS. CARTER: Teesha is my passenger. Teesha
22 then tried to hit her back, but then the guy with the
23 white guy that's riding in the Ford Crown Victoria
24 put Shadasia in the car, so then I drove across the
25 street to the VIP (INDISTINCT) that sits directly

1 across from the Kia House and waited for Kyasia and
2 Teesha to walk over there because the guy said he was
3 fixing to start spraying if they had (INDISTINCT) and
4 I didn't want to get sprayed.

5 UNIDENTIFIED MALE SPEAKER: Okay.

6 MS. CARTER: So at that time, they're at the,
7 like, end of the -- Teesha and Kyasia are at the end
8 of the road. I drive out into the median to go get
9 them, and they get, sit in the truck. At that time,
10 Shatara was in the truck with me. Shatara never got
11 out. She was on the side and said, Sis, let me ride
12 with you. So she got into --

13 UNIDENTIFIED MALE SPEAKER: Do you have a last
14 name for Shatara?

15 MS. CARTER: No, sir. I don't.

16 UNIDENTIFIED MALE SPEAKER: And what is Teesha's
17 last name?

18 MS. CARTER: Davis.

19 UNIDENTIFIED MALE SPEAKER: And what about Ky-
20 asia (PHONETIC)?

21 MS. CARTER: Kyasia.

22 UNIDENTIFIED MALE SPEAKER: Kyasia.

23 MS. CARTER: Her name, her last name is Corbitt.

24 UNIDENTIFIED MALE SPEAKER: Corbitt?

25 MS. CARTER: Yes, sir.

1 UNIDENTIFIED MALE SPEAKER: Okay. So you have
2 Shatara, Teesha Davis --

3 MS. CARTER: And --

4 UNIDENTIFIED MALE SPEAKER: -- Tyesha (PHONETIC)
5 Corbitt are all in the car with you now, right?

6 MS. CARTER: Yes, sir.

7 UNIDENTIFIED MALE SPEAKER: Okay.

8 MS. CARTER: Kyasia, Teesha, and Shatara --

9 UNIDENTIFIED MALE SPEAKER: Kyasia.

10 MS. CARTER: -- are my three passengers at this
11 time.

12 UNIDENTIFIED MALE SPEAKER: Okay.

13 MS. CARTER: We're leaving the club. We're
14 going down Two Notch Road. We veered off to the
15 right --

16 UNIDENTIFIED MALE SPEAKER: Hold on one moment.
17 Was there ever a Kevin in the car with you or a Jack
18 --

19 MS. CARTER: Not at this -- not this present
20 time.

21 UNIDENTIFIED MALE SPEAKER: Okay. All right.

22 MS. CARTER: We'veered off to the right going
23 down Beltline. City Transit's on my right-hand side.

24 UNIDENTIFIED MALE SPEAKER: Now, when you're
25 veering off, you're doing something. What are you

1 doing? When y'all driving initially, what car --

2 MS. CARTER: Oh, I was --

3 UNIDENTIFIED MALE SPEAKER: -- what car are you
4 behind?

5 MS. CARTER: -- I was following behind the
6 silver Ford Crown Victoria.

7 UNIDENTIFIED MALE SPEAKER: Okay, so you're
8 following the silver Ford Crown Vic.

9 MS. CARTER: Mm-hmm.

10 UNIDENTIFIED MALE SPEAKER: All right, down Two
11 Notch, then down Beltline.

12 MS. CARTER: Mm-hmm.

13 UNIDENTIFIED MALE SPEAKER: And --

14 MS. CARTER: They are --

15 UNIDENTIFIED MALE SPEAKER: -- the reason you
16 are following is because?

17 MS. CARTER: Because she slapped Teesha, and
18 Teesha wanted to get her back.

19 UNIDENTIFIED MALE SPEAKER: Okay. So Teesha
20 wanted you to catch up with the vehicle so they could
21 fight?

22 MS. CARTER: Yes, sir.

23 UNIDENTIFIED MALE SPEAKER: Okay. So then after
24 following them down Beltline, then what?

25 MS. CARTER: They slammed on brakes --

1 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

2 MS. CARTER: -- so I ended up in front of them.
3 We went to the police station, like, I, we basically
4 just turned around at the police station located by
5 the Colonies off of Beltline.

6 UNIDENTIFIED MALE SPEAKER: Okay. All right.
7 Little mini substation off of Beltline.

8 MS. CARTER: Yes, sir.

9 UNIDENTIFIED MALE SPEAKER: Okay.

10 MS. CARTER: Where the little store is.

11 UNIDENTIFIED MALE SPEAKER: All right, and once
12 you got there --

13 MS. CARTER: Mm-hmm.

14 UNIDENTIFIED MALE SPEAKER: -- what did you do?

15 MS. CARTER: We turned around there. They ended
16 up back in front of me. We went back out to the
17 left. I was in my right-hand lane, and we --

18 UNIDENTIFIED MALE SPEAKER: Now, I'm going to
19 ask you this question before you get started because
20 that means you about to start following them again.

21 MS. CARTER: Mm-hmm.

22 UNIDENTIFIED MALE SPEAKER: Why didn't you check
23 to see if any officers were at the thing or what have
24 you to see if you can get some help about these
25 individuals at that time? Did you think about it?

1 MS. CARTER: I just didn't.

2 UNIDENTIFIED MALE SPEAKER: All right. Your
3 focus was catching with them for Teesha.

4 MS. CARTER: Yes, sir. Basically.

5 UNIDENTIFIED MALE SPEAKER: Okay. All right.

6 So now you're following the silver Crown Vic back up
7 Beltline?

8 MS. CARTER: Yes, sir.

9 UNIDENTIFIED MALE SPEAKER: All right. Take me
10 on through.

11 MS. CARTER: Beltline -- yes, sir. And we was
12 going back up Beltline. We got to the McDonald's,
13 which sits to my right. We came to a red light.
14 They didn't even stop at the red light, so we made
15 that right at the right light, and then we made the
16 left on this little street located by the Burger
17 King. Then they took us on some back road that led
18 to a dead end. I'm not sure the name of the road.

19 Leading to that road, it ended up at this
20 house. It's a blue house located off of [REDACTED] --
21 [REDACTED] Avenue. They pulled into the driveway. It
22 was like six people who had exited that vehicle. It
23 was two cars already parked in the driveway of the
24 blue house, which is where they got out at.

25 UNIDENTIFIED MALE SPEAKER: All right, when you

1 say "they," are you talking about the people in the
2 silver car --

3 MS. CARTER: The -- yes, sir.

4 UNIDENTIFIED MALE SPEAKER: -- that you're
5 following?

6 MS. CARTER: The people in the silver car.

7 UNIDENTIFIED MALE SPEAKER: All right, what cars
8 were already in the park -- in, in the driveway?

9 MS. CARTER: A red, I want to say Cadillac
10 maybe?

11 UNIDENTIFIED MALE SPEAKER: Mm.

12 MS. CARTER: And a -- I want to say a white car.
13 I'm sure what kind of car.

14 UNIDENTIFIED MALE SPEAKER: Okay. All right.

15 MS. CARTER: They got out. They sent Shadasia
16 and Ave' and Keesha (PHONETIC) in the house.

17 UNIDENTIFIED MALE SPEAKER: So three females
18 went in the house. That's -- you believe.

19 MS. CARTER: That I be -- yeah, it was three
20 females and three males.

21 UNIDENTIFIED MALE SPEAKER: Okay. All right, so
22 --

23 MS. CARTER: It was six of them in the car.

24 UNIDENTIFIED MALE SPEAKER: -- so the girls went
25 in the house?

1 MS. CARTER: Mm-hmm. The girls went in the
2 house.

3 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

4 MS. CARTER: We actually thought when they got
5 out the car, they were getting out of the car so that
6 Teesha and Shadasia could fight.

7 UNIDENTIFIED MALE SPEAKER: Okay.

8 MS. CARTER: But they ended up sending them in
9 the house. My vehicle is facing the end of [REDACTED] at
10 the stop sign. My headlights is towards the, that
11 road or whatever.

12 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

13 MS. CARTER: We're driving -- I'm driving down
14 [REDACTED] Avenue. I've backed into this little building
15 that sits onto my left-hand side. I turned my
16 vehicle around, and I drove back up with my vehicle
17 facing towards the other end of the road, which now
18 I'm on the right-hand -- I'm the driver, so I'm on
19 the right-hand side of their, of their house.

20 UNIDENTIFIED MALE SPEAKER: Okay. And the
21 house, for the record, was [REDACTED] [REDACTED] which is a
22 blue with white trim house.

23 MS. CARTER: Yes, sir.

24 UNIDENTIFIED MALE SPEAKER: I'm just putting
25 that out for the record.

1 MS. CARTER: Yes, sir.

2 UNIDENTIFIED MALE SPEAKER: Okay.

3 MS. CARTER: It's a blue house with white --
4 with white trimming.

5 UNIDENTIFIED MALE SPEAKER: Okay.

6 MS. CARTER: At that time, that's when we heard
7 two gunshots. Teesha and Kyasia yelled, Oh my God,
8 sis, they busting at us. They busting at us. So
9 that's why I put my truck in reverse and I sped up,
10 like, real fast. I backed up, and then once I didn't
11 hear anything anymore, I pulled forward just a little
12 bit.

13 UNIDENTIFIED MALE SPEAKER: Okay.

14 MS. CARTER: And to the right of me was the
15 building that I turned around at --

16 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

17 MS. CARTER: -- and a white house, a white and
18 black house. Yeah, it's a white and black house.

19 UNIDENTIFIED MALE SPEAKER: Okay.

20 MS. CARTER: And --

21 UNIDENTIFIED MALE SPEAKER: Now, that house, I
22 think we went by that house, and it was [REDACTED] --

23 MS. CARTER: [REDACTED] Oh, [REDACTED]

24 UNIDENTIFIED MALE SPEAKER: The, the white
25 house that you said that was going on?

1 MS. CARTER: Yes, sir. The white and black
2 house.

3 UNIDENTIFIED MALE SPEAKER: That's [REDACTED] [REDACTED]

4 MS. CARTER: Yes, sir. Yes, sir.

5 UNIDENTIFIED MALE SPEAKER: You also mentioned
6 earlier that you saw another car sitting with the
7 headlights on and, but you didn't know what was going
8 on with that car.

9 MS. CARTER: Yes, sir.

10 UNIDENTIFIED MALE SPEAKER: What kind of car was
11 that?

12 MS. CARTER: It was a burgundy Honda maybe, or a
13 red Honda. It was just sitting there. That car was
14 sitting there from the time that we actually pulled
15 into the neighborhood.

16 UNIDENTIFIED MALE SPEAKER: Okay.

17 MS. CARTER: Because when we were leaving --

18 UNIDENTIFIED MALE SPEAKER: Well, don't get to
19 that yet. Let's, let's -- I just wanted to, to
20 mention the car.

21 MS. CARTER: Oh, okay. Okay. Yes, sir.

22 UNIDENTIFIED MALE SPEAKER: All right, so you do
23 notice a car sitting --

24 MS. CARTER: Just sitting there. Yes, sir.

25 UNIDENTIFIED MALE SPEAKER: -- with the

1 taillights on. You believe it to be a, a burgundy
2 Honda.

3 (BEEP)

4 MS. CARTER: Yes, sir.

5 UNIDENTIFIED MALE SPEAKER: All right. What
6 happens after that?

7 MS. CARTER: After we heard the two gunshots,
8 like I said, I backed up and I pulled up just a
9 little bit where I turned around at the building, and
10 it was a black and white house to the right of me.
11 That's when I reached into my glove box, and I got my
12 weapon, which is a nine-millimeter Ruger.

13 UNIDENTIFIED MALE SPEAKER: Mm-hm.

14 MS. CARTER: The clip holds 17 -- well, I guess
15 16 --

16 (BEEP)

17 -- and then the one that's in the head is 17.

18 UNIDENTIFIED MALE SPEAKER: Okay.

19 MS. CARTER: I pulled that out. My hand, my
20 hand is on my steering wheel, with my left hand.

21 UNIDENTIFIED MALE SPEAKER: Mm-hm.

22 MS. CARTER: I rolled down my window, and I shot
23 out the window. I shot in the air one time.

24 UNIDENTIFIED MALE SPEAKER: All right, so you
25 fired your -- you fired a nine-millimeter weapon.

1 MS. CARTER: Mm-hm.

2 UNIDENTIFIED MALE SPEAKER: A Ruger.

3 MS. CARTER: Yes, sir.

4 UNIDENTIFIED MALE SPEAKER: One time.

5 MS. CARTER: One time.

6 (BEEP)

7 UNIDENTIFIED MALE SPEAKER: Are you certain that
8 you fired in the air? Did you fire downrange at the
9 people that were firing at you?

10 MS. CARTER: No, sir. I didn't fire down. I
11 shot in the air. I fired up.

12 UNIDENTIFIED MALE SPEAKER: And you're sure of
13 that?

14 MS. CARTER: Yes, sir.

15 UNIDENTIFIED MALE SPEAKER: Okay. All right,
16 after firing -- and why did you fire that round?

17 (BEEPING)

18 MS. CARTER: Because they shot at us two times,
19 and at that time, I had gotten a little frightened,
20 and I just wanted them to know that I had a weapon
21 too because the guy that was in the back to the left
22 on the passenger's side was doing a whole bunch of
23 threatening and saying that we were just a bunch of
24 females and that we're not going to do anything.

25 UNIDENTIFIED MALE SPEAKER: He said choice

1 words, though, did he not?

2 MS. CARTER: Yes, sir. He said some ugly
3 things.

4 UNIDENTIFIED MALE SPEAKER: What was that? What
5 did he say?

6 MS. CARTER: He said --

7 UNIDENTIFIED MALE SPEAKER: You were a bunch of
8 what?

9 MS. CARTER: ~~He said, Oh, they just a bunch of~~
10 ~~bitches. They ain't going to do shit.~~

11 UNIDENTIFIED MALE SPEAKER: Oh, okay. So you
12 wanted to prove to them that you had something in the
13 truck as well.

14 MS. CARTER: Yes, sir. Because they --

15 UNIDENTIFIED MALE SPEAKER: Okay. And that's
16 why you fired your weapon?

17 MS. CARTER: Yes, sir. I was just --

18 UNIDENTIFIED MALE SPEAKER: But two rounds had
19 been fired --

20 MS. CARTER: Pr, pr, prior --

21 UNIDENTIFIED MALE SPEAKER: -- prior to you
22 fired your --

23 MS. CARTER: -- to me firing my one.

24 UNIDENTIFIED MALE SPEAKER: Okay. Now, you
25 fired our weapon. They fired at you twice. What

1 happens now?

2 MS. CARTER: At this time, after I shot, I
3 waited to see what was going to happen --

4 UNIDENTIFIED MALE SPEAKER: Okay.

5 MS. CARTER: -- after I shot.

6 UNIDENTIFIED MALE SPEAKER: Mm-kay.

7 MS. CARTER: Nothing happened, so again, I'm
8 still facing the end of that road where their house
9 sits over to my left. I'm driving up the street.

10 UNIDENTIFIED MALE SPEAKER: Mm-hm.

11 MS. CARTER: I'm not driving that fast, but I'm
12 driving a little fast because I'm trying to get by
13 their house before they shoot again.

14 UNIDENTIFIED MALE SPEAKER: All right.

15 MS. CARTER: But as we were leaving, I noticed
16 that they have a glass storm door.

17 UNIDENTIFIED MALE SPEAKER: Okay.

18 MS. CARTER: And they have a white wooden door
19 that, you know, hide -- you know, that closes or
20 whatever, and the wooden door was open, and somebody
21 was standing in the glass door looking out.

22 UNIDENTIFIED MALE SPEAKER: Okay.

23 MS. CARTER: They closed the door, and as we
24 were leaving, two more shots were fired as we were
25 leaving. They were shooting at my truck. I never

1 looked back to see who it was because I was scared.

2 UNIDENTIFIED MALE SPEAKER: All right, so now
3 you're saying that as you were getting ready to
4 leave, there's at least two more shots fired --

5 MS. CARTER: Two more shots. Mm-hm.

6 UNIDENTIFIED MALE SPEAKER: -- as you're passing
7 [REDACTED] --

8 MS. CARTER: Mm-hm.

9 UNIDENTIFIED MALE SPEAKER: -- which is a blue
10 house with the white trim.

11 MS. CARTER: Yes, sir.

12 UNIDENTIFIED MALE SPEAKER: You're fired upon at
13 least twice.

14 MS. CARTER: Mm-hm.

15 UNIDENTIFIED MALE SPEAKER: Was your vehicle
16 struck at all?

17 MS. CARTER: I think it was. I can't say for
18 sure, but I do notice that there's two dings on the
19 right side of my vehicle that I've never saw there
20 before.

21 UNIDENTIFIED MALE SPEAKER: Okay.

22 MS. CARTER: So I --

23 UNIDENTIFIED MALE SPEAKER: And does it look
24 like entry holes to, from a bullet, or it looks like
25 --

1 MS. CARTER: And see, that's the thing. It's
2 not even holes. It just like, like --

3 UNIDENTIFIED MALE SPEAKER: Ricochet, maybe?

4 MS. CARTER: Like a sh --

5 UNIDENTIFIED MALE SPEAKER: Straight line?

6 MS. CARTER: I don't -- I -- it's not even a
7 straight line. It's like a little dent with like --

8 UNIDENTIFIED MALE SPEAKER: Okay.

9 MS. CARTER: -- a scratch or something. I, I
10 can't describe it.

11 UNIDENTIFIED MALE SPEAKER: Okay. Well, we'll,
12 we'll, we'll take a look at that.

13 MS. CARTER: But I do know that it wasn't there,
14 you know.

15 UNIDENTIFIED MALE SPEAKER: Okay.

16 MS. CARTER: I do know that it wasn't there.

17 UNIDENTIFIED MALE SPEAKER: Okay.

18 MS. CARTER: But anyways, as we're leaving out
19 the neighborhood from, after, after that, I noticed
20 that that same burgundy or red Honda that was sitting
21 there was still sitting there, but the passenger door
22 was open --

23 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

24 MS. CARTER: -- but I never saw the passenger,
25 and at that point in time, I didn't stop or anything.

1 we just kept going.

2 UNIDENTIFIED MALE SPEAKER: All right, but you
3 did see someone in the car, did you not?

4 MS. CARTER: Yes, sir.

5 UNIDENTIFIED MALE SPEAKER: What did you see
6 when you looked in the car? Even though you were
7 going by fast because you're getting shot at again.

8 MS. CARTER: Yeah, like I said earlier, I don't
9 know. All I know is I, I want to say that the, the
10 driver, he had on a striped shirt. I was able to see
11 that because then about the, then that the passenger
12 door was open, it, it made the lights automatically
13 come on inside of the vehicle, so at this time, his
14 vehicle is fully lighted.

15 UNIDENTIFIED MALE SPEAKER: Okay.

16 MS. CARTER: So --

17 UNIDENTIFIED MALE SPEAKER: Okay.

18 MS. CARTER: -- I was able to see --

19 UNIDENTIFIED MALE SPEAKER: So that's, that's
20 how you were able to see with the driver's side, and
21 you could see the striped shirt?

22 MS. CARTER: Yes, sir.

23 UNIDENTIFIED MALE SPEAKER: The passenger's side
24 door is open. You don't see the passenger.

25 MS. CARTER: I don't see the passenger. The

1 passenger door --

2 UNIDENTIFIED MALE SPEAKER: All right.

3 MS. CARTER: -- door is open.

4 UNIDENTIFIED MALE SPEAKER: Did the shooter on
5 this time, could you see who the shooters were the
6 first time? Could you --

7 MS. CARTER: I could not see who the shooters
8 were the first time --

9 UNIDENTIFIED MALE SPEAKER: Mm.

10 MS. CARTER: -- but when we were leaving out --

11 UNIDENTIFIED MALE SPEAKER: Mm.

12 MS. CARTER: -- when the, the other shots were
13 fired --

14 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

15 MS. CARTER: -- it was three guys standing,
16 standing out there.

17 UNIDENTIFIED MALE SPEAKER: Okay. And did
18 anyone in your truck seem to recognize the shooter or
19 mention who they thought --

20 MS. CARTER: Yes, sir.

21 UNIDENTIFIED MALE SPEAKER: -- they recognized
22 as they shooter?

23 MS. CARTER: Teesha D. [REDACTED] mentioned that she
24 thought it might have been Ave's father. I'm not
25 sure what Ave's father look like, so I don't know.

1 I don't know any of those kids, but I do know like I
2 said, when we were leaving --

3 UNIDENTIFIED MALE SPEAKER: Mm.

4 MS. CARTER: -- I did notice that three guys
5 were like, in the road, like, in front of the house
6 or whatever, and it was the guy with the white hat on
7 who I said was sitting in the back on the left-hand
8 side of the Ford Crown Victoria.

9 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

10 MS. CARTER: Excuse me. And it was the driver
11 who had the single braids, and he had on a red hat.

12 UNIDENTIFIED MALE SPEAKER: Okay.

13 MS. CARTER: And I think he had some shells on
14 the end of his hair, and I'm not sure who the other
15 person was, but that's when Teesha then said, That's
16 Ave''s father.

17 UNIDENTIFIED MALE SPEAKER: Okay. And, and
18 she, she's mentioning that, that that's Ave' father.
19 That's Ave''s father who's shooting.

20 MS. CARTER: Yes, sir.

21 UNIDENTIFIED MALE SPEAKER: Okay. All right.
22 So, now -- and you saw the Honda. You saw the driver
23 in the Honda, and the door opened. When you drove
24 through there and that vehicle was parked in front of
25 what looked like a dark-colored Saturn, is that

1 right?

2 MS. CARTER: Yes, sir.

3 UNIDENTIFIED MALE SPEAKER: Okay.

4 MS. CARTER: A blue, it was parked in front of a
5 blue Saturn --

6 UNIDENTIFIED MALE SPEAKER: Okay.

7 MS. CARTER: -- a little Ford blue -- but last
8 night, or this morning, during this incident, the
9 blue Saturn --

10 (DOOR OPENS)

11 UNIDENTIFIED MALE SPEAKER: (INDISTINCT) talk to
12 you.

13 UNIDENTIFIED MALE SPEAKER: Go ahead.

14 UNIDENTIFIED MALE SPEAKER: Are you recording?

15 UNIDENTIFIED MALE SPEAKER: Yeah.

16 MS. CARTER: During the incident this morning,
17 the blue Saturn wasn't there. The burgundy car was
18 actually parked a little in front of where the blue
19 Saturn is sitting at now.

20 UNIDENTIFIED MALE SPEAKER: Okay.

21 UNIDENTIFIED MALE SPEAKER: He's recording, so
22 we'll, we'll just ask --

23 UNIDENTIFIED FEMALE SPEAKER: Excuse us. Hi.

24 (INDISTINCT AUDIO)

25 UNIDENTIFIED MALE SPEAKER: That was

1 Investigator Reese and Investigator Menendez. Walked
2 in briefly. They have walked back out.

3 MS. CARTER: At that time, we are then leaving.
4 That's when I see City of Columbia police. He had
5 his blue lights on, so I'm going back down Beltline,
6 so I pulled over, which is to the right of me, to a,
7 a church, a church parking lot.

8 UNIDENTIFIED MALE SPEAKER: Okay.

9 MS. CARTER: Because I saw his blue lights, so I
10 thought he was pulling me over. I pulled over. He
11 was not there, so I left back out, going down
12 Beltline. Got at the light, made a right at the
13 light on Two Notch Road. Then that's when they came
14 behind me. It was like four City of Columbia
15 polices.

16 UNIDENTIFIED MALE SPEAKER: Okay.

17 MS. CARTER: I pulled over into the strip club
18 called Fantasy Island located off of Two Notch. We
19 pulled over there.

20 UNIDENTIFIED MALE SPEAKER: Okay.

21 MS. CARTER: Mr. Small -- Officer Smalls --

22 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

23 MS. CARTER: -- questioned me or whatever and
24 asked for my driver's license and --

25 UNIDENTIFIED MALE SPEAKER: Okay.

1 MS. CARTER: -- asked for my phone number.

2 UNIDENTIFIED MALE SPEAKER: And what did you
3 tell him?

4 MS. CARTER: He asked did I hear some shooting
5 and did I know about any shooting that went on, and I
6 said, Yes, sir, I did hear gunshots. And he was
7 like, well, we're just stopping you because they,
8 your truck matched the description of what they said
9 was over there because somebody got shot on the
10 corner of Two Notch and Beltline.

11 UNIDENTIFIED MALE SPEAKER: Okay.

12 MS. CARTER: And that --

13 UNIDENTIFIED MALE SPEAKER: Now, when you talked
14 to those officers, you didn't quite tell them the
15 truth, now did you?

16 MS. CARTER: No, sir, I didn't --

17 UNIDENTIFIED MALE SPEAKER: All right, you told
18 them you were coming from where? Do you recall even
19 what you told him?

20 MS. CARTER: No, sir, I don't.

21 UNIDENTIFIED MALE SPEAKER: You, you don't
22 recall talking about --

23 MS. CARTER: I did -- I told -- no, I told them
24 --

25 UNIDENTIFIED MALE SPEAKER: -- picking them up

1 (INDISTINCT) --

2 MS. CARTER: -- Kia -- yeah, I told them that we
3 were leaving the Kia House located off of Two Notch
4 Road, the kiddy club.

5 UNIDENTIFIED MALE SPEAKER: Okay. Okay.

6 MS. CARTER: Yeah, I did tell them that.

7 UNIDENTIFIED MALE SPEAKER: And, but you didn't
8 mention that you were on that street and that you'd
9 fired a weapon --

10 MS. CARTER: No, sir.

11 UNIDENTIFIED MALE SPEAKER: -- and that you were
12 fired upon?

13 MS. CARTER: No, sir.

14 UNIDENTIFIED MALE SPEAKER: Okay. All right, so
15 even at that point, you didn't look at law
16 enforcement for true assistance.

17 MS. CARTER: No, sir, I didn't.

18 UNIDENTIFIED MALE SPEAKER: All right, and you
19 did not inform law enforcement that they could
20 possibly apprehend some subjects that just fired at
21 you.

22 MS. CARTER: Yes, sir.

23 UNIDENTIFIED MALE SPEAKER: And possibly could
24 have taken your life.

25 MS. CARTER: Yes, sir. I didn't.

1 UNIDENTIFIED MALE SPEAKER: All right. You did
2 not.

3 MS. CARTER: No, sir.

4 UNIDENTIFIED MALE SPEAKER: Well, why didn't
5 you?

6 MS. CARTER: I just didn't.

7 UNIDENTIFIED MALE SPEAKER: Okay. Now, after
8 being stopped by law enforcement and not advising
9 them that you'd just came off a street where you were
10 shot at, what did you do?

11 MS. CARTER: He let us go.

12 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

13 MS. CARTER: Then that's when Teesha got a call
14 from Kadesia (PHONETIC) --

15 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

16 MS. CARTER: -- saying that they had just got in
17 a fight with some girls and that they were tasered
18 and asking if Kiwi, which is me, my nickname is Kiwi
19 --

20 UNIDENTIFIED MALE SPEAKER: Okay.

21 MS. CARTER: -- asking if Kiwi would come pick
22 them up and take them to the River, which is Broad
23 River Road.

24 UNIDENTIFIED MALE SPEAKER: Okay. Broad River
25 Terrace up there? Or Broad River Road off of --

1 MS. CARTER: Broad River --

2 UNIDENTIFIED MALE SPEAKER: Oh, okay. I got --
3 I know what you're talking about.

4 MS. CARTER: Yeah. Broad River Road.

5 UNIDENTIFIED MALE SPEAKER: Got you.

6 MS. CARTER: So that's when I went back down by
7 the Kia House. It was Richland County police out
8 there with them.

9 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

10 MS. CARTER: I pulled over to the median because
11 Kadesia and Kevin, which are the only two that I
12 know, were walking along the sidewalk, and I pulled
13 over in the median, and they recognized my vehicle,
14 and they came and got in my vehicle, but they had
15 four other people with them, and the only other
16 person names that I do remember was Jasmine
17 (PHONETIC) and China (PHONETIC).

18 UNIDENTIFIED MALE SPEAKER: Okay, and those are
19 females?

20 MS. CARTER: Mm-hmm. Jasmine and China.

21 UNIDENTIFIED MALE SPEAKER: Okay, so that was
22 when your car was actually loaded.

23 MS. CARTER: Mm-hmm.

24 UNIDENTIFIED MALE SPEAKER: On, on that trip.

25 MS. CARTER: Yes, sir.

1 UNIDENTIFIED MALE SPEAKER: Okay.

2 MS. CARTER: That's when Kevin and Kadesia and
3 China and Jasmine --

4 UNIDENTIFIED MALE SPEAKER: Okay. But those
5 persons were not in the vehicle to witness the
6 shooting incident --

7 MS. CARTER: No.

8 UNIDENTIFIED MALE SPEAKER: -- at [REDACTED] [REDACTED]
9 Avenue?

10 MS. CARTER: No, sir. No, sir.

11 UNIDENTIFIED MALE SPEAKER: All right.

12 MS. CARTER: The only people that were present
13 at that time was me, which is Kiawanae Carter.

14 UNIDENTIFIED MALE SPEAKER: Mm-hmm.

15 MS. CARTER: Teesha Davis.

16 UNIDENTIFIED MALE SPEAKER: Okay.

17 MS. CARTER: Kyasia Corbitt, and this girl named
18 Shatara, and I'm not sure of her last name.

19 UNIDENTIFIED MALE SPEAKER: And Shatara, even
20 though you don't know her last name, you know that
21 she goes to Columbia High School.

22 MS. CARTER: She goes to Columbia High School.
23 She stays off -- she stays off of [REDACTED] Drive in
24 the apartment complex called [REDACTED] [REDACTED]

25 UNIDENTIFIED MALE SPEAKER: Only that she stays

1 off [REDACTED] in the apartment complex called

2 [REDACTED] [REDACTED]

3 MS. CARTER: Yes, sir.

4 UNIDENTIFIED MALE SPEAKER: Okay. All right, do
5 you have a phone number for her or anything like
6 that?

7 MS. CARTER: I believe Teesha does.

8 UNIDENTIFIED MALE SPEAKER: So Teesha might have
9 it?

10 MS. CARTER: Yeah --

11 UNIDENTIFIED MALE SPEAKER: Okay.

12 MS. CARTER: -- and if I'm not mistaken, I -- I
13 dialed it in my phone last night, but I'm not sure if
14 I stored it in my phone, but it might be in there.
15 It very well could be.

16 UNIDENTIFIED MALE SPEAKER: All right, when we
17 first met with you and talked with you at the, the
18 North Main Monticello station, you agreed to take us
19 to your home --

20 MS. CARTER: Mm-hmm.

21 UNIDENTIFIED MALE SPEAKER: -- where you reside.

22 MS. CARTER: Mm-hmm.

23 UNIDENTIFIED MALE SPEAKER: Where you live.

24 MS. CARTER: At [REDACTED] Drive, Columbia,
25 South Carolina, 29203.

1 UNIDENTIFIED MALE SPEAKER: All right. Did we
2 go to that address?

3 MS. CARTER: Yes, sir. We did.

4 UNIDENTIFIED MALE SPEAKER: All right. Did you
5 hand over a Ruger nine-millimeter pistol along with
6 ammunition?

7 MS. CARTER: I personally didn't touch it.
8 Mister --

9 UNIDENTIFIED MALE SPEAKER: Well, well, did we
10 retrieve it out --

11 MS. CARTER: Yes.

12 UNIDENTIFIED MALE SPEAKER: Okay. All right.
13 All right. And you volunteered to allow us to
14 retrieve those items, correct?

15 MS. CARTER: Yes, sir.

16 UNIDENTIFIED MALE SPEAKER: Okay. You also
17 volunteered and gave us a box of bullets, a box of
18 ammunition.

19 MS. CARTER: Yes, sir.

20 UNIDENTIFIED MALE SPEAKER: Okay. And those,
21 that weapon, is that the weapon that you fired
22 earlier this morning --

23 MS. CARTER: Yes, sir. The nine-millimeter
24 Ruger, yes, sir.

25 UNIDENTIFIED MALE SPEAKER: All right. And are

1 you certain that you one, only fired it once --

2 MS. CARTER: Oh, yes, sir. I'm very certain
3 that I shot once --

4 UNIDENTIFIED MALE SPEAKER: -- and two --

5 MS. CARTER: -- and when I shot, I shot in the
6 air because, first of all, I'm right-handed, so
7 technically I drive with my right hand, but like I
8 said, when I fired, I was holding the steering wheel
9 with my left hand, and I rolled down the window, and
10 I leaned out of the window, and I shot in the air one
11 time. I shot in the air one time, and I heard my
12 shell hit the ground.

13 UNIDENTIFIED MALE SPEAKER: Okay. All right.
14 But you still -- you also stated that you would not
15 have a problem with signing a Consent to Search form
16 to search your vehicle.

17 MS. CARTER: Oh, no, sir. I absolutely have no
18 problem at all.

19 UNIDENTIFIED MALE SPEAKER: All right. And what
20 color vehicle do you -- what -- first, what type of,
21 vehicle do you have?

22 MS. CARTER: I drive a Ford Expedition, license
23 plate number [REDACTED] It's a bei -- gold color,
24 maybe. It's a gold-colored Expedition. V8 engine,
25 XLT.

1 UNIDENTIFIED MALE SPEAKER: Okay. All right.

2 And that is the vehicle that you were in --

3 MS. CARTER: That's the vehicle that I was in.

4 UNIDENTIFIED MALE SPEAKER: -- the night you
5 were stopped by law enforcement. That is the vehicle
6 that you were in when you were shot upon and you
7 fired your weapon. Is that correct?

8 MS. CARTER: Yes, sir. That's the only vehicle
9 that I have.

10 UNIDENTIFIED MALE SPEAKER: Okay. Is there
11 anything that you can think of that I have not asked
12 you or that we have not discussed in this initial
13 interview?

14 MS. CARTER: No, sir, other than ~~when we were~~
15 ~~leaving, when I said that the guys were standing in~~
16 ~~the middle of the road, they was yelling, Oh, we~~
17 ~~going to get y'all. It's not over?~~

18 UNIDENTIFIED MALE SPEAKER: Okay.

19 MS. CARTER: That's it.

20 UNIDENTIFIED MALE SPEAKER: That's it?

21 MS. CARTER: Mm-hmm.

22 UNIDENTIFIED MALE SPEAKER: Okay. Did you or do
23 you know anyone that drives a burgundy Honda?

24 MS. CARTER: No, sir.

25 UNIDENTIFIED MALE SPEAKER: All right.

1 MS. CARTER: My kid's father used to have a
2 burgundy Honda back in the day, but he no longer has
3 it any more.

4 UNIDENTIFIED MALE SPEAKER: Okay. So you didn't
5 know who was in that Honda?

6 MS. CARTER: Mm-mm.

7 UNIDENTIFIED MALE SPEAKER: All right. And did
8 you or do you know anyone that was in the actual
9 silver Ford Crown Vic or --

10 MS. CARTER: No, sir. I don't know any of those
11 children that were in there. The girl Teesha Davis,
12 who I call my little sister, she knows basically
13 everybody that was in there.

14 UNIDENTIFIED MALE SPEAKER: Okay.

15 MS. CARTER: Because her and one --

16 UNIDENTIFIED MALE SPEAKER: And the shooter that
17 you saw, how old do you think he was?

18 MS. CARTER: Roughly I would probably give him
19 like 17.

20 UNIDENTIFIED MALE SPEAKER: All right, so you
21 believe he would be a young individual.

22 MS. CARTER: Yeah, he was like 17.

23 UNIDENTIFIED MALE SPEAKER: All right. But the
24 shooter on the second round of fire that the, the
25 young ladies saw, she believed them to be old enough

1 --

2 MS. CARTER: Ave' -- yeah.

3 UNIDENTIFIED MALE SPEAKER: -- Ave''s father --

4 MS. CARTER: Yes, sir.

5 UNIDENTIFIED MALE SPEAKER: -- so old enough to
6 be a father of a teen.

7 MS. CARTER: Mm-hmm.

8 UNIDENTIFIED MALE SPEAKER: Is that correct?

9 MS. CARTER: Mm-hmm.

10 UNIDENTIFIED MALE SPEAKER: All right. And the
11 person that you believe fired, you, you only describe
12 him because you saw him sitting in the back of a car
13 --

14 MS. CARTER: Backseat. Yes, sir. He was --

15 UNIDENTIFIED MALE SPEAKER: -- and describe him
16 again for me?

17 MS. CARTER: -- he was like a light-skinned
18 fellow. He had on a white, fitted hat.

19 UNIDENTIFIED MALE SPEAKER: Mm.

20 MS. CARTER: It looks to me like he maybe had
21 like some little twists in his head that wasn't very
22 long, like he'd just started them.

23 UNIDENTIFIED MALE SPEAKER: Okay.

24 MS. CARTER: But I really couldn't, you know,
25 like see his face to better, you know, to tell you

1 like if he got any marks in his face and exactly what
2 he looked like or anything.

3 UNIDENTIFIED MALE SPEAKER: All right.

4 MS. CARTER: Because I can't see that well at
5 night.

6 UNIDENTIFIED MALE SPEAKER: Okay. You also told
7 me earlier that you had no problem if requested
8 taking a polygraph, is that right?

9 MS. CARTER: Oh, yes, sir. I'm fine.

10 UNIDENTIFIED MALE SPEAKER: Okay. All right.
11 Okay. At this juncture, I'm going to terminate this
12 interview. The interview was done solely by myself,
13 for Investigator Sumpter never made it back to the
14 interview room, and the interview room was only
15 entered by Investigator Reese and Menendez for a few
16 seconds. Ending recording.

17 25:49

18 (END OF AUDIO FILE)

19

20

21

22

23

24

25

1 CERTIFICATE OF TRANSCRIPTIONIST

2 I, Jesika Brooks, do hereby certify:

3 That the foregoing audio file was transcribed;
4 that the foregoing transcript as typed is a true,
5 accurate and complete record of the audio file to the
6 best of my ability under the prevailing
7 circumstances.

8 I further certify that I am neither related to
9 nor counsel for any party to the cause pending or
10 interested in the events thereof.

11

12

13

14

15

Jesika Brooks

16

7/30/13

17

18

19

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21

22

23

24

25

TAPL

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COLUMBIA S.C. POLICE DEPARTMENT
STATEMENT FORM

Page ____ of ____

Date: 4/18 Time 5:02 A.M. Place Columbia Police DepartmentI am Eric G. Washington My birthday is [REDACTED]My address and phone number are [REDACTED]

I am giving this statement concerning _____

to _____ who has identified himself as _____

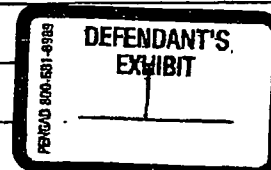
On ~~the~~ April 17, 2010, met my friend Darrell Niles went to a friends party in the Summit. Everything went smooth & we left around 10:30 & we decided to go to another party at the Kid's House. Also that went smooth but After wards D. Niles new the girls that were getting into outside, so the girls split up ~~in~~ in their separate cars and went to meet them. Being that Niles new them we went to make sure everything was ok. So we kind of followed them ~~to~~ to this neighborhood on Two Notch. And as we followed them to the last street we notice that this guy was shooting at the car and we immediately turned around and I guess when the man saw us he started to shoot at the car and one of bullets hit my friend who was driving. I yelled his name multiple times but he wouldn't make. Then I immediately ran up the street because he kept firing more shots at the car and that's when my mom ~~called~~ and picked me up. We also called the police multiple times.

Sworn and subscribed to me this
____ day of _____

/S/ _____

NOTARY PUBLIC OF SOUTH CAROLINA
MY COMMISSION EXPIRES _____

/S/ _____



_____ received a copy of this statement consisting of _____ pages
from _____ /S/ _____



BOOK 251 OF 0685

State of South Carolina
The Circuit Court

Maité Murphy
Judge

5200 E Jim Bilton Boulevard
Post Office Box 802
St. George, SC 29477
Phone: (843) 832-0391
Fax: (843) 832-0392
mmurphy@sccourts.org

September 27, 2013

Hon. Jeanette W. McBride
Richland County Clerk of Court
P.O. Box 2766
Columbia, S.C. 29202

Re: State vs. Shannon Scott
Indictment No.: 2010-GS-40-1457

Dear Mrs. McBride:

Please file the enclosed Grant of Immunity in the referenced case executed by the Hon. Maite' Murphy on September 27, 2013. Also, please forward certified copies to all parties. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Guerri".

John H. Guerri
Law Clerk

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

The State of South Carolina)

-vs-)

Shannon Scott,)

Defendant.)

IN THE COURT OF GENERAL SESSIONS

Indictment Number:
2010-GS-40-1457

GRANT OF IMMUNITY

Hearing Date:

Presiding Judge:

On Behalf of State:

Defendant's Attorney:

August 12-14, 2013

The Honorable Maité Murphy

Dolly Garfield, April Sampson, and Brent Grant

Todd Rutherford

JEANETTE W. McERODE
C.C.P. & G.S.

2013 OCT -9 PM 4:47

RICHLAND COUNTY
FILED

THIS MATTER is before the Court pursuant to the Defendant's Motion asserting Statutory Immunity from Prosecution. The Defendant has been indicted on one count of Murder in which it is alleged that on April 18, 2010, the Defendant killed Darrell Niles by shooting him while he was in his vehicle and the Defendant was on his front stoop. The Defendant's motion is based on the Protection of Persons and Property Act (hereinafter "the Act"), Section 16-11-410, et. seq., of the South Carolina Laws. The Defendant admits that he shot the Victim, but asserts his act was justified and that as a result he is absolved from prosecution pursuant to the immunity granted in section 16-11-450 of the Act. On July 30, 2013, the Defendant, by and through his attorney, J. Todd Rutherford, filed a Motion to Enforce the Protections of 16-11-450(a) seeking an order of immunity from prosecution under the Act and requesting a hearing to determine whether the Act applies to this case. A hearing was scheduled on the matter for August 12, 2013.

The Act codifies the long standing common law Castle Doctrine, which stands for the principle that a person, in his or her own home or vehicle and acting without fault, has no duty to retreat from an aggressor. Section 16-11-440(A) provides that:

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[A] person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force ... if the person against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle.

Section 16-11-440(C) provides that

[A] person who is not engaged in an unlawful activity and who is attacked in another place where he has the right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

Section 16-11-450(A) provides that a person who uses deadly force, as permitted by the provisions of Section 16-11-440, "is justified in using deadly force and is immune from criminal prosecution ... for the use of deadly force."

A hearing on the Defendant's Motion was held on August 12-14, 2013. The Defendant and his attorney were present and Assistant Solicitors Dolly Garfield, April Sampson, and Brent Arant represented the State. The Court was asked whether the Defendant was entitled to immunity under Section 16-11-450 of the Act. The Defendant acknowledged, and this Court agrees, that he has the burden to prove by a preponderance of the evidence that he is entitled to immunity from prosecution under the Act. *State v. Duncan*, 392 S.C. 404, 411 709 S.E.2d 662, 665 (S.C. 2011).

FINDINGS OF FACT

Multiple witnesses testified at the hearing. Stipulations agreed to by both parties were submitted, and multiple items of evidence were introduced into the record, including witness statements and photographs. Considering all of the testimony and evidence in its entirety, I find the following to be the pertinent facts of this case:

On April 17th, 2010, a dispute at the Kia House on Two Notch Road occurred between Teesha Davis (hereinafter "Ms. Davis"), age fourteen (14) and Shadé S [REDACTED] (hereinafter "Ms. S [REDACTED]"), age fifteen (15). The Kia House was a teen club where Ms. S [REDACTED] and her friends were attending a birthday party. Ms. S [REDACTED] was accompanied by other teenagers: Denzel Davis aka "Crackle" (hereinafter "Mr. Davis"), Spartacus Bennett aka "Antonio" (hereinafter "Mr. Bennett"), Avé Fuller (hereinafter "Avé"), Asia Mills (hereinafter "Asia"), and Ashley Mills (hereinafter "Ashley"). Once the dispute arose and in an effort to avoid any further difficulties, Ms. S [REDACTED] and her friends left the Kia House in a Crown Victoria (hereinafter car #1) driven by Mr. Davis. Ms. S [REDACTED] and her friends were immediately pursued by Ms. Teesha Davis, who was accompanied by Kiawane Carter, age twenty-two (22) (hereinafter "Ms. Carter"), K'yasia Corbett, age sixteen (16) (hereinafter "Ms. Corbett"), and Shatare (hereinafter "Shatare"), who was never identified by law enforcement, who all left the Kia House in a Ford Excursion (hereinafter car #2).

Although the altercation at the Kia House was begun by Ms. Davis, it is undisputed that Ms. Carter was attempting to fight with Ms. Scott and had attempted to fight with her at the Kia House. In fact, five days prior to this incident, Rosalyn S [REDACTED] (hereinafter Rosalyn), young Ms. S [REDACTED]'s mother, contacted law enforcement for

assistance because Ms. Carter had threatened to come to Ms. S■■■■s home and harm her. Ms. S■■■■s mother relayed to law enforcement her belief that Ms. Carter intended to harm her stepdaughter using weapons. This contact is evidenced by a report memorialized by law enforcement.

Soon after leaving the Kia House, Ms. S■■■■ and her friends realized they were being pursued by car #2, driven by Ms. Carter. For reasons unclear to the Court, Darrel Niles, age seventeen (17) (hereinafter "Victim") and Eric Washington, age sixteen (16) (hereinafter "Mr. Washington") left the Kia House in a burgundy Honda (hereinafter car #3) driven by the victim and followed car #2. There was no evidence presented that the Victim and Mr. Washington were parties to the prior dispute at the Kia House. The testimony presented failed to prove exactly why the Victim and Mr. Washington took part in the chase that followed. Mr. Washington testified he did not know Ms. Scott, but that the Victim did know her. His testimony that he thought the Victim was maybe trying to help Ms. S■■■■ was less than credible.

The occupants of car #1 stopped at a red light close to the Kia House and at that point realized that they were being pursued because Ms. Carter exited car #2 and began to approach car #1. At that point, Mr. Davis ran the red light, and a high speed chase ensued. With car #2 in pursuit, Mr. Davis drove to a police station, which unfortunately was closed, made a U-turn, and proceeded back to Two Notch Road. Ashley made a frantic phone call to her mother telling her what had happened at the Kia House and that she and her friends were being pursued by Ms. Carter and her passengers. Ms. Scott instructed Ashley to have Mr. Davis drive the girls to the Defendant's residence at ■■■■ Avenue, where she was along with the Defendant. While in route to ■■■■

Avenue, Mr. Davis made a wrong turn down a dead end road. Car #2 pulled across this road to block Mr. Davis's exit, and Mr. Davis was forced to drive through someone's yard to avoid car #2 and continue to [REDACTED] Avenue. Despite this maneuver, car #2 continued to pursue Mr. Davis, and all credible testimony and inference indicate that car #3 continued its pursuit behind car #2. Mr. Davis drove onto [REDACTED] Avenue and made a very quick turn at the home of the Defendant hoping that his speed would avert car #2's ability to follow him.

Mr. Davis drove to the back of the residence on [REDACTED] Avenue, and the teenagers, following the direction of Ashley mother Rosalyn, ran into the house and hid under the kitchen table. At the hearing, each of these young people testified that they heard shots as they ran into the house. They all testified that they were unfamiliar with guns and terribly frightened as they hid on the floor under the kitchen table at [REDACTED] Avenue, the home of the Defendant. Apparently, several of these young people were hysterical, and all were in fear for their lives.

After hearing the gunshots, the Defendant went into the bedroom of his roommate Lenny Williams (hereinafter Mr. Williams), and retrieved Mr. Williams's gun. Thereafter, Rosalyn immediately called law enforcement after the children were inside and she heard the gun shots. This is evidenced by a recording of the 911 phone call.

It is abundantly clear to the Court as testified to by Rosalyn, the Defendant, by the young people, and corroborated by the 911 phone call, that the environment inside the Defendant's home was one of not only terrified, panicked young people, but also terribly frightened adults.

Although Ms. Carter was not present at the hearing to testify, her statement was introduced into evidence. In her statement to law enforcement Ms. Carter admitted to having a gun and to the chase. She also admitted to driving past the Defendant's home and turning around firing a shot, that she claimed was just so they would know she was armed, and then driving past the Defendant's home. The testimony was clear that the SUV came to a stop at the brown pole almost directly in front of the defendant's house. According to Ms. Carter's statement, she had switched seats with Shatara, rolled down the windows and prepared to do "bust at" or shoot at the defendant's house. Shots were fired by Ms. Carter and then by the defendant as the defendant stood on the curtilage of his home.

The statement of Ms. Davis was also introduced into evidence and in it she also admits to the altercation and the chase. She told law enforcement that Ms. Carter wanted to do a "drive by." Although she claimed that she talked her out of it, the evidence clearly shows that to be a pure fabrication. The credible testimony established that they turned the SUV (car #2) around, turned off the lights, rolled down the windows and drove by the Defendants home and began to fire.

It is also clear that in response to these events, the Defendant exited the front of his home onto a very small stoop and that he fired two or three shots. During this melee, one of the shots hit and instantly killed the Victim (driver of car #3). Mr. Washington, the passenger in car #3, testified that the Victim took a left turn onto [REDACTED] Circle off of [REDACTED] Avenue to turn around. He stated that in doing so, the headlights from the Victim's car pointed at the defendant and Mr. Washington testified that he could see the defendant engaged in a gun battle with the occupants of the SUV. The picture of the

Victim's vehicle at the scene shows that the bullet went through the driver's side window. This would be more consistent with the vehicle being directly in front on the Defendant's home traveling in the same direction as the SUV which had turned around to do the drive by. The Victim's car was found running with the lights on, just past the Defendant's house where it had run off the road and into brush. The passenger door was open where Mr. Washington fled the scene. Unfortunately, law enforcement failed to conduct any meaningful accident reconstruction of the scene that would clearly indicate where the Victim's car was at the time that the fatal shot was fired.

The Defendant testified that he knew of previous problems reported to law enforcement and that he knew this girl and others were chasing his children. As they arrived at his residence, he further testified that they were all hysterical in fright. The Defendant testified that he was not a gun owner, but in order to defend and protect his family, he grabbed Mr. Williams's gun. His testimony was that the SUV stopped in front of his house, and he could see arms out of the windows. This testimony is corroborated by the statements of both Ms. Carter and Ms. Davis. The Court finds credible his testimony that both the Honda and SUV drove past his home and turned around and stopped in front of his residence. This is consistent with the gunshot entering the driver's side window of the victim's car. His testimony was very credible that he heard a gunshot. Hearing a gunshot, along with the threats, the chase, and being confronted at his home as the target of a drive by shooting, with his children inside, created reasonable fear of imminent peril of death for him and his family. Rosalyn and the Defendant waited on the police to respond, and after informing the police that they were the victims of an attempted drive by shooting, they left the Defendant's home for fear that those involved

in shooting at his home would return. The police also left the incident location at that time to look for the SUV (car #2). The police did not see or discover the Honda that had come to a stop in the brush with the passenger door open and the victim's body inside.

Later, police did return to the incident location and then found the Honda, which was still in drive and stuck in a bush close to the Defendant's house facing toward Two Notch Road. Police observed a single shot through the driver's side window of the car and observed a single wound in the Victim's head. The Victim was later pronounced dead. SLED reports revealed that the projectile found in the Victim's head was fired from the gun that the Defendant had turned over to his lawyer. As a result of the investigation, police charged the Defendant with Murder. The occupants of the SUV were not charged with felony murder, which, as argued by Defendant's counsel, was the more appropriate charge.

APPLICATION OF THE LAW

After considering the testimony and evidence presented and applying the law of South Carolina, I conclude that Defendant is entitled to statutory immunity under the Act for the reasons outlined below.

I. The Defendant is entitled to statutory immunity under the Act because the incident occurred at the Defendant's residence.

Defendant should be granted immunity from prosecution because Section (A) of § 16-11-440 applies. Section (A) provides:

- (A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

- (1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle...and
- (2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

The primary and cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. *State v. Pittman*, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007). Unless there is something in the statute requiring a different interpretation, the words used in a statute must be given their ordinary meaning. *Mid-State Auto Auction of Lexington, Inc. v. Altman*, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996). "Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning." *Pittman*, 373 S.C. at 561, 647 S.E.2d at 161 (citing *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)).

The purpose of the Act is to allow people to defend their homes, places of business, and motor vehicles. "The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles." Section 16-11-420(D) (emphasis added). The Act clearly states that section (A) applies if force is used against someone who is entering or attempting to enter a dwelling, residence or, occupied vehicle. The Act codifies "the common law Castle Doctrine which recognizes that a person's home is his castle" Section 16-11-420(A). The purpose of this Doctrine is to protect an individual from being ejected from his home, business, or automobile. The Victim had followed the defendant's daughters home while they were being chased by another vehicle. The

Victim never identified himself to the defendant and in doing so left the Defendant to reasonably believe that he too was an imminent threat. If in fact the Victim was present merely to observe these events or even assist those being chased in some way, the credible evidence presented simply fails to support such a finding. The Legislature went to great lengths to outline circumstances in which the Act is applicable, and in the instant case the Defendant may use deadly force if he has reason to believe that an "unlawful and forcible act is occurring". At no point is it required that the Defendant retreat into his home to be fired upon without him being able to defend his family and himself.

The Defendant is clearly entitled to the immunity provided by the Act because the curtilage of his home has long been considered his "castle" by the common law of this state. *See State v. Quick*, 138 S.C. 147, 135 S.E. 800 (1926). And his right to use deadly force against the victim whom he reasonably believed was engaged in an unlawful and forcible act against his home was codified in Section 16-11-420(A).

II. The Defendant is entitled to statutory immunity under the "Stand Your Ground" provision of the Act because the Defendant was reasonable to be in fear of the Victim.

§ 16-11-440(C), also known as the "Stand Your Ground" provision, provides immunity to an individual who uses deadly force against an attacker in places other than a business, automobile, or home. In order for an individual to be granted immunity from the Stand Your Ground provision of the Act the defendant must demonstrate three things. First, in order to be immune, the person using deadly force must be in a "place where he has a right to be." Second, that he not be "engaged in unlawful activity." And third, deadly force may be used only if the person "reasonably believes it is necessary to

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prevent great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60."

When the Defendant fired the shot, he reasonably believed he was being attacked with deadly force directed at his home. There is absolutely no requirement that the defendant wait to be attacked by those that instigated the deadly circumstances. The Legislature intended that the defendant should not have to wait to be fired upon. In fact, the Legislature codified this belief in § 16-11-420

- (A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.
- (B) The General Assembly finds that it is proper for law-abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.
- (C) The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed.
- (D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.
- (E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.

I hereby conclude that the Defendant is entitled to the grant of immunity under the Act because he and his family were clearly under attack and that they had every reason to believe that the attack would have continued from both Ms. Carter and potentially the victim but for the actions of the Defendant. The Legislature clearly did not intend for any father to stand idly by as his family lay on the kitchen floor in fear of being shot and killed. The defendant meets all of the statutory requirements to be granted immunity for his actions on April 18, 2010.

CONCLUSION

Based upon the foregoing, I conclude the Defendant's use of deadly force was justified and that he is entitled to immunity as enunciated in section 16-11-450 of the Protection of Persons and Property Act. Therefore, the Defendant's Motion for Immunity is granted.

IT IS SO ORDERED.

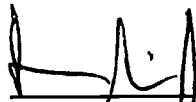

The Honorable Maité Murphy

St. George, South Carolina

Date: Sept. 30, 2013

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for Appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007 and April 14, 2014, orders from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."



ALPHONSO SIMON, JR.
Assistant Attorney General

Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR APPELLANT

October 20, 2014.

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge

RECEIVED

NOV 10 2014

Appellate Case No. 2013-002124

S.C. Supreme Court

THE STATE

APPELLANT,

V.

SHANNON SCOTT,

RESPONDENT.

FINAL BRIEF OF APPELLANT

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

ALPHONSO SIMON JR.
Assistant Attorney General
South Carolina Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549
(803) 734-6305

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202
ATTORNEYS FOR RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

- 1 Whether the trial court erred in finding Respondent Shannon Scott was entitled to immunity under the Protection of Persons and Property Act under S.C. Code Ann. § 16-11-440(A) when there was no evidence the victim was in the process of unlawfully and forcefully entering Respondent's dwelling, residence, or occupied vehicle, and
2. Whether the trial court erred in finding Respondent Shannon Scott was entitled to immunity under the Protection of Persons and Property Act under S.C. Code Ann. § 16-11-440(C)?

STATEMENT OF THE CASE

Respondent Shannon Scott ("Respondent") was indicted for Murder (2010-GS-40-1457) in the shooting death of Darrell Niles on May 14, 2010. (R. pp 303-304). On July 30, 2013, Respondent filed a Notice of Motion for Hearing Pursuant to S.C. Code § 16-11-440(C) and Motions to Enforce the Protections of S C. Code § 16-11-450(A) (R pp 305-309)

An evidentiary hearing on the Motion was held before the Honorable Maité Murphy, Circuit Court Judge, on August 12-14, 2013. (R. pp. 1-302). Respondent was present and was represented by Todd Rutherford, Esquire. Id. The State was represented by Assistant Solicitors Dolly Garfield, Esquire, April Sampson, Esquire, and Brent Arant, Esquire, all of the Office for the Solicitor of the Fifth Judicial Circuit. Id.

On October 9, 2013, the trial court filed its Order granting Respondent immunity under the Protection of Persons and Property Act (Order, R. pp 383-395). Appellant subsequently filed its Notice of Appeal

The State now respectfully requests this Court reverse the trial court's Order granting immunity and remand this case for trial

STATEMENT OF FACTS

On April 18, 2010, Respondent Shannon Scott ("Respondent") shot and killed the victim, Darrell Niles. Niles was shot once in the head. At the time, Niles was sitting in the car he was driving. The windows of the car were up. Niles was unarmed, and there were no weapons in his car. Niles had not said anything to Scott. He was merely turning his car around on a street near Respondent's house.

Background Information

On April 17, 2010, Respondent was engaged to Rosalyn Fuller. (R. pp. 80, 102). At the time of the hearing, Respondent had eleven children. (R. p. 101). On April 17, one of his daughters, Shade, went to a party at a teen club in Columbia with Rosalyn's daughters Ashley, Asia, and Ave; along with two young men, Denzel Davis and Antonio Bennett.¹ On that evening, Rosalyn was at Respondent's home. (See R. pp. 81, 101). The children were supposed to return to Rosalyn's home after they left the teen club. (R. p. 102).

Confrontation Outside the Club

During the party and shortly after the party, Shade was involved in a confrontation with another girl named Teesha. (R. pp. 8-9, 19-20, 36-7, 64, 157, 159-60, 218). After the confrontation was over, Shade's group left the club in a 1993 Grand Marquis driven by Denzel. (R. pp. 10, 20, 49, 64-5, see R. pp. 37-8). They were followed by a group of females that included Teesha. (R. pp. 10, 20, 37-8, 157, 160, 256; see R. pp. 64-5). The group of females was driving in a

¹ Denzel Davis went by the nickname "Crackle." (R. pp. 48, 49). Antonio Bennett went by the nickname "Tone." (R. p. 63).

silver Ford Expedition (R. pp. 157, see R. pp. 10, 20, 49, 69, 97, 107, 131, 152, 156, 248). Asia, Denzel, and Antonio testified at the hearing that when they initially pulled out in the median in front of the club, they saw a girl run up to their car with a gun in her hand² (R. pp. 20, 49-50, 64). Shade also testified that she recalled Denzel stating that he saw one of the individuals in the truck having a gun. (R. pp. 10-11). Shade acknowledged that she did not see anyone from the truck with a gun that night. (R. p. 15).

Kiwiana Carter, the primary driver of the Expedition on the day of the shooting, admitted to law enforcement that there was a gun in the SUV. (R. p. 157). Carter also admitted that she followed the Grand Marquis. (R. pp. 157, 323-25, 349-51). Teesha also admitted that her group followed the Grand Marquis. (R. pp. 160, 329-30). Sergeant Reese noted that no one in the Expedition indicated there was another car following them. (R. p. 164).

Eric, the passenger in the victim's car, testified that he and the victim ended up following the two cars. (R. pp. 220-21).

The children drive to Respondent's house.

A car chase ensued. (R. pp. 11-2, 20-1, 37-8, 50-1, 69). None of the witnesses in the Grand Marquis testified they saw a red Honda chasing them (R. pp. 14, 42, 54, see R. pp. 17, 254, 168, 312-19, 343-44). Asia did indicate that she saw a second car after they got to Respondent's house (R. p. 22). She

² Asia identified the girl as Teesha. (R. p. 20). Antonio indicated he recalled this happening at a red light, not in the median. (R. p. 64). None of the three witnesses had mentioned seeing a girl with a gun in their statements to police. (R. pp. 40, 54, 69, 70, 79; see State's Exhibits 3, 4, 5, R. pp. 312-19). Investigator Reese noted that the first he heard of Teesha walking to the Grand Marquis with a gun was at the immunity hearing (R. p. 170).

noted that she thought she saw the car turning around at the parking lot down the street (R. p. 22). Rosalyn also testified that she recalled seeing a car turn around with the truck at the All State building down the street from Respondent's house.³ (R. p. 87)

During the car chase, Shade called Respondent. (R. pp. 11, 101-02). Shade testified that she told her father that they were being followed by a group of girls and that the group had a gun (R. p. 11). Shade indicated that she never told Respondent about a second car. (R. p. 17). Asia, Ave, and Denzel were either not sure or did not recall if anyone mentioned a second car during the phone calls to Respondent and Rosalynn. (R. pp. 30-1, 42, 57).

Rosalyn testified that she initially received text messages from Ashley that stated their group was being followed by Teesha D. (R. p. 81). Rosalyn later received a phone call from Ashley, who was then using Shade's phone. During that conversation, Ashley indicated the other group was following them. (R. pp. 81, 83; see R. pp. 343-44). By all accounts, the individuals in the Grand Marquis were instructed to drive to Respondent's home instead of Rosalyn's home. (R. pp. 11, 85, 102, 344).

Eric indicated the victim wanted to make sure the girls in the first car got were alright. (R. pp. 221-22). Eric noted that the victim did not follow the chase closely, and at one point they lost sight of the other two vehicles. (R. p. 224). After following the two vehicles for a short while, the victim and Eric got lost once the chase went down neighborhood streets (R. pp. 222-23). Eric testified they

³ Rosalyn did not mention seeing the car during her conversation with the 911 operator or in her statement to law enforcement (R. p. 97, State's Exhibits 7, 8)

turned onto a cul de sac, and then they started to turn around. (R. pp. 225-26)
Eric noted that he saw the SUV parked on the road they were originally on (R. pp 225-26)

The group arrives at Respondent's home.

When the group got to Respondent's house, they pulled their car into the backyard (R pp 12, 21, 38, 51, 86, 104). There was some discrepancy as to whether Respondent and Rosalyn were outside when the car arrived. (See R. pp. 38, 86, 104) Respondent did not mention Rosalynn being outside. (R. p. 104) In her statement to law enforcement, Ave indicated that Respondent and Rosalyn were inside the home (R p. 41)

Shade and Asia testified that she saw the truck following them pass Respondent's house and later return with its headlights off. (R. pp. 12, 21, 23). Ave testified that she saw the truck's headlights turned off as soon as the Grand Marquis pulled into Respondent's backyard (R. p. 39) Denzel did not see the truck after he pulled the Grand Marquis into the yard. (R p 52) Rosalyn testified that she saw the SUV pass Respondent's house, and she indicated she saw it turn around by the All State agency that was at the end of the street. (R. p 87) She noted that the when the SUV turned around, the headlights were turned off (R p 99) Rosalyn also testified that she saw a second car make the same turn (R. pp. 87, 94). Respondent also testified that he saw the truck pass his house, and he saw another set of headlights following the SUV. (R. p. 104). Respondent further stated that he saw the SUV turn around, and there was

another car behind it (R. p. 106) He noted that the SUV had turned its headlights off, but the car's headlights were still on. (R. p. 106).

After pulling into the backyard, the individuals in the Grand Marquis were directed to enter Respondent's house through the back door into the kitchen (R. pp. 12, 21, 39, 51, 87, 104; see R p 66) At the hearing, several of the witnesses in the Grand Marquis testified that they heard gunshots while they were in the process of getting out of the car. (R. pp 21, 22, 26, 39, 52, 65, 66, 87-8, 104) Specifically, Asia stated that she heard gunshots after the truck started driving back with the lights off. (R. pp. 21, 23) Ave asserted she saw a gun hanging out of a window in the truck, and she saw shots fired. (R p 39). Denzel also testified that he heard shots while they were still in the car in the backyard. (R. p 52) Similarly, Antonio testified that he recalled hearing a gunshot as he was getting out of the car. (R. pp. 65, 66). Rosalynn also indicated that she heard a gunshot as the individuals from the Grand Marquis were entering the house (R pp. 87-8). Respondent also stated that he heard a "pow" while Rosalynn was getting the kids into the house. (R. p. 104). However, Ave, Denzel, and Antonio admitted that they did not mention hearing gunshots while they were exiting the Grand Marquis in their statements to law enforcement after the shooting (R. pp. 42, 54, 61, 72, 79; see R. pp. 154, 169) Shade also testified she did not recall hearing a gunshot until she was in the house on the floor (R. p. 14).

Shots are fired in the vicinity of Respondent's house.

Carter told Reese that while they were parked in the All State parking lot, they heard a shot. (R p. 158) She indicated that after hearing the shot, she fired the gun that was in the SUV into the air (R pp 158, 325, 358) Sergeant Arthur Thomas of the City of Columbia Police Department testified Carter had to him that she fired her gun, but she said she did so because someone had fired at their SUV twice (R. pp 247, 257-59) Teesha told Reese that as they drove past Respondent's house, she saw a black female along with a heavy set male and Respondent in the yard (R. p. 160). She also stated that they heard a gunshot while parked at the All State parking lot. (R. pp. 160-61). After hearing a second shot, Teesha indicated Carter backed the SUV up and fired a shot into the air (R. pp. 160-61, 330). Reese also interviewed Kyasia Corbit, another female in the SUV. She denied that anyone in the truck fired first (R pp. 162-3, 338). She also indicated in her interview that she heard two shots before Carter fired her gun once (R p 336).

Respondent's recollection of what occurred after hearing the gunshot.

Respondent testified that after he heard the gunshot, he went into his roommate's room and took his roommate's handgun from beside his bed. (R. p. 105). Rosalyn called 911. (R. pp. 105-06) Lenny Williams, Respondent's roommate recalled hearing some gunshots. (R. p 127). He saw Respondent come into his room and grab Williams' gun (R. p. 127) Williams noted that Respondent did not say anything or warn him to get down (R. p. 128). Shawnta Brown, Williams' girlfriend, recalled Respondent running into the bedroom and

getting the gun off the table. (R. pp 133-5) She also testified that he did not tell Williams or her to get down, take cover, or that someone was shooting at them (R. p. 134). She indicated she thought she heard one or two shots. (R. p. 134). Brown thought the shots sounded like they were close to the house. (R. p. 135)

Respondent ran outside the front door out to the front step of the house. (R pp. 105-06). He saw the SUV turn around and there was another car behind it. (R. p. 106). Respondent testified he saw the two vehicles in front of his house, a Honda Accord and a gray or Silver Ford Expedition. (R. p. 107). He noted that he saw the headlights of the Honda (R p. 106). The SUV turned its headlights off. (R p 106). As it drove back towards Respondent's house, Respondent fired a warning shot and told them not to come any farther (R. p. 106) After he fired the warning shot, the cars continued to move slowly and he recalled seeing the two stop in front of his house. (R. pp 108-09). Respondent heard another shot (R. p. 107).

He saw arms out of the truck hanging out of the window. (R. p. 109). He noted the red Honda was behind the truck. (R. p. 109). He also testified that the truck was facing the opposite direction that it had originally driven, and the Honda Accord was facing a different direction than it had originally gone. (R. pp. 109-10) He also noted that he saw the car come close to his house. (R. p. 107). Respondent ducked behind the front hood of his vehicle that was in the front yard, and he fired two or three times (R pp 107, 108). He then went back into the house. (R. p 107)

Others' testimony regarding the shooting.

Eric testified he saw a man come out of the house, and he saw the man shooting at the silver truck. (R. p. 226). He did not see the man do anything else. (R. p. 226). Eric noted that as he and the victim pulled up to the intersection on the original road, the man who was shooting shot at the victim's car (R. p. 227). Eric thought he felt the car swerve a little bit. (R. p. 227). After he called the victim twice, he saw the victim's eyes were closed. (R. p. 227). After hearing more gunshots, Washington got out of the car and ran away. (R. p. 230).

The three girls from the SUV that law enforcement could identify all indicated that after they heard the shots, and after Carter fired a shot out of the window of the SUV, Carter switched seats with the fourth girl in the SUV. (R. pp. 161, 174, 351-52). The three also told law enforcement that they thought about doing a driveby shooting, and they drove back in front of Respondent's house. (R. p. 174). However, they all indicated that they decided not to go through with the driveby shooting, and no shots were fired from the SUV. (R. p. 161). Eric indicated he did not see any shots fired from the truck, and he did not see anyone with a gun other than the man in the yard. (R. p. 232). Eric stated that neither he nor the victim had a gun that night (R. p. 233).

Shade noted that Respondent went outside (R. p. 14). She heard a gunshot while she was in the house on the floor. (R. p. 14). Asia also noted she heard more gunshots after her group got into Respondent's house. (R. p. 22). She did not see Respondent that night. (R. p. 27). Both Denzel and Antonio

testified that the group got down in the kitchen after they went in Respondent's house. (R. pp. 51, 66). Antonio stated that he heard roughly three gunshots. (R. p. 66). Rosalyn noted that while she was calling 911, Respondent went outside (R. p. 88). Rosalyn heard Respondent say "don't do it, don't do it" (R. p. 88, l. 17). She heard another shot (R. p. 88). Rosalyn also indicated that Respondent's roommate and his girlfriend came into the kitchen after shots were fired (R. pp. 92-3). Williams testified that shortly after Respondent ran out of his room with the gun, he started hearing gunshots. (R. p. 128). Williams thought he heard three shots, one sounded close, but another sounded as if it was further away. (R. pp. 128-29).

After the shooting ended.

After the shooting was over, Williams peeked out his bedroom window and saw an Expedition with its lights out. (R. p. 131). Rosalyn testified that when Respondent came back into the house, he was asking if everyone was ok. (R. p. 93). Shade noted that when he came back inside, he told the group to go to their stepmother's house. (R. p. 14).

An officer came to the scene in response to the 911 call. (R. pp. 93-5, 112). Respondent testified that he told the officer that a vehicle was shooting at the house and he gave a description of what he saw. (R. p. 118). He did not tell the officer about firing shots in the air or at a vehicle. (R. p. 118). After Respondent and Rosalyn spoke with the officer, the officer left to pursue the SUV, and everyone inside the house left the scene (R. pp. 93-5, 112, 131, 135).

Meanwhile, Eric ran to a nearby McDonald's, and then called his mother and requested a ride home. (R pp. 230-31)

Law enforcement did stop the SUV shortly after the shooting (R. p. 150) Reese stated that the gun from the truck was seized, along with the gun used by Respondent. (R pp. 164-65). The SLED ballistics report indicated the projectile retrieved from the victim's body was consistent with being fired by a .380, which was the caliber weapon Respondent fired. (R pp. 165-66). The victim died as the result of a gunshot wound to the head. (R. p 166).

ARGUMENT

I THE TRIAL COURT ERRED IN FINDING RESPONDENT WAS ENTITLED TO IMMUNITY UNDER THE PROTECTION OF PERSONS AND PROPERTY ACT UNDER S.C. CODE ANN. § 16-11-440(A); THERE WAS NO EVIDENCE TO SUPPORT THE COURT'S FINDING THAT RESPONDENT WAS INSIDE HIS RESIDENCE WHEN THE SHOOTING OCCURRED, AND THERE WAS NO EVIDENCE TO SUPPORT THE COURT'S FINDING THAT A REASONABLE PERSON WOULD HAVE BELIEVED THE VICTIM WAS IN THE PROCESS OF UNLAWFULLY AND FORCEFULLY ENTERING RESPONDENT'S RESIDENCE.

At issue in this case is whether Respondent is entitled to immunity under the Protection of Persons and Property Act when he shot and killed an innocent bystander not related to the individuals and vehicle that Respondent perceived to be a threat to the safety of his family. The trial court erred in finding Respondent was entitled to immunity from prosecution under S.C. Code Ann. § 16-11-440(A). First, contrary to the trial court's findings, there was no evidence presented at the evidentiary hearing that the victim forcibly entered or was in the process of forcefully entering the victim's dwelling, residence, or occupied vehicle or was attempting to remove someone from Respondent's residence. Second, when the shooting occurred, Respondent was in his yard and not in his dwelling, residence, or occupied vehicle when he fired shots at the victim. Since the victim was not forcefully entering or had not forcibly entered Respondent's residence when he was shot, Respondent was not entitled to the presumption afforded under S.C. Code Ann. § 16-11-440(A). Third, the court's finding that Respondent's belief that a forcible entry was occurring is not supported by the record. As a result, the trial court abused its discretion in finding Respondent was entitled to immunity under the Act.

Standard of Review

In criminal cases, the appellate court sits to review errors of law only. State v. Wilson, 345 S.C. 1, 5-6, 545 S.E.2d 827, 829 (2001) (citing State v. Cutter, 261 S.C. 140, 199 S.E.2d 61 (1973)). The appellate court is bound by the trial court's factual findings unless they are clearly erroneous. Wilson, 345 S.C. at 6, 545 S.E.2d at 829. Review is limited to determining whether the trial judge abused his discretion. Id. The appellate court may not re-evaluate the facts based on its own view of the preponderance of the evidence, but must determine whether the trial judge's ruling is supported by any evidence. Wilson, 345 S.C. at 6, 545 S.E.2d at 829; see generally Felts v. Richland County, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991) ("In law actions, the lower court must be affirmed where there is "any evidence" to support its findings.").

Whether a defendant is entitled to immunity under the Protection of Persons and Property Act must be decided prior to trial if either party moves for a determination regarding the Act's application to a defendant's case. State v. Duncan, 392 S.C. 404, 410, 709 S.E.2d 662, 665 (2011). "[W]hen a party raises the question of statutory immunity prior to trial, the proper standard for the circuit court to use in determining immunity under the Act is a preponderance of the evidence." Id. at 411, 709 S.E.2d at 665. S.C. Code § 16-11-440(A) states,

A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person:

(1) against whom the deadly force is used is in the process of **unlawfully and forcefully entering**, or has **unlawfully and forcibly entered** a dwelling, residence, or occupied vehicle, or if he

removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle, **and**

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

S.C Code Ann. § 16-11-440(A)(emphasis added).

"A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard, which this court reviews under an abuse of discretion standard of review." State v Curry, 406 S C. 364, 370, 752 S.E.2d 263, 266 (2013). "Section 16–11–450 provides immunity from prosecution if a person is found to be justified in using deadly force under the Act " Id. "Consistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity. This includes all elements of self-defense, save the duty to retreat " Id at 371, 752 S E 2d at 266.

Findings by the Trial Court

In granting immunity under S C Code Ann. § 16-14-440(A), the trial court stated as follows:

The Act clearly states that section (A) applies if force is used against someone who is entering or attempting to enter a dwelling, residence or occupied vehicle. The Act codifies "the common law Castle Doctrine which recognizes that a person's home is his castle" Section 16-11-420(A). The purpose of this Doctrine is to protect an individual from being ejected from his home, business, or automobile. The Victim had followed the defendant's daughters home while they were being chased by another vehicle. The Victim never identified himself to the defendant and in doing so left the Defendant to reasonably believe that he too was an imminent threat. If in fact the Victim was present merely to observe these

events or even assist those being chased in some way, the credible evidence presented simply fails to support such a finding. The Legislature went to great lengths to outline circumstances in which the Act is applicable, and in the instant case the Defendant may use deadly force if he has reason to believe that an "unlawful and forcible act is occurring". At no point is it required that the Defendant retreat into his home to be fired upon without him being able to defend his family and himself.

The Defendant is clearly entitled to the immunity provided by the Act because the curtilage of his home has long been considered his "castle" by the common law of this state. See State v. Quick, 138 S.C. 147, 135 S.E. 800 (1926). And his right to use deadly force against the victim whom he reasonably believed was engaged in an unlawful and forcible act against his home was codified in Section 16-11-420(A).

(R. pp. 392-93).

- A. Respondent was not entitled to immunity under S.C. Code Ann. § 16-11-440(A) because there was no evidence or testimony establishing the victim forcibly entered or was in the process of forcibly entering Respondent's residence when Respondent shot him, or removing or attempting to remove another person against his will from Respondent's dwelling, residence, or occupied vehicle.**

At the evidentiary hearing, there was no evidence presented that supported a finding the victim was in any way involved in the alleged attack upon Respondent's residence. First, as noted by the trial court, there was no evidence or testimony indicating the victim was involved in the confrontation at the Kia House. Further, none of those witnesses indicated they saw a second car chasing them to Respondent's house. (R. pp. 14, 42, 54, 154, 168; see R. pp. 17, 312-19, 343-44) Respondent admitted as much during his closing argument. (R. p. 284) Rosalyn did not mention a second car in her call to 911, nor did she mention the victim's car in her statement to law enforcement. (State's Exhibit 7, 8). Also, none of the individuals in the SUV indicated in their statements that

they knew the victim or that he was involved in their following the Grand Marquis. There was also no testimony or evidence indicating the victim was armed. Eric testified he did not see the victim with a gun, and to his knowledge, there was no weapon in the car (R. p. 233). Further, the windows in the vehicle were rolled up when the shooting occurred. (R. p 238, State's Exhibit 10, 11).

In all, the testimony and evidence presented at the hearing showed that the only action taken by the victim before he was shot was he turned his car around. The victim did not get out of his car. The victim did not attempt to enter Respondent's residence. The victim did not attempt to attack Respondent. The trial court made no finding that the victim made such an attempt in the Grant of Immunity. Since there was no evidence to support a finding the victim was "is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered a dwelling, residence, or occupied vehicle, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle," Respondent was not entitled to any protection under S.C. Code Ann § 16-11-440(A).

The hearing court relied upon its determination that Respondent had reason to believe he was under attack by the victim as support for its finding that he was entitled to immunity under § 440(A). While the Respondent's belief may be relevant in assessing the existence of S.C. Code Ann. § 440(A)(2), it has no relevance or bearing upon the existence of evidence required by S.C. Code Ann. § 440(A)(1). The existence of evidence of both subsections is required for §

440(A) to apply. Thus, the Grant of Immunity should be reversed, and the case should be remanded for trial.

B. The hearing court erred in granting immunity under S.C. Code Ann. § 16-11-440(A); this subsection was not applicable to Respondent's case because the shooting occurred outside the residence as residence is defined in S.C. Code Ann. § 16-11-430.

The trial court erred in finding that § 16-11-440(A) applied because none of the action in this case involved Respondent's residence. The shooting occurred in Respondent's yard, and there was no evidence that any action was taken by the victim upon Respondent's residence.

"The cardinal rule of statutory construction is a court must ascertain and give effect to the intent of the legislature." State v. Scott, 351 S.C. 584, 588, 571 S.E.2d 700, 702 (2002) (citing Charleston County Sch. Dist. v. State Budget and Control Bd, 313 S.C. 1, 437 S.E.2d 6 (1993)). All rules of statutory construction are subservient to the maxim that legislative intent must prevail if it can be reasonably discovered in the language used. A statute's language must be construed in light of the intended purpose of the statute. Whenever possible, legislative intent should be found in the plain language of the statute itself. State v. Pittman, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007) (internal citations omitted). "The legislature's intent should be ascertained primarily from the plain language of the statute. Words must be given their plain and ordinary meaning without resorting to subtle or forced construction which limits or expands the statute's operation." State v. Dupree, 354 S.C. 676, 693, 583 S.E.2d 437, 446 (Ct.App.2003) (internal citation omitted).

As already noted, for § 440(A) to apply, the person against whom deadly force was used must have either entered or attempted to enter a dwelling, residence, or occupied vehicle, or attempted to remove someone from a dwelling, residence, or occupied vehicle. The Protection of Persons and Property Act defines residence as "a dwelling in which a person resides either temporarily or permanently or is visiting as an invited guest." S.C. Code Ann. § 16-11-430(3). Further, dwelling is defined as "a building or conveyance of any kind, including an attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging there at night." S.C. Code Ann. § 16-11-430(1).

Contrary to the trial court's findings, § 440(A) does not apply when all of the actions occur in the curtilage. A plain reading of the statute's definition of residence and dwelling clearly reflects that curtilage is not included. Thus, § 440(A) would not apply in Respondent's case as the shooting occurred in Respondent's yard, not as the result of some entry or attempted entry into the residence. If the Act applied to Respondent's case, it would only be through § 440(C). As a result, the grant of immunity under § 440(A) should be reversed, and Respondent's case should be remanded for trial.

Appellant would note that if this Court finds that curtilage is covered as part of Respondent's residence by S.C. Code Ann. § 16-11-440(A), the hearing court necessarily erred in finding Respondent was entitled to immunity under S.C. Code § 16-11-440(C). Under that interpretation of the statute,

Respondent's residence would not constitute "another place" that would allow for immunity under the statute S.C. Code Ann. 16-11-440(C) states.

A person who is not engaged in an unlawful activity and who is attacked **in another place** where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

When read in conjunction with the other subsections of S.C. Code Ann. § 16-11-440, it is clear that "another place" in subsection 440(C) refers to places that do not include a defendant's residence, dwelling, or occupied vehicle.

S.C. Code Ann. § 16-11-440(A) states

(A) A person is presumed to have a reasonable fear of imminent peril of death or great bodily injury to himself or another person when using deadly force that is intended or likely to cause death or great bodily injury to another person if the person

(1) against whom the deadly force is used is in the process of unlawfully and forcefully entering, or has unlawfully and forcibly entered **a dwelling, residence, or occupied vehicle**, or if he removes or is attempting to remove another person against his will from the dwelling, residence, or occupied vehicle; and

(2) who uses deadly force knows or has reason to believe that an unlawful and forcible entry or unlawful and forcible act is occurring or has occurred.

S.C. Code Ann. § 16-11-440(A) (emphasis added) In subsections (B), (D), and (E), the statute specifically refers to the application of the presumption in subsection (A), reflecting that it applies to only a dwelling, residence, or occupied vehicle. In light of the specific references to dwelling, residence, or occupied vehicle in those other subsections, Appellant submits that it clear that "in another

place" in subsection (C) refers to a place other than a dwelling, residence, or occupied vehicle. This is further supported by the example of another place provided in subsection (C), one's "place of business," which does not fit within the definition of a dwelling, residence, or occupied vehicle. Thus, if this Court found curtilage is part of one's residence, as residence is defined in § 430, the hearing court's finding that Respondent was entitled to immunity under subsection (C) was in error

C. There was no evidence to support finding that Respondent knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act from the victim was occurring or had occurred.

The hearing court erred in finding Respondent was entitled to immunity under S.C. Code Ann. § 16-11-440(A) because there was no support for a finding Respondent knew or had reason to believe that an unlawful and forcible entry or unlawful and forcible act from the victim was occurring or had occurred, as is required by § 440(A)(2).

There was no evidence or testimony indicating the victim was involved in the confrontation at the Kia House. Further, none of those witnesses indicated they saw a second car chasing them to Respondent's house. (R. pp. 14, 42, 54, 154, 168; see R. pp. 17, 312-19, 343). Respondent admitted as much during his closing argument. (R. p. 284). In fact, the description of the individuals involved in both the confrontation and the car chase would have put Respondent on notice that the victim was not part of the group that threatened the folks in the Grand Marquis. By all accounts, those involved in the confrontation were female, and those involved in the chase were female.

Further, Rosalyn did not mention a second car in her call to 911, nor did she mention the victim's car in her statement to law enforcement. (State's Exhibit 7, 8). Also, none of the individuals in the SUV indicated in their statements that they knew the victim or that he was involved in their following the Grand Marquis. There was also no testimony or evidence indicating the victim was armed. Eric testified he did not see the victim with a gun, and to his knowledge, there was no weapon in the car (R. p. 233). Further, the windows in the vehicle were rolled up when the shooting occurred. (R. p. 238, State's Exhibit 10, 11).

The basis for Respondent's contention that he believed he was entitled to immunity stemmed from the fact the victim's car was in the general vicinity of Respondent's front yard when the SUV passed by the front of his house the second time with its headlights off. This reasoning was both flawed and insufficient to warrant the grant of immunity. While he indicated he saw both pass after the Grand Marquis pulled into his yard, Respondent admitted during his testimony that he did not see either of the two vehicles turn around. (R. p. 109). Instead, he went back into the house, and he noticed that both had somehow turned around when he returned to the front of the house. (R. pp. 109-10). Respondent's testimony reflects that he did not see any action taken by victim that would indicate he was acting in concert with the individuals in the SUV.

In all, the testimony and evidence presented at the hearing showed that the only action taken by the victim before he was shot was he turned his car

around. The victim did not get out of his car. The victim did not attempt to enter Respondent's residence. The victim did not attempt to attack Respondent. Unlike the individuals in the SUV, the victim did not roll his window down and slowly drive in front of Respondent's house with his headlights off. To the contrary, his windows were rolled up, and his headlights were on. Appellant submits the evidence presented was not enough to support the hearing court's finding.

Appellant would also note that the reasoning applied by the hearing court, which essentially found the victim was a threat because he did not inform Respondent he was not a threat, is problematic. First, the victim was in a place where he had a right to be, driving on a public road. There was no evidence he took any threatening actions towards Respondent. Second, there was no evidence presented that the victim had any reason to believe he was being perceived as a threat by Respondent before the shots were fired. Eric's testimony reflected that he did not hear Respondent say anything prior to Respondent shooting at the car. (See R. pp. 225-27, 236) In all, there was not sufficient evidence to support a finding that Respondent reasonably believed there was going to be a forcible entry or forcible act by the victim upon Respondent's residence in this case. Thus, the grant of immunity should be reversed, and the case should be remanded for trial.

II. THE TRIAL COURT ERRED IN FINDING RESPONDENT WAS ENTITLED TO IMMUNITY UNDER THE PROTECTION OF PERSONS AND PROPERTY ACT UNDER S.C. CODE ANN. § 16-11-440(C), THE STATUTE REQUIRES THE DEFENDANT TO ACTUALLY BE ATTACKED PRIOR TO USING DEADLY FORCE AGAINST THE VICTIM, AND THERE WAS NO EVIDENCE PRESENTED AT RESPONDENT'S HEARING TO SUPPORT A FINDING HE WAS ATTACKED BY THE VICTIM IN THIS CASE.

The court also erred in finding Respondent was entitled to immunity under S.C. Code Ann. § 16-11-440(C). The court's determination that subsection (C) was applicable was based upon its belief Respondent only needed to show that he believed he was under attack from the victim. The plain language of the statute reflects the defendant must be responding to an attack to be entitled to immunity under this section of the Protection of Persons and Property Act. Since there was no testimony or evidence presented at the hearing that the victim used any force against Respondent, he was not entitled to immunity under § 440(C)

Standard of Review

In criminal cases, the appellate court sits to review errors of law only. Wilson, 345 S.C. at 5-6, 545 S.E.2d at 829 (citing Cutter, 261 S.C. 140, 199 S.E.2d 61). The appellate court is bound by the trial court's factual findings unless they are clearly erroneous. Wilson, 345 S.C. at 6, 545 S.E.2d at 829. Review is limited to determining whether the trial judge abused his discretion. Id. The appellate court may not re-evaluate the facts based on its own view of the preponderance of the evidence, but must determine whether the trial judge's ruling is supported by any evidence. Wilson, 345 S.C. at 6, 545 S.E.2d at 829; see generally Felts, 303 S.C. at 356, 400 S.E.2d at 782 ("In law actions, the

lower court must be affirmed where there is “any evidence” to support its findings”)

Whether a defendant is entitled to immunity under the Protection of Persons and Property Act must be decided prior to trial if either party moves for a determination regarding the Act's application to a defendant's case. Duncan, 392 S.C. at 410, 709 S.E.2d at 665 “[W]hen a party raises the question of statutory immunity prior to trial, the proper standard for the circuit court to use in determining immunity under the Act is a preponderance of the evidence.” Id. at 411, 709 S.E.2d at 665. S.C. Code § 16-11-440(C) states,

A person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60.

S C Code Ann § 16-11-440(C)

“A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard, which this court reviews under an abuse of discretion standard of review.” Curry, 406 S.C. at 370, 752 S.E.2d at 266. “Section 16–11–450 provides immunity from prosecution if a person is found to be justified in using deadly force under the Act.” Id. “Consistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity. This includes all elements of self-defense, save the duty to retreat.” Id. at 371, 752 S.E.2d at 266.

Findings by the Trial Court

In granting immunity under S.C. Code Ann § 16-14-440(A), the trial court stated as follows

§ 16-11-440(C), also known as the "Stand Your Ground" provision, provides immunity to an individual who uses deadly force against an attacker in places other than a business, automobile, or home. In order for an individual to be granted immunity from the Stand Your Ground provision of the Act the defendant must demonstrate three things. First, in order to be immune, the person using deadly force must be in a "place where he has a right to be." Second, that he not be "engaged in unlawful activity." And third, deadly force may be used only if the person "reasonably believes it is necessary to prevent great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in Section 16-1-60 "

When the Defendant fired the shot, he reasonably believed he was being attacked with deadly force directed at his home. There is absolutely no requirement that the defendant wait to be attacked by those that instigated the deadly circumstances. The Legislature intended that the defendant should not have to wait to be fired upon. In fact, the Legislature codified this belief in § 16-11-420

- (A) It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.
- (B) The General Assembly finds that it is proper for law abiding citizens to protect themselves, their families, and others from intruders and attackers without fear of prosecution or civil action for acting in defense of themselves and others.
- (C) The General Assembly finds that Section 20, Article I of the South Carolina Constitution guarantees the right of the people to bear arms, and this right shall not be infringed
- (D) The General Assembly finds that persons residing in or visiting this State have a right to expect to remain unmolested and safe within their homes, businesses, and vehicles.

- (E) The General Assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack

I hereby conclude that the Defendant is entitled to the grant of immunity under the Act because he and his family were clearly under attack and that they had every reason to believe that the attack would have continued from both Ms Carter and potentially the victim but for the actions of the Defendant. The Legislature clearly did not intend for any father to stand idly by as his family lay on the kitchen floor in fear of being shot and killed. The defendant meets all of the statutory requirements to be granted immunity for his actions on April 18, 2010

(R. pp. 393-94).

The trial court erred in granting immunity under S.C. Code § 16-11-440(C); there was no evidence the victim was meeting force with force when Respondent shot him.

Respondent was not entitled to immunity under § 440(C) because there was no evidence or testimony presented at the immunity hearing that when he shot the victim, he was meeting force with force. Section 440(C) states that "[a] person who is not engaged in an unlawful activity and who is attacked in another place where he has a right to be, including, but not limited to, his place of business, has no duty to retreat and has the right to stand his ground and meet force with force, including deadly force. . . ."

"The legislature's intent should be ascertained primarily from the plain language of the statute. Words must be given their plain and ordinary meaning without resorting to subtle or forced construction which limits or expands the statute's operation " Dupree, 354 S C. at 693, 583 S E 2d at 446 (internal citation omitted)

When a statute's language is plain and unambiguous, and conveys clear and definite meaning, there is no occasion for employing rules of statutory interpretation and a court has no right to look for or impose another meaning. City of Camden v. Brassell, 326 S C 556, 486 S E.2d 492 (Ct App.1997). The statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers Id. Any ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law. Id., City of Sumter Police Dep't v. One 1992 Blue Mazda Truck, 330 S C. 371, 498 S.E 2d 894 (Ct App.1998)

State v. Landis, 362 S.C. 97, 102-03, 606 S E 2d 503, 506 (Ct.App.2004).

Section 440(C) is clear and unambiguous in that it allows a defendant to respond with force if he is attacked. Contrary to the court's findings, the language of this section does not support a grant of immunity if the defendant is not attacked by the victim before using force against that individual. There was no evidence or testimony presented at the immunity hearing that would support a finding the victim attacked Respondent. No weapon was found on the victim, and Eric testified he did not see the victim with a weapon on the day of the shooting (R. p. 233). Further, Eric indicated there was no weapon in the victim's car. (R. p. 233) Respondent did not even mention seeing a weapon in the victim's car. He did not indicate he saw shots fired from the car. In fact, Respondent's testimony reflects that the basis for his belief that the victim's vehicle was a threat was because he saw both the SUV and the victim's car pass in front of his house when the Grand Marquis arrived. (See R. pp. 107-09) Respondent did not see either vehicle turn around (R. p. 109). In all, there was no testimony or evidence indicating the victim attacked Respondent. The hearing court did not find as much. Thus, Respondent was not entitled to "meet

force with force" against the victim because the victim had not utilized any force against Respondent.

The hearing court's finding that the legislature incorporated the right to act on appearances in the Protection of Persons and Property Act is not supported by a review of the Act. First, nothing within S.C. Code Ann. § 16-11-420 references or implies that the Act codifies the right to act on appearances. To the contrary, § 420(A) only notes that the legislature intended to codify the common law Castle Doctrine. None of the other subsections of § 420 directly address the right to act on appearances.

While the right to act on appearances is certainly within the common law regarding self-defense, it is not within the common law of the Castle Doctrine. In common law, under the Castle Doctrine, "[o]ne attacked, without fault on his part, on his own premises, has the right, in establishing his plea of self-defense, to claim immunity from the law of retreat, which ordinarily is an essential element of that defense." State v. Gordon, 128 S.C. 422, 425, 122 S.E. 501, 502 (1924), see State v. Bowers, 122 S.C. 275, 115 S.E. 303, 305 (1923) ("One who is assaulted in his own house is not required to retreat before exercising his right of self-defense, and I charge you that a man's place of business is within the meaning of this rule and is deemed his dwelling, and he need not retreat therefrom in order to invoke the benefit of the doctrine of self-defense."). As noted by this Court in Curry, the doctrine applies to the fourth element of self-defense, the duty to

retreat⁴ Curry, 406 S.C. at 371, 752 S.E.2d at 266. The right to act on appearances addresses a completely different element of self-defense. It focuses on a portion of the second element of self-defense, which requires the defendant actually believed he was in imminent danger of losing his life or sustaining serious bodily injury. See State v. Starnes, 340 S.C. 312, 320, 531 S.E.2d 907, 912 (2000).

Since the right to act on appearances is not within the Castle Doctrine, and it was not codified as part of the Protection of Persons and Property Act, it was improper for the hearing court to rely upon the principle in finding § 440(C) applied to Respondent. As a result, the grant of immunity should be reversed, and this case should be remanded for trial.

⁴ Self-defense is a complete defense. If established, you must find the defendant not guilty. There are four elements required by law to establish self-defense in this case. First, the defendant must be without fault in bringing on the difficulty. Second, the defendant must have actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger. Third, if his defense is based upon his belief of imminent danger, a reasonably prudent man of ordinary firmness and courage would have entertained the same belief. If the defendant actually was in imminent danger, the circumstances were such as would warrant a man of ordinary prudence, firmness and courage to strike the fatal blow in order to save himself from serious bodily harm or losing his own life. Fourth, the defendant had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. If, however, the defendant was on his own premises he had no duty to retreat before acting in self-defense. These are the elements of self-defense.

State v. Davis, 282 S.C. 45, 46, 317 S.E.2d 452, 453 (1984)

CONCLUSION

For the foregoing reasons, the State respectfully requests this Court reverse the trial court's Order granting Respondent immunity from prosecution under the Protection of Persons and Property Act and remand for a trial on the murder indictment.

Respectfully submitted,

ALAN WILSON
Attorney General

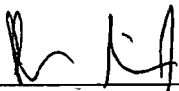
JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

ALPHONSO SIMON JR.
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202

ATTORNEYS FOR RESPONDENT

By:  _____
Alphonso Simon Jr.

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

November 10, 2014

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge

Appellate Case No. 2013-002124

THE STATE

APPELLANT,

V

SHANNON SCOTT,

RESPONDENT.

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this Final Brief of Appellant complies with Rule 211(b), SCACR, and does not include, or partially redacts, personal data identifiers, Re Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings, 375 S.C. 56, 650 S.E.2d 462 (2007) (requiring redaction of social security numbers, names of minor children, financial account numbers, and home addresses).

This 10th day of November, 2014.



ALPHONSO SIMON, JR.
Assistant Attorney General

ATTORNEY FOR APPELLANT

RECEIVED

NOV 10 2014

S.C. Supreme CourtSTATE OF SOUTH CAROLINA
IN THE SUPREME COURTAPPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge

Appellate Case No. 2013-002124

THE STATE

APPELLANT,

V.

SHANNON SCOTT,

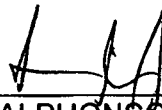
RESPONDENT.

CERTIFICATE OF SERVICE

I, Alphonso Simon, Jr., counsel for the Appellant, certify that I have served the within Final Brief of Appellant and Certificate of Compliance on Respondent by depositing three (3) copies of the same via U.S. mail, first class, postage prepaid to his attorney of record, Robert M. Dudek, Esq., South Carolina Commission on Indigent Defense, Division of Appellate Defense, 1330 Lady Street, Ste #401, Columbia, SC 29201.

I further certify that all parties required by Rule to be served have been served.

This 10th day of November, 2014.



ALPHONSO SIMON, JR.
Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEY FOR APPELLANT

RECEIVED

NOV 10 2014

S.C. Supreme Court

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Appeal from Richland County

Maite Murphy, Circuit Court Judge

THE STATE,

APPELLANT,

V.

SHANNON SCOTT,

RESPONDENT

APPELLATE CASE NO. 2013-002124

FINAL BRIEF OF RESPONDENT

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S. C 29211-1589
(803) 734-1343

ATTORNEY FOR RESPONDENT.

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ARGUMENT

1.

There was evidence to support the trial court's ruling that respondent was entitled to immunity under the Protection of Persons and Property Act pursuant to S.C. Code Ann. § 16-11-440(A) since respondent was in his home when he learned a car was chasing his daughter in the car she was riding in, the children were instructed to come home, shots were fired towards respondent and his home the children hid in, and respondent only stepped outside to quell the violent attack.....21

2.

There was evidence to support the trial judge's ruling that respondent was entitled to immunity under the Protection of Persons and Property Act pursuant to S.C. Code Ann. § 16-11-440(C), since when respondent was outside his house on the porch, or in the curtilage he was in "another place" he had a right to be, and he was acting to defend himself and his family as envisioned by the statute. 25

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STATEMENT OF ISSUES ON APPEAL

1

Whether the trial court erred in finding respondent was entitled to immunity under the Protection of Persons and Property Act under S.C. Code Ann. § 16-11-440(A); There was no evidence to support the court's finding that respondent was inside his residence when the shooting occurred, and there was no evidence to support the court's finding that a reasonable person would have believed the victim was in the process of unlawfully and forcefully entering respondent's residence?

2.

Whether the trial court erred in finding respondent was entitled to immunity under the Protection of Persons and Property Act under S.C. Code Ann. § 16-11-440(C), The statute requires the defendant to actually be attacked prior to using deadly force against the victim, and there was no evidence presented at respondent's hearing to support a finding he was attacked by the victim in this case?

COUNTER STATEMENT OF ISSUES ON APPEAL

1

Whether there was evidence to support the trial court's ruling that respondent was entitled to immunity under the Protection of Persons and Property Act pursuant to S.C. Code Ann. § 16-11-440(A) since respondent was in his home when he learned a car was chasing his daughter in the car she was riding in, the children were instructed to come home, shots were fired towards respondent and his home as the children took cover inside, and respondent only stepped outside the home briefly to attempt to quell the violent attack?

2.

Whether there was evidence to support the trial judge's ruling that respondent was entitled to immunity under the Protection of Persons and Property Act pursuant to S C Code Ann. § 16-11-440(C), since when respondent was outside his house on the stoop or porch, or in the curtilage he was in "another place" he had a right to be, and he was acting to defend himself and his family as envisioned by the statute, and he had the right to stand his ground.

STATEMENT OF THE CASE

Respondent Shannon Scott was indicted by the Richland County Grand Jury for the offense of murder. R. 303 Respondent filed a Notice of Motion for Hearing under the Protection of Persons and Property Act, S.C. Code Ann § 16-11-440(C), and Motions to Enforce the Protections of the Act. R. 305-307.

An evidentiary hearing was held before the Honorable Maite Murphy on October 12-14, 2013. Todd Rutherford represented respondent. The assistant solicitors were April Sampson, Dolly Garfield and Brent Arant.

On October 9, 2013 Judge Murphy issued her order granting respondent immunity under the Protection of Persons and Property Act. R. 384.

The state filed a notice of intent to appeal

STATEMENT OF FACTS

Introduction

The state on appeal breaks down its two arguments into several subparts. However, the state's legal argument to the trial judge at the evidentiary hearing about why respondent should not be granted immunity were almost entirely about the state's version of the credibility of the witnesses that testified during the evidentiary hearing. See R. 287, l. 8 – 301, l. 23. A close examination of the argument put forth by the solicitor to the trial judge shows that none of the arguments on appeal, in fairness to the trial judge, were presented to her for consideration at the evidentiary hearing, or presented in the fashion they are now presented to this Court. While respondent does not find the arguments for denying immunity presented to his Court particularly persuasive, it was nonetheless not fair to the trial judge to not argue them to her, and the state's arguments on appeal are therefore procedurally barred.¹

Relevant Facts

In the order granting immunity the judge concluded that respondent's testimony was "very credible". She noted that respondent testified that he knew of previous problems reported to law enforcement and that he knew "this girl [Teesha] and others were chasing his children." The judge also wrote: "The defendant testified that he was not a gun owner, but in order to defend and protect his family, he grabbed Mr. Williams' [his roommate's] gun. His testimony was that the SUV [the truck with Teesha and others inside] stopped in

¹ For example, the solicitor claimed respondent fired first and consequently he should not be entitled to immunity, and she argued that the decedent did not do anything wrong, and therefore respondent was not entitled to immunity. R. 296, ll. 3- 297, l. 5. Suffice it to say that the statutory arguments contained in thirty-one page brief were not fairly put to Judge Murphy for consideration during the hearing.

front of his house, and he could see arms out of the windows. This testimony is corroborated by both the statements of Ms. Carter and Ms. Davis.” R. 390.

The judge also found that respondent’s testimony was credible wherein he said that **both** the Honda [in which the decedent was driving], and the SUV [Teesha’s vehicle] drove past his home and turned around and stopped in front of the residence. “This is consistent with the gunshot entering the driver’s side window of the victim’s car. His testimony was very credible that he heard a gunshot. Hearing a gunshot, along with the threats, the chase, and being confronted at his home as a target of a drive-by shooting, with his children inside, created reasonable fear of imminent peril of death for him and his family.” R. 390.

Thus, although the state’s argument at trial focused almost solely on the credibility of the witnesses, it is important to note that the judge, who observed the demeanor of the witnesses at the hearing, most importantly, found respondent’s testimony very credible. She found any assertion that Teesha did not intend to exact violence that night where she had threatened a drive-by shooting was “pure fabrication.” “The credible testimony established that they turned the SUV (car #2) around, turned off the lights, rolled down the windows and drove by the Defendant’s home and began to fire.” R. 389.

Trial witness

Shade Scott was respondent’s seventeen-year-old daughter. R. 7, l. 23 – 8, l. 3
Shade remembered that on April 18, 2010 they went to a teen party at the Kia House which is located off of Two Notch Road in Columbia. She was with her friends Asia, Crackle [Denzel Davis], Tone [Antonio Scott], Ashley and Avia. R. 8, ll. 4-9.

While at the party Shade recalled that some “girls started with me.” Teesha was hitting Shade on the back of her head – “flipping my hair, like back flipping my hair trying to hit me, but she was just flipping my hair.” R. 8, ll. 16 – 24.

Shade testified that Teesha came out into the parking lot wanting to fight with her. R. 9, ll. 10-21 Shade and her group all got in the car, and Crackle was driving Teesha and Keewee were in an SUV [the truck] and they began following their car. When they came to a stoplight. “I guess they thought we was going to stop. The light was red, we, actually ran the stoplight. They pulled into the median and they was getting out of the car and we ran the stoplight.” R. 10, ll. 5-19.

When Teesha’s truck continued to follow them Shade said she called her father and told him that the people following them had a gun. Respondent told them to come to his house. As they drove down Two Notch towards Beltline Blvd. near the McDonald’s Teesha’s vehicle continued to follow them. Crackle turned the car into the police station, but when they noticed no police officers were there they made a U-turn. “They then came back towards Beltline.” R. 11, ll. 15-23. Shade said they continued “trying to get away from them.” R. 11, ll. 24-25.

Shade testified as they continued to try and evade the truck “we had to drive through someone’s yard to get away from them. So after we drove through the yard, they start following us again. Finally, we made it to my father’s house. When we got there, we pulled in the backyard. I seen the truck go down the road and come back up with their headlights off. And when I got in the backyard, my daddy told all of us to go in the kitchen, that’s where we went. And I didn’t see anything after that.” R. 12, ll. 1-20.

Shade said all of the teenagers got on the floor in the kitchen. She was very scared that they were going to get shot. R. 13, ll. 14-25.

Asia Mills was also at the teen club that night. She remembered that some of the girls were picking on Shade. Teesha told Asia that she was going to slap Shade. Asia testified that Teesha "was getting crazy." Asia told Shade to go to the car, and Teesha was trying to hit Shade in the back of the head as she went towards the car. R. 19, l. 7- 20, l. 13.

Asia recalled that they pulled out of the parking lot, and the truck started following them. She saw Teesha with a gun in her hand "and she [Teesha] was running behind us, which made us flee and whatever." R. 19, l. 7- 20, l. 13.

Asia described the journey of the truck following them in much the same fashion as Shade. When they got to the house where respondent lived the truck "turned their lights off while we were in the car and they started shooting. Then momma told us to come inside the house. We ran inside the house and I still heard gunshots." Asia did not see respondent: "I didn't see, I really didn't see anything. The only thing I was just – I was just in fear of my life because I know these girls and I know that when they say they are going to do something or if they are behind you like this, I know it's going to be trouble." R. 20, l. 8 – 21, l. 24.

Ave Fuller remembered the teen party at Kia's that evening. She recalled Teesha slapping Shade in the head. Teesha told Ave: "I ain't got no problem with y'all, but your step-sister, [Shade] that little red girl, I'm going to slap the S out of her." Teesha ran and hit Shade in the back of the head. "So we all got in the car and they started chasing us." R. 36, l. 18 – 37, l. 11.

Ave also testified about the chase, and she said when they pulled in respondent's backyard "the other car cut their headlights off. I saw the gun hanging out the window and they shot and we ducked down in the seat... I started crying... then my mom told us to run in the back, like through the back door so they wouldn't see us and that's when I heard more gunshots." R. 37, l. 1 – 39, l. 10.

Denzel Davis [Crackle] remembered that Teesha had a gun in her hand, and her truck followed them as they sought to escape the situation at the Kia club with her. At one point Denzel testified "I made a wrong turn and I had to make another turn because I hit a dead end." When he hit the dead end Teesha's truck tried to block them from leaving. R. 49, l. 8 – 51, l. 25.

Denzel said he was able to escape the attempt to block them in, and he was able to make it to respondent's house. "I received directions to go inside the back of the house because of gunshots. And this was for safety, of course. And once I was inside the house I was told to get down." R. 49, l. 8 – 51, l. 25.

Antonio Bennett [Tone] was not related to respondent. He testified that another girl he did not know got in an altercation with Shade. Antonio's brother was trying to "comfort Shade at the time." He recalled a security guard telling them to get in the car, and to go home. As they drove he remembered someone in their car with Shade called "their parent," and they were given directions to Respondent's house. R. 63, l. 6 – 64, l. 25.

"When we got to the house, everybody was getting out of the car and given directions to go in the house and get down. When I was getting out, I heard the first gunshot" R. 64, l. 22 – 65, l. 4

Antonio testified when they got inside the house, and on the kitchen floor, he thought he heard about three gunshots. R. 66, ll. 9-16. Antonio said he was afraid of the gun and gunshots, and he said everyone trying to get down on the kitchen floor R. 67, ll. 2-8.

Rosalyn Scott was engaged to respondent, who she called "Pocko," at the time of this April 18, 2010 incident. R. 80, ll. 3-21. Rosalyn intended to spent the night at respondent's house. The original plan was for them to return to their home after the teen party. Rosalyn texted her daughter, Ashley, because she had told them to be home at her house by a certain time, and she was now worried about them. She received a text back: "Mom, they're following us." After she texted Ashley back she learned that Teesha and her associates were the ones following them in the truck R. 80, l. 20 – 81, l. 11

Rosalyn remembered respondent was asleep when these text messages began. Rosalyn received another text telling her that Teesha's truck was continuing to chase them. Rosalyn was afraid because of prior incidents with Teesha "and a whole bunch of girls." Rosalyn said in the past Teesha and her sister and a lot of other girls had come to their house to "fight Shade." R. 83, l. 21 – 84, l. 17

Rosalyn next received a call from Shade's cell phone. Rosalyn was extremely concerned because she thought if they got to her house alone "it's going to be bad because I'm not there." R. 81, l. 1 – 83, l. 11.

Rosalyn said she nudged respondent, and told him to wake up. "Those girls are following them " She testified that respondent told her to tell the girls to come to his house, and that they would take them home together. R. 85, ll. 3-14.

Rosalyn remembered that it seemed like it “took them forever to come.” She said she stood on the porch with respondent waiting for the children when “all of a sudden, you could hear tires like screeching.” R. 86, l. 10 – 87, l. 7.

She saw Danzel’s car coming down the street, and she saw respondent motioning for him to turn into the yard. She recalled that he turned into the yard “so fast,” and with another car coming behind them “on his tail.” She was afraid Danzel was going to lose control of the car, and hit either a tree or the house. R. 86, l. 10 – 87, l. 7.

Rosalyn testified that the truck that was following Danzel’s car went down the street, and made a U-turn by the Allstate building. She noticed another car behind the truck do the same thing. “And I’m like, Oh Shit, you know, what is this? What is this? At that point, Shannon [respondent] and I went back inside the house trying to round up the kids to get them inside the car. I’m going through the back door to where the kitchen is, I heard a shot.” R. 85, l. 3 – 87, l. 14.

Rosalyn said she ran to the backdoor to get the teenagers inside. She heard a shot. She yelled for them to come inside quickly, and she heard respondent say “Call 911.” Rosalyn got on the telephone, and she told the 911 dispatcher: “They’re shooting at us. I was like they’re shooting at us.” R. 86, l. 10 – 88, l. 21.

Rosalyn testified she was doing her best to get everyone down on the floor, and trying to make sure they were safe. R. 92, ll. 8-11. After the shooting, and talking to the police, Rosalyn said she remained scared because she did not know if anyone was going to come back by and do a drive-by shooting at Respondent’s house. It was undisputed that Teesha had discussed a drive-by shooting with her friends that evening. R. 93, ll. 11-21.

Respondent's testimony

Respondent testified next during the evidentiary hearing. As seen above, the trial judge found critical parts of respondent's testimony very credible, and parts of it were also corroborated. Respondent worked two jobs, and he worked seven days a week. He was either at the Jiffy Lube, or a gas station that employed him. He was thirty-six years old. R. 101, ll. 2-13.

Respondent termed the night of April 18, 2010 "a nightmare." He recalled Rosalyn started texting Ashley because she had not heard from her as expected -- seemingly that they were home. They next received a telephone call from Shade after being told by text message that they were being chased R. 101, l. 20 – 102, l. 7

Respondent remembered that Rosalyn was on the telephone, and she was hysterical. She told him that "the girls are messing with our girls again." Respondent recalled the girls Rosalyn was talking about -- he did not know them personally -- but they would drive by their house, scream, provoke and harass his daughters R. 102, ll. 13-21

After the teenagers were instructed to come into his house respondent remembered hearing tires screeching. "I hear engines revving up, similar to Dukes of Hazard, like a race, like cars racing, but I couldn't see anything. That's when I opened the door." He remembered seeing two cars "bumper to bumper almost." He was now in the front yard, and he told Danzel's car to go around the back while they were being chased. He remembered the teenagers were hysterical R. 102, l. 13 – 103, l. 25.

Respondent remembered while the car went into the backyard he saw a truck coming with "some more headlights [the Honda] behind it." Respondent went into the kitchen, in the back of the house, to open the backdoor. He heard a gunshot. He recalled

the teenagers being frantic and yelling. Respondent said at this point he went in to his roommate's room, and grabbed a handgun out of his dresser. Respondent did not own his own gun. R. 104, l 15 – 106, l 17

Respondent remembered his wife called 911 at this time Respondent testified that he did not go all the way outside of the house. "I'm just right there at the step." R. 105, l. 22- 106, l 10.

Respondent recalled the truck came back, and turned its headlights off. The truck was moving very slowly past his house at about three miles per hour. He said he fired a warning shot "straight in the air Kind of like a farmer would do if trespassers came on their property." R. 106, ll. 11-18

Respondent was worried they were coming into his yard, or going towards the back of his house where his children were located. He remembered the two vehicles being "a grey truck, grey or silver truck, and a Honda Accord." R 107, ll. 1-4

Respondent heard another shot and he ducked down behind the front hood of his car. "And as I was ducking down and going into the house at the same time I shot back again I shot and went into the house " Respondent said he probably shot two or three times during this encounter R. 107, l 1 – 108, l 6.

Respondent testified he was shooting to defend himself. He believed if he had not been able to get his roommate's gun that the attackers would have "shot up the house that night " R 110, l. 9 – 111, l 21 Respondent said the police quickly arrived. He went outside with his wife, and talked with them about what had occurred R 112, ll 5-14

The state called respondent's roommate, Lenny Williams, as a witness. Williams was twenty-three years old

Williams remembered he was asleep that night when respondent ran into his room and grabbed his gun. R. 124, l. 12 – 127, l. 20 Williams said he heard gunshots, he guessed about three gunshots, “that’s when I got – me and my girl, we got on the floor.” R. 130, ll. 4-20.

The state next called Sergeant Kevin Reese of the Columbia Police Department R. 138, ll. 1-7. Reese remembered when he arrived at the scene “the Honda would’ve been in front of this [respondent’s] house. R. 140, ll. 2-5. Reese testified the police were told that a silver Ford Expedition had been shooting, and left the scene. R. 151, l. 20 – 152, l. 1.

Reese said when he interviewed Ms. Davis. Davis told him she had gotten into an altercation with Shade, and while they were leaving the club another altercation occurred with “the same group of girls.” They got into an “SUV that was driven by Ms Carter. Said Ms. Carter produced a handgun, and all the girls told her it put it away. “They followed the car Shade was riding in. R. 159, l. 18 – 160, l 8.

Reese said Davis told him that they followed the car to respondent’s house Davis claimed that she saw respondent and a black woman standing in the yard Davis claimed she heard a shot and Carter backed the car up, and fired a shot from her gun Reese noted that Carter had threatened to a drive-by shooting of respondent’s house just before this happened, and she then switched seats with Shataray. R. 159, l. 18 – 161, l 7.

On cross-examination Reese was questioned about the admission the girls in the truck planned to do a drive-by shooting that night, and that they switched seats to accomplish the drive-by shooting R. 173, l. 25 – 175, l. 11. Reese was asked he did not arrest Teesha, and at least one of the other girls for criminal conspiracy. Reese was also questioned about why he did not charge them with “felony murder” since someone was

killed as a result of their plan to do a drive-by shooting, and a shooting actually occurred.

Reese only responded: "I just didn't counsel." R. 173, l. 25 – 176, l. 25.

Reese told defense counsel: "This is one of the saddest homicide cases I've ever had to deal with in respect to both the victim and the accused I wished it hadn't happened this way." R. 192, ll. 18-25.

Eric Washington was the decedent's friend, and he was with him on the night of this incident. Washington was twenty years old at the time of the trial. He relayed that he had played on the same basketball team as the decedent in high school. R. 215, l. 13 – 217, l. 8.

Washington testified that the decedent knew some of the people at the Kia party. Washington was just out for an evening with the decedent. He remembered there was an altercation at the party, and that a truck began following "the girl he said he knew." R. 218, l. 15 – 221, l. 19. Washington said the decedent told him: "We've got to make sure they're straight or make sure they're ok." R. 222, ll. 1-4.

Washington recalled that the decedent followed the truck and the car that Shade was traveling in. At one point they lost sight of the truck and the car. However, the decedent apparently caught sight of them again rather quickly. R. 222, l. 1 – 224, l. 16.

Washington testified they were driving through a neighborhood that he was not familiar with, and he then saw the silver truck park in a direction coming towards him. Washington claimed he saw a man coming out of the house, and this man started shooting at the silver truck. Washington said he saw or felt the glass in their car shatter, and the Honda that the decedent was driving swerved off the road a little bit. The decedent had been shot. R. 225, l. 4 – 227, l. 14.

Parts of the interview with Teesha was read into the record by Officer Arthur Thomas. Teesha admitted she moved her gun that night from the center console to the glove compartment. R. 250, l. 25 – 251, l. 3.

On cross-examination of Officer Arthur Thomas defense counsel questioned him about what Thomas thought respondent could have done differently to defend his family. Thomas said respondent should have gone into his house, called law enforcement, and not fired a gun. R. 267, l. 3 – 268, l. 7.

Thomas said he was aware a drive-by shooting was in the works that evening. However, he did not answer defense counsel's questions about whether he thought the law required respondent to get shot at first before he defended himself. R. 271, l. 13 – 275, l. 7. Thomas continued to dodge cross-examination about respondent's rights under the Castle Doctrine and the Stand Your Ground Law. R. 275, l. 2 – 276, l. 5.

Closing Arguments

Defense counsel Rutherford argued. "The statute was passed so that Mr. Scott would never be sitting here, that someone who is standing in their yard, in their Castle does not have to make the decision to go back in the house and hope that the cavalry is going to come ... there was no doubt as to whether they sought to do them harm. They had already fired a gunshot." R. 280, l. 20 – 281, l. 9.

Counsel also told the judge that the decedent's death was the fault of Teesha and her associates that night. They knew what they were intending to do "and they should've been charged with felony murder. They switched seats to do a drive-by. Thinking of doing a drive-by is not a felony. Getting your gun out and switching seats makes it a felony." R. 282, l. 18 – 284, l. 17; 284, ll. 2-14

Defense counsel reminded the judge that respondent did not have a gun, and he went into his roommate's room to get a gun for the protection of himself and his family. The 911 tape revealed that they told the 911 operator: "They are shooting at us." R. 284, l. 15 – 285, l. 21. Counsel argued that respondent is exactly the example the legislature intended to protect, and that Teesha and her cohorts should have been charged with felony murder. R. 286, l. 4 – 287, l. 6.

Assistant solicitor Sampson argued respondent had the burden of proof by preponderance of the evidence. R. 287, ll. 16-22. As stated above, the assistant solicitor argued the credibility of the witnesses throughout her legal argument to the judge. The assistant solicitor argued that the law provided that you could meet force with force, but she claimed the evidence showed respondent shot first, and that he should not be immune from prosecution. R. 296, ll. 12-18. She argued that the decedent had not done anything wrong, and that respondent should not be immune from prosecution "and if you want to make it the wild wild west, do what Mr. Rutherford said." R. 298, l. 8 – 299, l. 2.

The judge questioned the solicitor, noting that while respondent had the burden of proof, she was concerned why there was not any ballistics evidence as to the angle of the shots of the shell casings, or GSR tests conducted on anyone by the police. The assistant solicitor responded that the state had done its best in gathering evidence. R. 299, l. 11 – 300, l. 17. The judge also noted the lack of the state doing any accident reconstruction regarding what occurred that night. R. 300, l. 18 – 301, l. 14

Order

In the order granting immunity the judge wrote that Teesha Davis wanted to do a "drive-by that evening." Although she claimed that she was talked out of it, "the

evidence clearly shows that to be a pure fabrication. The credible evidence established that they turned the SUV [car number 2] around, turned off the lights, rolled down the windows, and drove by the defendant's home and began to fire. It is also clear that in response to these events, the defendant exited the front of his home onto a very small stoop and that he fired two or three shots. During this melee, one of the shots hit and instantly killed the victim (driver of car number 3)". R. 389. The judge also wrote that respondent knew of previous run-ins with "this girl and others chasing his children "

The judge ruled that she found respondent's testimony credible that the SUV and Honda both drove past his house and turned around and stopped in front of his residence." She wrote that this consistent with the gunshot entering the driver's window of the victim's car. "His testimony was very credible that he heard a gunshot. Hearing a gunshot, along with the threats, the chase, and being confronted at his home as a target of a drive-by shooting, with his children inside, created reasonable fear of imminent peril of death for him and his family." R. 390.

As stated, the judge did comment on the unfortunate fact that the police did not do an accident reconstruction, or ballistics tests on the trajectory of the bullets. The judge ruled that respondent was entitled to immunity under the Act because the incident occurred at his residence. R. 391-393. The judge noted that respondent was at his own home and he felt an imminent peril when he shot at the attackers. "At no point is it required that the defendant retreat into his home to be fired upon without him being able to defend his family and himself." R. 393

As seen, the judge earlier referred to appellant coming out of his house onto his "stoop". She also found that respondent was also within the curtilage of his home as

defined by the common law. R. 393 The judge found respondent was entitled to immunity pursuant to S.C. Code Ann §16-11-440(A).

The judge also found that respondent was entitled to immunity under the “Stand Your Ground” provision of S.C. Code Ann. § 16-11-440(C). The judge noted that to be immune the person must be in a place where he has the right to be, he must not be engaged in unlawful activity, and he must “reasonably believe it is necessary to prevent great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in S.C. Code Ann. §16-1-60. R. 393-394.

The order stated that respondent believed he was being attacked with deadly force directed at his home when he shot. The judge further found that there was absolutely no requirement that the defendant wait to be attacked by those that instigated the deadly circumstances.

The judge ruled that respondent was entitled to immunity under the Act because “he and his family were clearly under attack and that they had every reason to believe the attack would have continued from both Ms. Carter and potentially the victim but for the actions of the defendant. The legislature clearly did not intend for the father to stand idly by as his family lay on the kitchen floor in fear of being shot and killed The defendant meets all the statutory requirements to be granted immunity for his actions on April 18, 2010 ” R. 394.

ARGUMENT

1

There was evidence to support the trial court's ruling that respondent was entitled to immunity under the Protection of Persons and Property Act pursuant to S.C. Code Ann. § 16-11-440(A) since respondent was in his home when he learned a car was chasing his daughter in the car she was riding in, the children were instructed to come home, shots were fired towards respondent and his home as the children took cover, and respondent only stepped outside to quell the violent attack upon his home

The state argues that the judge should not have granted respondent immunity because there was no evidence the victim forcibly entered or was in the process of forcibly entering respondent's house when the respondent shot him. Respondent on appeal urges an incredibly narrow application of South Carolina Code Ann. §16-11-440(A) that the legislature could not have intended.

The primary and cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. State v. Pittman, 373 S.C. 527, 561, 647 S.E 2d 144, 161 (2007). The trial judge correctly found the purpose of the Act is to allow people to defend their homes, places of businesses and motor vehicles. "The General Assembly finds that persons residing in or visiting the state have the right to expect to remain unmolested and safe within their homes, businesses and vehicles." S.C Code Ann. §16-11-420(D). R. 392 (emphasis in Order)

Accepting respondent's argument on appeal would mean a homeowner could only defend himself if the burglar or robber was actually coming through the window or breaking down the door at the instance the shot was fired. Surely, as defense counsel

argued to the trial judge, the legislature intended that an attacker shooting into a house allowed the homeowner to return fire even though the intruder was not yet physically attempting to enter. Bullets from a gun entering one's home are actually going to be more dangerous to a person's life than the human being actually breaking the threshold of the home himself.

Regardless, the argument now made on appeal was not fairly put to the trial judge, and should be procedurally barred on appeal by this Court in fairness to the trial judge.

The judge's order found that respondent had been in his house, then on the stoop or porch, and at one point in the front yard. The evidence also showed that at one point when shots were fired respondent went back into the house to be sure that the children were able to get in through the back door

The trial court correctly found that the legislature must have anticipated a circumstance such as the one in this case, where a person's children were in imminent peril, and shots were being fired at him, his house, or towards his house, and where that person would be entitled to defend himself and his family.

The state next argues that South Carolina Code Ann. §16-11-440(A) does not apply to respondent because the shooting occurred outside of his residence as defined in South Carolina Code Ann §16-11-430. Again, the evidence shows that respondent was within his house at times, on the stoop or porch at another point, and also in the front yard at another brief point. The evidence showed he hid behind the vehicle when being fired upon, and that went back inside the house.

The state argues that §16-11-110(A) does not apply to any actions respondent may have taken while within the curtilage of the house. This argument again was not

presented to the trial judge. However, even if it was presented to the trial judge during the evidentiary hearing, it would be an odd result for the legislature to have intended less protection for the homeowner by passing the Protection of Persons and Property Act than the homeowner already had under the common law. See State v. Quick, 138 S.C. 147, 135 S.E. 800 (1926).

Respondent also argues, as seen further in issue two, that respondent's home or his curtilage should not be considered "another place" for purposes of S.C. Code §16-11-440(C) because "another place" refers to a place other than a dwelling, residence or occupied vehicle.

Respondent again asserts that this is a strained interpretation of the statute. It does not appear a common sense reading of the statute that one would be entitled to less protection within the curtilage of his home than he would be at his place of business or on a public street.

South Carolina Code Ann. §16-11-440(C), provides that if a person is in "another place," as respondent argues on appeal that he was in at the time of the shooting, he had no duty to retreat. He had the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or bodily injury to himself or another person or to prevent the commission of a violent crime as defined in §16-1-60.

Included in South Carolina Code Ann. §16-1-60 are the crimes of murder, attempted murder, assault and battery by a mob, assault and battery with intent to kill, assault and battery of a high and aggravated nature, accessory before the fact of any these offenses, and attempt to commit any of these offenses. Each and every one of these

offenses could have been charged against the attackers that evening. The legislature could not have intended that respondent defending his family, in part, briefly, in his own front yard did not provide him protection pursuant to S.C. Code Ann. §16-11-440(C).

There was evidence to support the trial judge's ruling that respondent was entitled to immunity under the Protection of Persons and Property Act pursuant to S.C. Code Ann. § 16-11-440(C), since when respondent was outside his house on the porch, the stoop or in the curtilage he was in "another place" he had a right to be, and he was acting to defend himself and his family as envisioned by the statute

The essence of the state's argument is that there was no evidence that the decedent was acting in conjunction with respondent's attackers, or the attacks on his family on the evening in question. There was evidence a Honda was following car number two -- the SUV -- which contained Teesha and her cohorts. They eventually stopped just down the street, and switched seats to do the drive by shooting. The overwhelming evidence the judge found credible was this mob in the truck effectively chased respondent's children into the house where they hid on the kitchen floor.

The judge correctly noted there was evidence that the Honda was following the other two vehicles. Further, respondent did not have the benefit of hindsight as to the testimony of Eric Washington that the decedent's intentions may have been malevolent on the night of the incident. The judge found respondent's testimony that both the Honda and the SUV drove past respondent's home and turned around and stopped in front of his residence credible. Respondent had also testified the SUV stopped in front of his house, and that he could see arms coming out of the windows. R. 390.

Further, defense counsel correctly argued if the decedent was not a participant in the attack on car number 1, then the participants in car number 2 who intended to do the

drive-by shooting, and who fired upon respondent's home were responsible for the decedent's death.

For example, suppose two armed robbers enter a convenience with another person behind them. It is not totally clear that the third person is also an armed robber acting with the other two men. The two armed robbers fire shots at the store owner. The store owner returns fire hitting the other person entering the store, where it was later claimed that he was not a participating robber. It is the two armed robbers, and not the store owner reasonably and lawfully protecting himself who should be held criminally responsible for the death of the third person.

The case is much stronger here because respondent was in his own home, and while briefly outside it he was in "another place" he had a right to be.

Defense counsel correctly argued to the trial judge that the attackers in car number 2 created this situation, and they should be held criminally responsible because it was foreseeable death or great bodily injury would occur as a result of their violent actions, their planned drive by shooting, and their shooting.

Further, the state essentially concedes respondent's actions were reasonable where it writes: "Respondent's testimony reflects that the basis for his belief that the victim's vehicle was a threat was because he saw both the SUV and the victim's car pass in front of his house when the Grand Marquis arrived." Brief of Appellant p. 28. The trial court here, having observed the demeanor of the witnesses, found respondent's testimony to be credible, and his actions to be reasonable.

The state's argument on appeal that reasonableness of respondent's actions given what he reasonably perceived should not apply when considering respondent's actions

pursuant to S.C. Code Ann. §16-11-440(C) would also mean that the legislature intended to provide less protection under the Castle Doctrine than it did under common law self-defense. That was clearly not the intention of the legislature.

In South Carolina Code Ann §16-11-420(A) it is stated that: “It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person’s home is his castle.” Again, a person’s home is his castle, and the law extended that doctrine to include “an occupied vehicle and the person’s place of business.”

The legislature also wrote that: “The general assembly finds that no person or victim of crime should be required to surrender his personal safety to a criminal, nor should a person or victim be required to needlessly retreat in the face of intrusion or attack.” See South Carolina Code Ann. §16-11-420(E).

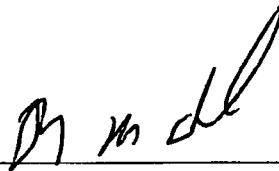
The trial judge in this case found respondent’s testimony credible, and found that respondent had proven by a preponderance of the evidence that he was entitled to immunity pursuant to S.C. Code Ann. §16-11-440(A) and S.C. Code Ann. §16-11-440(C). See State v. Duncan, 392 S C. 404, 709 S.E.2d 662 (2011).

Whatever any conflicting evidence may have revealed, the judge found that it is clear from the admissions of Carter in this case that the aggressors in car number 2 were set on acting violently against respondent’s children on the night in question, that they pursued them to respondent’s home, and the judge found any assertion that they did not act on their violent intentions that evening was not credible. The lower court’s grant of immunity should be affirmed.

CONCLUSION

By reason of the foregoing arguments, the order of the lower court should be affirmed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R M Dudek', is written over a horizontal line.

Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR RESPONDENT.

This 10th day of November, 2014.

CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Final Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Identifying Information and Other Sensitive Information in Appellate Court Filings."

November 10, 2014



Robert M. Dudek
Chief Appellate Defender

S.C. Commission on Indigent Defense
Division of Appellate Defense
1330 Lady Street, Suite 401
Post Office Box 11589

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Richland County
Maite Murphy, Circuit Court Judge

THE STATE,

APPELLANT,

V.

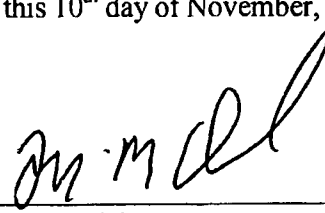
SHANNON SCOTT,

RESPONDENT

APPELLATE CASE NO 2013-002124

CERTIFICATE OF SERVICE

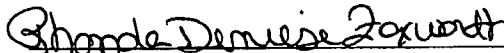
The undersigned attorney hereby certifies that a true copy of the Final Brief of Respondent in the above referenced case has been served upon Alphonso Simon, Jr., Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, via United States Postal Service, First Class Mail with the appropriate postage affixed thereto this 10th day of November, 2014.



Robert M. Dudek
Chief Appellate Defender

ATTORNEY FOR RESPONDENT.

SUBSCRIBED AND SWORN TO before me
this 10th day of November, 2014.



Rhonda Denise Foxworth (L.S.)
Notary Public for South Carolina
My Commission Expires: October 17, 2021

ORIGINAL 464

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge NOV 10 2014

S.C. Supreme Court
Appellate Case No. 2013-002124

THE STATE

APPELLANT,

V.

SHANNON SCOTT,

RESPONDENT.

FINAL REPLY BRIEF OF APPELLANT

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

ALPHONSO SIMON JR.
Assistant Attorney General
South Carolina Attorney General's Office
PO Box 11549
Columbia, SC 29211-1549
(803) 734-6305

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202
ATTORNEYS FOR RESPONDENT

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ARGUMENT

Contrary to Respondent's assertions, the State has not argued that Respondent's curtilage should not be considered "another place" for the purposes of S.C. Code Ann § 16-11-440(C). Appellant agrees that the curtilage to one's home constitutes "another place" under subsection (C) because the curtilage does not fall within the parameters of a residence, dwelling, or occupied vehicle as defined in S.C. Code Ann. § 16-11-430¹. This would appear to have been a matter the parties agreed upon at the hearing as Respondent never argued that he was entitled to immunity under § 440(A) because curtilage was considered part of one's residence under the statute.

Furthermore, contrary to Respondent's contentions otherwise, a finding that curtilage is not part of the residence as defined under S.C. Code Ann. § 16-11-430(1) is not inconsistent with the legislature's intent of codifying the Castle Doctrine. The Castle Doctrine in this State has long provided that one attacked outside his home but within his curtilage does not have a duty to retreat. See State v. Gibbs, 113 S.C. 256, 102 S.E. 333, 334 (1920) (finding following charge appropriate for a claim of self-defense: "A person on his own premises and outside of his dwelling, but within the curtilage, if assaulted by a deadly weapon, is not bound to retreat, but may stand on his own ground, and meet such attacks even to killing his assailant"); see also State v. Bradley, 126 S.C. 528, 120 S.E. 240, 243 (1923) (noting same). Appellant submits this principle is what is codified in S.C. Code Ann. § 16-11-440(C) and expanded to include other places

¹ Appellant merely noted that if this Court finds that the definition of residence does incorporate curtilage, then Respondent would not have been entitled to immunity under S.C. Code § 16-11-440(C).

like a place of business. The presumption afforded under subsection (C) is the exact same as one would not be required to show they had other means by which to avoid the danger if one shows that subsection (C) applies. State v. Curry, 406 S.C. 364, 375, 752 S.E.2d 263, 268 (2013). Appellant would also note that the Castle Doctrine in and of itself does not provide for immunity; that was an added protection provided by the legislature with the Act.

Altogether, Appellant submits the grant of immunity under the Protection of Persons and Property Act in this case was improper. As was the case in Curry, Respondent's case "presents a quintessential jury question, which, most assuredly, is not a situation warranting immunity from prosecution" Curry, 406 S.C. at 372, 752 S.E.2d at 267. The trial court's Order Granting Immunity should therefore be vacated, and Respondent's case should be remanded for further proceedings.

CONCLUSION

For the foregoing reasons and the reasons stated in the Brief of Appellant, Appellant respectfully requests this Court vacate the trial court's Order Granting Immunity and Dismissing Criminal Charges and remand the case for a jury trial.

Respectfully submitted,

ALAN WILSON
Attorney General

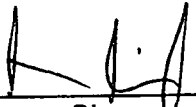
JOHN W. McINTOSH
Chief Deputy Attorney General

DONALD J. ZELENKA
Assistant Deputy Attorney General

ALPHONSO SIMON JR.
Assistant Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

DANIEL E. JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202

ATTORNEYS FOR RESPONDENT

By: 
Alphonso Simon Jr (Bar No. 74713)

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

November 10, 2014

RECEIVED

NOV 10 2014

STATE OF SOUTH CAROLINA
IN THE SUPREME COURTAPPEAL FROM RICHLAND COUNTY
The Honorable Maite D. Murphy, Circuit Court Judge**S.C. Supreme Court**

Appellate Case No. 2013-002124

THE STATE OF SOUTH CAROLINA,

APPELLANT,

V

SHANNON SCOTT,

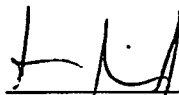
RESPONDENT

CERTIFICATE OF SERVICE

I, Alphonso Simon, Jr., counsel for the Appellant, certify that I have served the within Final Reply Brief of Appellant on Respondent by depositing two (2) copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 10th day of November, 2014



ALPHONSO SIMON, JR

Office of Attorney General
P. O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEYS FOR APPELLANT

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

The State, Appellant,

v.

Shannon Scott, Respondent.

Appellate Case No. 2013-002124

Appeal From Richland County
Maité Murphy, Circuit Court Judge

Opinion No. 5483
Heard September 8, 2016 – Filed May 3, 2017

AFFIRMED AS MODIFIED

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Donald J. Zelenka, Assistant
Attorney General Alphonso Simon, Jr., Solicitor Daniel
Edward Johnson, all of Columbia, for Appellant.

Chief Appellate Defender Robert Michael Dudek, of
Columbia, for Respondent.

KONDUROS, J.: The State appeals the circuit court's finding Shannon Scott was immune from prosecution for the murder of Darrell Niles (Victim) based on section 16-11-440(A) and (C) of the South Carolina Code (2015). The statute

codifies the common law "Castle Doctrine" and "Stand Your Ground" defenses, respectively.¹ We affirm as modified.

FACTS/PROCEDURAL BACKGROUND

On the night of April 17, 2010, Scott's teenage daughter, Shade, went to a party at a teen club in Columbia accompanied by Rosalyn Fuller's teenage daughters, Ashley, Asia, and Ave, and two other friends, Denzel D. and Antonio B. Fuller was with Scott at his home in Columbia, and the teens were to return to Fuller's home after they left the club.²

During and shortly after the party, Shade was involved in a confrontation with another girl, Teesha D. Shade's group left the club in a 1993 Grand Marquis driven by Denzel. They were followed by a group of females, including Teesha, in a silver Ford Expedition sport utility vehicle (SUV). The SUV chased the Grand Marquis, following it down numerous streets and into different neighborhoods. During the chase, Shade called her father and told him they were being followed by a group of girls with a gun. Ashley texted and then called her mother to say they were being followed by Teesha.³ The teens were instructed to drive to Scott's home.

Apparently, unbeknownst to the two groups, a third vehicle, a burgundy Honda, was following the chase from a bit of a distance. Victim was driving the Honda, and Eric W. was a passenger. According to Eric, Victim wanted to ensure the girls in the Grand Marquis got home safely.

When the group arrived at Scott's house, they pulled the Grand Marquis into the backyard and, at Fuller and Scott's instruction, entered the house through the back door and into the kitchen. Testimony as to these and subsequent events is conflicting, but the record demonstrates the SUV drove by Scott's house, turned around, and drove back by the house with its lights off. The Honda was also in close proximity to Scott's house. Scott entered his roommate's bedroom, retrieved his roommate's gun, and shot from the front stoop of the house. One of these shots struck and killed Victim. Police came to the house in response to a 911 call Fuller

¹ Sections 16-11-410 to -450 (2015) are known as the Protection of Person and Property Act (the Act).

² Scott was engaged to Fuller at the time of the incident.

³ According to testimony in the record, a dispute had been ongoing between Shade and Teesha.

made during the incident. Scott described the SUV and indicated it had shot at the house. He did not indicate he had fired in response. Scott later turned himself in to police and was indicted for murder. He moved for immunity under section 16-11-440(C) of the South Carolina Code (2015).

At the immunity hearing, Asia testified she heard gunshots after the SUV started driving back toward the house with the lights off. Ave indicated she saw a gun hanging out the window of the SUV and saw shots fired. Denzel and Antonio testified they heard a gunshot as they were getting out of the car. Ave, Denzel, and Antonio admitted they had not mentioned hearing gunshots as they exited the car in their initial statements to police.

Fuller testified she saw the SUV drive by the house and turn around in the parking lot of the Allstate Insurance building at the end of the street. She also observed a car behind the SUV when it entered the neighborhood and testified the car made the same turn as the SUV. Fuller stated she heard a gunshot as the teens were entering the house. She called 911 while Scott retrieved the gun from his roommate's bedroom and then heard Scott say "don't do it, don't do it" and afterward another shot. Likewise, Fuller admitted she had not mentioned hearing a shot as the teens were exiting the car in her initial statement to police.

Scott testified he heard a "pow" as Fuller was getting the teens into the house. Afterward, he went into his roommate's room and took his roommate's handgun from the nightstand, and Fuller called 911. Lenny Williams, Scott's roommate, testified Scott came into his room and grabbed his gun and then he heard some gunshots. Williams's girlfriend, who was also present, corroborated that testimony. Scott stated he ran outside the front door to the front step of the house and as the SUV drove back toward his house, he fired a warning shot and told them not to come any farther. He stated the vehicles continued to move slowly and both stopped in front of his house. He heard another shot and saw arms hanging out of the SUV's window. He then ducked behind the front hood of his vehicle parked in the front yard, fired two or three times, and returned inside the house. Scott testified he shot to defend himself and did not remember exactly where he was aiming.

In addition to Teesha, Kiwiana C. and Kyasia C. were in the SUV that night. Kiwiana admitted following the Grand Marquis and firing a gun. However, she told police she heard a shot while the SUV was parked in the Allstate parking lot

and fired her gun into the air in response.⁴ Teesha told police that as they drove into the neighborhood and past Scott's house, she saw a black female along with a heavy set male in the yard. She further stated she heard a gunshot while parked at the Allstate building and then heard a second shot. Teesha stated Kiwiana then fired her gun into the air once. Kyasia denied to police anyone in the SUV fired first and indicated she heard two shots before Kiwiana fired her gun into the air once. The girls admitted they thought about performing a drive-by shooting. Kiwiana even swapped places with the fourth girl⁵ in the SUV for this purpose, but they changed their minds. Kyasia told police that as they left the neighborhood, they passed a burgundy Honda with its passenger door open.

Eric, the passenger in Victim's car, testified they had followed the SUV but when it went past Scott's house, Victim turned left into a cul-de-sac to turn around. Eric testified that as the Honda came back down the cul-de-sac, he could see Scott in the yard and could tell he was light-skinned and had a gun. He indicated the SUV was directly in front of Scott's house and Scott was shooting at the SUV. He provided he did not see any shots fired from the SUV and neither he nor Victim had a gun that night.

After hearing the testimony summarized above, the circuit court determined Scott was entitled to immunity from prosecution under subsections (C) and (A) of section 16-11-440. Regarding its finding of immunity under subsection (C), the circuit court stated:

When the Defendant fired the shot, he reasonably believed he was being attacked with deadly force directed at his home. There is absolutely no requirement that the defendant wait to be attacked by those that instigated the deadly circumstances. The Legislature intended that the defendant should not have to wait to be fired upon.

. . . .

I hereby conclude that the Defendant is entitled to the grant of immunity under the Act because he and his

⁴ None of the SUV occupants testified at the immunity hearing, but they gave statements to police after the incident.

⁵ The identity of the fourth SUV occupant is not revealed in the record.

family were clearly under attack and that they had every reason to believe that the attack would have continued from both [Kiwiana] and potentially the victim but for the actions of the Defendant. The Legislature clearly did not intend for any father to stand idly by as his family lay on the kitchen floor in fear of being shot and killed.

The circuit court's order further stated Defendant "is entitled to statutory immunity under the 'Stand Your Ground' provision because [he] was reasonable to be in fear of the Victim."

This appeal followed.

STANDARD OF REVIEW

"A claim of immunity under the Act requires a pretrial determination using a preponderance of the evidence standard, which this court reviews under an abuse of discretion standard of review." *State v. Curry*, 406 S.C. 364, 370, 752 S.E.2d 263, 266 (2013). "A preponderance of the evidence stated simply is that evidence which convinces as to its truth." *Semken v. Semken*, 379 S.C. 71, 75, 664 S.E.2d 493, 496 (Ct. App. 2008). "An abuse of discretion occurs when the decision of the trial court is unsupported by the evidence or controlled by an error of law." *Maybank v. BB&T Corp.*, 416 S.C. 541, 567, 787 S.E.2d 498, 511 (2016).

LAW/ANALYSIS

The State contends the circuit court erred in finding Scott was entitled to immunity under section 16-11-440(C) of the South Carolina Code (2015) because the statute requires the defendant to be attacked prior to using deadly force and no evidence supports a finding Scott was attacked by Victim. Under the unique circumstances of this case, we disagree.⁶

Section 16-11-440(C) states:

⁶ Because we affirm the circuit court's ruling pursuant to subsection (C), we decline to address the circuit court's finding of immunity pursuant to subsection (A). See *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding the "appellate court need not address remaining issues when disposition of prior issue is dispositive").

A person who is not engaged in an unlawful activity and *who is attacked* in another place where he has a right to be, including, but not limited to, his place of business, *has no duty to retreat* and has the right to stand his ground and meet force with force, including deadly force, if he reasonably believes it is necessary to prevent death or great bodily injury to himself or another person or to prevent the commission of a violent crime as defined in [s]ection 16-1-60.

(emphasis added).

The parties agree Scott was not engaged in an unlawful activity at the time of the shooting. Additionally, he was in a place he had a right to be—inside his home and immediately outside his home. The State correctly maintains the statute's plain language excuses a defendant's obligation to retreat only if he is attacked. Scott may have reasonably believed the SUV and/or Honda was a threat so as to justify a claim of self-defense.⁷ However, that is a different question than whether he was attacked so as to excuse his duty to retreat in this case. At times, the circuit court's order conflates the two questions and is therefore erroneous to the extent it relies on Scott's perception of danger from the SUV and/or Honda *driving by* as an attack sufficient for granting immunity under subsection (C).⁸

⁷ To claim self-defense a defendant must demonstrate he (1) was without fault in bringing on the difficulty; (2) actually believed he was in imminent danger of losing his life or sustaining serious bodily injury, or he actually was in such imminent danger; and (3) had no other probable means of avoiding the danger of losing his own life or sustaining serious bodily injury than to act as he did in this particular instance. *State v. Curry*, 406 S.C. 364, 371 n.4, 752 S.E.2d 263, 266 n.4 (2013).

⁸ We agree with the concurrence that a defendant must establish the elements of self-defense in order to prevail on a claim for immunity. The clear language of section 16-11-440(C), however, also requires that the defendant be actually attacked. *See Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning."). While we acknowledge the facts of this case are unique, and the question of a perceived threat and an attack may sometimes overlap, absent a showing that a defendant has been attacked, a request

However, the circuit court made numerous factual findings based on its view of the evidence and credibility determination of the witnesses—including the occupants of the SUV shot first. Although the testimony and evidence regarding the sequence of events is conflicting and muddled, this court generally defers to the credibility findings of the circuit court. *See USAA Prop. & Cas. Ins. Co v. Clegg*, 377 S.C. 643, 652-53, 661 S.E.2d 791, 796 (2008) ("[N]oting the circuit court judge, who saw and heard the witnesses, is in a better position to evaluate their credibility and assign comparative weight to their testimony."). We conclude the circuit court's determination someone in the SUV shot first did not rise to the level of an abuse of discretion based on the applicable preponderance of the evidence standard. Therefore, the events of that night are within the purview of subsection (C) as Scott's conduct was in response to an attack, not just the vehicles driving by the home.⁹

The State argues *Victim* did not attack Scott and therefore his shooting Victim could not fall within the confines of subsection (C). However, the State conceded at oral argument that if Scott shot an occupant of the SUV other than the shooter, that conduct would be justified. In essence, the State contends Scott intentionally and specifically aimed at the Honda and fired. Constrained by our standard of review, we cannot agree.

Fuller testified a second set of headlights was behind the SUV and she saw that car make the same exact turn as the SUV had made at the Allstate building. However, she had not mentioned a second car in her initial statement to police. Scott testified he saw the SUV coming down the street and headlights behind it. He observed the SUV turn around in the Allstate lot but did not see where the second car turned around. He recalled that when he came back to the stoop, both vehicles were then facing the opposite direction from which they had entered the neighborhood. He testified they were stopped in front of his house. Scott stated he shot to defend himself and did not remember directly where he was aiming or whether he shot two or three times because he was being shot at himself.

for immunity, pursuant to subsection (C), which would excuse the duty to retreat, must fail, and a defendant must present his evidence of self-defense to a jury.

⁹ The State largely conceded at oral argument that the circuit court's factual findings were controlling and limited its argument to whether or not Scott was justified in using force specifically against Victim under subsection (C), not whether evidence supported a finding the SUV occupants shot first.

Eric, the passenger in Victim's car, testified the Honda followed the SUV onto Scott's street. However, he indicated the car never passed in front of Scott's house but turned left onto a cul-de-sac just before reaching Scott's yard and turned around. Eric testified that as the Honda exited the cul-de-sac, he saw Scott shooting at the SUV. He further testified Scott shot "at the car we [were] in," but he never saw Scott look in the direction of the car.

After hearing all the testimony and reviewing the evidence, the circuit court found:

Victim's vehicle at the scene showed that the bullet went through the driver's side window. This would be more consistent with the vehicle being directly in front of [Scott's] home traveling in the same direction as the SUV which had turned around to do the drive by. . . . Victim's car was found running with the lights on, just past [Scott's] house where it had run off the road and into brush. The passenger door was open where [Eric] fled the scene. Unfortunately, law enforcement failed to conduct any meaningful accident reconstruction of the scene that would clearly indicate where . . . Victim's car was at the time that the fatal shot was fired.

. . . .

The Court finds credible [Scott's] testimony that both the Honda and SUV drove past his home and turned around and stopped in front of his residence.

Again, the evidence regarding the location of the SUV and Honda when Scott fired his weapon is conflicting and somewhat unclear. However, the circuit court found the Honda was directly in front of the house moving along the same path as the SUV. *See USAA Prop. & Cas. Ins. Co.*, 377 S.C. at 652-53, 661 S.E.2d at 796 ("[N]oting the circuit court judge, who saw and heard the witnesses, is in a better position to evaluate their credibility and assign comparative weight to their testimony."). This finding negates the State's contention the vehicles were so far apart Scott's fatal shot could have only been the result of an intentional act. We conclude the circuit court did not abuse its discretion in finding by a preponderance of the evidence Scott was entitled to immunity pursuant to subsection (C).

CONCLUSION

The circuit court did not err in finding Scott immune from prosecution pursuant to subsection (C). We decline to address the circuit court's ruling under subsection (A). To the extent the circuit court's order equates Scott's belief the SUV or Honda posed a threat with an attack, the order is vacated. Based on our standard of review and the circuit court's factual determinations regarding the events of that tragic night, the circuit court is

AFFIRMED AS MODIFIED.

LOCKEMY, C.J., concurs.

MCDONALD, J., concurring in a separate opinion. I concur in the result reached by the majority. I agree that Scott responded to an attack as opposed to a perceived threat; however, I respectfully write separately because I do not agree that the circuit court's order conflates the questions of self-defense and immunity under the Protection of Persons and Property Act (the Act).¹⁰ Instead, the circuit court's self-defense analysis was a necessary predicate to the finding of immunity under section 16–11–440(C) of the South Carolina Code (2015). The circuit court's examination of Scott's reasonable belief that he and the girls were being attacked with deadly force was necessary to this self-defense analysis. Thus, I would not vacate the portion of the circuit court's ruling addressing the threat posed by the "drive-by" vehicles and Scott's perception of this threat.

Recently, our supreme court clarified that the immunity of section 16–11–440(C) extends to a person attacked in his own residence and examined the Legislative purposes of the Act. In *State v. Jones*, the court explained:

Under the Castle Doctrine, "[o]ne attacked, without fault on his part, on his own premises, has the right, in establishing his plea of self-defense, to claim immunity from the law of retreat, which ordinarily is an essential element of that defense." *State v. Gordon*, 128 S.C. 422, 425, 122 S.E. 501, 502 (1924)) (citation omitted). The

¹⁰ S.C. Code Ann. §§ 16–11–410 to –450 (2015); *see id.* § 16–11–450(A) (stating, in relevant part, "[a] person who uses deadly force as permitted by the provisions of this article or another applicable provision of law is justified in using deadly force and is immune from criminal prosecution and civil action for the use of deadly force").

Legislature explicitly codified the Castle Doctrine when it promulgated the Act and extended its protection, when applicable, to include an occupied vehicle and a person's place of business. *See* S.C. Code Ann. § 16–11–420(A) (2015) ("It is the intent of the General Assembly to codify the common law Castle Doctrine which recognizes that a person's home is his castle and to extend the doctrine to include an occupied vehicle and the person's place of business.").

416 S.C. 283, 291, 786 S.E.2d 132, 136 (2016) (alteration in original). The court enunciated its belief that "a decision that prohibits a person, who is attacked in his or her residence, from seeking immunity under the Act would not only be in direct contravention of the provisions of the Act but would undoubtedly infringe on the person's Second Amendment right to bear arms,^[11] which was specifically identified in section 16–11–420(C) as a foundational basis for the Act." *Id.* at 297–98, 786 S.E.2d at 140; *see District of Columbia v. Heller*, 554 U.S. 570, 628, (2008) ("[T]he inherent right of self-defense has been central to the Second Amendment right.").

Because the supreme court found subsection (C) applicable in *Jones*, the question became whether there was "evidence to support the judge's ruling that Jones acted in self-defense." *Id.* at 300–01, 786 S.E.2d at 141. "Consistent with the Castle Doctrine and the text of the Act, a valid case of self-defense must exist, and the trial court must necessarily consider the elements of self-defense in determining a defendant's entitlement to the Act's immunity. Therefore, the defendant must demonstrate the elements of self-defense, save the duty to retreat, by a preponderance of the evidence." *Id.* at 301, 786 S.E.2d at 141 (quoting *State v. Curry*, 406 S.C. 364, 371, 752 S.E.2d 263, 266 (2013));¹² *see also State v.*

¹¹ U.S. Const. amend. II ("A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed."); S.C. Const. art. I, § 20 (providing in part that "[a] well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed").

¹² Where section 16–11–440(A) applies, "there is no requirement that the defendant prove he believed he was in imminent danger of losing his life or sustaining serious bodily injury given the presumption of reasonable fear of imminent peril of death or great bodily injury is included in subsection (A)."

Douglas, 411 S.C. 307, 318, 768 S.E.2d 232, 238 (Ct. App. 2014) (recognizing that "immunity under the Act 'is predicated on an accused demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence,' save the duty to retreat." (quoting *Curry*, 406 S.C. at 371–72, 752 S.E.2d at 266–67)); *Curry*, 406 S.C. at 372, 752 S.E.2d at 267 ("While the Act may be considered 'offensive' in the sense that the immunity operates as a bar to prosecution, such immunity is predicated on an accused demonstrating the elements of self-defense to the satisfaction of the trial court by the preponderance of the evidence.").

As the circuit court's examination of Scott's reasonable belief that he and the girls were being attacked with deadly force was necessary to its self-defense analysis, a predicate to the court's finding of immunity, I would affirm both the subsection (C) grant of immunity and the circuit court's analysis.

Jones, 416 S.C. at 301, 786 S.E.2d at 141. Here, as in *Jones*, the consideration is whether subsection (C) applies.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge

Appellate Case No 2013-002124
Opinion No 5483 (filed May 3, 2017)

RECEIVED

MAY 18 2017

SC Court of Appeals

THE STATE

PETITIONER,

V.

SHANNON SCOTT,

RESPONDENT.

PETITION FOR REHEARING

Comes now Petitioner, above named, by and through the Office of Attorney General of South Carolina, and pursuant to Rule 221(a), SCACR, hereby respectfully petitions this Court to rehear this matter

Petitioner respectfully submits this Court overlooks the ramifications of its finding that Respondent's fatal shot may not have been the result of an intentional act. To the extent this Court finds the shooting victim was not the intended target of the fatal shot or the shooting of the victim was not intentional, the State respectfully submits this Court erred in affirming the grant of immunity under the Protection of Persons and Property Act. In finding the fatal shot was not intentional, this Court implicitly applies the doctrine of transferred intent to Respondent's claim he acted in self-defense. The doctrine of

transferred intent has not been found to apply to self-defense in South Carolina. In State v. Porter, the South Carolina Supreme Court noted that the doctrine of transferred self-defense "is recognized in some jurisdictions to absolve a defendant who injures an innocent third party while attempting to defend himself from bodily harm." State v. Porter, 269 S C 618, 622, 239 S E 2d 641, 643 (1977). The Supreme Court did not determine whether the doctrine applied in South Carolina. Id. Citing Porter, the Supreme Court recently reiterated, "the transferability of intent in a self-defense claim has not been recognized in South Carolina." Jamison v. State, 410 S C 456, 471, 765 S.E 2d 123, 131 (2014).

Here, there was no evidence or testimony presented at the immunity hearing that would support a finding Respondent had a reason to defend himself from the victim. There was no evidence to support a finding the victim engaged in an attack on Respondent. No weapon was found on the victim, and Eric testified he did not see the victim with a weapon on the day of the shooting (R. p. 233). Further, Eric indicated there was no weapon in the victim's car (R. p. 233). Respondent did not even mention seeing a weapon in the victim's car. He did not indicate he saw shots fired from the car. In fact, Respondent's testimony reflects that the basis for his belief that the victim's vehicle was a threat was because he saw both the SUV and the victim's car pass in front of his house when the Grand Marquis arrived. (See R. pp. 107-09). Respondent did not see either vehicle turn around. (R. p. 109). Respondent also noted that he did not see the victim's car do anything in front of the house. (R. 110). In all, there was no testimony or evidence indicating the victim attacked Respondent or posed a threat to Respondent. Furthermore, as noted by this Court, there was evidence in the record that

could support the circuit court's finding that someone in the SUV shot first. The SUV was the threat, not the victim in his Honda

Clearly, Respondent was firing in response to the attack from and threat posed by the SUV. If, as this Court has found, the victim here was not the intended target, Respondent was not acting in self-defense as it related to actions from the victim. The finding that Respondent was acting in self-defense when he killed the victim would necessarily be based upon a transfer of Respondent's intent in firing in response to the SUV in self-defense to the victim, an innocent bystander. Since the doctrine of transferred intent has not been recognized to apply to self-defense in South Carolina, this finding that Respondent was acting in self-defense would be improper. Thus, this Court's affirmance of the grant of immunity is in error.

Furthermore, self-defense involves an intentional act. See State v. Belcher, 385 S C 597, 608, 685 S.E 2d 802, 808 (2009). To the extent this Court found Respondent was not acting intentionally in firing the fatal shot, its finding is inconsistent with the determination that Respondent was acting in self-defense. See generally State v Light, 378 S C 641, 650, 664 S E 2d 465, 470 (2008)(noting there is a distinction between shooting intentionally in self-defense and not shooting intentionally, and if a factual issue arises regarding whether shooting was intentional, involuntary manslaughter charge may be warranted).

WHEREFORE, premises considered, for the reasons stated above, the State would respectfully request this Court rehear argument in this appeal

Respectfully submitted,

ALAN WILSON
Attorney General

J ROBERT BOLCHOZ
Chief Deputy Attorney General

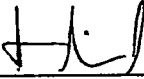
DONALD J. ZELENKA
Deputy Attorney General

ALPHONSO SIMON JR
Assistant Attorney General
Bar No 74713

Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

DANIEL E JOHNSON
Solicitor, Fifth Judicial Circuit
Post Office Box 192
Columbia, South Carolina 29202

ATTORNEYS FOR PETITIONER

By. 

Alphonso Simon Jr

Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305

May 18, 2017

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY

The Honorable Maité Murphy, Circuit Court Judge

RECEIVED

MAY 18 2017

SC Court of Appeals

Appellate Case No. 2013-002124

Opinion No. 5483 (filed May 3, 2017)

THE STATE

PETITIONER,

V

SHANNON SCOTT,

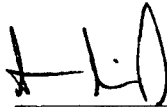
RESPONDENT

CERTIFICATE OF SERVICE

I, Alphonso Simon, Jr., counsel for the Respondent, certify that I have served the within Petition for Rehearing on the Respondent by depositing two (2) copies of the same via U S. mail, first class, postage prepaid to his attorneys of record, Robert M. Dudek, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Ste. 401, Columbia, South Carolina 29201,

I further certify that all parties required by Rule to be served have been served

This 18th day of May, 2017.



ALPHONSO SIMON, JR.
Office of Attorney General
P O. Box 11549
Columbia, South Carolina 29211
(803) 734-6305

ATTORNEY FOR PETITIONER

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

THE STATE,

RECEIVED
APPELLANT, MAY 18 2017

V.

S.C. SUPREME COURT

SHANNON SCOTT,

RESPONDENT

RECEIVED
MAY 18 2017
SC Court of Appeals
SC Court of Appeals
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APPELLATE CASE NO. 2013-002124

Appeal from Richland County

Honorable Maite Murphy, Circuit Court Judge

Opinion No. 5483

PETITION FOR REHEARING

Respondent Shannon Scott seeks rehearing out of an abundance of caution since this Court correctly found respondent was entitled to immunity pursuant to S.C. Code §16-11-440 (C). This Court declined to address Circuit Court Judge Murphy's additional grant of immunity under S.C. Code §16-11-440 (A) given its finding of immunity under pursuant to S.C. Code §16-11-440 (C), *citing Futch v McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999).

Thus, should the state seek rehearing of the Court's affirmance under subsection S.C. Code §16-11-440(C), and later seek certiorari from the Supreme Court on that basis, respondent

will argue that Respondent Scott was also entitled to immunity under S.C. Code §16-11-440 (A) as an additional sustaining ground for this Court's affirmance of the circuit court's order.

That said, Respondent Scott seeks rehearing here pursuant to Rule 221(a), SCACR, because Respondent Scott does not think the circuit court conflated the concepts of his belief the shooters were a *threat* for purposes of self-defense, with the concept that his family and he were also being *attacked* by the shooters to excuse the duty to retreat. The circuit court respectfully found Respondent Scott and his family were under *attack* while on their own property – in their own home – by the people shooting at them, and he had to feel *threatened* by the shooters.

The actions of the shooter(s) from the car were blatantly illegal, and outrageous since Respondent's children, the others in the house, or Respondent could have easily been killed. At least one member of this Court openly questioned the solicitor during oral argument as to why the shooter(s) were never criminally charged in this case. They willfully set this whole series of events into motion, and they were responsible for the aftermath.

Respectfully, if ever there was a case where the Legislature meant immunity for a homeowner protecting himself and his family against an invasion of bullets it was this case. Irresponsible people shooting onto Respondent's property, and into his home, after chasing his children in an automobile with guns. The Legislature meant for Respondent to have no duty to retreat, for him to act in self-defense, and for him to be immune from prosecution. Respondent was both in his own home, and he acted lawfully in a place he had a right to be at the time. See, State v. Pittman, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007).

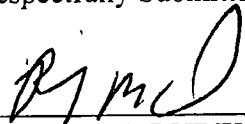
As this Court will recall, in the order granting immunity the judge concluded that respondent's testimony was "very credible". She noted that respondent testified that he knew of previous problems reported to law enforcement and that he knew "this girl [Teesha] and others were

chasing his children.” The judge also wrote: “The defendant testified that he was not a gun owner, but in order to defend and protect his family, he grabbed Mr. Williams’ [his roommate’s] gun. His testimony was that the SUV [the truck with Teesha and others inside] stopped in front of his house, and he could see arms out of the windows. This testimony is corroborated by both the statements of Ms. Carter and Ms. Davis.” R. 390.

The judge also found that respondent’s testimony was credible wherein he said that **both** the Honda [in which the decedent was driving], and the SUV [Teesha’s vehicle] drove past his home and turned around and stopped in front of the residence. “This is consistent with the gunshot entering the driver’s side window of the victim’s car. His testimony was very credible that he heard a gunshot. Hearing a gunshot, along with the threats, the chase, and being confronted at his home as a target of a drive-by shooting, with his children inside, created reasonable fear of imminent peril of death for him and his family.” R. 390. See, State v. Jones, 416 S.C. 283, 786 S.E.2d 132 (2016)’ State v. Duncan, 392 S.C. 404, 709 S.E.2d 662 (2011).

Respondent Scott requests rehearing because this Court should respectfully affirm the circuit court’s order without modification.

Respectfully Submitted,



ROBERT M. DUDEK
Chief Appellate Defender

This 18th day of May, 2017

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

MAY 18 2017

SC Court of Appeals

Appeal from Richland County

Honorable Maite Murphy, Circuit Court Judge

THE STATE,

APPELLANT,

v.

SHANNON SCOTT,

RESPONDENT

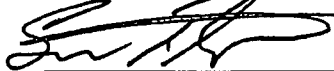
CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a copy of the Petition for Rehearing in the above-entitled case has been served upon Alphonso Simon, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 18th day of May, 2017.



Robert M. Dudek
Chief Appellate Defender
ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO BEFORE
ME this 18th day of May, 2017.

 (L.S)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.

The South Carolina Court of Appeals

The State, Appellant,

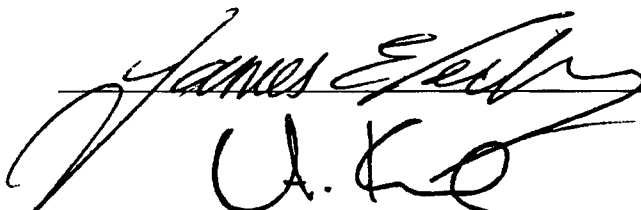
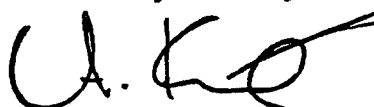
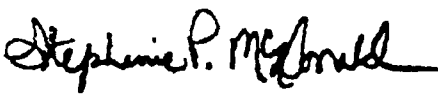
v.

Shannon Scott, Respondent.

Appellate Case No. 2013-002124

ORDER

After careful consideration of the petitions for rehearing filed by both parties in this case, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petitions for rehearing are denied.

 C.J.
 J.
 J.

Columbia, South Carolina

cc:

Donald J. Zelenka, Esquire
Alphonso Simon, Jr., Esquire
Robert Michael Dudek, Esquire
Daniel Edward Johnson, Esquire

FILED

June 29, 2017

Alan McCrory Wilson, Esquire
John W. McIntosh, Esquire

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

AUG 17 2017

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY
The Honorable Maité Murphy, Circuit Court Judge

Appellate Case No 2017-001607

THE STATE

PETITIONER/RESPONDENT,

V

SHANNON SCOTT,

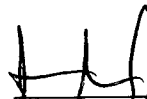
RESPONDENT/PETITIONER

PROOF OF SERVICE

I, Alphonso Simon, Jr, of counsel for the Petitioner/Respondent, certify that I served two (2) copies of the Appendix via U S mail to Respondent/Petitioner's attorney of record, Robert M Dudek, SCCID/Division of Appellate Defense, 1330 Lady St, Ste #401, Columbia, South Carolina 29201

I further certify that all parties required by Rule to be served have been served

This 17th day of August, 2017



ALPHONSO SIMON, JR
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
(803) 734-6305