

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

Appeal from Beaufort County

AUG 30 2017

Honorable G. Thomas Cooper, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

AARON YOUNG, SR.,

APPELLANT

APPELLATE CASE NO 2016-000873

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBIT NO. 3 (911 CALL CD)
 STATE'S EXHIBIT NO. 4 (YARD PHOTO BOARD)
 STATE'S EXHIBIT NO. 5-6 (TRUCK PHOTOS)
 STATE'S EXHIBIT NO. 7 (SENIOR PHOTO BOARD)
 STATE'S EXHIBIT NO. 8 (ROBINSON PHOTO)
 STATE'S EXHIBIT NO. 9-10 (CAR PHOTOS)

STATE'S EXHIBIT NO. 11 (SHED PHOTOBOARD)
STATE'S EXHIBIT NO. 12-14 (CASINGS)
STATE'S EXHIBIT NO. 15 (CASINGS)
STATE'S EXHIBIT NO. 16 (MIRANDA FORM)
STATE'S EXHIBIT NO. 17 (INTERVIEW CD)
STATE'S EXHIBIT NO. 18-22 (PHOTO BOARDS)
STATE'S EXHIBIT NO. 23-27 (EVIDENCE BAGS)
STATE'S EXHIBIT NO. 28-29 (X-RAYS)
STATE'S EXHIBIT NO. 30 (911 CALL CD)

STATE OF SOUTH CAROLINA
14TH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT
COURT OF GENERAL SESSIONS
CASE NO'S. 2012-GS-07-01935
2012-GS-07-01932 & 2012-GS-07-02173

STATE OF SOUTH CAROLINA

PLAINTIFF

VERSUS

FEBRUARY 27, 2014

TRANSCRIPT OF HEARING

BEAUFORT, SOUTH CAROLINA

TYRONE ROBINSON
AARON YOUNG, JR.
AARON YOUNG, SR.

DEFENDANTS

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EXHIBITS

No exhibits were admitted.

1 BEGINNING 9:24 A.M.

2 BY THE COURT:

3 BAILIFF: All rise, please, for The Honorable
4 Thomas W. Cooper, Jr. Court is now in session.

5 THE COURT: Thank you. Thank you, ladies and
6 gentlemen. Please be seated. Good morning. Wanda, do
7 you have the caption?

8 COURT REPORTER: I do, yes. Thank you.

9 THE COURT: Solicitor, what do we have this
10 morning?

11 MR. STONE: Your Honor, we have a couple of motions
12 made by -- first of all, to let you know who is in the
13 courtroom and what the situation is as far as
14 representation is concerned, the first individual is Mr.
15 Tyrone Robinson over here. He is actually a pro se
16 defendant. Mr. Ari Bax has been appointed as stand-by
17 counsel. I believe that is correct.

18 Mr. Roberts Vaux is representing Aaron Young, Jr.

19 THE COURT: All right.

20 MR. STONE: And then, beside Mr. Young, Jr., is Mr.
21 Young, Sr., and he is represented by Robbie Ferguson.

22 THE COURT: All right.

23 MR. STONE: The Youngs have a motion that concerns
24 severance of this trial. Mr. Robinson has a number of

1 motions, but the one that is particularly -- that needs
2 to be heard, obviously, before trial is a motion for the
3 use of the *Castle Doctrine*.

4 We are prepared to go forward on either one of
5 those at this time. Whichever you think is best to go
6 first, we're ready to move on.

7 THE COURT: All right.

8 MR. STONE: Concept in this, we have three co-
9 defendants. Each one of them made statements, and our
10 intention is to try them all together. Thus, the reason
11 for the severance motion. With the proper redactions in
12 accordance with *Bruton*, Mr. Robinson's -- I believe is
13 the only defendant that has made the *Castle* motion
14 *Doctrine*, so that obviously needs to be heard before, as
15 that is a defendant to trial and not at trial.

16 THE COURT: All right. We will deal with the
17 motions to sever first. And Mr. Vaux, Mr. Ferguson, the
18 gentleman is -- are your motions, motions to sever for
19 Mr. Robinson, and/or motions to sever from each other?

20 MR. VAUX: From Mr. Robinson, your Honor.

21 MR. FERGUSON: That's correct on that. Mr. Young,
22 Sr.'s.

23 THE COURT: All right. Who's going to argue that
24 motion for the Youngs?

1 MR. VAUX: We'd both like to speak as to the
2 motion.

3 THE COURT: All right. Mr. Vaux, I'll be glad to
4 hear from you.

5 MR. VAUX: Thank you, your Honor. The facts of the
6 case as charged by the State are that the Youngs were
7 involved in a running gun battle, so to speak, with the
8 defendant, Robinson. It started in the yard adjacent to
9 their house; and then, moved first to Oakview Road; and
10 then, to Allen Road, continuing over some period of time
11 and at different locations.

12 The Youngs each face one count of murder. Mr.
13 Robinson has multiple indictments, including murder.

14 It's alleged that Mr. Robinson was discharging a
15 gun at the Youngs when he fired a shot by killing an
16 eight-year-old child.

17 All the defendants have given a statement, some in
18 writing, some oral. In normal instances, defense would
19 move for a severance on the grounds that each would
20 present antagonistic defenses, and the State would
21 present one or more statements into evidence. And
22 that's sort of the situation here. But in addition to
23 that, it's complicated by the fact that we have two
24 unique situations.

1 One defendant is pro se. And in addition to
2 antagonistic defenses, the defenses are completely
3 different in legal theory. For example, the litany of
4 motions filed by Robinson include a *Castle Doctrine*
5 defense. It would certainly appear that the State
6 relies in part on a transferred intent for the Robinson,
7 and felony murders for the Youngs.

8 In this case, with both antagonistic defenses and a
9 pro se defendant, the jury's going to be easily
10 confused, and with coupled with the defenses that are
11 based on completely different theories, we would
12 respectfully submit to you that the jury will become
13 hopelessly constricted.

14 Finally, add to the mix of the pro se defendant,
15 who innocently or intentionally makes some inappropriate
16 comment, and the odds are just overwhelming that these
17 two defendants would be prejudiced as a matter of law.
18 And I'm not sure that such an instruction, a curable
19 instruction, would, in fact, overcome any kind of
20 prejudice.

21 The statements made by these two defendants would
22 have to be redacted as to each other and as to Mr.
23 Robinson to such an extent it would be confusing at
24 best. We've asked for to see a copy of the proposed

1 redacted statements that they wish to use, and we have
2 not seen those yet. But given the most recent case of
3 *State versus Henson*, filed January 22, 2014, in which
4 the Court cited *State versus Holder*, a 2009, stands for
5 the proposition that a redacted statement violated the
6 confrontation clause, because it was apparent the
7 statement was referring to the appellant, without even
8 considering any other evidence introduced at trial. And
9 arguing somewhat in the dark, your Honor, it's hard to
10 say with specificity how the redacted statement would be
11 prejudicial. But with three statements, you could say,
12 for example, -- and three defendants sitting here, how
13 you're going to play one without inferring something to
14 the other is past my ability to imagine.

15 If a statement comes in from Robinson, then, the
16 jury has to believe that it refers to the two Youngs.
17 There's nobody else that's involved there. If a
18 statement -- and while the confrontation clause is
19 subject to harmless error analysis here, because the
20 defendants are not co-conspirators, and that's huge.
21 That they -- and they were not acting in concert. As a
22 matter of fact, they were acting the opposite of in
23 concert and the opposite of co-conspirators. And the
24 ability -- or the odds of their being prejudiced here is

1 just simply overwhelming.

2 Mr. Ferguson is going to argue some of the more
3 detailed parts of the law.

4 THE COURT: All right. Let me pull up *Henson*. I'm
5 familiar with that. I read it. I realize that I seem
6 to --

7 MR. STONE: I'll hand them up, your Honor. I have
8 some here.

9 THE COURT: All right. Thank you. All right. Mr.
10 Ferguson.

11 MR. FERGUSON: Thank you, your Honor. Now, this
12 motion is in your own sound discretion, as you've been,
13 I guess, been appointed the trial judge of this case.
14 And essentially, your Honor, our motion is to severe,
15 and that is to protect specific trial rights of my
16 client and Mr. Vaux's client, and prevent the jury from
17 making -- or allow the jury to make a reliable judgment
18 as to each individuals guilt, as opposed to the guilt of
19 three as a whole.

20 You know, it does require us to point to a very
21 specific trial right that would be violated if the joint
22 trial would go forward, and not just the confrontation
23 clause and the issues that Mr. Vaux raised. There are
24 also some very specific instances where we would be, I

1 think, prejudiced, or at least our clients would be
2 prejudiced if we were forced to go forward with a three-
3 defendant trial.

4 You know, every defendant in this case has a due
5 process right to a fair trial. You know, we're
6 concerned about imputed responsibility. If the jury
7 finds one of three guilty, then, they'll say, well, more
8 than likely than not, or somehow change the standards to
9 include all three into that calculation.

10 We want the jury to be able to focus on each
11 individual's personal culpability or guilt, and just
12 feel that, that would be extremely difficult if all
13 three were tried together.

14 You know, the judicial economy argument that
15 there's going to be innerconnected evidence; that there
16 -- it doesn't warrant the cost of multiple trials,
17 doesn't really apply here. This is a very high-profile
18 case with serious consequences for everyone involved,
19 and I do think it warrants the extra time and expense to
20 have the separate trials in order to protect these
21 defendants' rights.

22 Logistical minefield, that's kind of what comes to
23 mind when I try to prepare for this case, even starting
24 with jury selection. As a three-defendant case, you

1 know, our clients would not have the ten strikes that
2 they would ordinarily have, but rather, a pro rata
3 share, if tried together.

4 I would have no control over whether another
5 defendant introduced evidence or not. And therefore,
6 could stand to lose my right to last argument without
7 any real ability to change that or to have that be part
8 of my strategy.

9 Certain statements -- and I think this is
10 particularly important -- would become -- would be
11 inadmissible at separate trials, but would be admissible
12 during joint trials, as statements by a defendant. Even
13 if they're redacted to remove any mention of my
14 particular client, they're still going to paint the
15 State's theory, which is that all three individuals
16 should be liable.

17 A co-defendant -- another scenario, your Honor,
18 would be that a co-defendant may object to certain
19 evidence that's beneficial to my client, and may,
20 effectively, suppress, limit, or impeach certain
21 evidence that I personally would not on behalf of my
22 client.

23 The likelihood of a pro se defendant testifying,
24 hard to say, your Honor. I know that we have voluminous

1 pretrial motions that are narrative in nature. You
2 know, we're concerned about the possibility of a
3 mistrial, particularly if we get a fair way into this
4 case, and then, the mistrial's declared, we've already
5 tipped our hand to certain objections and certain trial
6 strategies that, then, the State can adapt to on a
7 subsequent trial. And so, I think we would be
8 prejudiced in that regard.

9 Your Honor, our only goal with this motion is not
10 to frustrate the State's, you know, attempt to move
11 these cases, but to avoid jury confusion, animosity,
12 frustration through repetition or contradiction. I
13 think that these issues raised, your Honor, could be
14 cured by instruction. And your Honor, I'm sure, has
15 faced this situation many times before. And once or
16 twice, I think that's okay, but in the anticipated
17 number of curative instructions that could result in
18 this case, I think makes this atypical.

19 And your Honor, just to finish, you know, it is a
20 transferred intent versus a felony murder. Completely
21 different defenses to different theories of liability
22 that are complex enough on their own for a jury to
23 grasp. I'm not the smartest man in this room, but it
24 took me a while to really, you know, understand the

1 theory of the Youngs' guilt versus Defendant Robinson.
2 And I can only imagine the difficulties the jury's going
3 to have trying to separate those two out in the course
4 of just a week, you know, when I've had months.

5 And so, your Honor, we are asking that the two
6 Youngs be separated or severed from the Defendant
7 Robinson for those reasons, your Honor. Thank you.

8 THE COURT: Is there any question as to who the
9 allegations are against in so far as the fatal shot is
10 concerned?

11 MR. FERGUSON: No, sir, your Honor.

12 THE COURT: And that's Mr. Robinson?

13 MR. FERGUSON: Yes, sir, your Honor.

14 THE COURT: All right.

15 MR. STONE: I don't know that I would go that far,
16 your Honor.

17 THE COURT: Okay.

18 MR. STONE: Here -- I'm sorry.

19 THE COURT: Okay. Tell me what evidence you rely
20 upon in that to make that statement, Mr. Ferguson.

21 MR. FERGUSON: Well, your Honor, the theory of the
22 State's case all along has been that Mr. Robinson fired
23 the fatal shot. That has been backed up by scientific
24 testing. If there is contradictory evidence, I would

1 certainly like to be made aware of that, your Honor.

2 MR. VAUX: And your Honor, if I may add, if you
3 look at the State's memorandum in opposition to the
4 Defendant Robinson's request for immunity, it may not
5 come out and say Mr. Robinson is allegedly the person
6 who shot it, but it certainly implies that he is.

7 THE COURT: Okay. I haven't seen any of those
8 memos yet. I'll be glad to consider them in time.
9 Thank you. All right. Thank you.

10 Now, Mr. Solicitor, I'll be glad to hear from you,
11 sir.

12 MR. STONE: Yes, sir, your Honor. Let me make sure
13 we're clear as far as what the State wishes to do in
14 this matter. You have a -- basically a shootout among
15 three people. An eight-year-old child was caught in the
16 crossfire in the middle of this shootout. We know --
17 what we know is at least one of the Youngs was carrying
18 a .9 millimeter handgun, and that .9 millimeter did not
19 kill the child. We know that.

20 There is, we believe, a revolver in Mr. Robinson's
21 hand. We believe that was the revolver that killed the
22 child. However, we never -- the police never located
23 that firearm. Mr. Robinson previously had alleged that
24 one of the Youngs had a .38. We did not find that. So,

1 basically, the situation -- this is the situation the
2 State's in. Our theory is the felony murder rule, that
3 you have three people committing inherently dangerous
4 felonies, and as a result of those inherently dangerous
5 felonies, a child dies. The actual shooter, so to
6 speak, the one that discharged the fatal bullet, under
7 that scenario, is, while relevant, not controlling. So,
8 that is the position that the State's going under.
9 That's the theory that the State goes under, and that is
10 a consistent theory among all the defendants. That's
11 the -- that is the theory.

12 We're not switching up our theories, depending on
13 which defendant we're talking about. We feel like all
14 three of these people were involved in an inherently
15 dangerous felony, which is a shootout that basically
16 went from the right as you get to Hilton Head, all the
17 way down into Marshland Road, along the Cross Island
18 Expressway. And I don't know if you're familiar with
19 this area, but it involves three neighborhoods in Hilton
20 Head. And this was a shootout that took place first at
21 White Horse Road; and then, at another neighborhood in
22 between; and then, a third at Allen Road area, which is
23 where the child was playing on the trampoline and
24 killed. Our theory is all three of them are culpable

1 under that scenario, and that's the theory we're
2 proceeding for trial. So, I wanted to clarify that as
3 far as who the gunman was and things like that.

4 THE COURT: All right.

5 MR. STONE: The issues as far as whether or not
6 there's some problems with jury selection and things
7 like that, that's inherent in every joint trial. There
8 was nothing that was really offered that is different
9 from any joint trial. The issue before your Honor is
10 whether or not the State can adequately redact those
11 statements --

12 THE COURT: Right.

13 MR. STONE: -- so that you do not get into the
14 problem that they got into in the *Henson* case. I will
15 tell you that I was -- I really wasn't surprised at the
16 outcome of the *Henson* case, because they do two things I
17 think that are wrong. One is, you've got a -- the use
18 of the words guy, him, his is very specific. The other
19 thing is, they tried -- they actually referred to four
20 people involved in the case; three were named; and the
21 other one wasn't. So, it was a little -- that's
22 obvious.

23 I think what is more in line with what I'm talking
24 about, your Honor, is a Court of Appeals case for 2012,

1 *State versus McDonald*. And I'll hand that up to you,
2 and I -- this was a case in which three people were
3 tried as co-defendants. The reference -- all three
4 statements were redacted to use the term *another person*.
5 So, it did two things. Number 1 is, there was no him-
6 or her-type pronoun usage. The second thing is, there
7 wasn't even a limitation as to who else was involved in
8 the case. It simply was this person's statement, and
9 referred to another -- other people. Plus a limiting
10 instruction. And the Court of Appeals said that was --
11 that, that satisfied *Bruton*. They also referred to a
12 Fourth Circuit Court of Appeals case, which actually
13 suggested that way of redaction.

14 I will tell you, my intention, your Honor, is to go
15 further than that. I am going to -- and I apologize for
16 not having all these statements with me. We're still
17 waiting on a court reporter to transcribe, so that I
18 make sure that I'm accurate when I'm doing this. My
19 intention is to redact not even using another person,
20 but to redact from any -- even any reference to another
21 human. In other words, the statements that I intend to
22 introduce refer only to that person that makes the
23 statement, which I think is not only consistent with
24 *Bruton*, but I think it is a more careful approach than

1 the Supreme Court even requires in that matter. That is
2 my intention, and that's how I wish to try the case. I
3 think, in fact, it's very confusing were we to try to
4 try that case under that theory with only one defendant.
5 So, that is the State's position, and I'll be glad to
6 answer any questions you have.

7 THE COURT: Thank you. The concern of the Court,
8 quite frankly, Mr. Vaux and Mr. Ferguson, gentlemen, is
9 it does go to the statements. The other concerns which
10 have been raised, the concern specifically, Mr.
11 Ferguson, about the limitation on jury selection and
12 things of that nature, they have all been addressed
13 adverse to your position, of course, in various
14 appellate and supreme court decisions.

15 The difference in trial strategy, likewise, has
16 been addressed in supreme court decisions and has been
17 held not to be a sufficient basis for severing cases.

18 The main concern for a trial judge is how we deal
19 with the statements. Of course, at this point in time,
20 I've not seen either the unredacted statements or the
21 redacted statements. So, it's somewhere difficult for
22 me to be specific in that regard, other than to say that
23 there are ways to redact. Now, clearly, the redaction
24 takes some of the meaning away, and that's what it's

1 supposed to do, really. It's supposed to take away any
2 reference to anyone else who might be on trial so as to
3 avoid the confrontation problems, but there are ways to
4 get it done.

5 The way to eliminate any reference to anyone else,
6 if the Solicitor's willing to do that, that's a good way
7 to do it. It's the cleanest way to do it. Sometimes
8 solicitors aren't willing to do that, because it seems
9 to fly in the face of, in this case, the felony murder
10 rule, for example, which implies that there are a group
11 of people involved in some ongoing criminal activity
12 leading to the death of another person. But
13 nonetheless, if that's going to be done, it certainly
14 can be done, that would seem to address those concerns
15 that the Court would have.

16 The fact of the -- Mr. Vaux, as you mentioned, the
17 transfer of intent on one hand, as opposed to the felony
18 murder rule on the other. The felony murder rule and
19 transfer of intent are sort of, in this case, sort of
20 handmaidens. They go together. The theory is certainly
21 not going to be that the eight-year-old child was killed
22 intentionally by, or was meant to be killed in this
23 case, but was killed as a result of illegal, reckless,
24 willful, malicious activity on the part of someone else

1 who didn't fired the gun himself, or herself, perhaps.

2 So, I think that those are things that can be dealt
3 with by way of instructions. When we deal with the
4 jury, we don't call things like this is the theory of
5 transfer and intent, ladies and gentlemen, or this is
6 the theory of felony murder. We simply go to the
7 elements that are inherent in these things, if they can
8 be explained.

9 My only -- well, it's not a concern for this
10 moment, in any event. But I will address that with you
11 all at side bar. It has to do with scheduling, quite
12 frankly, more than anything else.

13 So, based on what you have indicated here today, I
14 can't find anything applying the arguments that you have
15 made to the case law as it exists and the facts, limited
16 though I have about this particular case, that would
17 give grounds for a severance. The inconsistent or
18 antagonistic defenses have been addressed in *Hughes*
19 *versus State* case, *State versus Smith*. There are a
20 dozen of those. I can give you the cite if you need it.
21 The difference in culpability, the seating of jurors,
22 the difference in strategy, the relevant, admissible
23 evidence for one on behalf of the other, all of these
24 things have been addressed by the appellate courts as

1 being, in and of themselves, insufficient grounds for a
2 severance.

3 The whole object, obviously, is to present the case
4 to a jury that is understandable and that is fair under
5 the rules to all of the individuals involved. In my
6 view, this can be done.

7 The fact of the judicial economy, Mr. Ferguson, you
8 mentioned that as a reason to oppose those. I agree
9 with you. I don't think that, that, in and of itself,
10 should weigh up against all of the other considerations
11 that they were juggling, but certainly, it is a
12 consideration. Frankly, from the trial judge's
13 perspective, the easiest thing to do, the easiest thing
14 in the world to do is to grant three separate trials.
15 The easiest thing for a trial judge is try three cases,
16 one defendant in each case. Simplify things. It means
17 they're only dealing with one set of lawyers on each
18 side; a single witness is subject to examination by four
19 different people; the length of the trial. When you
20 talk about judicial economy, the length of a trial for a
21 four- -- we've got three -- defendants and the State.
22 When it comes to examination of witnesses, it's the same
23 thing as we've got three different trials. The only
24 questions that are going to be limited, the Solicitor's

1 only going to have them once, but the cross-examination
2 is going to take just as long as it would if we were
3 having three different trials. And so, you know,
4 judicial economy in a single trial is somewhat
5 overblown, quite frankly, which is something of a
6 concern of mine, given my schedule. But nonetheless,
7 that's not the reason. I'm overruling for the reasons
8 that I've mentioned. The motions to sever are
9 respectfully denied.

10 MR. FERGUSON: Thank you, your Honor.

11 MR. VAUX: Thank you, your Honor.

12 THE COURT: Thank you. Now, Mr. Vaux, Mr.
13 Ferguson, gentlemen, are there any additional motions at
14 this time on behalf of Mr. Young, Senior or Junior?

15 MR. VAUX: No, sir.

16 MR. FERGUSON: No, sir.

17 THE COURT: All right. Thank you.

18 THE COURT: Now, I turn to Mr. Robinson's motion
19 under the *Castle Doctrine*. And Mr. Robinson, I'll be
20 glad to hear from you now on your motion for immunity
21 under the *Castle Doctrine*.

22 BEGIN MOTIONS BY DEFENDANT ROBINSON:

23 DEFENDANT ROBINSON: I'm arguing this motion under
24 the immune from criminal prosecution as civil action to

1 *South Carolina Protection of Person and Property Act,*
2 *South Carolina Court of Law, 16-11-440(c) and 16-11-*
3 420(b)(e), and 16-11-440(b)(a). And I just want to cite
4 the laws right quick.

5 Under South Carolina statute 16-11-440(c) it
6 states, and I quote:

7 *A person is not engaged in the unlawful*
8 *activity and who is attacked in another*
9 *place where he has a right to be, including,*
10 *but not limited to his place of business,*
11 *has no duty to retreat, and has the right*
12 *to stand his ground and use force -- with*
13 *force, including deadly force, if he*
14 *reasonably believes it is necessary to*
15 *prevent the commission of a violent crime,*
16 *as defined in Section 16-1-60.*

17 And that's what I'm cited for, with that statute.

18 Under South Carolina Court of Law, Statute 16-1-10:

19 *Per violent crimes for purposes of*
20 *definition under South Carolina law, a*
21 *violent crime includes the offense of murder.*
22 16 through 10.

23 Under South Carolina Statute 16-11-420(e), it
24 states, and I quote:

1 The General Assembly finds that it is
2 proper for law-abiding citizens to protect
3 themselves, their families, and others from
4 intruders and attackers without fear of
5 prosecution or civil action for acting in
6 defense of themselves and others.

7 And that's for 16-11-420, Section (e).

8 The General Assembly finds that no
9 person or victim of crime should be required
10 to surrender his personal safety to a criminal;
11 nor should a person or victim be required
12 to needlessly retreat in the face of
13 intrusion or attack.

14 And for this statute, 16-11-450(b)(a), it states:

15 A person who uses deadly force as
16 permitted by the provision of this article,
17 or another applicable provision of law, is
18 justified in using deadly force and immune
19 from criminal prosecution in civil action
20 or the use of deadly force.

21 And Section (a) states:

22 But the agency may not arrest a
23 person for using deadly force unless
24 probable cause is that the deadly force

1 used was unlawful.

2 And for the case of South Carolina Supreme Court
3 case, the *State versus Demerits Burris*, 513,
4 *Southeastern 2nd*, 104, states that:

5 A motion for immunity from criminal
6 prosecution and civil action must be
7 decided before trial on the charge
8 before trial on the charge. Before the
9 trial begins, a motion for immunity from
10 criminal prosecution and civil action
11 must be determined by a preponderance of
12 the evidence standard.

13 And that's what I'm going to be arguing, based on
14 the preponderance of evidence standard.

15 For the elements of use of deadly force to prevent
16 the commission of a violent crime as defined in Section
17 16-1-60, for that element to satisfy this element, the
18 State of South Carolina, the investigators, Laurel
19 Albertin in this case, in her investigation, at the
20 conclusion of her investigation, she determined, based
21 on a preponderance of the evidence in this case, Aaron
22 Scott Young, Sr. and Aaron Scott Young, Jr., they were -
23 - they got together. They ride together. Came to
24 agreement. After they told me they were going to kill

1 me three times inside the yard, they came together with
2 they guns.

3 One of the guns was a semi-automatic Mac 11 machine
4 gun. Holds 32 rounds in the clip. With a suppressor to
5 silence it so nobody can't hear no shooting it when they
6 go to kill somebody.

7 They -- she -- she -- they convinced her that they
8 were in possession of this gun. And so, at least one of
9 the guns they were in possession of. They -- they
10 confessed that they came to an agreement; came together;
11 went looking for me; conspired to murder me. Came to my
12 neighborhood where I live at; shot up in front of in the
13 presence of small kids up there, in the process of
14 trying to kill me, because Kahalil Singleton was shot
15 and killed.

16 Now, I'm going to go through -- through these
17 events, because the State of South Carolina, some things
18 we do agree with, some things we don't agree with.
19 Because it's a lot more to this right here than they
20 know I'm saying, so.

21 Now, I did go to they neighborhood the date the
22 Kahalil Singleton was shot and killed. I had Jontu
23 Singleton with me and he --

24 THE COURT: You had who with you?

1 DEFENDANT ROBINSON: I had Jontu Singleton along
2 with me.

3 THE COURT: Okay.

4 DEFENDANT ROBINSON: And he asked me to take him to
5 their neighborhood. So, first, I took him to the store.
6 We bought -- we bought some 40 ounces of beer. I was
7 celebrating my birthday. This was the day after my
8 birthday. I went to their neighborhood because he asked
9 me to take him there.

10 Now, he did ask me to take him there for reasons
11 that he acted he wanted to buy some drugs or whatnot.
12 But when he got there, he switched it up, and he never
13 asked them for drugs. What he asked them for -- what he
14 asked them for money to go buy some more beer. So, he
15 -- so -- so, drugs were never involved in this.

16 He -- he -- he -- he has a DVD recorder that I
17 wanted to play his DVD recorder that I wanted to play
18 this DVD recorder for you. I asked my sister to have
19 the technology with the adapter and the video screen to
20 play these video recorders for you of these witnesses'
21 interviews, so that you could see for yourself exactly
22 what was said, instead of just taking my word, cause, I,
23 you know.

24 THE COURT: Mr. Robinson, let me ask you a couple

1 of questions to see whether those statements would be
2 relevant or not. Now, you say these folks came to your
3 neighborhood and started this gun fight. Is that what
4 you're saying?

5 DEFENDANT ROBINSON: I'm about to explain the whole
6 thing now to you now.

7 THE COURT: Okay. If you'll explain it to me in
8 the order in which it happened, it will make it a lot
9 easier for me to understand.

10 DEFENDANT ROBINSON: That's what I was trying -- I
11 was getting to.

12 THE COURT: Okay.

13 DEFENDANT ROBINSON: All right. Well, I went --
14 went to their neighborhood. Jontu gets out the car. He
15 goes talk to Aaron, Sr. Now, Aaron, Sr., prior to this,
16 I saw him at the gas station. Me and him shook hands,
17 because he -- we did have some more -- some little
18 arguments, little drama going on. We shook hands at the
19 gas station, laughed with each other, and he said that,
20 that situation was Gucci. Now, that's a slang term.
21 When somebody says Gucci, that means that -- that --
22 that's over with, and we back friends now, we cool, we
23 don't have any problems.

24 Okay. Now, about a week later or so, I went -- I

1 went back to his house. Took Jontu to his house, Jontu
2 gets out of the car; goes to talk to Aaron, Sr.; Aaron,
3 Sr. sees me in the car; starts yelling, cursing up,
4 acting crazy for no reason at all, because his
5 girlfriend is out there, and I guess he trying to play
6 big -- big -- big in the front of his girlfriend or his
7 son or whatever. He starts acting all crazy, telling me
8 to get out of his yard. I tell him I'm leaving, please
9 just let me get out of his yard; just hold up.

10 I'm yelling for Jontu to get back in the car.
11 Jontu sitting there acting like he just went out to
12 space somewhere and he don't know what going on. But
13 Jontu grew up with Aaron, Sr. and Aaron, Jr., so they
14 are home boys. So, I realize the situation done flipped
15 on me. I'm the only person from another neighborhood in
16 they neighborhood, so they all against me now.

17 So, I decide to leave out of they neighborhood.
18 Aaron, Sr. approached my car, tried to snatch me out of
19 my car that I'm riding in to -- to -- and I guess he was
20 figuring if he snatch me out of the car, his son will or
21 whoever, it was another dude with dreads or whatever, he
22 was out there. They were going to blitz me. There was
23 no doubt about that.

24 So, we -- we -- that little confrontation takes --

1 takes off. Aaron, Sr. telling me:

2 *I'm going to kill you; I'm going to*
3 *kill you; I'm going to kill you; I got*
4 *something for your ass.*

5 He goes in the house; comes out of the house; a gun
6 so big, he look like he pregnant. Comes out of the
7 house and gets in my car. I back out of -- out of his
8 yard. I start backing out of his yard. This is the gun
9 right here. One of the guns that he goes and get for
10 me.

11 THE COURT: All right.

12 DEFENDANT ROBINSON: Now, I'm by myself against 32
13 rounds of Mac 11 machine gun and a yard full of people.
14 He gets that gun right there. As I'm riding down the
15 road, he shoots at me in my car to try to shoot and
16 murder me. Shoot his own grandmama house as I'm riding
17 down the road. This is a picture of her -- the bullet
18 hole from Old Wild Horse Road.

19 COURT REPORTER: From what road?

20 DEFENDANT ROBINSON: ■ Old Wild Horse Road, where
21 I'm riding down going towards 270 -- 278. Those bullet
22 holes in that, I'm in the car, running, fleeing from
23 him, trying not to be shot and killed. He's shooting at
24 me. Trying to shoot, kill, and murder me, while I'm

1 riding.

2 I flee to Oakview Road to hide from him, to hide
3 from this obligation of what's taking place and what's
4 going on. Aaron, Sr. and his son, they get together;
5 they go get they guns; they decide that they going to
6 come look for me; they going human hunting. And I'm a
7 human they hunting.

8 So, they come hunting for me to shoot, kill, and
9 murder me. I'm hiding from them on Oakview Road. They
10 -- they -- they go to my uncle house. One of them got
11 that gun right there. Aaron, Jr. confessed to having
12 that gun right there. Asked my uncle where I'm at. Got
13 my uncle scared to death. Pulled that gun out; showed
14 that gun to my uncle. My uncle ain't got no -- he don't
15 know what's going on. He just at his house, and they
16 asking him where I'm at with that gun right there. He
17 tell them he don't know where I'm at. He don't know
18 where I'm at.

19 So, they -- they left -- they leave my uncle house;
20 they go down Oakview Road. Now, I'm -- I'm -- now, I
21 know they looking for me, hunting for to try to shoot,
22 kill, and murder me. I'm trying to avoid the
23 obligation. At the same time, I'm trying to -- I'm
24 trying to get off Hilton Head Island, because I know, if

1 they catch me, I -- I -- I'm going to the morgue.

2 They come. I -- I'm leaving off of Oakview Road.

3 They come on Oakview Road. I see the truck. The truck
4 in the left lane. I'm in the right lane. As they
5 coming past -- coming past me, Aaron, Jr. -- Aaron, Sr.,
6 driving -- Aaron, Jr. lean out the window, half of his
7 body lean out the window like this. His father holding
8 his leg while his leg on his left leg this right here so
9 he can't fall out the truck. So, when he shoot the gun,
10 the gun powder go over here, and -- and -- and one get
11 on the truck so they won't get caught for this murder
12 they try to commit.

13 He shoot up my car while I'm in the car. Shoot at
14 my head. Head level shots in the car. Hit the back
15 driver with the headrest. Shoot in the trunk. These
16 are pictures of the bullet holes from the car and the
17 headrest that they shoot in the car while I'm -- while
18 I'm in the car.

19 I take off and free out of the road of them,
20 because I see that they ain't going to quit. They keep
21 -- they just ride around hunting for me. This is --
22 this is a expedition of hunting, and they hunting for
23 me. I'm the human they hunting for.

24 After they -- they shoot at my car. They don't

1 know if they hit me or not, I guess, so they go back to
2 Wild Horse, ■ Wild Horse Road. I guess they scared
3 now, but they don't have nothing. So, they unsatisfied,
4 so while they go back, they must be drinking beer or
5 smoking spam or whatever, go take a shower, whatever.
6 They get back in they truck again for the second time.
7 They confessed to the investigator were out there. I
8 got the DVD right here if you want to -- if you want to
9 review it, the DVDs. He confessed to Sergeant Albertin
10 that he pulled the gun out, tried to shoot me and --

11 THE COURT: When you say *he*, which one are you
12 talking about?

13 DEFENDANT ROBINSON: Aaron, Jr.

14 THE COURT: Okay.

15 DEFENDANT ROBINSON: He told them -- he told them,
16 said, if -- if the gun wouldn't a jammed, it was
17 supposed to go down on Oakview Road. If the -- if the
18 -- if the gun wouldn't a jammed, it would have went
19 down, nobody would a known nothing. It would have been
20 a clean get-a-way. And he ain't talking about giving me
21 no Christmas present, no birthday present, or nothing.
22 He talking about killing me. He would have killed me,
23 shoot and kill me. Nobody was on Oakview Road when they
24 would have did it, and nobody would a seen anything. It

1 just be me dead, and they would a got away with it. He
2 confessed to that.

3 So, he goes back home. He confessed that they went
4 -- both of them confessed that, after they saw me on
5 Oakview Road, they went back to they house on ■ Old
6 Wild Horse Road. Both of them confessed to that.

7 After they leave, after they decide and they
8 weren't satisfied, they come left they residence. I'm
9 hiding in my neighborhood. I hide my car behind my
10 family house on -- on Old Allen Road. I walk over to my
11 other cousin Charlese' house. I go call my other cousin
12 Patrick, and let them know somebody trying to -- trying
13 to chase me down. I think I said about AR-15 or some
14 kind of big gun, because when I look out the window and
15 seen him with the gun shooting in my car, the clip on
16 the gun this long right here, when I seen the clip like
17 that, I knew it was some kind of machine gun, you know.

18 So, I go to Charlese' house. I'm talk -- I talked
19 to Patrick; I talked to Charlese. I told -- I tell them
20 they somebody's trying to kill me; that I -- I'm hiding
21 from somebody; somebody trying to kill me. Charlese'
22 boyfriend were up in the yard. I asked him if he seen
23 the truck. He said he seen the truck speeding and all
24 this right here. I'm standing in the yard. These two

1 here come back, in my neighborhood I'm at.

2 THE COURT: Okay. If you'll stay back over there.

3 DEFENDANT ROBINSON: They come back in the

4 neighborhood shooting again, and start shooting up.

5 They start shooting up in the neighborhood. They got a

6 cloud of smoke so big over the truck, it look like a

7 cloud come down from heaven and sitting over the truck.

8 So, my -- and that's gun smoke coming from they -- from

9 they truck. That's how much gun -- gun -- gun smoke

10 they got going on inside -- inside the neighborhood.

11 Then they come shooting up trying to shoot, kill,

12 and murder me in my neighborhood again, I hide behind

13 the house. I got two, forty-ounce bottle of beer. They

14 try to shoot, kill, and murder me. They done shoot up

15 my car. I go behind this trailer. I walk in the woods,

16 because I'm trying -- I'm trying not to get shot by --

17 by these right here. I walk in the woods over here

18 behind about -- by ■■■ Allen Road where they say this --

19 where they say Kahalil -- well, it's across from where

20 Kahalil got shot. He didn't get shoot at ■■■ Allen

21 Road. It's another road over by Marshland Road. But I

22 walk behind there with two, forty-ounce bottles of beer

23 in my hand, and -- and I'm hiding, trying to hide to be

24 avoid -- avoid from getting shot and killed.

1 Now, at the time, I'm walking behind there, Britney
2 seen me walking. She said she looked to see if I was
3 shooting a gun. At the time, she see Kahalil sitting
4 there fallen, he was shot to shot and killed. She say
5 the only thing she saw me doing was toting two, forty-
6 ounce bottles of beer in my hand. I was walking.

7 Aaron, Sr., you know, they -- they shot up -- they
8 shot up around there like crazy, man, and all that. And
9 they ride up.

10 Now, they confess that they came to my neighborhood
11 to try to shoot, kill, and murder me. After they came
12 to my neighborhood shot -- try to shoot, kill, and
13 murder me, after they confessed to this, they also
14 confessed that, when they left out, they told Sergeant
15 Albertin that Aaron, Jr. said he told his father to go
16 back and shoot some more. So, they -- the conspiracy to
17 murder me wasn't even over after Kahalil Singleton was
18 dead. After they left out, they still was tried to
19 murder me, still had intentions to shoot, kill, and
20 murder me. After he say and he wanted to come back and
21 they went home, I went and called the police, because I
22 heard somebody say somebody got shot. But I had to
23 leave the neighborhood, because everywhere I go,
24 everywhere I go, these two were popping up shooting at

1 me the whole day on the Island. They ain't got one -- I
2 ain't be shooting at them no time. I been running from
3 them trying to get off the Island.

4 They behind me now, shooting at me. My car full of
5 bullet holes. Every time they see me, they be shooting
6 at me. I got bullet holes from the side; they shoot on
7 Allen Road. Bullet holes from the back. They shoot on
8 Allen Road. And bullet holes from the right-hand side
9 that he shoot in my -- in the right side when I be
10 leaving his house. So, that's just three incidents
11 already they tried to shoot, kill, and murder me. I
12 ain't shoot at them none.

13 I got him confessing that he lied to the police.
14 Both of them lied to the police that I came to his
15 house, point a -- a .38 at them, shoot at them. Try to
16 shoot, kill, and murder them. They own video camera at
17 the police station saying to each other, but he ain't
18 tried to shoot you. Oh, I know he -- he -- he ain't
19 shoot at me; he tried to hit me and shoot at the ground
20 or something like that he said. So, they lied about me
21 so I would a false charge, because of they lie, and I'm
22 charged with pointing and presenting a firearm, because
23 the investigators know I'm saying I'm going to they
24 house pointing a gun at both of them to try to shoot,

1 kill, and murder them. And they both confessed that I
2 ain't never did it, after they lied to the police and
3 say they did it. So, they done committed perjury.

4 THE COURT: Mr. Robinson, what I'm trying to figure
5 out, and I can appreciate the fact that you and the
6 Youngs obviously had a lot going on against each other,
7 and you say the evidence here is that somebody was
8 shooting at your car everywhere you went. I'm trying to
9 figure out how the facts that you just laid out to me
10 fit within the *Castle Doctrine*, because as you've cited
11 parts of the *Castle Doctrine*, but you have to take the
12 whole meaning of the *Castle Doctrine* in and of itself.

13 It starts out with saying:

14 *It is the intent of the General Assembly*
15 *to codify the common law that recognizes*
16 *that a person's home is his castle. And so,*
17 *it then is proper for law-abiding citizens*
18 *to protect themselves and their families*
19 *and others from intruders --*

20 That means people that try to break in on them.

21 *-- and attackers without fear of*
22 *prosecution when they act in defense of*
23 *themselves and others.*

24 So, it goes on to say that:

1 A person is entitled to immunity
2 if the person who is actually harmed
3 is entering or attempting to enter your
4 home or your dwelling or your occupied
5 vehicle.

6 That means to enter your home with the intent to
7 commit a crime, as defined in the law.

8 Now, I'm not sure, in this instance, whether that
9 means, frankly, whether it means just shooting at
10 somebody in your car or not. And it might well. But
11 I'm not sure that, that was the intent of it. You raise
12 an interesting question about that.

13 Had the shooting in question occurred while you
14 were in your automobile, riding down the road, they were
15 shooting at you, and you maybe shoot back at them, and
16 somebody was injured, that would be a slightly different
17 question and slightly different factual scenario than
18 what we have now.

19 My understanding is, and I'm going to ask the
20 Solicitor to confirm the facts of this in a minute when
21 I hear from him, is that the fatal shot occurred
22 somewhere in your neighborhood. And you say you didn't
23 even know that anybody had been shot until after it
24 happened. But apparently, that exchange of gunfire

1 occurred as you were running, in your words, into the
2 woods back there to try to get away. Is that about
3 right? Is that you're understanding of when the actual
4 -- when the child was actually shot?

5 DEFENDANT ROBINSON: I don't know where he was
6 shot, to be honest with you.

7 THE COURT: All right. Okay. But you understand
8 that the *Castle Doctrine* is designed to protect people
9 in their homes or in their vehicles from somebody trying
10 to break in.

11 DEFENDANT ROBINSON: Well, my understand was it was
12 also designed to protect people in a place where they
13 had a right to be.

14 THE COURT: Well, that's self-defense. That's a
15 part of it. But it does not -- when you read the law in
16 its entirety, it is designed to give protection to those
17 folks who are protecting themselves in their home or in
18 their vehicle. And I'm not sure whether that's applies
19 to you or not, but. And you're not either, because you
20 said you don't know when that child was actually killed,
21 so.

22 Let me ask the Solicitor to tell me some more about
23 the facts of this case and hear his side. I'm going to
24 come back to you, and you get the last word, because

1 it's your motion. Okay?

2 DEFENDANT ROBINSON: argue

3 THE COURT: All right. Thank you. You can have a
4 seat. Mr. Stone.

5 MR. STONE: Yes, sir. Thank you, your Honor.
6 Trying to analyze this with not only what Mr. Robinson
7 just told you, but also, his affidavit, which is a part
8 of his motion, I do not know of any case that talks
9 about the *Castle Doctrine* that would give that
10 protection to someone who did not use deadly force. And
11 the concern we have from the very beginning is that Mr.
12 Robinson never has said that he used deadly force.

13 So, when you talk about the *Castle Doctrine*,
14 initially, you have to say that someone has a right to
15 the defense of the *Castle Doctrine*, if, as the statute
16 says, a person uses deadly force.

17 THE COURT: Right.

18 MR. STONE: Mr. Robinson, in his affidavit and to
19 you just a few moments ago, denied ever using deadly
20 force. So, I don't know how we even get to the *Castle*
21 *Doctrine* to begin with.

22 The next concern I would have after that is what
23 your Honor was discussing; is this in this dwelling; is
24 it even in the curtilage of his dwelling? It is his

1 neighborhood. And I just take that for him putting it
2 in the record. I will accept that, as it is his
3 neighborhood. However, the residence is of a man named,
4 Garcia. The child was killed at 30 -- let me get that
5 exact address. I'm not sure how I lost that, the
6 address. It's [REDACTED] Marshland Road. That is the address
7 of Mr. Garcia. It's not Mr. -- it's not Mr. Robinson's
8 address. So, the shooting, the place, did not happen in
9 his dwelling, in his car, or even in the curtilage of
10 his residence.

11 The next point, then, if you even get past that, is
12 going to be whether or not the stand-your-ground would
13 actually apply as a separate argument. And the problem
14 with stand-your-ground is, you have two issues with
15 that. One is, that has to be something that -- and I
16 think the *Curry* case outlines this, a relatively recent
17 South Carolina Supreme Court case outlines that, that
18 has to be without you bringing on the fault. We already
19 have what he tells police officers at the scene, and we
20 have that as a recording: *I was in a shootout earlier.*

21 So, I don't believe that he could claim that.

22 But then, at the ultimate of all of this, the
23 person that was killed was an eight-year-old, unarmed
24 child. For the *Castle Doctrine* to apply, Mr. Robinson

1 has to be afraid for his life from an eight-year-old,
2 unarmed child. And I do not believe that there's
3 anything in his motion, nor has he told you today, that
4 he was in somehow fear of his life from Kahalil
5 Singleton. And that would be the final argument that I
6 think he would have to make in order for the *Castle*
7 *Doctrine* to apply.

8 THE COURT: All right. Thank you. All right. Mr.
9 Robinson, now I come back to you. I told you I'd give
10 you the last word. It's your motion.

11 DEFENDANT ROBINSON: My understanding of the *Castle*
12 *Doctrine* is, if a person is in the process and
13 commission of committing a violent crime against a
14 person, a reasonable person in that present position
15 would have the right to use deadly force to prevent the
16 commission of a violent crime from being committed
17 against him. As -- as defined and stated in -- by the
18 *Castle Doctrine*. Then that person would be immune to
19 criminal prosecution and civil prosecution from any use
20 of deadly force they would had the right to use.

21 Now, the State of South Carolina alleges that I
22 shot and killed the Kahalil Singleton. What they said
23 was, they said that Aaron, Sr., Aaron, Jr. left from
24 Allen Road. They said I shot towards the truck and

1 towards the Kahalil -- that's what the police reports
2 say. I have the police report if you want to review it.
3 The police report charging me with shooting to kill the
4 Kahalil Singleton by shooting towards the truck and
5 shooting towards killing Kahalil Singleton. And they
6 say a bullet killed Kahalil Singleton while I was
7 shooting towards Aaron, Sr. and Aaron, Jr.

8 Now, I don't know how they came up with that
- 9 scenario, because I did not shoot and kill Kahalil
10 Singleton. The forensic evidence they say they had,
11 that proves that I did not shoot kill Kahalil Singleton
12 or whatever. The bullet, in no way possible I could
13 have even possibly killed Kahalil Singleton.

14 However, at the time --

15 THE COURT: Let me just address that point before
16 we leave it, because that's an important point, and I'm
17 going to talk about that before you leave and get to
18 another point.

19 If, in fact, they have no evidence that says that
20 you fired the fatal shot, then that's a different
21 matter. That raises a different defense. That doesn't
22 raise the *Castle Doctrine*, because the *Castle Doctrine*,
23 is available when a person uses deadly force to prevent
24 somebody else, in certain circumstances, from harming

1 them. And it applies if a person against whom the
2 deadly force was used.

3 In this case, the deadly force was used against the
4 eight-year-old victim. That's what we're talking about
5 in this particular case. And so, the *Castle Doctrine*
6 would not apply in that particular case, because you did
7 not -- even if they can prove that you were involved in
8 the shooting or some theory would make you liable under
9 the shooting, whether you did it or not, or whether it
10 was just a felony murder, you all out just shooting at
11 each other and the stray bullet hits this person over
12 here, and everybody's equally responsible for it, under
13 any theory.

14 The *Castle Doctrine* does not apply unless you're
15 using it to protect yourself by using deadly force
16 against someone who's bringing deadly force to bear
17 against you, either in your home or your car or
18 wherever, or under the stand-your-ground defense,
19 perhaps, in another situation.

20 That's not what I understand we have here, because
21 what we have here is something different from somebody
22 trying to break into your car or into your home or into
23 your porch or whatever it happens to be, and causing you
24 harm and you shoot them or hurt them or kill them, as

1 the case might be. That gives you immunity from
2 prosecution.

3 Now, just because you don't get the *Castle Doctrine*
4 immunity, doesn't mean that you can't raise defenses in
5 the trial of this case. But it means that you still
6 have to answer for those charges before a jury. You're
7 not protected from going to trial. You've got the same
8 rights that everybody else does in a trial to tell a
9 jury that everything that you've told me here today, and
10 see if the jury, then, will believe that you're without
11 fault and then they start bringing around, coming
12 around, and that you did everything that you did to
13 protect yourself from a prolonged attack by this father
14 and son, who, as you say, were following you all over
15 Hilton Head, trying to kill you in different places on
16 the Island.

17 That scenario that you've laid out here today is
18 different from the *Castle Doctrine*. You understand the
19 distinction between the *Castle Doctrine*, which says you
20 cannot be tried in these cases, and other defenses which
21 say you can be tried or must be tried, but you have the
22 right to raise these issues as defenses. That's where
23 you find yourself with what you've explained to me
24 today.

1 I find that you're not entitled to the *Castle*
2 *Doctrine*. You've made a good record for this. And if
3 you lose at trial, you can appeal on that particular
4 issue, among others, if you have to do it. But for
5 today, I find that the *Castle Doctrine* does not apply to
6 you for those reasons I've just mentioned. Thank you.

7 I'm going to give you this stuff back. You need to
8 keep -- hang onto this.

9 All right. Are there any other motions that we
10 need to deal with today?

11 MR. STONE: I do not believe so, your Honor.

12 DEFENDANT ROBINSON: I do have some motions.

13 THE COURT: Okay. Tell me what it is, Mr.
14 Robinson, and I'll decide whether we have to hear it
15 today or whether it can wait.

16 DEFENDANT ROBINSON: Well, I had some motions to
17 dismiss for insufficient evidence.

18 THE COURT: Okay. The time to do that is after the
19 State has placed its case as evidence before yours. I
20 don't know what the evidence is yet, so I'm not in a
21 position to rule on that. That would come at a directed
22 verdict stage, after the State has put in its evidence,
23 and then I would rule as to whether or not they've got
24 enough evidence against you to send that case forward.

1 DEFENDANT ROBINSON: Okay. I had another motion
2 dealing with *South Carolina Statute 17-23-90* for dealing
3 a speedy trial motion.

4 THE COURT: Have you made a speedy trial motion?

5 DEFENDANT ROBINSON: I submitted a writ of habeas
6 corpus to you, but I don't know if you ever got it or
7 received it or not.

8 THE COURT: I haven't received any motions. They
9 might be in the court file somewhere, but I don't have
10 anything. It might be very well in the court file, but,
11 no, I haven't received those or acted on those. But and
12 I'm not sure whether the State's prepared to go today
13 forward on arguing that motion. I'll be glad to hear
14 it.

15 MR. STONE: We're not, but I think we solved the
16 problem, your Honor, by, once we determine the
17 schedules, I think everyone recognizes that we are
18 prepared to go forward at the next available court term
19 that your Honor would be available.

20 THE COURT: Okay. That's true. This case is set
21 for the next available court term, Mr. Robinson, and
22 that would address your habeas and your speedy trial
23 motions.

24 DEFENDANT ROBINSON: Well, I -- okay. I, just for

1 the record, I just want it on record that I do request
2 for a speedy trial under *South Carolina Statute 17-23-90*
3 by the second term of court and as -- as -- as it is
4 written in that statute, because this case, I was -- I
5 requested like -- I filed like five or six motions for a
6 speedy trial so far, and it been going on over a year,
7 and they just was ignoring my motions, violating my
8 speedy trial, so I just want that on court record that I
9 was -- I request for that.

10 THE COURT: I'll note that.

11 DEFENDANT ROBINSON: Okay.

12 THE COURT: The record will reflect that.

13 DEFENDANT ROBINSON: Thank you.

14 THE COURT: Thank you, Mr. Robinson. All right.

15 Gentlemen, -- and I'm going to let Mr. Robinson go
16 on.

17 I'm concerned that you know my schedule. In
18 retirement, I work one week a month. I work the whole
19 week. I even work on Fridays. I consider that a work
20 day. When you only work one week a month, you can work
21 five days a week. And I just want to be sure that, when
22 I get back in April, that we can finish that in one
23 week. Because the following week, the following Monday,
24 I am scheduled to be in Greenville to hear a week-long

1 arbitration that's been scheduled now for about nine
2 months, involving people from in and out of the country.
3 And I'm going to have to be available to be there. I
4 can't, you know. So, but I'm here. I'll come early.
5 I'll work late. You know, whatever you all need to do.
6 I just want to make sure that everybody understands that
7 I'm here for a week.

8 MR. STONE: Yes, sir.

9 THE COURT: Okay? All right. Thank you. Anything
10 further, then, in this matter before we go for the day?

11 MR. VAUX: No, sir.

12 MR. STONE: Not from the State, your Honor.

13 THE COURT: Thank you.

14 END PROCEEDING 10:15 A.M.

CERTIFICATE OF REPORTER

FEBRUARY 27, 2014 TRANSCRIPT OF HEARING

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

I, Wanda H. Rowe, CVR-CM, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing February 27, 2014 Transcript of Hearing is a true, accurate, and complete record of the proceedings had on said date in the case of State of South Carolina versus Tyrone Robinson, et al, Beaufort County, South Carolina, Court of General Sessions, Case Numbers 2012-GS-07-01935, 2012-GS-07-01932, and 2012-GS-07-02173; that no exhibits were admitted.

I further certify that I am of neither kin, counsel, or interest to any party hereto.

THIS CERTIFICATE OF REPORTER CONTAINS MY ORIGINAL SIGNATURE AND IS ATTACHED TO THE ORIGINAL TRANSCRIPT REQUESTED BY SCCID. PURSUANT TO SCACR 607, REQUESTS FOR COPIES OF THIS TRANSCRIPT MUST BE MADE TO THE COURT REPORTER. UNAUTHORIZED COPYING/EMAILING IS PROHIBITED.

Witness my signature July 9, 2016.



Wanda H. Rowe, CVR-CM
Official Court Reporter

1 In the Court of Common Pleas for the
2 State of South Carolina, County of Beaufort

3

4 Indictment Nos.:

5 2012-GS-07-1935

6 2012-GS-07-1932

7 2012-GS-07-2173

8

9 State of South Carolina,

10 Plaintiff,

11 vs. Transcript of Record

12 Tyrone Robinson,

13 Aaron Young, Jr.,

14 Aaron Young, Sr.,

15 Defendants.

16

17

18

19

20

21 April 21-23, 2014

22 Beaufort, South Carolina

23

24

25

BEFORE: The Honorable Thomas W. Cooper

APPEARANCE PAGE

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JURY SELECTION

1 APRIL 21, 2014 PROCEEDINGS

2 MR. STONE: May it please the Court. Your
3 Honor, we call Indictment 2012GS0702173 charging
4 Aaron Young Senior with the offense of murder.
5 Indictment 2012GS0701935 charging Tyrone Robinson
6 with the offense of murder. And 2012GS0701932
7 charging Aaron Scott Young Junior with the offense
8 of murder. I'll hand these three indictments up
9 to you, Your Honor.

10 THE COURT: Please. Thank you.

11 Ladies and gentlemen, as you have heard, the
12 State has called the case of the State versus
13 Tyrone Robinson, Aaron Young Senior, and Aaron
14 Young Junior. In the indictment against Aaron
15 Young Senior he is charged in Beaufort County on
16 or about September the 1st, 2012. While engaged
17 in an ongoing gun battle, an inherently dangerous
18 felony, Aaron Scott Young Senior did willfully,
19 unlawfully and with malice aforethought cause the
20 victim, Khalil S. , to be shot and killed in
21 the area of Marshland Drive and Allen Road on
22 Hilton Head Island, South Carolina. And that
23 Khalil S. died in Beaufort County, as a
24 proximate result, on September the 1st, 2012 in
25 violation of the law.

JURY SELECTION

1 The indictment charging Aaron Scott Junior
2 with murder reads the same. And it says that in
3 Beaufort County on or about September the 1st,
4 2012, while engaged in an ongoing gun battle, an
5 inherently dangerous felony, Aaron Scott Young
6 Junior did willfully, unlawfully and with malice
7 aforethought cause the victim, Khalil S. ,
8 to be shot and killed in the area of Marshland
9 Drive and Allen Road on Hilton Head Island, South
10 Carolina. And that Khalil S. died in
11 Beaufort County as a proximate result thereof on
12 September the 1st, 2012, in violation of the law.

13 And the indictment against Tyrone Robinson
14 also charges that in Beaufort County on or about
15 September the 1st, 2012, while engaged in an
16 ongoing gun battle, an inherently dangerous
17 felony, Tyrone Robinson did willfully, unlawfully
18 and with malice aforethought cause the victim,
19 Khalil S. , to be shot and killed in the
20 area of Marshland Drive and Allen Road, Hilton
21 Head Island, South Carolina. And that Khalil
22 S. did die in Beaufort County as a
23 proximate result thereof on September the 1st,
24 2012 in violation of the law.

25 Now, ladies and gentlemen, the indictments

JURY SELECTION

1 which I have just read to you are not evidence.
2 They are not proof of the crimes charged. They
3 are charging documents, legal documents to tell
4 you or me or anybody who reads them what this case
5 is all about. The charges contained in these
6 indictments, Mr. Robinson and Mr. Young Senior and
7 MR. Young Junior have all entered a plea of not
8 guilty and requested a jury trial at your hands.

9 Mr. Robinson, can I get you to stand please
10 and face the jury behind you?

11 (Defendant complies.)

12 THE COURT: Thank you. You can be seated.
13 Ladies and gentlemen, I need to know if any of you
14 all are kin to Mr. Tyrone Robinson, if you are
15 related to him by blood or marriage? If so,
16 please stand.

17 Now, I need to know if any of you are a
18 friend of Mr. Tyrone Robinson or casual
19 acquaintance or business associate or a person who
20 has any direct or indirect contact with
21 Mr. Robinson? If so, please stand. Thank you.

22 Mr. Aaron Young Senior, could I please get
23 you to stand and face the jurors.

24 (Defendant complies.)

25 THE COURT: Thank you. You can be seated.

JURY SELECTION

1 Ladies and gentlemen, I need to know if any of you
2 out there are related by blood or connected by
3 marriage to Mr. Aaron Young Senior; are you kin to
4 him by blood or marriage? If so, please stand.

5 THE COURT: Yes, ma'am. Your name again
6 please?

7 THE JUROR: Sharon White.

8 THE COURT: Sharon White. Your number?

9 THE JUROR: 478.

10 THE COURT: 478. And what is the
11 relationship, Ms. White?

12 THE JUROR: Marriage.

13 THE COURT: You are related to them by
14 marriage? Your husband is related to them?

15 THE JUROR: My husband.

16 THE COURT: What is that relation; do you
17 know exactly what it is?

18 THE JUROR: I think. I don't know, nephew.
19 He is cousins to --

20 THE COURT: Cousins?

21 THE JUROR: Yes.

22 THE COURT: All right. First cousin or more
23 distant cousin?

24 THE JUROR: I'm not sure. Cousin, first,
25 second.

JURY SELECTION

1 THE COURT: All right. Would that
2 relationship that you have just described to me,
3 Ms. White, make it difficult for you to be fair
4 and impartial in the trial of the case regarding
5 Mr. Young?

6 THE JUROR: No.

7 THE COURT: Could you set that aside and
8 decide this case based on the evidence you hear in
9 court without regard to that?

10 THE JUROR: Yes.

11 THE COURT: Could you do that?

12 THE JUROR: Yes.

13 THE COURT: I take it that the same
14 relationship applies to Junior?

15 THE JUROR: Yes.

16 THE COURT: Could you set that aside and
17 decide this case based on the evidence that you
18 hear in court?

19 THE JUROR: Yes.

20 THE COURT: Would you do that?

21 THE JUROR: Yes.

22 THE COURT: Ms. White, one more thing. Do
23 you visit in the homes of Mr. Young Senior or
24 Junior?

25 THE JUROR: No.

JURY SELECTION

1 THE COURT: Do you have any contact with them
2 that you are aware of?

3 THE JUROR: No.

4 THE COURT: Do you even know, personally,
5 where they live?

6 THE JUROR: No, not to that.

7 THE COURT: All right. Okay. I take it that
8 your association is just what you have described
9 to me, you have no other friendship or business
10 associate or casual relationship with them; is
11 that fair to say?

12 THE JUROR: Yes.

13 THE COURT: Thank you, Ms. White.

14 THE COURT: Now, I need to know if you are
15 friends with Aaron Young Senior, are you a casual
16 acquaintance, or business acquaintance, or social
17 acquaintance, or a person who has any direct or
18 indirect contact with Mr. Aaron Young Senior. If
19 so, please stand. Thank you.

20 Aaron Young Junior, if I could get you to
21 stand and face the jurors.

22 (Defendant complies.)

23 THE COURT: Thank you. You can be seated.
24 Ladies and gentlemen, I need to know, are you
25 related by blood or marriage or are you kin to

JURY SELECTION

1 Aaron Young Junior. You don't need to stand
2 again. Anyone else other than Ms. White related
3 by blood or marriage to Mr. Aaron Young Junior?
4 Friends with him, business associates, casual
5 acquaintance, social acquaintance, or people who
6 have direct or indirect contact with Mr. Aaron
7 Young Junior? If so, please stand. Thank you.

8 Ladies and gentlemen, the victim named in the
9 indictments is Khalil S. . Mr. S.
10 was eight years old?

11 MR. STONE: Yes.

12 THE COURT: Mr. S. was eight years old
13 at the time of his death on September the 1st,
14 2012.

15 I need to know if any of you all have any
16 connection with Mr. S. , Khalil S. .
17 Are you kin to him? Related to him by blood or
18 marriage? If so, please stand.

19 Are any of you friends of his, social
20 acquaintances, casual acquaintances, or anyone who
21 may have a direct or indirect relationship with
22 Khalil S. ? If so, please stand.

23 THE BAILIFF: One standing, Judge.

24 THE COURT: Yes, sir. Your name, please?

25 THE JUROR: Mark Schwartz 392. I'm personal

JURY SELECTION

1 friends with Khalil's father, I have attended
2 baseball and football games with him. And I
3 umpired games that he played in.

4 THE COURT: Would that make you unable to be
5 fair and impartial in this case?

6 THE JUROR: Yes.

7 THE COURT: I understand that. We set you
8 aside as a juror in this particular trial. I'd
9 appreciate it if you don't discuss that with any
10 other jurors while in the course of this. Okay.
11 Thank you.

12 THE BAILIFF: There are other jurors, Your
13 Honor.

14 THE COURT: Yes, sir. Your name, please sir?

15 THE JUROR: Owen Mcaden. My wife is the
16 principal of Hilton Head Island community and she
17 knew --

18 THE COURT: Is that 286?

19 THE JUROR: Yes.

20 THE COURT: Would that make it difficult for
21 you, through your wife's association, to be fair
22 and impartial as a juror in this case?

23 THE JUROR: No.

24 THE COURT: Could you set aside that
25 association and decide this case on the evidence

JURY SELECTION

1 that you hear in court without regard to that?

2 THE JUROR: Yes.

3 THE COURT: And would you do that, sir?

4 THE JUROR: Yes.

5 THE COURT: Thank you, sir.

6 THE COURT: Ladies and gentlemen, I'm going
7 to read to you now a list of potential witnesses
8 involved in the trial of these cases. Not all of
9 these witnesses will be called. This is a lengthy
10 list. Not all will be called. But nonetheless,
11 some of them might be. We want to inquire as to
12 your relationship with any of these potential
13 witnesses. I'll divide it up in three parts, 15
14 names in each list. When I finish reading the
15 names I'll ask the same questions of those
16 witnesses that I have asked you about the people
17 thus far. Kin to them, related by blood or
18 marriage, or friends of theirs, or business
19 associates, or have any acquaintances or
20 relationship with them whatsoever.

21 Potential witnesses who may testify in the
22 trial of this case are: John Adams from the
23 Sheriff's office. Laurel Albertin from the
24 Sheriff's office. Brittany Brinson from Hilton
25 Head Island. Bob Bromage, sorry, from the

JURY SELECTION

1 Sheriff's office. Joseph Bryan from Hilton Head
2 Island. John Burnett from Atlanta. Andrew Calore
3 from the Sheriff's office. Ebony Campbell from
4 Hilton Head. Brian Chapman from the Sheriff's
5 office. Brandon Cooler from the Sheriff's office.
6 Wendy Conant from the Sheriff's office. Dan
7 DeFreese from SLED. Tyrone Delaney from Seabrook.
8 Curtis Evans from the Sheriff's office. Andres
9 Florencio from the Sheriff's office.

10 Are any of you related by blood or connected
11 by marriage to any of those, business
12 acquaintances, are you friends of theirs, business
13 associates, or casual acquaintances, or people
14 with any direct or indirect contact with any of
15 those individuals? If so, please stand.

16 (Jurors standing.)

17 All right. Mr. Academy man, 226, tell me
18 about the relationship please sir.

19 THE JUROR: I have talked to Bromage once or
20 twice on the telephone in the last several years.

21 THE COURT: All right. Was that -- was it
22 related to this case or other matters, or what was
23 it?

24 THE JUROR: Other matters.

25 THE COURT: All right, sir. Would that make

JURY SELECTION

1 it difficult for you to be fair and impartial as a
2 juror in this trial?

3 THE JUROR: No, Your Honor.

4 THE COURT: Would you set that aside and
5 decide this trial on the evidence?

6 THE JUROR: Yes.

7 THE COURT: You would do that?

8 THE JUROR: Yes.

9 THE COURT: Your name and number please sir?

10 THE JUROR: Gary Soper, S-O-P-E-R. 428.

11 THE COURT: Sorry. I misunderstood.

12 Mr. Soper, tell me about the relationship please.

13 THE JUROR: Andrew Lowrey, an officer,
14 Beaufort County, long time acquaintances.

15 THE COURT: All right. Would that
16 relationship make it difficult for you to be fair
17 and impartial in the trial of this case?

18 THE JUROR: It would sir.

19 THE COURT: It would?

20 THE JUROR: It would, Your Honor.

21 THE COURT: We would stand you aside as a
22 juror, sir.

23 THE JUROR: Thank you.

24 THE COURT: Yes, sir, your name please?

25 THE JUROR: Jaime Hamner, 29.

JURY SELECTION

1 THE COURT: Mr. Hamner, tell me about the
2 relationship, please sir?

3 THE JUROR: Brian Chapman goes to our church.
4 I am an elder in the church. Good friends.

5 THE COURT: All right. Do you mind telling
6 me what church that is?

7 THE JUROR: Seamire (phonetic) Presbyterian.

8 THE COURT: Presbyterian church, okay. I ask
9 that question because if it is a Baptist church
10 that means that it is a real big church, I am a
11 Presbyterian too it could be a small church, that
12 is the reason that I was inquiring.

13 THE JUROR: Yes, sir.

14 THE COURT: Would that association make it
15 unable for you to be fair and impartial?

16 THE JUROR: It would not.

17 THE COURT: Can you set that aside and decide
18 this case based on the evidence that you hear in
19 this court?

20 THE JUROR: Yes, sir.

21 THE COURT: And would you do that sir?

22 THE JUROR: Yes, sir.

23 THE COURT: Thank you, sir.

24 All right. Continue with the list, ladies
25 and gentlemen. Larry Forest from Hilton Head.

JURY SELECTION

1 Tim French with the Sheriff's office. Lawrence
2 Glass with the Sheriff's office. Dominique
3 Griffin from Beaufort. Bailey Hamilton from
4 Ridgeland. Bennie Lee Hamilton from Hilton Head.
5 Charlese Jackson from Seabrook. Michael Kaup,
6 K-A-U-P, Hilton Head Hospital ER. Joseph Lear
7 from the Sheriff's office. Jeff Moran from the
8 Sheriff's office. Robert Murray from Hilton Head.
9 Derrick Nelson from the Sheriff's office. James
10 Padgett from the Sheriff's office. Michael
11 Perkins from the Sheriff's office. David Ott,
12 Deputy Coroner.

13 I need to know if any of you all have any
14 connection with any of those potential witnesses,
15 or you are related to them by blood or marriage.
16 That is, are you kin to them? Casual
17 acquaintances? Business acquaintance? Direct or
18 indirect contact with them? If so, please stand.

19 (Jurors standing.)

20 THE COURT: Yes, ma'am. In the back, I'll
21 take your name first. You stood first. You are
22 the one.

23 THE JUROR: Virginia Taylor, 445. Michael
24 Kaup, we have done remodeling work in his home.
25 He is friends of ours.

JURY SELECTION

1 THE COURT: All right. Ms. Taylor, would
2 that association with Mr. Kaup that you explained
3 to me make it difficult for you to be fair and
4 impartial as a juror in this trial?

5 THE JUROR: No.

6 THE COURT: Could you set that aside in this
7 case and make a decision based on the evidence
8 that you hear in court?

9 THE JUROR: Yes.

10 THE COURT: Would you do that?

11 THE JUROR: Yes.

12 THE COURT: Thank you. You have stood.

13 THE JUROR: Reece Bertholf. Thirty-five.

14 THE COURT: Mr. Bertholf.

15 THE JUROR: In the course of my work, I have
16 come across Mr. Ott and Mr. Perkins as well.

17 THE COURT: What type of work are you
18 involved in?

19 THE JUROR: I am a fireman.

20 THE COURT: Okay. Would that association
21 make it difficult for you to be fair and impartial
22 as a juror in this case?

23 THE JUROR: No, Your Honor.

24 THE COURT: Could you set aside those
25 associations and decide this case based on the

JURY SELECTION

1 evidence that you will hear?

2 THE JUROR: Yes, Your Honor.

3 THE COURT: Would you do that, sir?

4 THE JUROR: Yes.

5 THE COURT: Thank you, sir.

6 Your name and number?

7 THE JUROR: Courtney Pate. 342. I currently

8 work with Michael Kaup at Hilton Head emergency

9 room.

10 THE COURT: All right. Would that
11 association make it difficult for you to be fair
12 and impartial as a juror in the trial of this
13 case?

14 THE JUROR: No, it would not.

15 THE COURT: Have you and Mr. Kaup ever
16 discussed this case amongst yourselves?

17 THE JUROR: No, we have not. I have been on
18 maternity leave. I have not been there for three
19 months.

20 THE COURT: Would you be able to set aside
21 that relationship with Mr. Kaup and decide based
22 on the evidence presented in this case?

23 THE JUROR: Yes, sir.

24 THE COURT: Would you do that, ma'am?

25 THE JUROR: Yes, sir.

JURY SELECTION

1 THE COURT: Thank you Ms. Pate.

2 The final part of the list. Andrew Rice of
3 the Beaufort County Sheriff's office. Eileen Rios
4 of the Sheriff's office. Doug Seifert from the
5 Sheriff's office. Ila Simmons, formerly with
6 SLED. Savoria Simmons from Hilton Head. Jontu
7 Singleton Senior from Hilton Head. Jontu
8 S. Junior from Hilton Head. Melanie Smith
9 from 911 -- 911 communications. Jennifer Snider
10 from the Sheriff's office. Zachary Taylor from
11 Hilton Head Fire and Rescue. Martin Thomas from
12 the Sheriff's office. Kenneth Thompson -- what is
13 Beaufort County D.C., what is that?

14 MR. STONE: Detention center, I apologize.

15 THE COURT: Kenneth Thompson, detention
16 center. And Lee Marie Tormos from MUSC. And
17 Angela Viens from the Sheriff's office. Margarite
18 Washington from Hilton Head Island. Dr. Amanda
19 Salas from Charleston and Greenwood. I need to
20 know if any of you are kin to those potential
21 witnesses, or acquaintances, business associates,
22 casual acquaintances, or a person who has direct
23 or indirect contact with any of those witnesses?
24 If so, would you please stand.

25 (Jurors standing.)

JURY SELECTION

1 THE COURT: Yes, sir. Mr. Bertholf.

2 THE JUROR: Yes, 35. Melanie Smith. Same

3 thing, I have come across her in work.

4 THE COURT: Would you be able to set that

5 aside and be fair and impartial?

6 THE JUROR: Yes.

7 THE COURT: Would you do that?

8 THE JUROR: Yes.

9 THE COURT: Would you do that, sir?

10 THE JUROR: Yes.

11 THE COURT: In the back, please, ma'am.

12 THE JUROR: 422. Savoria Simmons. Her mom

13 was married to my uncle.

14 THE COURT: All right. I need to get all of

15 that one. Ms. Smith, you said that Simmons, was

16 it?

17 THE JUROR: Yes.

18 THE COURT: Ila?

19 THE JUROR: Savoria.

20 THE COURT: Savoria, sorry. Yeah. Simmons?

21 THE JUROR: Uh-huh. (Indicating

22 affirmatively.)

23 THE COURT: She was married to who?

24 THE JUROR: Her mom was married to my uncle.

25 THE COURT: Okay, Ms. Smith, would that

JURY SELECTION

1 relationship that you have just described to me
2 make it difficult for you to be fair and impartial
3 in the trial of this case?

4 THE JUROR: No.

5 THE COURT: Can you set aside that
6 association and decide this case based on the
7 evidence that you hear in this court?

8 THE JUROR: Yes.

9 THE COURT: Would you do that please, ma'am?

10 THE JUROR: Yes, Your Honor.

11 THE COURT: Thank you. You may have a seat.
12 Your name?

13 THE JUROR: Yes, sir. Jack Sparacino, 429.
14 I'm not sure -- was there a Dr. Salas?

15 THE COURT: Yes, sir, that's right.

16 THE JUROR: I had contact with her four or
17 five years ago.

18 THE COURT: Dr. Amanda Salas from Charleston
19 and Greenwood.

20 THE JUROR: I had contact down here at
21 Beaufort Hospital.

22 THE COURT: Tell me your name and number,
23 sorry?

24 THE JUROR: Jack Sparacino, 429.

25 THE COURT: Okay, thank you. Mr. Sparacino,

JURY SELECTION

1 would that relationship that you have just
2 described to me make it difficult for you to be
3 fair and impartial as a juror in this case?

4 THE JUROR: No.

5 THE COURT: Would you set that aside and make
6 a decision based on the evidence that you hear in
7 this court?

8 THE JUROR: Yes.

9 THE COURT: Would you do that?

10 THE JUROR: Yes.

11 THE COURT: Yes, ma'am.

12 THE JUROR: (Courtney Pate, Juror 342)

13 Zachary Taylor. We see the patients that they
14 bring.

15 THE COURT: Can you set that matter aside and
16 decide this case based on the evidence that you
17 hear in court?

18 THE JUROR: Yes.

19 THE COURT: And you will do that please,
20 ma'am?

21 THE JUROR: Yes, sir.

22 THE COURT: Thank you, ma'am.

23 Ladies and gentlemen, the attorneys who will
24 be involved in the trial in this case on behalf of
25 the State, the case will be prosecuted by

JURY SELECTION

1 Solicitor Duffie Stone, Solicitor in the 14th
2 Judicial Circuit. And he will be assisted by
3 Ms. Hunter Swanson, also an Assistant Solicitor
4 here in the 14th Circuit.

5 Anybody else?

6 MR. STONE: Deputy Solicitor Sean Thornton as
7 well. And this is Captain Bob Bromage.

8 THE COURT: Deputy Solicitor Thornton may
9 also be participating in the case. I need to know
10 any relationships, kin to them, related by blood
11 or marriage, or friends of theirs, business
12 associates, casual acquaintances, represented or
13 sued by any of them in the past? Do you have any
14 other connection with any of the State's
15 attorneys? If so, would you please stand.

16 (Jurors standing.)

17 THE COURT: All right. Mr. Mcaden, would you
18 tell me about the association please? Number 286.

19 THE JUROR: I have occassionally talked to
20 Solicitor Stone. And I think that I mentioned
21 before that I have talked to Bromage a couple of
22 times in the past several years.

23 THE COURT: All right. Anything directly
24 related to this case, Mr. Mcaden?

25 THE JUROR: I believe so.

JURY SELECTION

1 THE COURT: Would you recall it if it had
2 been?

3 THE JUROR: Probably so.

4 THE COURT: Would that make it difficult for
5 you to be fair and impartial in this trial?

6 THE JUROR: No.

7 THE COURT: Could you set that aside and make
8 a decision based on the evidence?

9 THE JUROR: Yes.

10 THE COURT: Would you do that?

11 THE JUROR: Yes.

12 THE COURT: Your name, please?

13 THE JUROR: Dedra White, 476.

14 THE COURT: Tell me about the association,
15 please, ma'am.

16 THE JUROR: My brother-in-law works for
17 Mr. Stone.

18 THE COURT: Your brother-in-law works for
19 who?

20 THE JUROR: Mr. Stone.

21 THE COURT: In what capacity? What does he
22 do? Tell me who your brother-in-law is.

23 MR. STONE: Steve Murphy, our head
24 investigator who is -- has done some stuff on this
25 case, but I don't expect him to be called as a

JURY SELECTION

1 witness.

2 THE COURT: All right. When is -- Ms. White,
3 were you aware of that? Were you aware of your
4 brother-in-law's participation in the
5 investigation of this case?

6 THE JUROR: Yeah, sort of.

7 THE COURT: Ms. White, I'll stand you aside
8 as a juror in the trial of this case. I
9 appreciate that candor and we appreciate you
10 telling us.

11 All right. Ladies and gentlemen, attorneys
12 for the Defendants in this case, Mr. Aaron Young
13 Senior is represented by Mr. Roberts Vaux of the
14 Beaufort County Bar.

15 MR. FERGUSON: Your Honor, I represent
16 Mr. Young Senior.

17 THE COURT: I have got them backwards, sorry.
18 The Senior is represented by Robert Ferguson. And
19 Junior is represented by Mr. Roberts Vaux. Thank
20 you. And I need to know -- Mr. Tyrone Robinson is
21 representing himself. He has the right to an
22 attorney. He has chosen to represent himself.
23 But he has stand-by counsel to assist him. He has
24 Arie Bax, an attorney. Okay.

25 I need to know if you are related to them by

JURY SELECTION

1 blood or marriage, friends, casual acquaintances,
2 represented by them or sued by them in the past?
3 If so, please stand.

4 (Jurors standing.)

5 THE COURT: All right. Mr. Mcaden.

6 THE JUROR: Yes, sir, Your Honor, I have
7 talked to Mr. Bax. I can't even remember when or
8 the circumstances, I may have met him socially. I
9 think that I have. I can't tell you the
10 circumstances of that meeting or meetings either.

11 THE COURT: Would it have anything to do with
12 this case in particular?

13 THE JUROR: No.

14 THE COURT: All right. Thank you, sir. You
15 can be seated. All right. I should ask you this:
16 Would that make a difference in your ability to be
17 fair and impartial as a juror in this case?

18 THE JUROR: No, Your Honor.

19 THE COURT: Yes, ma'am.

20 THE JUROR: Victoria White. 479.

21 THE COURT: Ms. White, tell me about the
22 association please.

23 THE JUROR: I work with Rick Marscher on a
24 regular basis with real estate.

25 THE COURT: All right. Would that

JURY SELECTION

1 association make it difficult for you to be fair
2 and impartial as a juror in the trial of this
3 case?

4 THE JUROR: No, it would not.

5 THE COURT: Can you set that aside and decide
6 the facts based on the evidence that you will
7 hear?

8 THE JUROR: Yes.

9 THE COURT: Yes, sir. In the back.

10 THE JUROR: Thomas Dean, 114. My wife is a
11 member of the Beaufort County Law Association.
12 Robbie Ferguson is a personal acquaintance.

13 THE COURT: Mr. Dean, any of those
14 associations make it difficult for you to be fair
15 and impartial as a juror in this trial?

16 THE JUROR: No, sir.

17 THE COURT: Could you set that aside and
18 decide this case based on the evidence that you
19 hear in court?

20 THE JUROR: Yes.

21 THE COURT: Will you do that?

22 THE JUROR: Yes.

23 THE COURT: Yes, sir, your name please?

24 THE JUROR: Gerardo Díaz, 120.

25 THE COURT: Tell me about the relation,

JURY SELECTION

1 please.

2 THE JUROR: Yes, Mr. Vaux, I met him at a
3 public service meeting in the town of Bluffton.

4 THE COURT: Would that you make you not able
5 to be fair and impartial?

6 THE JUROR: No, sir.

7 THE COURT: Would you set that aside and make
8 a decision based on the evidence that you hear?

9 THE JUROR: Yes.

10 THE COURT: Would you do that?

11 THE JUROR: Yes, sir.

12 THE COURT: Yes, sir?

13 THE JUROR: (Juror 227, Billy Jarnagin) I
14 used to work with Mr. Ferguson's wife in 2010.

15 THE COURT: Tell me again about the
16 association, sorry.

17 THE JUROR: I worked with Mr. Ferguson's wife
18 in 2010.

19 THE COURT: Would that association make it
20 difficult for you to be fair and impartial as a
21 juror in this trial?

22 THE JUROR: No, Your Honor.

23 THE COURT: Could you set that aside and
24 decide the case based on the evidence that you
25 hear in court?

JURY SELECTION

1 THE JUROR: No, Your Honor.

2 THE COURT: Would you do that?

3 THE JUROR: Yes, Your Honor.

4 THE COURT: Yes, ma'am.

5 THE JUROR: 362. Mr. Vaux is a friend of the
6 family and my nephew works for his firm.

7 THE COURT: In what capacity does your nephew
8 work for Mr. Vaux?

9 THE JUROR: I'm not really sure.

10 THE COURT: Is he a lawyer?

11 THE JUROR: No.

12 THE COURT: Would that, either of those
13 associations make it difficult for you to be fair
14 and impartial as a juror in this trial?

15 THE JUROR: No, sir.

16 THE COURT: Can you set that aside and make a
17 decision based on the evidence?

18 THE JUROR: Yes.

19 THE COURT: Can you do that?

20 THE JUROR: Yes.

21 THE COURT: Your name and number?

22 THE JUROR: Gary Soper, 428.

23 THE COURT: What is the association?

24 THE JUROR: I have known the Vaux family
25 since I was born. Ms. Childer used to babysit me

JURY SELECTION

1 and I rented a carriage house from him as well.

2 THE COURT: I understand. Would that
3 relationship make you unable to be fair and
4 impartial in this trial?

5 THE JUROR: It would.

6 THE COURT: It would. We will set you aside.

7 Yes, ma'am. Your name and number?

8 THE JUROR: Ellen Dounn, 126.

9 THE COURT: Ms. Dounn, how do you pronounce
10 it?

11 THE JUROR: Dounn. The Vaux law firm
12 represented an estate closing.

13 THE COURT: Would that association make it
14 difficult for you to be fair and impartial as a
15 juror in this trial?

16 THE JUROR: No, sir.

17 THE COURT: Could you set it aside and make a
18 decision based on what you hear in court?

19 THE JUROR: Yes, sir.

20 THE COURT: Yes, sir.

21 THE JUROR: Daniel Connelly, 94. Mr. Vaux
22 represents my primary employer in several matters,
23 in Bluffton.

24 THE COURT: Would that association make it
25 difficult for you to be fair fair and impartial as

JURY SELECTION

1 a juror in this trial?

2 THE JUROR: No, Your Honor.

3 THE COURT: Could you set that aside and make
4 a decision based on what you hear in court?

5 THE JUROR: Yes.

6 THE COURT: Would you do that?

7 THE JUROR: Yes.

8 THE COURT: Yes, ma'am.

9 THE JUROR: Patricia Oneal, 333. I work in
10 real estate and Mr. Vaux has represented some of
11 our clients.

12 THE COURT: Thank you. Would that
13 association make it difficult for to you be fair
14 and impartial as a juror in this trial?

15 THE JUROR: No, sir.

16 THE COURT: Could you set that aside and make
17 a decision based on the evidence that you hear in
18 court?

19 THE JUROR: Yes, sir.

20 THE COURT: Would you do that, please, ma'am?

21 THE JUROR: Yes, sir.

22 THE COURT: Thank you. You may be seated.

23 Now, ladies and gentlemen, a few moments ago I
24 read to you the indictment in this case. I told
25 you that it's not evidence nor proof of the

JURY SELECTION

1 charges that it contains, but a charging document
2 that tells us what this case is all about, so that
3 anybody who reads it will know what this case is
4 all about. Because now I need to know if you know
5 anything about this case, if you have seen, heard,
6 or read anything about this case or you have any
7 knowledge about this case from any source at all,
8 I want to know about it. Particularly in
9 yesterday's Beaufort Gazette on the front page
10 there was an article about this particular case,
11 the fact that the trial was beginning today. I
12 need to know if you read that. But I don't want
13 the discretion to be limited to that.

14 If you have seen or heard or read anything
15 about this case, or have any knowledge about this
16 case from any source at all. I want to know about
17 it. What I want you to do in a moment is get all
18 of you that have read or seen or heard about this
19 case or have knowledge about this case at all to
20 stand where you are. Let us get your name
21 recorded and I will bring you down personally to
22 talk to you with myself and the court reporter to
23 inquire further about your knowledge of this case.

24 If you have seen or read about this case or
25 have any knowledge about it at all, would you

JURY SELECTION

1 please stand at this time. I'll start on my right
2 side over here and make my way across. Saturday's
3 paper. Sorry, Saturday's paper. All right.

4 (Jurors stand.)

5 THE COURT: Your name and number on the
6 front?

7 THE JUROR: Lashond Aiken, number 2.

8 THE COURT: Your name and number please sir?

9 THE JUROR: Sam Brusco, 52.

10 THE COURT: All right?

11 THE JUROR: 438 Paul Sundstrom.

12 THE COURT: Yes, ma'am?

13 THE JUROR: 449, Suzanne Thomas.

14 THE COURT: Yes, ma'am?

15 THE JUROR: 333, Patricia Oneal.

16 THE COURT: Yes, sir?

17 THE JUROR: Ninety-three, Christopher Conley.

18 THE COURT: What was that number again?

19 THE JUROR: Ninety-three.

20 THE COURT: Yes, sir. Mr. Conley, I see.

21 Okay?

22 THE JUROR: Daniel Connelly, 94.

23 THE COURT: Who else? Against the wall.

24 THE JUROR: Mary Bennett, 33.

25 THE COURT: All right.

JURY SELECTION

1 THE JUROR: Katherine Hodges, 206.

2 THE JUROR: Kevia Smith, 422.

3 THE COURT: Okay. All right. Folks, here is
4 what we are going to do. I will deal with this
5 section first. The rest of you can have a seat.
6 I'll deal with this section first, come back to
7 this section next and we will go that way, that
8 way you don't have to stand on your feet all of
9 that time. And we can get to everyone that we
10 need to get to. All right.

11 THE COURT: All right. If I could get these
12 folks to form a line so I can make sure that I get
13 to each of you in time.

14 THE BAILIFF: Juror two, Your Honor.

15 THE COURT: Thank you. Ms. Aiken, stand
16 right here and speak so she can hear you. Tell
17 me, first of all, what you have seen or heard
18 about the case, or personal knowledge about the
19 case.

20 THE JUROR: Since the day that it happened I
21 knew the story. The incident happened like three
22 miles from my grandparents' home and I am familiar
23 with both sides of the case.

24 THE COURT: When you say "both sides," that
25 is the Singleton family as well as the others?

JURY SELECTION

1 THE JUROR: Correct.

2 THE COURT: In your own mind have you formed
3 any opinion?

4 THE JUROR: I have.

5 THE COURT: All right. What is that opinion?

6 THE JUROR: Just the whole idea that Khalil
7 died. He was a young boy in his own yard and my
8 son was familiar with him as well.

9 THE COURT: Would your knowledge about the
10 case impact your ability to be fair and impartial
11 as a juror?

12 THE JUROR: Yes.

13 THE COURT: I can understand that. We will
14 stand you aside as a juror. Juror two, stood
15 aside as a juror in this case. Thank you.

16 THE BAILIFF: Number 52, Your Honor.

17 THE COURT: Mr. Brusco, is it? Tell me about
18 your knowledge about the case.

19 THE JUROR: I read the paper.

20 THE COURT: You read the paper?

21 THE JUROR: Yes.

22 THE COURT: Did anything in your article
23 stand out in your mind about, that you recall
24 today?

25 THE JUROR: There were several things that --

JURY SELECTION

1 THE COURT: What?

2 THE JUROR: I was -- I didn't understand why
3 only murder was addressed and not drug charges and
4 manslaughter, some of the other possibilities.

5 THE COURT: So you read something about drugs
6 in the article?

7 THE JUROR: Yes.

8 THE COURT: I see. Based on what you read,
9 Mr. Brusco, did you form an opinion about the
10 guilt of the Defendants?

11 THE JUROR: I did.

12 THE COURT: What was that?

13 THE JUROR: I felt like it was obvious that
14 the people were guilty. It was a matter of what
15 they were guilty of.

16 THE COURT: I take it that your ability to be
17 fair and impartial would be impacted?

18 THE JUROR: It would be.

19 THE COURT: I understand that. I appreciate
20 that what you have read you wouldn't discuss with
21 anybody else while in this process.

22 THE JUROR: Okay.

23 THE COURT: Juror 52 will be stood aside as a
24 juror in this trial.

25 THE BAILIFF: 449, Your Honor.

JURY SELECTION

1 THE COURT: Ms. Thomas, tell me about the
2 source of the information about the case, please,
3 what you know.

4 THE JUROR: I live on the island. I think
5 that I heard generally. And I might have read
6 something but I don't have great memory.

7 THE COURT: That is good sometimes.

8 THE JUROR: Sometimes it's helpful.

9 THE COURT: Ms. Thomas, based on what you
10 have heard or read, did you form in your mind any
11 opinion about guilt or innocence?

12 THE JUROR: No.

13 THE COURT: If you were a juror in this case
14 would you be able to put aside what you heard or
15 read and decide based on the evidence in this
16 case?

17 THE JUROR: I would, yes.

18 THE COURT: Thank you, ma'am.

19 THE BAILIFF: 438, Your Honor.

20 THE COURT: Mr. Sundstrom, speak so she can
21 hear you please sir. Tell me about the source of
22 your knowledge in this case.

23 THE JUROR: I live on Hilton Head Island
24 Plantation. I heard about it on the radio and
25 miscellaneous newspaper reports.

JURY SELECTION

1 THE COURT: All right. Anything in what you
2 heard or what you read stood out that caused you
3 to form an opinion about this case?

4 THE JUROR: No.

5 THE COURT: Have you formed an opinion in
6 your own mind or expressed to anybody else an
7 opinion about the guilt or innocence?

8 THE JUROR: No.

9 THE COURT: If you were asked to serve as a
10 juror, would you be able to set aside what you
11 have heard or read and make your decision based on
12 the evidence in this case?

13 THE JUROR: Yes.

14 THE COURT: Would you be able to do that?

15 THE JUROR: Yes, sir.

16 THE COURT: You may have a seat.

17 THE BAILIFF: Juror 333, Your Honor.

18 THE COURT: Ms. Oneal, if you would speak so
19 she can hear you.

20 THE JUROR: Yes, sir.

21 THE COURT: Tell me what you heard or read
22 about this case.

23 THE JUROR: It was on Facebook last night and
24 Island Packet is one of the pages that I like, and
25 that came up. I didn't click through to read the

JURY SELECTION

1 article because it immediately reminded me I had
2 jury duty today. I had forgotten. I went to find
3 my paperwork. But I didn't click through and read
4 the article.

5 THE COURT: There was an article on Island
6 Packet about this case?

7 THE JUROR: Yes, sir.

8 THE COURT: Do you know who authored that
9 article?

10 THE JUROR: No, sir, I don't.

11 THE COURT: Based on what you may have heard
12 or your brush with that publicity, have you formed
13 in your own mind or expressed to anyone about your
14 opinion of the guilt or innocence?

15 THE JUROR: No, sir.

16 THE COURT: Would you be able to set aside
17 what you heard or read and decide this based on
18 the evidence in court?

19 THE JUROR: Yes, sir.

20 THE COURT: Would you do that, ma'am?

21 THE JUROR: Yes, sir.

22 THE COURT: Thank you. You may have a seat.

23 THE BAILIFF: 94, Your Honor.

24 THE COURT: Mr. Connelly, stand and speak so
25 she can hear you. Tell me what you have seen or

JURY SELECTION

1 heard about the case.

2 THE JUROR: Obviously the paper that came out
3 Saturday. I read the whole article on line. And
4 then when it first happened I heard about it. We
5 talked about it at work a little bit.

6 THE COURT: All right. Did you form or
7 express an opinion based on what you heard about
8 the case or based on the article that you read
9 last week?

10 THE JUROR: No, sir.

11 THE COURT: Have you formed an opinion as to
12 the guilt or innocence of these people?

13 THE JUROR: No, sir.

14 THE COURT: If you were asked to serve as a
15 juror, could you set aside what you have heard or
16 read and base your decision on what you hear in
17 court?

18 THE JUROR: Yes.

19 THE COURT: Would you do that, sir?

20 THE JUROR: Yes.

21 THE COURT: Thank you, Mr. Connelly. You may
22 have a seat.

23 THE BAILIFF: Juror 93, Your Honor.

24 THE COURT: Speak so she can hear you. Tell
25 me what you have heard or read.

JURY SELECTION

1 THE JUROR: I have a subscription to the
2 Island Packet, for the last several years, and
3 read it every day.

4 THE COURT: Every day. Based on what you
5 have read, have you formed an opinion as to the
6 guilt or innocence of these people?

7 THE JUROR: I have formed an opinion, yes.

8 THE COURT: What is that opinion?

9 THE JUROR: I mean, just what they have
10 presented sounds like just craziness.

11 THE COURT: All right.

12 THE JUROR: I mean, any time that a child
13 gets killed it's hard not to form an opinion.

14 THE COURT: Right. Do you think that you
15 would be able to set aside that opinion if you
16 were to serve as a juror in this trial?

17 THE JUROR: I would definitely try. Is that
18 not a good enough answer?

19 THE COURT: Probably not. I appreciate that.
20 And I appreciate the candor of the answer. I'll
21 stand you aside as a juror in this trial. Thank
22 you, sir. Juror 93 is excused.

23 THE CLERK: From this trial or from --

24 THE COURT: From this trial. Stood aside in
25 this case, sorry.

JURY SELECTION

1 THE BAILIFF: Juror 422, Your Honor.

2 THE COURT: 422, Ms. Smith. Tell me what you
3 know of or heard about this case.

4 THE JUROR: I heard about it on the news and
5 read about it in the paper and we have had
6 discussions about it at work.

7 THE COURT: Sorry, newspaper?

8 THE JUROR: And discussions at work, in
9 reference to the age of the victim.

10 THE COURT: Where do you work?

11 THE JUROR: Old military Marine base, alcohol
12 and drug counselor. And I contract with Beaufort
13 Alcohol and Drug.

14 THE COURT: Based on what you have heard or
15 read, have you formed an opinion as to the guilt
16 or innocence in this case?

17 THE JUROR: Yes.

18 THE COURT: What is your opinion?

19 THE JUROR: Guilty.

20 THE COURT: Do you think that you would be
21 able to set aside that opinion, or do you think
22 that it would make it difficult to be fair?

23 THE JUROR: It would make it difficult.

24 THE COURT: Okay. I understand. Juror 422
25 is stood aside in this case.

JURY SELECTION

1 THE BAILIFF: Your Honor, 206.

2 THE COURT: Ms. Hodges, speak so she can hear
3 you please, ma'am. Tell me what you heard or read
4 about this case.

5 THE JUROR: Just saw the article in
6 Saturday's paper and remembered it from back in
7 2012.

8 THE COURT: Okay. Based on any of those
9 things, your prior recollection or what you read
10 in the paper, have you formed in your own mind or
11 expressed an opinion about this case?

12 THE JUROR: I have in my own mind.

13 THE COURT: Tell me what that opinion is.

14 THE JUROR: I just think that it's -- I don't
15 know -- I mean, it is bad for the child.

16 THE COURT: Let me ask you this: Have you
17 formed any opinion as to the guilt or innocence of
18 these people?

19 THE JUROR: Yes.

20 THE COURT: What is that?

21 THE JUROR: Some sort of guilt.

22 THE COURT: All right. Do you feel like you
23 would be able to set aside that opinion and decide
24 this case based on what you would hear in court,
25 or do you think what you have heard so far would

JURY SELECTION

1 make it difficult to be fair and impartial?

2 THE JUROR: I don't know.

3 THE COURT: You don't know. I understand
4 that. And I appreciate your candor and struggle.
5 We would excuse you and stand you aside as a juror
6 in this case. Thank you, ma'am.

7 Juror 206 is stood aside as a juror in this
8 case.

9 THE BAILIFF: Your Honor, Juror 33.

10 THE COURT: Ms. Bennett. Speak so she can
11 hear you please, ma'am. Tell me what you have
12 seen heard or read about this case.

13 THE JUROR: I just saw a passing article in
14 the paper. I don't remember when it was.

15 THE COURT: Recently?

16 THE JUROR: In the past two weeks.

17 THE COURT: There was one over the weekend.
18 Did you read that one?

19 THE JUROR: No, sir.

20 THE COURT: Based on what you have heard or
21 read or know about this case, from any source,
22 have you formed in your mind any opinion about the
23 guilt or innocence of these folks?

24 THE JUROR: No, sir.

25 THE COURT: If you were asked to serve as a

JURY SELECTION

1 juror, could you set aside what you have heard or
2 read and base this case on what you hear in court?

3 THE JUROR: Yes, sir.

4 THE COURT: Would you do that?

5 THE JUROR: Yes, sir.

6 THE COURT: Okay. Thank you. You may have a
7 seat.

8 MR. VAUX: He is the executive editor of the
9 Island Packet. If you would include that.

10 MR. STONE: That is how they found out. I
11 imagine.

12 THE COURT: Thank you. I'm sure.

13 MR. VAUX: Your Honor, one other thing. My
14 assistant handed me that note.

15 MR. STONE: Today's paper?

16 MR. VAUX: I don't know, you see what I see.

17 MR. STONE: Tabor is the one who saw it, Your
18 Honor.

19 THE COURT: Exactly. Where is he?

20 MR. VAUX: He is coming, Your Honor.

21 THE COURT: Can you show Bob who it is? You
22 know --

23 (Off-the-record discussion held.)

24 MR. VAUX: Yes, ma'am, it's Roberts Vaux
25 Junior. There is a lady that has an article on

JURY SELECTION

1 the other side of the courtroom and was showing it
2 to other jurors.

3 THE COURT: Okay. She is on this side over
4 here?

5 MR. VAUX: No, to the left.

6 THE COURT: With the glasses?

7 MR. VAUX: No, sir, the third row. I just
8 saw that she had a newspaper and pointed at it and
9 looked at it.

10 THE COURT: Okay. Short brown hair?

11 MR. VAUX: Yes, sir.

12 THE COURT: Do you see where he's talking
13 about Bob?

14 THE BAILIFF: Third row, short brown hair.

15 MR. VAUX: Your Honor, I hate to do this, but
16 in light of that I would like to renew my motion.

17 THE COURT: All right. Now, ladies and
18 gentlemen, I'm going to go to this section of the
19 courtroom right here and ask you all, if you will
20 stand and let me identify you and then we will get
21 you to come down here. Yes, sir. Your name and
22 number, please sir? She has to hear you.

23 THE JUROR: 260, Rufus Laws.

24 THE COURT: All right.

25 THE JUROR: 286 Owen Mcaden.

JURY SELECTION

1 THE COURT: Okay.

2 THE JUROR: Thirty-five, Reece Bertholf.

3 THE JUROR: Robin Brutschy, 53.

4 THE COURT: Why don't you go ahead and form a
5 line right here. Okay.

6 THE JUROR: Ann Marie Hayward, 194.

7 THE COURT: Okay.

8 THE JUROR: Sally Park, 339.

9 THE COURT: Okay.

10 THE JUROR: Tiffany Vail, 459.

11 THE COURT: Okay.

12 THE JUROR: Mary Arnal, 15.

13 THE COURT: Okay.

14 THE JUROR: 184, Philip Hamilton.

15 THE COURT: Yes, sir.

16 THE JUROR: 174, Allen Greene.

17 THE COURT: Okay.

18 THE JUROR: Number 42, Kim Bowers.

19 THE COURT: Okay.

20 THE JUROR: 213, Cindy Horne.

21 THE JUROR: 131, Catherine Diller. Sorry,
22 121.

23 THE COURT: Thank you.

24 THE JUROR: Laurie Hart, 190.

25 THE JUROR: Cheryl Taylor, 444.

JURY SELECTION

1 THE COURT: Okay.

2 THE JUROR: 284, John Mattocks.

3 THE COURT: Okay.

4 THE JUROR: 179, Sarah Guida.

5 THE COURT: Okay.

6 THE JUROR: 349, William Piliaris.

7 THE COURT: Okay.

8 THE JUROR: 257, Carol Kzenovitz.

9 THE COURT: Okay.

10 THE JUROR: 227 Billy Jarnagin.

11 THE COURT: Yes?

12 THE JUROR: 360, Brian Ray.

13 THE COURT: Okay.

14 THE JUROR: Sixty-two, Mary Caballero.

15 THE COURT: Is that everybody? Okay. You

16 other folks just move to town?

17 Okay. I need somebody up here. I sent Bob

18 out on an errand at the moment.

19 THE CLERK: Here is Jody.

20 THE COURT: Thank you. All right. 260.

21 Mr. Laws, if you will speak so she can hear you,

22 please, sir.

23 THE JUROR: Okay.

24 THE COURT: Tell me what you have heard or

25 read about the case.

JURY SELECTION

1 THE JUROR: I just read several articles. I
2 can't remember if it was a drug deal or something
3 that went down but this young kid was just shot.
4 I don't think intentionally shot but --

5 THE COURT: Right, okay. All right. Based
6 on what you read or anything that you know about
7 this case, Mr. Laws, have you formed in your mind,
8 the guilt or innocence of these folks?

9 THE JUROR: No.

10 THE COURT: If you are asked to serve as a
11 juror, can you set aside what you have heard or
12 read and base your decision on what you hear in
13 the court?

14 THE JUROR: Yes.

15 THE COURT: Would you do that?

16 THE JUROR: Yes.

17 THE COURT: Thank you, Mr. Laws. You may go
18 back and have a seat.

19 THE BAILIFF: 286.

20 THE COURT: Thank you.

21 THE COURT: Mr. Mcaden, if you will speak so
22 she can hear you. Tell me what you know about the
23 case.

24 THE JUROR: Everything that's been in this
25 newspaper.

JURY SELECTION

1 THE COURT: You print the newspaper?

2 THE JUROR: Yes.

3 THE COURT: Island Packet?

4 THE JUROR: And Beaufort Gazette.

5 THE COURT: Okay. All right. And where did
6 the source of that information was, from time to
7 time, talking with investigating officers or
8 whoever it was?

9 THE JUROR: Well, I never talked to anybody
10 directly about it, but my staff did.

11 THE COURT: All right. Okay.

12 THE JUROR: And yes, what you just said,
13 those people.

14 THE COURT: All right. Okay. Mr. Mcaden,
15 did you form in your own mind any opinion about
16 the guilt or innocence of these folks based on
17 what you printed?

18 THE JUROR: No.

19 THE COURT: If you were asked to serve as a
20 juror of this trial, could you put all of that
21 aside and decide --

22 THE JUROR: Yes.

23 THE COURT: Does that mean that you are not
24 going to believe what you have been printing?

25 THE JUROR: Believe what I have printed?

JURY SELECTION

1 THE COURT: Yes, in reading the articles they
2 say --

3 THE JUROR: No, I believe what we printed.

4 THE COURT: Yes, I understand. I'll stand
5 you aside as a juror of the trial. I think you
6 would be too close to it obviously. And I would
7 expect you to believe your story.

8 THE JUROR: Thank you.

9 THE COURT: We will stand you aside. Thank
10 you. 286 stood aside as a juror in this trial.

11 THE BAILIFF: Your Honor, Juror 35.

12 THE COURT: Thank you.

13 THE COURT: Number 35, yes, sir.

14 Mr. Bertholf, would you tell us what you know
15 about this case and speak so she can hear you,
16 please sir?

17 THE JUROR: I saw the headline in the paper
18 yesterday, I didn't read the article. And
19 generally I knew that when it occurred, back when
20 it happened, but nothing specific.

21 THE COURT: Have you formed in your own mind
22 the guilt or innocence of these folks based on
23 what you have read or heard?

24 THE JUROR: No, sir.

25 THE COURT: If asked to serve, could you set

JURY SELECTION

1 aside what you have read in the newspaper?

2 THE JUROR: Yes.

3 THE COURT: You may have a seat.

4 THE BAILIFF: Your Honor, Juror 53. Thank
5 you.

6 THE COURT: Yes, ma'am, Ms. Brutschy.

7 THE JUROR: Yes, very good.

8 THE COURT: Would you speak so she can hear
9 you. Tell me what you heard about the case.

10 THE JUROR: I read about the case in the
11 Island Packet.

12 THE COURT: Is that the first thing that you
13 read, or had you read about it before?

14 THE JUROR: I had read about it before.

15 THE COURT: All right. Based on anything
16 that you have heard or read, have you formed in
17 your own mind anything about the guilt or
18 innocence of these folks?

19 THE JUROR: Yes, I have.

20 THE COURT: What would that be?

21 THE JUROR: That I believe they are guilty.

22 THE COURT: Do you think that that opinion
23 would make it difficult for you to be fair and
24 impartial as a juror in this case?

25 THE JUROR: Yes, I do.

JURY SELECTION

1 THE COURT: I understand that. I'll set you
2 aside as a juror in this case.

3 THE JUROR: Okay.

4 THE COURT: Juror 53 is excused as a juror in
5 this case.

6 THE BAILIFF: Your Honor, Juror 194. Thank
7 you, ma'am.

8 THE COURT: Ms. Hayward, tell me what you
9 know about the case.

10 THE JUROR: I saw a post on my Facebook page
11 last night. It just said that a 12 year old kid
12 killed in crossfire, Hilton Head 2012. I didn't
13 open the article and read it, but I just saw it.

14 THE COURT: Did you form an opinion based on
15 what you read on Facebook?

16 THE JUROR: No.

17 THE COURT: Have you formed an opinion based
18 on anything that you have heard about this case?

19 THE JUROR: No, that was all.

20 THE COURT: That was it?

21 THE JUROR: That was it.

22 THE COURT: Can you set that aside and base
23 your decision on what you hear in court?

24 THE JUROR: Yes.

25 THE COURT: Would you do that please, ma'am?

JURY SELECTION

1 THE JUROR: Yes.

2 THE COURT: Thank you, Ms. Hayward.

3 THE BAILIFF: 339, Your Honor.

4 THE COURT: Ms. Park, tell me what you have
5 heard or read.

6 THE JUROR: I read it in the Island Packet on
7 Saturday, the article. And then I heard about the
8 case when it first happened.

9 THE COURT: Based on any of that information
10 that you have accumulated from whatever source,
11 have you formed an opinion in your own mind as to
12 the guilt or innocence of these folks?

13 THE JUROR: That's hard to say. I'm worried
14 about the young child.

15 THE COURT: All right. Do you feel that what
16 you have heard or read would make it difficult for
17 you to be fair and impartial?

18 THE JUROR: Yes.

19 THE COURT: I understand that. Sorry you had
20 to expose it. I'll set you aside as a juror.

21 All right. Juror 339 is excused as a juror
22 in this trial.

23 THE BAILIFF: 459, Your Honor. Thank you.

24 THE COURT: Hi, how are you? What is that
25 number again? 459?

JURY SELECTION

1 THE JUROR: Yes.

2 THE COURT: Ms. Vail, speak so she can hear
3 you. Tell us what you have heard or read in this
4 case.

5 THE JUROR: I heard that it was a shooting
6 and an eight year old died in Hilton Head. My
7 family discussed the case because it was popular,
8 I had a niece that was killed so it was more of a
9 family discussion type thing.

10 THE COURT: I see. Ms. Vail, based on any of
11 those discussions did you form an opinion about
12 whether these folks are guilty or innocent in this
13 trial?

14 THE JUROR: Yes, sir.

15 THE COURT: What is that opinion?

16 THE JUROR: I feel that it is guilty.

17 THE COURT: Do you think that that opinion
18 would make it difficult for you to be fair and
19 impartial in this trial?

20 THE JUROR: Yes, assuming it was a child.

21 THE COURT: I understand that. We will stand
22 you aside as a juror in this case.

23 THE JUROR: Okay.

24 THE COURT: Thank you.

25 THE BAILIFF: Your Honor, Juror 15. Thank

JURY SELECTION

1 you.

2 THE COURT: Ms. Arnal?

3 THE JUROR: Yes.

4 THE COURT: Speak so she can hear you.

5 THE JUROR: Yes.

6 THE COURT: Tell me what you have heard or
7 read about the case.

8 THE JUROR: I didn't read about it. We had
9 just placed a house under contract to purchase
10 right after this incident. My husband called me
11 and told me about it so that I would know if we
12 wanted to reconsider, and we did not. Therefore
13 that -- I did not read further.

14 THE COURT: You have moved into the area
15 since that time?

16 THE JUROR: I do live on Marshland Road.

17 THE COURT: Okay. Other than that
18 information that your husband gave you when you
19 were out of town before you came here?

20 THE JUROR: Correct.

21 THE COURT: Have you heard of anything else?

22 THE JUROR: No, sir.

23 THE COURT: Have you formed or expressed an
24 opinion as to the guilt or innocence of these
25 folks?

JURY SELECTION

1 THE JUROR: No.

2 THE COURT: Would you be able to set aside
3 what you have heard from any source at all if you
4 were asked to serve as a juror?

5 THE JUROR: Yes.

6 THE COURT: Would you do that, please, ma'am?

7 THE JUROR: Yes.

8 THE COURT: Thank you, Ms. Arnal. You may go
9 back and have a seat.

10 THE BAILIFF: 184, Your Honor.

11 THE COURT: Mr. Hamilton, if you will speak
12 so she can hear you, please sir. Tell me what you
13 heard or read about the case.

14 THE JUROR: I went into work a little early
15 this morning and the guys came in and asked me why
16 I was taking off early and I told them that I had
17 jury duty and they told me that there was a young
18 man that got shot, an 8 year old, something like
19 that, and it was a fire-fight between thugs is
20 what I was told.

21 THE COURT: Other than the fact that they
22 were thugs, did you hear anything other than what
23 I read when I read the indictment?

24 THE JUROR: No, sir.

25 THE COURT: Based on what you heard or might

JURY SELECTION

1 know from any source, did you form an opinion
2 about the guilt or innocence of these folks?

3 THE JUROR: No, Your Honor.

4 THE COURT: Would you set aside what you may
5 have read or heard from any source and base your
6 opinions on the evidence in this court?

7 THE JUROR: Yes, sir.

8 THE COURT: Would you do that?

9 THE JUROR: Absolutely.

10 THE COURT: Thank you, Mr. Hamilton. You may
11 go back and have a seat.

12 THE JUROR: All right.

13 THE BAILIFF: 174, Your Honor.

14 THE COURT: Mr. Greene, if you would speak so
15 she can hear you, please sir. Tell me what you
16 know about the case.

17 THE JUROR: Just what I read in the paper
18 about it.

19 THE COURT: Recently or when it happened?

20 THE JUROR: When it happened.

21 THE COURT: Okay. Did you form any opinion
22 in your own mind based on what you read about
23 whether these folks are guilty or innocent?

24 THE JUROR: No, sir.

25 THE COURT: If you were asked to serve as a

JURY SELECTION

1 juror, could you set aside what you have heard or
2 read and decide it based on what you hear in
3 court?

4 THE JUROR: Yes.

5 THE COURT: Would you do that, sir?

6 THE JUROR: Yes.

7 THE COURT: Thank you. You can go back and
8 have a seat.

9 THE BAILIFF: Juror 42.

10 THE COURT: Hi. Speak so she can hear you.
11 Tell me what you heard or read.

12 THE JUROR: I just wanted to disclose that
13 Jeff Stevens, who used to work for the Solicitor's
14 office, just out of curiosity, I was asking him
15 about what was going on this week and he told me,
16 and we talked about this case. I just wanted to
17 disclose that.

18 THE COURT: I appreciate that. When was
19 that?

20 THE JUROR: Friday we talked about it just
21 briefly.

22 THE COURT: Okay. Other than that, though,
23 did you know anything about the case?

24 THE JUROR: I had never heard -- I had
25 never -- that was the first time that I had ever

JURY SELECTION

1 heard of anything.

2 THE COURT: All right. Based on what
3 Mr. Stevens talked to you about --

4 THE JUROR: He just explained the transfer of
5 intent.

6 THE COURT: He did. He gave you a charge on
7 the law? Okay. If --

8 THE JUROR: I just wanted to disclose that.

9 THE COURT: If I tell you transfer of intent
10 is different than what Mr. Stevens told you, are
11 you going to believe him or me?

12 THE JUROR: I am going to believe you.

13 THE COURT: Did you form an opinion based on
14 what he told you about the guilt or innocence?

15 THE JUROR: Everything is always up in the
16 air. There is always two sides to every story,
17 you know, there is.

18 THE COURT: You heard one from Mr. Stevens?

19 THE JUROR: That's right. That's why I
20 wanted to disclose it.

21 THE COURT: I appreciate it. That is exactly
22 what we ask you to do and you did exactly what we
23 asked you to do. Ms. Bowers, I'm going to stand
24 you aside. I remember that he's not a member of
25 the Solicitor's office right now, so that the

JURY SELECTION

1 Solicitor if he had known he was going to talk
2 about it he would have strangled him before he
3 did, but the fact that you have been approached in
4 that regard could create some problems down the
5 road. But you did the right thing in telling us
6 so that we can eliminate those problems, okay.
7 Thank you, ma'am. Juror 42 is excused or set
8 aside as a juror in this trial.

9 THE BAILIFF: Juror 213.

10 THE COURT: Yes, ma'am. If you would stand,
11 Ms. Horne, and speak so she can hear you. Tell me
12 what you know about the case.

13 THE JUROR: I read the article yesterday in
14 the Packet and I believe whenever this happened I
15 read about it in the paper also, and probably
16 anything that's been updated since.

17 THE COURT: Keep up with the news is what you
18 do?

19 THE JUROR: Right, keep up with the news,
20 exactly.

21 THE COURT: Ms. Horne, based on any of
22 those -- that information, have you formed in your
23 mind any opinion about the guilt or innocence of
24 these folks?

25 THE JUROR: No.

JURY SELECTION

1 THE COURT: If you were asked to serve as a
2 juror, could you set aside what you have heard or
3 read and decide this case based on what you hear
4 in court?

5 THE JUROR: Yes.

6 THE COURT: And would you do that?

7 THE JUROR: Yes.

8 THE COURT: Thank you, Ms. Horne. You may go
9 back and have a seat.

10 THE BAILIFF: Your Honor, 121.

11 THE COURT: Ms. Diller, speak so she can hear
12 you please, ma'am. Tell me what you know about
13 the case.

14 THE JUROR: Just what I have read in the
15 Beaufort Gazette.

16 THE COURT: Just briefly.

17 THE JUROR: And when it happened.

18 THE COURT: Okay. Based on what you have
19 heard or read at any time, have you formed in your
20 own mind or expressed to anybody else any opinion
21 about whether these folks are guilty or not
22 guilty?

23 THE JUROR: No, sir.

24 THE COURT: If you were asked to be a juror,
25 could you set aside what you have heard or read

JURY SELECTION

1 and base your decisions on what you hear here in
2 court?

3 THE JUROR: Yes, sir.

4 THE COURT: And would you do that please,
5 ma'am?

6 THE JUROR: Yes, sir.

7 THE COURT: Thank you, Ms.Diller.

8 THE BAILIFF: And Juror 190, Your Honor.

9 THE COURT: Ms. Hart. If you will speak so
10 she will hear you, please, ma'am. Tell me what
11 you have heard or read about this case.

12 THE JUROR: I read in the Island Packet
13 yesterday that an eight year old boy was killed by
14 a bullet by --

15 THE COURT: Is that the first knowledge that
16 you had about the case?

17 THE JUROR: Yes, I didn't live here when the
18 case occurred.

19 THE COURT: I see. Based on what you heard
20 in the paper yesterday, did you form an opinion
21 about whether the folks were guilty or not guilty
22 of these charges?

23 THE JUROR: Yes.

24 THE COURT: What was that?

25 THE JUROR: Guilty.

JURY SELECTION

1 THE COURT: Do you think that it would make
2 it difficult for you to be fair and impartial as a
3 juror in this trial?

4 THE JUROR: Yes, I do.

5 THE COURT: I will set you aside. Please
6 don't discuss that with anyone.

7 THE JUROR: Okay.

8 THE COURT: Juror 190 stood aside as a juror
9 in this trial.

10 THE BAILIFF: Your Honor, 444.

11 THE COURT: Ms. Taylor, speak so she can hear
12 you please, ma'am. Tell me what you know about
13 the case.

14 THE JUROR: I read about it in the Island
15 Packet when it first happened and then yesterday
16 or the day before yesterday when it was the in the
17 Island Packet again.

18 THE COURT: Okay. Based on what you have
19 read, did you form in your own mind whether these
20 folks are guilty or innocent?

21 THE JUROR: Not really.

22 THE COURT: If you were asked to serve as a
23 juror in this trial, could you set aside what you
24 have heard and decide this case based on what you
25 would hear in court?

JURY SELECTION

1 THE JUROR: I believe so.

2 THE COURT: Would you do that please, ma'am?

3 THE JUROR: Yes.

4 THE COURT: Ma'am?

5 THE JUROR: Yes.

6 THE COURT: Thank you, Ms. Taylor. You may
7 go back and have a seat.

8 THE BAILIFF: 284, Your Honor.

9 THE COURT: Thank you. Speak so she can hear
10 you, Mr. Mattacks, and tell me what you know about
11 the case.

12 THE JUROR: Just general knowledge from
13 newspaper and newscast and being from Hilton Head.

14 THE COURT: Okay, based on what you have
15 heard in those places, have you formed in your own
16 mind or expressed to anybody else any opinion
17 about whether these folks are guilty or innocent?

18 THE JUROR: No, sir, I have not.

19 THE COURT: If you were asked to serve as a
20 juror, would you be able to set aside what you
21 have heard and base your decision on what you hear
22 in court?

23 THE JUROR: Yes, Your Honor.

24 THE COURT: Would you do that?

25 THE JUROR: Yes, Your Honor.

JURY SELECTION

1 THE COURT: Thank you, sir. Go back and have
2 a seat.

3 THE BAILIFF: Juror 179, Your Honor.

4 THE COURT: Thank you. Ms. Guida, is that
5 correct?

6 THE JUROR: Yes.

7 THE COURT: Speak so she can hear you.

8 THE JUROR: Yes.

9 THE COURT: Tell me what you heard about the
10 case.

11 THE JUROR: I have read about it almost every
12 time it's been in the newspaper.

13 THE COURT: All right. Based on what you
14 have read any time or cumulative collective of all
15 readings, have you formed in your own mind about
16 the guilt or innocence of these folks?

17 THE JUROR: Yes, sir, I have.

18 THE COURT: What is that?

19 THE JUROR: Guilty.

20 THE COURT: Would you think that it would
21 make it difficult for you to be fair and impartial
22 in this case?

23 THE JUROR: I think that I could not be fair
24 and impartial.

25 THE COURT: I understand. And I appreciate

JURY SELECTION

1 your candor that way. And I'd appreciate it if
2 you wouldn't discuss your opinion with anyone, at
3 least not among these folks here.

4 THE JUROR: Thank you.

5 THE COURT: Juror 179 stood aside in this
6 trial.

7 MR. VAUX: Your Honor, the newspaper that she
8 read?

9 THE COURT: All I could see from the top of
10 it is the (inaudible) thing.

11 MR. FERGUSON: They don't do that on
12 Saturday.

13 THE COURT: I'm sure, if asked not to discuss
14 it, she won't be showing it to anybody else. But
15 if anybody -- Hamilton, is it, sorry.

16 THE JUROR: 349.

17 THE COURT: Sorry.

18 THE JUROR: Okay.

19 THE COURT: Okay. Mr. Piliaris?

20 THE JUROR: Uh-huh. (Indicating
21 affirmatively.)

22 THE COURT: Tell me what you heard about this
23 case.

24 THE JUROR: I read the article yesterday. A
25 friend of mine is a school teacher, she called me

JURY SELECTION

1 and she knew that I was on jury duty today, but
2 not for this, and we talked about it.

3 THE COURT: Was your knowledge about the case
4 limited to what you read and what the teacher told
5 you about?

6 THE JUROR: I worked at -- with the general
7 manager at Applebees and we talked about it when
8 it happened.

9 THE COURT: When it happened?

10 THE JUROR: Uh-huh. (Indicating
11 affirmatively.)

12 THE COURT: I understand. Did you form an
13 opinion about the guilt or innocence of these
14 folks?

15 THE JUROR: Kind of.

16 THE COURT: What is that opinion?

17 THE JUROR: Well, I have three grandchildren.

18 THE COURT: All right.

19 THE JUROR: Whatever they have coming I think
20 that they should get, unfortunately.

21 THE COURT: I understand that. I appreciate
22 that. We will stand you aside. I'd appreciate it
23 if you don't discuss those opinions with anyone
24 while we are picking the jury. Thank you.

25 THE JUROR: Sit down?

JURY SELECTION

1 THE COURT: 345 stood aside as a juror in
2 this trial.

3 THE BAILIFF: 257, Your Honor.

4 THE COURT: Thank you. You have to help me.

5 THE JUROR: Carol Kzenovitz.

6 THE COURT: Okay. Tell me what you have
7 heard about the case, and speak so she can hear,
8 okay.

9 THE JUROR: Basically, what we have had in
10 the newspaper. But being on a small island, I
11 live on Hilton Head, there's a lot of talk and
12 everybody knows everybody. So I don't necessarily
13 have to read the newspaper.

14 THE COURT: That is right, I understand.
15 Based on any of that information, Ms. Kzenovitz,
16 have you formed an opinion about the guilt or
17 innocence of these folks?

18 THE JUROR: Yes.

19 THE COURT: What is that?

20 THE JUROR: Guilty.

21 THE COURT: All right. Do you think that
22 opinion is such that it would make it difficult
23 for you to be fair and impartial as a juror in
24 this trial?

25 THE JUROR: Yes, it does.

JURY SELECTION

1 THE COURT: I appreciate that. And I
2 understand. We will excuse you as a juror in this
3 trial. You can go back and have a seat. 257
4 stood aside as a juror in this case.

5 THE BAILIFF: Your Honor, Juror 227.

6 THE COURT: Ms. Jarnagin, if you will speak
7 so she can hear you. Tell me what you know about
8 the case.

9 THE JUROR: I read the case in the Island
10 Packet. A little boy was shot and killed when the
11 gentlemen crossfired.

12 THE COURT: Did you have any knowledge about
13 the case other than that?

14 THE JUROR: No, sir.

15 THE COURT: Based on what you read in the
16 paper yesterday, did you form an opinion about
17 whether or not these folks are guilty or innocent?

18 THE JUROR: Yes, sir.

19 THE COURT: What is that?

20 THE JUROR: Guilty, Your Honor.

21 THE COURT: Do you feel like that's such that
22 it would make it difficult for you to be a juror
23 in this case?

24 THE JUROR: Yes, Your Honor.

25 THE COURT: Thank you. I'll set you aside as

JURY SELECTION

1 a juror in this case. If you will go back and not
2 express your opinion with anyone I would
3 appreciate it.

4 THE JUROR: Yes, sir.

5 THE COURT: He is stood aside as a juror in
6 this trial.

7 THE BAILIFF: 360, Your Honor.

8 THE COURT: Mr. Ray.

9 THE JUROR: Yes, sir.

10 THE COURT: Speak so she can hear sir.

11 THE JUROR: Okay.

12 THE COURT: What do you know about the case?

13 THE JUROR: I read it in the Island Packet
14 and also seen on WTOG on the news.

15 THE COURT: Did you form in your own mind any
16 opinion based on what you have heard about the
17 guilt or innocence of these folks?

18 THE JUROR: No.

19 THE COURT: If you were asked to serve as a
20 juror, could you set aside what you have heard and
21 base your decision on what you hear in court?

22 THE JUROR: Yes.

23 THE COURT: Would you do that sir?

24 THE JUROR: Yes.

25 THE COURT: Thank you, sir. Go back and have

JURY SELECTION

1 a seat.

2 THE BAILIFF: Your Honor, number 62.

3 THE COURT: Thank you. You have been
4 standing a long time. Ms. Caballero, glad we got
5 you here. Speak so she can hear you, please,
6 ma'am. Tell me what you know about the case.

7 THE JUROR: I read three newspapers daily for
8 work. I recall reading the case when it first
9 occurred and quite a discussion in our office
10 regularly.

11 THE COURT: Okay. What do you do for work?

12 THE JUROR: Executive assistant at that time,
13 Marriott Vacation Club for two, three resorts.

14 THE COURT: Okay. I see. I just wondered
15 what would force you to have to read three
16 newspapers a day?

17 THE JUROR: It is a pleasure to do that, I
18 read it for industry news and local politics.

19 THE COURT: Based on what you have read about
20 these cases, have you formed in your own mind any
21 opinion about the guilt or innocence of these
22 folks?

23 THE JUROR: No, sir.

24 THE COURT: If you were asked to serve as a
25 juror in case, could you set aside what you have

JURY SELECTION

1 heard and base your decisions on what you hear in
2 the courtroom?

3 THE JUROR: Yes, sir.

4 THE COURT: Thank you, ma'am. All right. We
5 have one more section. How are we doing? Any
6 more jurors left?

7 THE CLERK: Just on that section is 13. We
8 will have to go back and see.

9 THE COURT: All right. Folks, now I need you
10 to speak up loudly so that the court reporter who
11 is way up here can hear you. Okay. I'm standing
12 here because I'm hard of hearing. Okay. All
13 right. Let's start with this row right here and
14 we will work our way down. Any of you folks heard
15 or --

16 THE JUROR: James Alston, juror number 7.

17 THE COURT: Seven, all right. Mr. Alston go
18 around to the other side and form a line.

19 On this row?

20 THE JUROR: Lynn Russo, Juror 380.

21 THE COURT: All right. Your name?

22 THE JUROR: Kathy Bielski, Juror 37.

23 THE JUROR: Ronald Kizer, 248.

24 THE COURT: Thank you, sir.

25 THE JUROR: 342, Courtney Pate.

JURY SELECTION

1 THE COURT: Okay. Anyone else in that row?
2 This row?
3 THE JUROR: Nancy Martenson, 297.
4 THE COURT: 297?
5 THE JUROR: Oh, 279.
6 THE COURT: Okay. Yes, ma'am.
7 THE JUROR: Corinne Reeves, 362.
8 THE COURT: Okay. Anybody else on that row?
9 Okay, next row.
10 THE JUROR: Sharon White, 478.
11 THE COURT: Okay Ms. White. Sir?
12 THE JUROR: Orest Nestorowicz, 322.
13 THE COURT: Yes, sir. Yes, sir.
14 THE JUROR: Phil Coffey, 85.
15 THE JUROR: Okay. Anybody else next row?
16 THE JUROR: 261 -- 251, Friderika Komzak.
17 THE COURT: Yes, ma'am?
18 THE JUROR: 465, Elizabeth Walsh.
19 THE COURT: Ms. Walsh.
20 THE JUROR: 126, Ellen Dounn.
21 THE JUROR: 141, Sheila Florio.
22 THE COURT: Did I miss anybody on this side
23 of the courtroom? Thank you.
24 All right.
25 THE BAILIFF: Juror number 7, Your Honor.

JURY SELECTION

1 THE COURT: Mr. Alston, if you will stand and
2 speak so she can hear you.

3 THE JUROR: Yes, sir.

4 THE COURT: Tell me what you know about the
5 case.

6 THE JUROR: Just what I heard from television
7 and around the office about these guys going
8 around retaliating and shooting on the island
9 originally on Hilton Head.

10 THE COURT: Where do you work Mr. Alston?

11 THE JUROR: Parris Island, South Carolina.

12 THE COURT: Based on what you heard and those
13 various conversations or what you may have read,
14 did you form an opinion about the guilt or
15 innocence of these people?

16 THE JUROR: Well, I have got to go -- I feel
17 that they are guilty, you know.

18 THE COURT: Do you think that that opinion
19 that you have formed will make it difficult for
20 you to be fair and impartial as a juror in this
21 trial?

22 THE JUROR: I think that it will be.

23 THE COURT: I understand that. I appreciate
24 your candor, Mr. Alston. I'll stand you aside as
25 a juror in this case. You can go back and have a

JURY SELECTION

1 seat. Juror 7 stood aside as a juror in this
2 trial.

3 THE BAILIFF: 380, Your Honor.

4 THE JUROR: Ms. Russo, speak so she will hear
5 you please, ma'am. Tell me what you know about
6 the case.

7 THE JUROR: I've been reading about it in the
8 Island Packet ever since it happened. I'm not
9 sure how impartial I could be after reading about
10 it.

11 THE COURT: Do you think that you would have
12 difficulty being impartial?

13 THE JUROR: I would like to think that I
14 wouldn't. But that boy just kills me.

15 THE COURT: Let me but put it another way, if
16 you were asked to serve as a juror in this case,
17 could you disregard what you have read?

18 THE JUROR: I would like to think that I
19 could, but I can't tell you that I could.

20 THE COURT: Thank you. You have answered it
21 candidly, that is what I expect and I appreciate
22 that. I'll stand you aside in this case. You may
23 go back and have a seat.

24 THE JUROR: Yes, sir.

25 THE COURT: Juror 380 excused as a juror in

JURY SELECTION

1 this trial.

2 THE BAILIFF: Juror 37, Your Honor.

3 THE COURT: Tell me what you heard and speak
4 so she can hear you.

5 THE JUROR: Just a little boy shot and killed
6 by three guys, that is all that I know. I don't
7 watch TV or read the paper.

8 THE COURT: Essentially what I read to you?

9 THE JUROR: Basically.

10 THE COURT: Based on what you have heard, did
11 you form an opinion about guilt or innocence?

12 THE JUROR: No.

13 THE COURT: If you were asked to be a juror,
14 could you base your decision on what you hear in
15 court?

16 THE JUROR: I could.

17 THE COURT: And you would?

18 THE JUROR: Yes, I would.

19 THE COURT: Thank you. You can go back and
20 have a seat. Ms. Bielski.

21 THE BAILIFF: 248.

22 THE COURT: Mr. Kizer, speak so she can hear
23 you. Tell me what you know about the case please
24 sir..

25 THE JUROR: I read it on the news and read

JURY SELECTION

1 the paper. And just talked about the kid.

2 THE COURT: Was that recently?

3 THE JUROR: Yes, sir, around Easter.

4 Yesterday we were talking about it. My son has
5 kids that age.

6 THE COURT: Okay. Based on what you heard or
7 read, did you form any opinion in your mind as to
8 whether or not these folks are guilty or not
9 guilty of these charges?

10 THE JUROR: Basically, I couldn't be fair.

11 THE COURT: Well, you have answered my next
12 question, Mr. Kizer. And I would appreciate you
13 not sharing those views with anyone else while we
14 are still picking this jury. We will stand you
15 aside as a juror in this trial. Thank you. 248
16 will be excused as a juror from this trial.

17 THE BAILIFF: Your Honor, 342.

18 THE COURT: Ms. Pate, state what you know
19 about the case.

20 THE COURT: My friend -- one of my friends on
21 Facebook posted a picture about the little eight
22 year old boy, but that's all I know. I haven't
23 heard or read anything about it.

24 THE COURT: You saw his picture?

25 THE JUROR: Just his picture.

JURY SELECTION

1 THE COURT: Based on whatever knowledge you
2 have, Ms. Pate, have you formed an opinion about
3 whether the folks are guilty or not guilty?

4 THE JUROR: No, sir, I have no knowledge of
5 the case.

6 THE COURT: If you were asked to serve, you
7 could base your knowledge on what you hear in
8 court?

9 THE JUROR: Yes, sir.

10 THE COURT: Would you do that please, ma'am?

11 THE JUROR: Yes, sir.

12 THE COURT: Thank you. You can go back and
13 have a seat.

14 THE BAILIFF: Your Honor, 279.

15 THE COURT: Ms. Martenson, speak so she can
16 hear you please, ma'am.

17 THE JUROR: Okay.

18 THE COURT: Tell me what you know about the
19 case.

20 THE JUROR: Just that it was an eight year
21 old boy involved with crossfire.

22 THE COURT: Okay. You got that from the
23 newspaper?

24 THE JUROR: The Island Packet, yeah.

25 THE COURT: I got you. Did you form in your

JURY SELECTION

1 own mind any opinion about whether these folks are
2 guilty or not guilty of these charges based on
3 what you heard?

4 THE JUROR: Yes.

5 THE COURT: What was that opinion?

6 THE JUROR: Anybody firing a gun and causing
7 a child to get caught in the crossfire, they are
8 wrong, absolutely wrong.

9 THE COURT: Do you feel that your opinions
10 would make it difficult to be fair and impartial
11 as a juror?

12 THE JUROR: Definitely.

13 THE COURT: We appreciate that. I'll set you
14 aside as a juror. And I would appreciate it if
15 you wouldn't share your views with anyone at least
16 on this jury, okay?

17 THE JUROR: Okay.

18 THE COURT: Thank you. That juror is excused
19 as a juror from the trial.

20 THE BAILIFF: Juror 362.

21 THE COURT: Speak so she can hear you and
22 tell us what you know about the case.

23 THE JUROR: I just remember hearing about it
24 on the news.

25 THE COURT: Recently or when it happened?

JURY SELECTION

1 THE JUROR: When it happened.

2 THE COURT: Okay. Have you based, on what
3 you heard then or at any time, have you formed in
4 your own mind any opinion as to whether these
5 folks are guilty or not guilty?

6 THE JUROR: I really can't remember that many
7 of the details about it, so no.

8 THE COURT: So, if you were asked to serve as
9 a juror in this case, would you be able to set
10 aside what you have heard and make a decision
11 based on what you hear in court?

12 THE JUROR: Yes.

13 THE COURT: Would you do that?

14 THE JUROR: Yes.

15 Can I disclose something else? Mr. Vaux's
16 firm represented us on real estate transactions
17 and I simply -- and are you married to Holly? And
18 we hosted a fund raiser. Probably before you were
19 married, but yes.

20 THE COURT: Would any of those things impact
21 your ability to be fair and impartial in this
22 case?

23 THE JUROR: No.

24 THE COURT: Thank you. You may have a seat.
25 Thank you.

JURY SELECTION

1 THE BAILIFF: Juror 478.

2 THE COURT: Ms. White, would you speak so
3 that she can hear you?

4 THE JUROR: Okay.

5 THE COURT: Tell me what you know about the
6 case.

7 THE JUROR: I know that it was -- there was a
8 shooting. I don't know anything other than that
9 about the case.

10 THE COURT: Did you hear any of this from
11 your family members, husband, or any of the
12 relatives through their connection to y'all?

13 THE JUROR: Not the connection, but my
14 husband told me that there was a shooting.

15 THE COURT: Your husband told that you there
16 was a shooting?

17 THE JUROR: Yes.

18 THE COURT: This was at the time that it
19 happened or since that time?

20 THE JUROR: No, we don't talk about it. I
21 didn't know that.

22 THE COURT: It was in 2010 is when it
23 happened.

24 MR. STONE: 2012.

25 THE COURT: 2012. Did your husband talk

JURY SELECTION

1 about it then or since then?

2 THE JUROR: No, it was just mentioned.

3 THE COURT: Some other time. Based on your
4 discussions with your husband or anybody, have you
5 formed any opinions about whether these folks are
6 guilty or not guilty of these charges?

7 THE JUROR: I can't. I don't know.

8 THE COURT: I understand. Do you recall --
9 do you feel that your husband's connection with
10 the family would make it difficult to be a fair
11 and impartial juror in this case?

12 THE JUROR: No, we don't.

13 THE COURT: Okay. Can you set aside all of
14 those things and make a decision based on what you
15 hear in court if you were asked to be a juror?

16 THE JUROR: If I were a juror, yes.

17 THE COURT: Would you do that, ma'am?

18 THE JUROR: Yes..

19 THE COURT: You may go back and have a seat.

20 THE BAILIFF: Juror 322. Thank you, sir.

21 THE COURT: Mr. Netorowicz, speak so she can
22 hear you.

23 THE JUROR: Sure.

24 THE COURT: Tell me what you know about the
25 case.

JURY SELECTION

1 THE JUROR: I haven't read the last one, but
2 when it did happen it was -- I came from Detroit,
3 Michigan three years ago.

4 THE COURT: Thought that you were back home?

5 THE JUROR: Yes, fairly sensitive. It is a
6 daily occurrence for us. And we were on the
7 island after the case and so it would be very
8 difficult for me to be very biased in that
9 situation just because of where I'm from.

10 THE COURT: Are you telling me that you would
11 have difficulty being fair and impartial if you
12 were asked to serve as a juror in this case?

13 THE JUROR: Yes. I don't have a problem
14 being on another case, but just this one here,
15 coming from Detroit.

16 THE COURT: I can understand the sensitivity
17 and we won't put you in a position to have to
18 struggle with this issue. We stand you aside as a
19 juror in this trial.

20 THE JUROR: I appreciate that.

21 THE COURT: Juror 322 stood aside as a juror
22 in this trial.

23 THE BAILIFF: Your Honor, Juror 85.

24 THE COURT: Mr. Coffey, tell me what you
25 heard.

JURY SELECTION

1 THE JUROR: Well, I read the article in
2 Island Packet just after it happened.

3 THE COURT: Okay.

4 THE JUROR: But normally I wouldn't -- that
5 stuck with me because of the child. And then
6 yesterday it was in there again.

7 THE COURT: Refreshed?

8 THE JUROR: Yes. And then, of course, I had
9 jury duty, so I scanned the article. I didn't get
10 into the details of it because I didn't want it to
11 affect my opinion.

12 THE COURT: Good. You anticipated my next
13 question. Have you formed an opinion based on
14 what you have read about the guilt or innocence of
15 these folks?

16 THE JUROR: You know, you tend to, but I
17 think that it's the child thing that has really
18 got me. You know, I have got grand kids.

19 THE COURT: Certainly, I think anybody would
20 share that same sensitivity about a child. The
21 question is: Would your opinion about the regret
22 of a child being killed impact your ability to
23 give these folks a fair and impartial trial?

24 THE JUROR: I would hope not.

25 THE COURT: Would you be able to set aside

JURY SELECTION

1 what you have heard and decide the facts based on
2 what you hear in court?

3 THE JUROR: I think so.

4 THE COURT: Would you do that?

5 THE JUROR: Yes.

6 THE COURT: I practiced with Coffey. His
7 folks are from Boone, South Carolina.

8 THE JUROR: Charlotte, North Carolina.

9 THE COURT: Okay.

10 THE JUROR: That could be. He doesn't have
11 any money, does he?

12 THE BAILIFF: Your Honor, 251. Thank you.

13 THE COURT: All right. Ms. Komzak, how are
14 you? Speak so she can hear you, please, ma'am,
15 and tell me what you have heard about the case.

16 THE JUROR: Well, I live on Hilton Head
17 Island, so anything I already know about case,
18 what happened, the tragedy. And I mean, you know,
19 I hear the whole entire story.

20 THE COURT: Okay. Where did you hear it
21 from, newspapers, conversations?

22 THE JUROR: Newspapers, conversations.

23 THE COURT: Based on all of that information,
24 wherever you got it from, did you form any opinion
25 in your own mind as to whether or not these folks

JURY SELECTION

1 are guilty of these charges?

2 THE JUROR: I would not be a good candidate.
3 I'm very honest.

4 THE COURT: I appreciate that honesty. You
5 feel that what you have heard about this case
6 would make it difficult for to you be fair and
7 impartial?

8 THE JUROR: Yes, sir.

9 THE COURT: We appreciate that. We don't
10 want to put you in a position to struggle with
11 that. We stand you aside as a juror. I ask that
12 you not share your views with any other jurors.
13 Thank you.

14 Juror 251 stood aside as a juror in this
15 trial.

16 THE BAILIFF: 465, Your Honor.

17 THE COURT: Thank you.

18 THE JUROR: Hello.

19 THE COURT: How are you?

20 THE JUROR: Good.

21 THE COURT: Ms. Walsh.

22 THE JUROR: Yes.

23 THE COURT: Tell me what you know about the
24 case.

25 THE JUROR: I work at a gym in Bluffton. We

JURY SELECTION

1 get the paper every day. I am at the front desk
2 and I see the paper every day and we discuss it
3 with our members. I mean, it is what it is.

4 THE COURT: Based on what you read or
5 discussed with your members, have you expressed an
6 opinion in your own mind of guilt or innocence?

7 THE JUROR: I'm definitely biased.

8 THE COURT: You anticipated my next question.

9 THE JUROR: Yes.

10 THE COURT: All right. We will stand you
11 aside, Ms. Walsh, as a juror in this case. I
12 would appreciate that you not share your views
13 with anyone else in this case.

14 THE JUROR: Okay.

15 THE COURT: You may have a seat ma'am.

16 465 excused as a juror in this trial.

17 THE BAILIFF: Your Honor, 126.

18 THE COURT: Ms. Dounn.

19 THE JUROR: Yes, sir.

20 THE COURT: Tell me what you know about the
21 case.

22 THE JUROR: I read the paper yesterday.

23 THE COURT: Just recent article. Based on
24 what you read or might know, have you formed an
25 opinion in your own mind as to whether you think

JURY SELECTION

1 the folks are guilty or not guilty?

2 THE JUROR: I have not formed an opinion.

3 THE COURT: If you were asked to be a juror,
4 can you set aside what you have read and base your
5 decision on what you hear in court?

6 THE JUROR: Yes.

7 THE COURT: In other words, if you hear
8 something that is different than what you read,
9 would you be able to believe what you hear in
10 court?

11 THE JUROR: I would be able to do that, yes.

12 THE COURT: Thank you Ms. Dounn.

13 THE BAILIFF: Juror 141, Your Honor.

14 THE COURT: Ms. Florio, speak so she can hear
15 you please, ma'am.

16 THE JUROR: Yes, sir.

17 THE COURT: Tell me what you know about this
18 case.

19 THE JUROR: I was hoping that I didn't get on
20 it when I saw it.

21 THE COURT: I understand. You share that
22 with everyone else out there.

23 THE JUROR: Nothing. I don't know anyone.
24 So I don't -- I thought that it was heinous, I
25 didn't like it, but I didn't know anyone. So I

JURY SELECTION

1 didn't know --

2 THE COURT: Did you form any opinion?

3 THE JUROR: No.

4 THE COURT: Whether these folks are guilty or
5 innocent?

6 THE JUROR: No, because I didn't know them.

7 THE COURT: I understand. Would you be able
8 to set aside what you heard about this case and
9 base your decision on what you hear in court?

10 THE JUROR: Sure.

11 THE COURT: Would you do that, ma'am?

12 THE JUROR: Yes.

13 THE COURT: Thank you, ma'am. You may go
14 back and have a seat.

15 THE COURT: Okay. Is that it?

16 MR. VAUX: Yes. Are you going to make any
17 inquiries as to the people who were with the
18 newspaper or talked to the lady who had the
19 newspaper?

20 THE COURT: Yes, I will do that. I think
21 that I have questioned them since.

22 MR. VAUX: I don't know who it was, whether
23 they stood up or not.

24 THE COURT: Okay, I'll inquire. Thank you.

25 THE BAILIFF: Excuse me, Your Honor. May I

JURY SELECTION

1 approach?

2 THE COURT: Yes.

3 (Off-the-record discussion held.)

4 THE COURT: Ladies and gentlemen, it was
5 brought to my attention during the process that we
6 were involved in that we had one of the members of
7 the panel sitting in this area right here had the
8 article and I questioned everybody who came up
9 here if they had read -- I mainly wanted to know
10 whether or not any of you, during that period of
11 time, saw that article and were impacted by it? I
12 may have asked you. You may have come up and
13 talked to me since that time. She was sitting
14 here in the third row with the article in
15 question. During the process this morning, have
16 any of you seen that article that was the subject
17 of my questions to you earlier such that your --
18 your opinions were formed based on that and were
19 different from what you told me earlier?

20 I just want to know anybody out here in this
21 section, first of all, if you saw the article for
22 the first time this morning? Does that --
23 anybody?

24 (No verbal response.)

25 No? Apparently that was of no major moment

JURY SELECTION

1 in any event. And I think that I questioned those
2 folks after we had dealt with that issue, so I
3 don't think that it's an issue really. Thank you,
4 folks.

5 Ladies and gentlemen, I next need to know if
6 there's anything in your own background or in the
7 background of your immediate family that would
8 make it difficult for you to serve fair and
9 impartially as a juror in a trial involving
10 accusations of personal violence. Murder
11 obviously is a crime of personal violence. There
12 are other crimes of personal violence, criminal
13 sexual misconduct, kidnapping, assault and
14 battery, manslaughter. These are all crimes of
15 personal violence. If you in your own background
16 or your family's background have had experience
17 with such a crime that would make you feel that
18 you couldn't be fair and impartial, or an impact
19 that it had on you, either as a Defendant or
20 victim of a crime, or a witness, if you would
21 please stand.

22 THE COURT: Thank you. All right. If you
23 would come forward, please sir.

24 THE BAILIFF: Number 360, Your Honor.

25 THE COURT: Yes, thank you. Mr. Ray.

JURY SELECTION

1 THE JUROR: Yes.

2 THE COURT: Tell me about the situation. Was
3 it you or a family member?

4 THE JUROR: It was a family member. My
5 wife's aunt was murdered.

6 THE COURT: Where did that happen?

7 THE JUROR: That happened in 1988.

8 THE COURT: And where was it?

9 THE JUROR: It was in Tennessee.

10 THE COURT: Okay. Were you and your wife
11 married at the time?

12 THE JUROR: We were not.

13 THE COURT: Okay. Did you know the victim
14 yourself?

15 THE JUROR: I did.

16 THE COURT: Would that circumstance make it
17 difficult for you to be fair and impartial as a
18 juror in this trial?

19 THE JUROR: No.

20 THE COURT: You could set aside the
21 experience of your wife in that regard and base
22 your decision on what you hear here in court?

23 THE JUROR: Yes.

24 THE COURT: Thank you, Mr. Ray. I appreciate
25 that.

JURY SELECTION

1 MR. ROBINSON: Your Honor, may I approach?

2 THE COURT: Yes, sir.

3 MR. ROBINSON: Thank you.

4 (Off-the-record discussion held.)

5 THE COURT: Ladies and gentlemen, I now need
6 to know. And I asked that question. Those of you
7 up here at the sidebar. You don't have to answer
8 the question again if you have been up here at the
9 sidebar with me. If you were not up here during
10 the last question about the information about the
11 case, then I need to know your answer to this
12 question. Have any of you formed in your own mind
13 or have you expressed to anyone else any opinion
14 that you might have as to the guilt or innocence
15 of Mr. Aaron Young Junior, Aaron Young Senior, or
16 Tyrone Robinson? If so, please stand.

17 Any one of you conscious of, that is to say
18 are you aware of a bias or prejudice that you
19 might have for or against the State of South
20 Carolina or for or against the defendants? If you
21 are so aware, please stand.

22 Do you know any reason whatsoever that would
23 prevent you from being fair and impartial in the
24 trial of this case against these defendants? If
25 you know of any, please stand.

JURY SELECTION

1 THE BAILIFF: Your Honor.

2 THE COURT: Yes, ma'am.

3 THE BAILIFF: Your Honor, 386.

4 THE COURT: Thank you. Ms. Scarano.

5 THE JUROR: Yes, it is.

6 THE COURT: If you would speak to her so she
7 can hear you.

8 THE JUROR: I am a very religious person and
9 I have a strong sense of justice, but I don't feel
10 that in any criminal case I could make any
11 decision at all based on any information.

12 THE COURT: Your religion would prevent you
13 from sitting in judgment of anyone?

14 THE JUROR: That is true.

15 THE COURT: And I appreciate that,
16 Ms. Scarano. What we will do is transfer you to a
17 term of civil court that way you wouldn't sit in
18 judgment of anyone. Could you do that?

19 THE JUROR: I could. As far as anyone's life
20 is involved, I couldn't do that.

21 THE COURT: We will not put you in that
22 position to judge anyone. If you will go down
23 there. And transfer her to a civil term, please.
24 Thank you. That is Juror 386.

25 THE BAILIFF: Your Honor, 493.

JURY SELECTION

1 THE COURT: Okay. Mr. Wysocki.

2 THE JUROR: Yes, sir.

3 THE COURT: Speak so she can hear you.

4 THE JUROR: Yes, sir.

5 THE COURT: What is your situation?

6 THE JUROR: I just want to disclose that I

7 have an eight year old son.

8 THE COURT: Do you feel that the fact that

9 your son is the same age as the victim in this

10 case, would that make you unable to be fair and

11 impartial?

12 THE JUROR: No.

13 THE COURT: Could you set it aside and base

14 your decision on what you hear in court?

15 THE JUROR: Yes, I could set it aside.

16 THE COURT: Would you do that, sir?

17 THE JUROR: Yes.

18 THE COURT: Thank you.

19 THE COURT: Mr. Stone, Ms. Swanson, any

20 additional questions from the State?

21 MR. STONE: No, sir, not from the State.

22 THE COURT: Mr. Ferguson, any additional

23 questions from Mr. Young?

24 MR. FERGUSON: Senior, Your Honor.

25 THE COURT: Senior.

JURY SELECTION

1 MR. FERGUSON: No, sir, Your Honor.

2 THE COURT: Mr. Vaux, any questions for
3 Mr. Young Junior?

4 MR. VAUX: No, sir, Your Honor.

5 THE COURT: Thank you. Mr. Bax, any
6 additional questions that Mr. Robinson wishes to
7 ask?

8 MR. ROBINSON: Mr. Robinson indicates that he
9 has no additional questions.

10 THE COURT: Okay. Madam Clerk, it'll take a
11 few minutes to get this cleaned up. Is that fair
12 to say?

13 THE CLERK: Yes, sir.

14 THE COURT: It is going to take a few minutes
15 because so many have been taken off the roles that
16 she has to coordinate that. We will declare a
17 brief recess at this point in time and ask that
18 you be back in your seats in 15 minutes, five
19 after.

20 While we are doing this, those excused as
21 jurors in this trial you will be asked to report
22 back to second panel. I'm not sure when -- does
23 Judge Young know?

24 (Off-the-record discussion held.)

25 THE COURT: I would have to ask the

JURY SELECTION

1 Solicitor.

2 THE BAILIFF: I don't know who is who, Your
3 Honor.

4 THE COURT: What?

5 THE BAILIFF: I don't know who has been
6 recused or whatever.

7 THE COURT: We have it up here. There's no
8 point in them hanging around. If you have not
9 been excused, we expect you to be back at five
10 minutes after 2. If you have been excused we need
11 to check with Judge Young to see when he's in a
12 position to do that. Don't leave the building.
13 We will be prepared to tell you when to come back.
14 It'll be some time this afternoon. If you have
15 not been excused please be back in your seats in
16 15 minutes. Thank you. The time is now ten till
17 2.

18 (Pause.)

19 THE COURT: May I have your attention,
20 there's a little fault in communication. I'll try
21 to make it as simple as possible. If the Judge
22 said that you were set aside from this case, you
23 may now leave the courtroom and be back in here at
24 3:15. If you were set aside in this case, only
25 you people, you may leave here and be back at

JURY SELECTION

1 3:15. If you will file to the back and give your
2 badge to her on the way out. If you don't want to
3 leave now and you want to watch the festivities
4 you may do that as well.

5 (Recess.)

6 THE COURT: Thank you folks, please be
7 seated.

8 MR. ROBINSON: Your Honor, I would like to
9 approach the Bench briefly.

10 THE COURT: All right, sir.

11 (Off-the-record discussion.)

12 THE COURT: All right. Ladies and gentlemen,
13 I appreciate your patience through what has been a
14 long morning and now into the afternoon and now we
15 are about to reach the culmination of everybody's
16 efforts to begin the actual jury selection process
17 in this case. The break has enabled Ms. Cave
18 (phonetic), the jury coordinator, to take out of
19 her computer those that have been excused and
20 limit the strike sheet to those who are still left
21 in the pool. And now we are going to be about
22 that process.

23 As your names are called, stand in place
24 right where you are and the State will have a
25 chance to speak as to you and then each of the

JURY SELECTION

1 defendants will have a chance to speak as to each
2 one of you. If you are selected to serve as a
3 juror, you will come over and have a seat in one
4 of these seats by the door and you will be told
5 what to do.

6 There are ten and ten and two alternates.
7 One for the State and one for the defense. Are
8 you ready to start?

9 MR. STONE: Almost, Your Honor. Can we
10 approach real briefly?

11 THE COURT: Okay.

12 (Off-the-record discussion held.)

13 THE COURT: All right. Madam Clerk, you can
14 give us the jury.

15 THE CLERK: Sure, Judge. Juror 252, Mark
16 Koons. What say you for the State?

17 MR. STONE: Please present this juror.

18 THE CLERK: What say you for Defendant
19 Robinson?

20 MR. ROBINSON: Seat the juror.

21 THE COURT: What says Defendant Young, Jr?

22 MR. VAUX: Seat the juror please.

23 THE CLERK: What say you for Young, Senior?

24 MR. FERGUSON: Please seat this juror.

25 THE CLERK: Juror number 160, Carol Gischia.

JURY SELECTION

1 What say you for the State?

2 MR. STONE: Please present this juror,
3 Dr. Gischia.

4 THE CLERK: What say you for Defendant Young
5 Junior?

6 MR. VAUX: Seat the juror please.

7 THE CLERK: What say you for Defendant Young
8 Senior?

9 MR. FERGUSON: Please seat this juror.

10 THE CLERK: What say you for Defendant
11 Robinson?

12 MR. ROBINSON: Seat the juror.

13 THE CLERK: Juror number 409, Harry Simmons.
14 What say you for the State?

15 MR. STONE: Please present this juror,
16 Mr. Simmons.

17 THE CLERK: What say you for Aaron Young
18 Senior?

19 MR. FERGUSON: Please seat this juror.

20 THE CLERK: What say you for Defendant
21 Robinson?

22 MR. ROBINSON: Please seat this juror.

23 THE CLERK: What say you for Defendant Young
24 Junior?

25 MR. VAUX: Please seat the juror.

JURY SELECTION

1 THE CLERK: Juror number 194, Ann Marie
2 Hayward. What say you for the State?
3 MR. STONE: Please present this juror,
4 Ms. Hayward.
5 MR. ROBINSON: Seat the juror.
6 THE CLERK: What say you for Defendant Young
7 Junior?
8 MR. VAUX: Please seat this juror.
9 THE CLERK: What say you for Defendant Young
10 Senior?
11 MR. FERGUSON: Please seat this juror.
12 THE CLERK: Juror number 371, Gloria Rivers.
13 What say you for the State?
14 MR. STONE: Please present this juror,
15 Ms. Rivers.
16 THE CLERK: What say you for Defendant Young
17 Junior?
18 MR. VAUX: Please seat this juror.
19 THE CLERK: What say you for Defendant Young
20 Senior?
21 MR. FERGUSON: Please seat this juror.
22 THE CLERK: What say you for Defendant
23 Robinson?
24 MR. ROBINSON: Seat the juror.
25 THE CLERK: Juror 377, Fiordaliza Araujo,

JURY SELECTION

1 juror number 377. What say you for the State?

2 MR. STONE: Please present this juror,
3 Ms. Araujo.

4 THE CLERK: What say you for Defendant Young
5 Senior?

6 MR. FERGUSON: Please seat this juror.

7 THE CLERK: What say you for Defendant
8 Robinson?

9 MR. ROBINSON: Please seat this juror.

10 THE CLERK: What say you for Defendant Young
11 Junior?

12 MR. VAUX: Please seat this juror.

13 THE CLERK: Juror number 31, Cynthia Beaupre.
14 What say you for the State?

15 MR. STONE: Please present this juror, Ms.
16 Beaupre.

17 THE CLERK: What say you for Defendant
18 Robinson?

19 MR. ROBINSON: Excuse the juror.

20 THE CLERK: What?

21 MR. ROBINSON: Excuse the juror.

22 THE CLERK: Excuse the juror, okay.

23 THE COURT: She has been excused. She can
24 have a seat.

25 THE CLERK: Juror number 315 Pamela Mulligan.

JURY SELECTION

1 What say you for the State?

2 MR. STONE: Please present this juror,
3 Ms. Mulligan.

4 THE CLERK: What say you for Defendant Young
5 Junior?

6 MR. VAUX: Please seat this juror.

7 THE CLERK: What say you for Defendant Young
8 Senior?

9 MR. FERGUSON: Please seat this juror.

10 THE CLERK: What say you for Defendant
11 Robinson?

12 MR. ROBINSON: Please seat this juror.

13 THE CLERK: Juror number 466, Donta Wardell.

14 What say you for the State?

15 MR. STONE: Please present this juror,
16 Ms. Wardell.

17 THE CLERK: What is Defendant Young Senior?

18 MR. FERGUSON: Please seat this juror.

19 THE CLERK: What say you for Defendant
20 Robinson?

21 MR. ROBINSON: Seat the juror.

22 THE CLERK: What say you for Defendant Young
23 Junior?

24 MR. VAUX: Please seat this juror.

25 THE CLERK: Juror 51, Steven Brown. What say

JURY SELECTION

1 you for the State?

2 MR. STONE: Please excuse this juror,
3 Mr. Brown, for this case.

4 THE CLERK: Juror number 62, Mary Caballero.
5 What say you for the State?

6 MR. STONE: Please present this juror,
7 Ms. Caballero.

8 THE CLERK: What say you for Defendant
9 Robinson?

10 MR. ROBINSON: Seat the juror.

11 THE CLERK: What say you for Defendant Young
12 Junior?

13 MR. VAUX: Please excuse this juror from the
14 trial of this case.

15 THE CLERK: Juror number 261, Sharyn Leiter.
16 What say you for the State?

17 MR. STONE: Please present this juror,
18 Ms. Leiter.

19 THE CLERK: What say you for Defendant Young
20 Junior?

21 MR. VAUX: Please seat this juror.

22 THE CLERK: What say you for Defendant Young
23 Senior?

24 MR. FERGUSON: Please seat this juror.

25 THE CLERK: What say you for Defendant

JURY SELECTION

1 Robinson?

2 MR. ROBINSON: Seat the juror.

3 THE CLERK: Juror number 131, Ann Easter.

4 What say you for the State?

5 MR. STONE: Please present this juror,

6 Ms. Easter.

7 THE CLERK: What say you for Defendant Young

8 Senior?

9 MR. FERGUSON: Please excuse this juror.

10 THE CLERK: Juror number 94, Daniel Connelly.

11 What say you for the State?

12 MR. STONE: Please present this juror,

13 Mr. Connelly.

14 THE CLERK: What say you for Defendant

15 Robinson?

16 MR. ROBINSON: Please excuse this juror.

17 THE CLERK: Excuse the juror.

18 Juror number 172, Elizabeth Green. What say

19 you for the State?

20 MR. STONE: Please present this juror,

21 Ms. Green.

22 THE CLERK: What say you for Defendant Young

23 Junior?

24 MR. VAUX: Please excuse this juror from the

25 trial in this case.

JURY SELECTION

1 THE CLERK: Juror number 151, Louis Gaddo.

2 What say you for the State?

3 MR. STONE: Please present this juror,

4 Mr. Gaddo.

5 THE CLERK: What say you for Defendant Young

6 Senior?

7 MR. FERGUSON: Please seat this juror.

8 THE CLERK: What say you for Defendant

9 Robinson?

10 MR. ROBINSON: Please seat this juror.

11 THE CLERK: What say you for Defendant Young

12 Junior?

13 MR. VAUX: Please seat this juror.

14 THE CLERK: Juror number 360, Brian Ray.

15 What say you for the State?

16 MR. STONE: Please present this juror,

17 Mr. Ray.

18 THE CLERK: What say you for Defendant

19 Robinson?

20 MR. ROBINSON: Please seat this juror.

21 THE CLERK: What say you for Defendant Young

22 Junior?

23 MR. VAUX: Please excuse this juror from the

24 trial of this case.

25 THE CLERK: Juror number 271, Daniel Lugar.

JURY SELECTION

1 What say you for the State?

2 MR. STONE: Please present this juror,
3 Mr. Lugar.

4 THE CLERK: What say you for Defendant Young
5 Junior?

6 MR. VAUX: Seat the juror, please.

7 THE CLERK: What say you for Defendant Young
8 Senior?

9 MR. FERGUSON: Please excuse this juror.

10 THE CLERK: Juror 58, Heather Burt. What say
11 you for the State?

12 MR. STONE: Please present this juror,
13 Ms. Burt.

14 THE CLERK: What say you for Defendant Young
15 Senior?

16 MR. FERGUSON: Please seat this juror.

17 THE CLERK: What say you for Defendant
18 Robinson?

19 MR. ROBINSON: Excuse the juror.

20 THE CLERK: Juror number 353, William Powers.
21 What say you for the State?

22 MR. STONE: Please excuse this juror,
23 Mr. Powers, from this case.

24 THE CLERK: Juror number 362, Corinne Reeves.
25 What say you for the State?

JURY SELECTION

1 MR. STONE: Please excuse this juror,
2 Ms. Reeves, from this case.

3 THE CLERK: Juror number 109, Yvonne Daise.
4 What say you for the State?

5 MR. STONE: Please present this juror,
6 Ms. Daise.

7 THE CLERK: What say you for Defendant
8 Robinson?

9 MR. ROBINSON: Please seat this juror.

10 THE CLERK: What say you for Defendant Young
11 Junior?

12 MR. VAUX: Please seat this juror.

13 THE CLERK: What say you for Defendant Young
14 Senior?

15 MR. FERGUSON: Please seat this juror.

16 THE CLERK: Juror 120, Gerardo Diaz. What
17 say you for the State?

18 MR. STONE: Please present this juror,
19 Mr. Diaz.

20 THE CLERK: What say you for Defendant Young
21 Junior?

22 MR. VAUX: Please seat this juror.

23 THE CLERK: Defendant Young Senior?

24 MR. FERGUSON: Please seat this juror.

25 THE CLERK: What say you for Defendant

JURY SELECTION

1 Robinson?

2 MR. ROBINSON: Seat the juror.

3 THE CLERK: All right. We will be going for
4 our first alternate. Juror number 431, Joyce
5 Spivey. What say you for the State?

6 MR. STONE: Please present this juror,
7 Ms. Spivey.

8 THE CLERK: What say you for Defendant Young
9 Senior?

10 MR. FERGUSON: Please seat this juror.

11 THE CLERK: What say you for Defendant
12 Robinson?

13 MR. ROBINSON: Please seat this juror.

14 THE CLERK: What say you for Defendant Young
15 Junior?

16 MR. VAUX: Please seat this juror.

17 THE CLERK: Now we will be sitting the second
18 alternate.

19 Juror number 35, Reece Bertholf. What say
20 you for the State?

21 MR. STONE: Please present this juror,
22 Mr. Bertholf.

23 THE CLERK: What say you for Defendant Young
24 Junior?

25 MR. FERGUSON: Please excuse this juror.

JURY SELECTION

1 THE CLERK: Juror number 337, Angela Owens.
2 What say you for the State?

3 MR. STONE: Please present this juror,
4 Ms. Owens.

5 THE CLERK: What say you for Defendant
6 Robinson?

7 MR. ROBINSON: Excuse.

8 THE CLERK: Juror number 267, Rufus Laws.
9 What say you for the State?

10 MR. STONE: Please present Mr. Laws.

11 THE COURT: Any challenge for cause?

12 THE CLERK: For cause?

13 THE COURT: Any challenge for cause?

14 MR. VAUX: None behalf of Junior, Your Honor.

15 THE COURT: Thank you.

16 THE CLERK: Mr. Robinson?

17 MR. ROBINSON: No.

18 THE COURT: Thank you. Mr. Laws is second
19 alternate. Thank you.

20 THE COURT: Are there any matters of law
21 regarding the jury selection process from the
22 State, Mr. Stone?

23 MR. STONE: Not from the State, Your Honor.

24 THE COURT: Thank you. From Mr. Robinson?
25 Mr. Robinson, any matters of law regarding the

JURY SELECTION

1 jury selection process from Defendant Robinson?

2 MR. ROBINSON: None, Your Honor.

3 THE COURT: Thank you. Any matters of law
4 regarding the jury selection process from the
5 Defendant, Young Junior?

6 MR. VAUX: No, Your Honor.

7 THE COURT: From the Defendant Young Senior?

8 MR. FERGUSON: No, Your Honor.

9 THE COURT: Thank you. Now, ladies and
10 gentlemen, those of you who have not been selected
11 as jurors for the trial of this case, there's
12 another jury selection process that is going on
13 down the hall. Obviously, you are starving to
14 death by this time and that is in about 45
15 minutes, so that will give you time to have a
16 brief break and be in the jury assembly room at
17 3:30. And perhaps you might get selected in that
18 room. Your luck has held out so far.

19 You have been very patient throughout this
20 process. It's been a long process. I appreciate
21 your patience throughout this day. I doubt that I
22 will get the pleasure of seeing you again but it's
23 been a pleasure so far. Thank you. Be in the
24 jury room at 3:30.

25 THE COURT: All right. Ladies and gentlemen,

COLLOQUY

1 you have been selected as jurors for the trial of
2 this case. You can go to lunch too. As a matter
3 of fact, you can go to supper. We are not going
4 to need you back until tomorrow morning. We have
5 matters of law to take care in this courtroom out
6 of your presence, and even tomorrow morning early.
7 So I'll ask you to be in the jury room at 10:00.

8 You will not come to this courtroom, you will
9 come to the jury room. If you will follow
10 Mr. Cramer he will show you the room to report to
11 at 10:00. You will come up the back hallway and
12 report directly to that room.

13 Before we start the trial tomorrow morning
14 I'll give you instructions that you may or may not
15 do as jurors in this case. But to keep you from
16 mistakenly doing those things between now and
17 then, I'll tell you, you are not allowed to
18 discuss this case among yourselves or with anyone
19 else in the trial of this case.

20 There was a parade of folks who had come up
21 here and had read material about the trial of this
22 case and some of those people were not able to
23 serve because of those things, and they are
24 excused. We have been working since you got here
25 this morning, 10:00, and here it is 3 this

COLLOQUY

1 afternoon to make sure that when we finally got 14
2 people in the jury box we would have 14 people who
3 did not have any connection and who did not know
4 enough about the case to prevent you from being
5 fair and impartial in the trial of this case. No
6 connection with the people involved in the trial,
7 charged in this trial, victims of the crime, or
8 families, or lawyers in this trial. Nothing in
9 your background to keep you from serving fully in
10 the trial of this case.

11 We have been working hard and you have been
12 working hard since you got here. All through the
13 morning and afternoon, without lunch for any of
14 you, to make sure that we had that type of jury in
15 the jury box. When you go home if you try to look
16 at the TV or read a newspaper article or if you
17 talk to someone about it, everything that we have
18 done all day long is wasted, thrown away, no good.
19 We would have to start over.

20 So I'm counting on you not to do those
21 things. Everything that you will need to know
22 about this case to reach a verdict, and indeed
23 everything that you are allowed to know about this
24 case in order to reach a verdict, you will learn
25 from this courtroom and from no other source at

COLLOQUY

1 all. That is the reason that you can't try to
2 find out anything on your own about it or do your
3 own research about it, or let anybody talk to you
4 about it or expose yourself to any publicity about
5 it, whatsoever.

6 I'm confident that you are going to abide to
7 those instructions. You have worked as hard as I
8 have today and you don't want to start over
9 either. You may go home until 10:00, and follow
10 Mr. Cramer and he will tell you where to come in
11 the morning at 10:00.

12 (Jury exits the courtroom at 2:47 p.m.)

13 THE COURT: Ladies and gentlemen, I'm -- you
14 haven't had lunch either, so I know that we have
15 got a lot of work to do, but everybody needs to
16 stop and get something to eat. I'm suggesting
17 that we stop now and recess for 45 minutes, resume
18 at 3:30 this afternoon, we have a lot to do this
19 afternoon with the Jackson v. Denno issues. And I
20 asked the jury to come back at 10:00 realizing
21 that we may not finish all of those things and we
22 may have to come back in the morning, but we will
23 be back at 3:30 and deal with the Jackson v. Denno
24 issues at that time.

25 Hopefully we can finish. But if not we will

COLLOQUY

1 come back early in the morning to finish that.
2 Mr. Stone, anything from the State before we break
3 for lunch?

4 MR. STONE: No, sir.

5 THE COURT: Mr. Vaux, anything from Young
6 Junior?

7 MR. VAUX: Your Honor, only that I assume
8 that you have denied my motion for a change of
9 venue? I just wanted to go on the record.

10 THE COURT: You are exactly right. And the
11 affidavit is here. And I have denied. Sorry, I
12 didn't mean to be that flip about it. The
13 controlling case on a change of venue is -- well,
14 I tried the case, Dillon County.

15 MR. STONE: State versus Manning.

16 THE COURT: Warren Douglas Manning, Manning
17 II it was. There was a Manning III. Actually, a
18 Manning III that I tried. And it sets out the
19 procedure and it says that, That if a Judge is
20 able to seat a jury who has been exposed to
21 publicity about a case, by making the statutory
22 inquiries about the publicity and to the extent to
23 which it may have tainted the pool and is still
24 satisfied that the jury in place is one who will
25 not be adversely impacted by the publicity, then

COLLOQUY

1 the motion for change of venue should be denied.

2 And in that case by holding, and if not
3 holding certainly by strong dicta, the trial judge
4 is obligated to go through that process, the voir
5 dire process before granting the change of venue.
6 There's a narrow window in support that says, In
7 extreme cases it may not be necessary. I didn't
8 find that to be one of the cases, so in essence I
9 have complied with Manning, in my view, by
10 conducting the excessive voir dire about the
11 publicity in this case, and am satisfied with the
12 jury that we have in place is a fair and impartial
13 jury.

14 And so, it was not possible for me to make
15 that determination, quite frankly, until I had
16 done that inquiry. The motion is respectfully
17 denied. And I'll file the affidavit as a Court's
18 exhibit to the record in that regard. Anything
19 further from Young Junior before we break for
20 lunch?

21 *(Whereupon, Court's Exhibit No(s). 1 marked*
22 *for identification.)*

23 MR. VAUX: No, Your Honor.

24 THE COURT: Mr. Ferguson?

25 MR. FERGUSON: Only that I filed a very

COLLOQUY

1 similar motion for my client and I understood that
2 it's denied?

3 THE COURT: Yes.

4 MR. FERGUSON: Thank you.

5 THE COURT: Anything else from you Mr. Bax or
6 Robinson?

7 MR. BAX: I believe so, but because we put
8 this on the record. I received a number of color
9 photographs on Friday. And since I was out of
10 town I was unable to provide copies to
11 Mr. Robinson until Monday. So I have provided
12 color copies to him now, so I wanted that on the
13 record. And I have received information that
14 there's a model that will be used in this case. I
15 will ask that Mr. Robinson be able to view that
16 model at some point before it's brought into use.
17 I didn't have the opportunity. But since he's
18 here and representing himself he should be able to
19 do that.

20 THE COURT: Would that create a problem?

21 MR. STONE: No, I couldn't find a way to
22 arrange that. Mr. Vaux and Ferguson have seen
23 that. We will have it and we can get it here
24 today or tomorrow morning.

25 THE COURT: When do you anticipate using it?

)

COLLOQUY

1 MR. STONE: Tomorrow, third witness.

2 THE COURT: If we could make it available
3 this afternoon or first thing in the morning.

4 All right. We will be in lunch until 3:30.
5 And get back then.

6 (Whereupon, a lunch recess was taken.)

7 THE COURT: All right. Ladies and gentlemen,
8 are we ready to proceed to the Jackson v Denno
9 issues? Is the State ready?

10 MR. STONE: Yes, sir.

11 THE COURT: Are you ready?

12 MR. VAUX: Yes, Your Honor.

13 MR. FERGUSON: Yes, Your Honor.

14 MR. BAX: I have explained, as best as I can,
15 the Jackson v. Denno to Mr. Robinson and he
16 understands he has the right to cross-examine any
17 witnesses that they present.

18 THE COURT: And the --

19 MR. ROBINSON: Yes, Your Honor.

20 MR. STONE: Jack Thomas. And I'll also point
21 out that the model is here for Mr. Robinson to
22 view.

23 THE COURT: Okay. Thank you.

24 MR. STONE: Yes, sir.

25 THE COURT: Mr. Vaux.

DIRECT EXAMINATION OF MARTIN THOMAS

1 Thereupon,

2 MARTIN THOMAS

3 was called as a witness, having been first duly sworn,
4 was examined and testified as follows:

5 THE COURT: Please be seated and state your
6 name for the Court and spell it, please.

7 THE WITNESS: Martin Thomas.

8 DIRECT EXAMINATION

9 BY MR. STONE:

10 Q And you are a sergeant; is that correct?

11 A That's correct, sir.

12 Q Let me talk to you, specifically, about
13 September the 1st, 2012, and ask if you were involved
14 in the -- in the incident at Allen Road?

15 A Yes, sir, I was.

16 Q All right. And pull that microphone closer
17 to you so I can hear what you are saying.

18 A Yes, sir, I was.

19 Q What was your duty there? What was your job?

20 A I was the -- one of the first responding
21 officers there. And I was the first supervisor on
22 scene. And my job was to secure the scene where the
23 child was and to organize a search for any
24 participants, any subjects, or would-be subjects in
25 this situation.

DIRECT EXAMINATION OF MARTIN THOMAS

1 Q All right. At that part you are not an
2 investigator, you are basically a first responder in
3 the sense of the Sheriff's Office?

4 A A road patrol officer, first responder, yes,
5 sir.

6 Q All right. Sergeant, let me ask you -- mark
7 this as State's Exhibit 1. Normally I would do this as
8 a Court's Exhibit, Your Honor, but I plan on
9 introducing this at trial, so if it is all right with
10 you, I would like to just go ahead and mark this as
11 State's Exhibit 1.

12 *(Whereupon, State's Exhibit No(s) 1 marked*
13 *for identification.)*

14 BY MR. STONE:

15 Q Now, let me show you, Sergeant, what's marked
16 as State's Exhibit 1 and tell me what that disc is?

17 A A disc that I reviewed earlier today from my
18 in-car camera from my patrol vehicle.

19 Q When you turn on -- in that case, in
20 particular, when you turn on the blue lights, is that
21 what activated the camera in this situation?

22 A Yes, sir, in this case the blue lights
23 activated it.

24 Q Okay. You hit the blue lights, the camera
25 comes on; what about the audio?

DIRECT EXAMINATION OF MARTIN THOMAS

1 A The audio goes on too, sir.

2 Q Does that hook into -- I see that you have a
3 body mike on or at least something on here; does that
4 hook into a body mike as well as inside the car, or how
5 does that work?

6 A Yes, sir.. The body mike I keep on my belt, I
7 can activate this, the in-camera system from the body
8 mike. This would be probably mike two and the
9 microphone in the car would be mike one if you pulled
10 up the video.

11 Q You obviously reviewed the video, the video
12 itself, the audio and the video, is that something that
13 is streamed continuously since you, in this case,
14 turned on your blue light?

15 A Yes, sir.

16 Q You have reviewed that video, is that -- and
17 I recognize that it's been redacted, some parts have
18 been cut out, but have you reviewed what is on that
19 video?

20 A Yes, sir, I was.

21 Q As well as the audio?

22 A Yes, sir, I have.

23 Q Okay. Is it accurate?

24 A Yes, sir, it is.

25 Q All right. I wanted to -- I want to make

DIRECT EXAMINATION OF MARTIN THOMAS

1 sure that we clear up one other thing. Hold on just a
2 moment. The, along with this is a transcription from a
3 court reporter, and other than the spelling errors of
4 Kalori's (phonetic) name and some other various
5 officers' names is that accurate as to what you seen
6 and heard that day?

7 A Yes, pretty much.

8 MR. STONE: Your Honor, if I could, Dillon
9 Hightower from my office he can operate this stuff
10 a lot better than I can, if it would be okay if he
11 can come up.

12 THE COURT: That's fine.

13 MR. STONE: What I'm going to introduce, this
14 has already been loaded into the computer, Your
15 Honor. All right. It is also the redacted
16 version as well. We have gone ahead and redacted
17 all references, according to the United States
18 versus Bruton as to any of the co-defendants that
19 Tyrone Robinson talked about.

20 THE COURT: Okay. Thank you.

21 MR. STONE: I would like to play that and
22 show that to Your Honor.

23 THE COURT: Okay. Very good.

24 MR. STONE: One other thing, Your Honor,
25 other than the redaction, according to the United

DIRECT EXAMINATION OF MARTIN THOMAS

1 States versus Bruton, an individual at the scene
2 came up to Sergeant Thomas and made the comment
3 that Tyrone Robinson probably had outstanding
4 warrants. We took that out as well. So, that's
5 also been redacted.

6 THE COURT: Thank you.

7 (Video begins playing.)

8 BY MR. STONE:

9 Q Sergeant. When you first encountered Tyrone
10 Robinson, how did that happen?

11 A I went across to the little dirt road there
12 to go behind, to go to a trailer where he said a lady
13 named Savoria was. Because, from what I understood is
14 that she knew some information about who this person
15 Tyrone was and where he was at. How I came about him
16 in the middle of asking for Savoria, he approached me
17 to tell me who he was.

18 Q So, when he came up to you he was not in
19 custody or under arrest or anything like that when he
20 walked up to you?

21 A No, sir.

22 Q So, up until -- through most of this video
23 that we just watched he is not in handcuffs, he is not
24 in custody, anything like that; is that correct?

25 A Yes, that's correct.

DIRECT EXAMINATION OF MARTIN THOMAS

1 Q And then at the point that I believe you say
2 these people appear to be saying, That is him coming up
3 to you. Describe that situation for me, if you would.

4 A We are at a point where I went behind the
5 back of the trailer and I'm coming up towards the front
6 of the trailer and I'm met by Mr. Robinson. And we are
7 now at or about right where his car is that he keeps
8 talking about getting shot up. And that's when he's
9 being identified by whoever was yelling in the
10 background.

11 Q These people at the scene?

12 A The people at the scene.

13 Q Okay.

14 A And now these people are moving towards
15 myself and Corporal Joe Lear.

16 Q Okay.

17 A So, there was quite a few of them. And
18 emotions were running really high and that is how I
19 came in contact with him.

20 Q Okay. And I heard the riots and everything
21 like that. Did you -- at some point during that did
22 you put him in the back of your patrol car or try to
23 put him in someone else's patrol car?

24 A We ended up putting him in Joe's car,
25 Corporal Lear's car.

DIRECT EXAMINATION OF MARTIN THOMAS

1 Q I am assuming that you had to handcuff him
2 before you did that; is that right?

3 A We did handcuff him, yes.

4 Q Okay. And put him actually in Lear's car.
5 And at that point, we don't hear anything else; is that
6 correct?

7 A No. No, sir.

8 Q Okay. And the testimony that we are
9 hearing -- I guess what I'm trying to put together is
10 at what point did you put him in handcuffs. Did you
11 continue to talk to him, and then put him in Lear's
12 car? I'm just trying to piece that together.

13 A I never talked to him once we put him in Joe
14 Lear's car because my concern was to get him out of the
15 area because of the number of people that were around
16 us.

17 Q All right. So, the conversation that we
18 heard between you and Tyrone Robinson was all outside
19 of the car, I'm assuming?

20 A Yes.

21 Q You were waiting on Lear's car to come up or
22 something like that?

23 A Not the entire time, sir. When I realized
24 that this may be one of, or the person that I'm
25 supposed to be looking for, and with the amount of

DIRECT EXAMINATION OF MARTIN THOMAS

1 people, the aggression that was coming at us, to put
2 him in handcuffs for our safety.

3 Q Got you.

4 A So he doesn't get cold feet on us or whatever
5 and then things break bad there. I put him in
6 handcuffs and eventually put him in a patrol car to get
7 him out of the area.

8 Q I got you. So at that point he was not
9 arrested, you were detaining him, basically?

10 A He was detained, and I told him as such.

11 Q Got you.

12 MR. STONE: I don't have anything else at
13 this time, Your Honor.

14 THE COURT: All right. Mr. Vaux,
15 cross-examine.

16 CROSS EXAMINATION

17 BY MR. VAUX:

18 Q Sergeant Thomas, in the beginning of the tape
19 there's a reference by Mr. Robinson to some coke; do
20 you remember that?

21 A I do, sir.

22 Q Okay. And there was a reference to, at the
23 same time, a reference to Squire Pope; do you remember
24 that?

25 A Yes, sir, I do.

CROSS EXAMINATION OF THOMAS. BY VAUX

1 Q And isn't it a fact that the Defendant Young,
2 while not living on Squire Pope lives on Wild Horse
3 Road which is a road next to Squire Pope?

4 A I don't understand your question, sir.

5 Q My concern is this, it is the State's
6 position that this is a drug deal gone bad. I think
7 Mr. Robinson refers to that later in the testimony, it
8 is a drug deal gone bad. And that drug deal would have
9 to, or at least inconsequently, refer to the Youngs,
10 Your Honor. And I would like for to you watch that
11 again because I would like that part redacted.

12 THE COURT: I don't know if there's any
13 specific reference to the Youngs.

14 MR. VAUX: Not by name, no, sir.

15 THE COURT: Right.

16 MR. VAUX: But it does say there was a
17 shoot-out earlier and he says twice that there was
18 a drug deal -- he references coke or cocaine
19 twice.

20 THE COURT: He does say that.

21 MR. VAUX: And he references I think Squire
22 Pope. And I think Wild Horse Road -- if you look
23 at a map, and the State might be willing to
24 stipulate, that when you come on the island the
25 first paved road to the left past -- once you get

CROSS EXAMINATION OF THOMAS. BY VAUX

1 to the island itself, not Hotson's (phonetic)
2 Island or Jenkins Island, but you get to Hilton
3 Head itself, the first road is Squire Pope Road,
4 the next road is Wild Horse Road. And Wild Horse
5 Road connects into Squire Pope Road. And there
6 are dirt roads or trails that connect the two
7 together, interconnected.

8 And my concern is that the State, as I
9 understand it, the State's position is that this
10 is a drug deal gone bad and it would have had to
11 do with -- it would be a statement used against
12 them.

13 THE COURT: I understand. Mr. Stone, what do
14 you say to that? A reference to a drug deal, a
15 shoot-out, things of that nature, would implicate
16 their client.

17 MR. STONE: That is all true. The difference
18 is when it comes to redacting these statements, in
19 the United States versus Bruton, the question is:
20 On its face does it refer to or can it -- does it
21 refer directly to the other individuals on trial.
22 And it clearly does not. There's no direct
23 reference to either one of the Youngs in there.
24 But it is proper for the testimony of the event to
25 come in as long as it does not refer directly to

CROSS EXAMINATION OF THOMAS. BY VAUX

1 one of the Defendants and it clearly on its face
2 does not. Will that tie into other evidence?
3 Absolutely. And that is what is envisioned by
4 United States versus Bruton.

5 THE COURT: Res gestae is the phrase that is
6 often used sort of generically to almost let all
7 of the dirty wash get thrown into the laundry.
8 But this does seem to be a case that if there is a
9 reference to a shoot-out, as there is in the
10 testimony, I think that's going to be almost
11 inescapable from what I understand. But I'll be
12 glad to look at that again. But -- look at Bruton
13 again, but I don't think that there's -- certainly
14 it's not in the record a reference to your
15 clients, so there would have to be some
16 implication that they could draw from it. But I
17 don't think that Bruton necessarily excludes
18 implication, but it does exclude a direct
19 reference. I would be glad to look at it again
20 but I'm not inclined to take it out.

21 MR. VAUX: I would ask that you look at
22 Hinson. I think that Hinson is the most recent by
23 the South Carolina Supreme Court. And I think
24 that the three people on trial here and who else
25 could be it be referring to. I mean that's

CROSS EXAMINATION OF THOMAS. BY VAUX

1 like -- I mean, I suppose that it could be
2 referring to me and to Lasandra and a couple of
3 other people but it's kind of not.

4 THE COURT: I will check into that again.
5 All right. Any further questions?

6 MR. VAUX: Not at this time.

7 THE COURT: Mr. Ferguson?

8 MR. FERGUSON: No questions other than the
9 exact same line, we share the exact same position
10 that that incriminates my clients just as their
11 status as co-defendant. If you look at the
12 transcription on the video screen, it has Aaron
13 Young Senior and Junior right below and it has
14 reference to a coke deal that implies more than
15 one person. And so I object to that and ask that
16 it be redacted.

17 MR. STONE: Your Honor, if I could help.
18 It's actually referring to the case itself, but we
19 can take that off, Your Honor, that is that first
20 bleep.

21 THE COURT: All right. Mr. Robinson, do you
22 have any question that you want to ask of Sergeant
23 Thomas?

24 MR. ROBINSON: I have an issue about the
25 video. I have an issue with him testifying to

CROSS EXAMINATION OF THOMAS. BY VAUX

1 what that -- the video is alleging the Young boy
2 is testifying saying, you know, at the end and
3 what the woman is testifying to. Because I can't
4 cross-examine him what is my right to
5 complication? And so I would have a problem with
6 them playing that part of the video where the lady
7 is testifying and the young boy is testifying
8 towards him while he's testifying. I can't
9 question him for them. So, that is inadmissible
10 toward him under Rule of Hearsay.

11 THE COURT: That is right. You are exactly
12 right.

13 MR. ROBINSON: And that refers --

14 THE COURT: All right. Let me inquire.

15 Sorry those on the witness list will be
16 testifying, but what do you say, Solicitor, that
17 that is certainly an accusation of guilt by
18 someone who is not on the stand, at least at this
19 point in time.

20 MR. STONE: Yes, sir. What you have in both
21 of those situations, as far as the people that are
22 coming up and pointing there, they are pointing at
23 the time. I think that clearly falls under 803(1)
24 and (2). I think that when you look at it from
25 the context of the cases on the confrontation

CROSS EXAMINATION OF THOMAS. BY VAUX

1 clause, analyzing both Crawford as well as
2 Michigan versus Bryant, and Michigan versus Bryant
3 being the most recent decision in the United
4 States Supreme Court, the question is when -- for
5 instance, go to Jontu Singleton where at the end
6 when Martin Thomas goes over to him and asks him
7 what the situation is.

8 Michigan versus Bryant says that's not a
9 violation of the confrontation clause because it
10 is not testimonial. And it's not testimonial
11 because of the purpose behind which the question
12 was asked. And I think that you can look at that
13 and listen to that and you can clearly tell that
14 the question is we are assessing an ongoing
15 emergency situation, almost identical to Michigan
16 versus Bryant. And if you analyze it using those
17 factors that is what -- they are consistent with
18 each one of them.

19 THE COURT: It is the excited utterance type
20 of thing that some of the other cases have allowed
21 as an exception to the rule as well.

22 MR. ROBINSON: Your Honor, the problem is
23 Jontu S. Junior, he made a forensic -- he
24 made an interview with a forensic expert at Hope
25 Haven and in his interview he specifically stated

CROSS EXAMINATION OF THOMAS. BY VAUX

1 he never saw anybody shooting a gun, he never saw
2 anybody in possession of a gun, he never saw any
3 grown-ups around during the time the shooting
4 occurred, he didn't have any knowledge of whatever
5 occurring, so that interview would conflict with
6 this interview and proves that that boy cannot
7 even testify to that statement that he gave.

8 But I cannot present that evidence and make
9 that defense against -- toward him if they put
10 that for him. So, you know, it would prejudice me
11 in my defense and it's inadmissible as hearsay. I
12 can show you the video. I can play you the video
13 for you right now if you allow me to, what I'm
14 referring to.

15 THE COURT: I will take your word that it
16 says what you say it says. Solicitor, what about
17 the fact that there's a subsequent interview that
18 contradicts what was said at the scene?

19 MR. STONE: He was taken to Hope Haven, as
20 standard for children and he did, unfortunately,
21 what a lot of children do, he wouldn't talk about
22 it. They kept trying to ask him about things and
23 he wouldn't talk about it. So he is, from that
24 standpoint, unavailable.

25 Of course, at this point you are also dealing

CROSS EXAMINATION OF THOMAS. BY VAUX

1 with child testimony, which I'm not planning on
2 offering anyway. Which is why Michigan versus
3 Bryant is on point in that situation. In that
4 case obviously there is a witness that makes that
5 statement dies.

6 But the Hope Haven person, if Mr. Robinson
7 wants to call them, clearly they can testify to
8 that. But that was clearly an issue. But what
9 the child does, he locks down and won't talk.

10 MR. ROBINSON: He specifically said that he
11 didn't never saw anybody with a gun, he never saw
12 anybody shoot a gun. He specifically said that.

13 THE COURT: Mr. Solicitor, I will have to
14 read Michigan versus Bryant. I'm familiar with
15 Hinson and Crawford. I have to read Michigan
16 versus Bryant and satisfy myself that that creates
17 a window of opportunity, as far as this line of
18 testimony is concerned.

19 Mr. Robinson, I know your concern in that
20 regard. Of course the jury is not here today.
21 They are not -- before the jury hears the
22 testimony I'll do more research on it myself. But
23 right this minute you have got the right to
24 cross-examine Sergeant Thomas on any matters
25 raised in his cross -- in his testimony in his

CROSS EXAMINATION OF THOMAS. BY VAUX

1 case.

2 MR. ROBINSON: Can I play the video? Since
3 he played that video, can I play the video from
4 Hope Haven?

5 THE COURT: Before I let that testimony come
6 in, before I let a jury hear it, I'll listen to
7 that tape. I don't need to hear it right this
8 minute. Okay.

9 MR. ROBINSON: Yes, sir. Can I step over
10 there?

11 THE COURT: Yes, sir.

12 CROSS EXAMINATION

13 BY MR. ROBINSON:

14 Q My issue right now is, okay, the conversation
15 that we had is that -- the conversation that we had was
16 on Allen Road, right?

17 A Are you asking me if the conversation that
18 you and I had was on Allen Road?

19 Q Allen Road?

20 A Yes, it was.

21 Q That video explains this, but they did a
22 transcript of that conversation, right, and the person
23 that typed this transcript up it might be a misquote or
24 whatever, but in this transcript, it states, I parked
25 my car behind here and go and start shooting. Okay.

CROSS EXAMINATION OF THOMAS BY ROBINSON

1 And correct me if I'm wrong, but I never told you I was
2 shooting a gun on Allen Road, did I, as that video
3 clearly explains?

4 A I don't recall you telling me that, no, sir.

5 Q Right because -- and I have got the DVD time.
6 Is somebody working this?

7 MR. ROBINSON: Can you go to 1709?

8 MR. STONE: That is the unredacted portion,
9 Your Honor, but we can certainly make that
10 available. In other words, this is the redacted
11 version. The unredacted is what he --

12 MR. ROBINSON: The statement; I park my car
13 behind here, he go and start shooting. So, what I
14 would like to say, I just want to make sure that
15 he doesn't use this transcript at trial because
16 it'll be prejudicial toward me. And it sounds
17 like a confession that I didn't make.

18 THE COURT: As I understand it it talks about
19 when it says that, He started shooting, that is an
20 accusation against the Youngs, right?

21 MR. ROBINSON: It is inadmissible hearsay.

22 THE COURT: It's inadmissible against the
23 Youngs because it is your statement.

24 MR. ROBINSON: Right, I'm not saying I want
25 that admitted in court. I'm just saying I want to

CROSS EXAMINATION OF THOMAS BY ROBINSON \

1 make a correction that he -- because I have a case
2 that they gave me saying where somebody is making
3 a confession and they like, he said like, We was
4 in a shoot-out, they can play that even though
5 it's implicating them. Because (inaudible) they
6 can play that. So, I want to correct that, say
7 that that statement is inadmissible as hearsay and
8 this version right here is the incorrect version.

9 THE COURT: I think that they agreed, the
10 State agreed, as I understand it, they are not
11 going to offer that portion of the tape on the
12 transcript in the record at least as is against
13 you, and certainly not against them. They have
14 tried to take everything out of that transcript of
15 your testimony.

16 They tried to take everything out of that
17 transcript that you are saying that implicates
18 you, for the same reason that you were talking
19 about earlier.

20 MR. ROBINSON: Okay. But I just don't want
21 to -- my issue -- I don't know if they are going
22 to ask questions from this transcript that was
23 typed up. And that transcript has an incorrect
24 version of what was said.

25 THE COURT: He hasn't tried to ask those

CROSS EXAMINATION OF THOMAS BY ROBINSON

1 questions yet, Mr. Robinson. And certainly if he
2 does I will hear your objections at the time. I
3 don't think that it is going to come up. But you
4 are right, it can't come up under these
5 circumstances.

6 Okay. You can give that back to him.

7 MR. ROBINSON: Thank you. I don't have any
8 further questions.

9 THE COURT: Any redirect?

10 MR. STONE: No, sir. I'll hand up Michigan
11 versus Bryant, Your Honor.

12 THE COURT: Officer, you can step down.

13 Thank you.

14 MR. STONE: The State calls Wendy Conant to
15 the stand.

16 THE COURT: Come forward Ms. Conant.

17 Thereupon,

18 WENDY CONANT

19 was called as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. STONE:

23 Q And you are a corporal; is that correct?

24 A Yes, sir.

25 Q Did I get that right? Okay. Let me go

DIRECT EXAMINATION OF CONANT BY STONE

1 directly to your dealing with Tyrone Robinson on
2 September the 1st, 2012. Where did that take place?

3 A That took place at the Hilton Head office,
4 which is located at 70 Shelter Cove Lane, Hilton Head
5 Island.

6 Q That is the Sheriff's office on that road; is
7 that correct?

8 A Correct.

9 Q Okay. You were at some point approached --
10 you approached Tyrone Robinson in order to get a
11 statement from him; is that correct?

12 A Yes, I was part of the interview process with
13 him, which included obtaining a written statement and
14 verbal statement.

15 *(Whereupon, State's Exhibit No(s). 2 marked*
16 *for identification.)*

17 BY MR. STONE:

18 Q Let me show you what's been marked as State's
19 Exhibit 2 and ask you if you can identify that form,
20 please?

21 A This is the written Miranda warning form
22 which I read to Tyrone and he read along with me and
23 acknowledged that he understood his rights and then he
24 signed or admitted or checked off that he wanted to
25 talk to me at this time.

DIRECT EXAMINATION OF CONANT BY STONE

1 Q This is Tyrone Robinson? I know that you
2 said Tyrone.

3 A Yes, Tyrone Robinson.

4 Q And do you see Mr. Robinson in the courtroom
5 today?

6 A I do.

7 Q Can you point him out for me, please?

8 A He is the gentleman to the far right dressed
9 in green.

10 Q To your far right?

11 A Yes, I am sorry.

12 Q Got you. No, that's fine. Tell me how you
13 read that? That is the form. Specifically, how did
14 you read that to Tyrone Robinson?

15 A When I read this to somebody that I'm going
16 to be talking to, I tell them that it's a Miranda
17 warning form and I basically turn so they can read it
18 along with me. I read it word for word. Statement of
19 his rights. I read him each of the four rights. I ask
20 him if he understands.

21 And if he does he's asked to initial
22 against those rights, which he did, and then the
23 four lines for him to initial on each right.

24 After all of those rights have been
25 read to him he is asked for the waiver of those

DIRECT EXAMINATION OF CONANT BY STONE

1 rights which is where he's asked, does he understand
2 those rights. He then marks yes if he understands
3 them and no if he doesn't. He checks yes. And
4 then, having these rights in mind he is asked if he
5 wants to talk to me now. He has the choice yes or
6 no. And in this case he chose the yes option.

7 Q The initials there are his initials; is that
8 correct?

9 A They are.

10 Q And did he initial that after you read him
11 each of those rights?

12 A He did.

13 Q And what rights did you read him?

14 A You have the right to remain silent.

15 Anything you say can and will be used against you in a
16 court of law. You have the right to have an attorney
17 present before or during questioning. If you cannot
18 afford an attorney one will be appointed for you before
19 any questioning, if you wish.

20 Q And those initials are his beside each one of
21 those rights?

22 A Correct.

23 Q And that indicated that he understood those
24 rights?

25 A Correct.

DIRECT EXAMINATION OF CONANT BY STONE

1 Q Now, did you then ask him if he understood
2 those rights?

3 A I did. The section below, the waiver of
4 rights, I asked him, Do you understand each of these
5 rights I have explained to you. He checked off yes.
6 And I said, having these rights in mind, do you wish to
7 talk to us now. And he checked off, Yes.

8 Q That is actually his checkmark?

9 A It is.

10 Q And the signature below that?

11 A The signature is that of Tyrone Robinson.

12 Q And then you signed that as well?

13 A I did, as a witness.

14 Q Hand that up to Your Honor.

15 THE COURT: All right.

16 BY MR. STONE:

17 Q After you read him those rights and he
18 indicated that he wished to make a statement to you,
19 did he make a statement to you?

20 A He did.

21 Q Now, did you promise him anything, threaten
22 him in any way to get him to give you a statement?

23 A I did not.

24 Q Now, specifically, I want to talk to you
25 about what Mr. Robinson told you. First of all, there

DIRECT EXAMINATION OF CONANT BY STONE

1 was some testimony earlier concerning a coke deal. Did
2 he tell you that?

3 A He did..

4 Q And how did he tell you that?

5 A He told me that earlier in the day he had
6 been involved in a coke deal that went bad.

7 Q Did he tell you where, where that took place?

8 A He said that it took place on Squire Pope
9 Road, Hilton Head Island.

10 Q Okay. And then after that did he -- did he
11 tell you anything that took place after Squire Pope
12 Road?

13 A He said that afterwards the -- it continued
14 on Oak View Road, which is also on Hilton Head Island.

15 Q Oak view is -- tell me where Oak View is
16 compared to Squire Pope or Squire Pope area?

17 A I would estimate that it's probably about a
18 mile and a half to maybe 2 miles at the most away, same
19 side of the island. You have to cross 278 off of
20 Squire Pope to get to it. Heading towards Marshland
21 Road and Spanish Wells.

22 Q What did he say took place at Oak View or at
23 the Oak View area?

24 A He said in the Oak View area he was being
25 chased by a truck with an AR15 hanging out of the

DIRECT EXAMINATION OF CONANT BY STONE

1 window.

2 Q Now, what is an AR15?

3 A That is a semiautomatic rifle.

4 Q Did he tell you where he went after that?

5 A He said that is when he went up to Allen Road
6 where he hid his car.

7 Q Where he, I am sorry?

8 A Up to Allen Road where he placed his car on
9 Allen Road. He hid it on Allen Road.

10 Q Did anything happen to his car while on Allen
11 Road?

12 A It got shot up.

13 Q Did he tell you what he did once he -- once
14 he hid his car? I'm assuming that he was not in his
15 car when it was shot up?

16 A He wasn't.

17 Q Did he tell you what he did once he hid his
18 car?

19 A To his cousin Charlie's house nearby on
20 Marshland Road. He went inside for a minute. He came
21 back outside to make a phone call, and as soon as he
22 walked outside he was getting shot at in front of her
23 trailer.

24 Q That was Charlie Jackson; is that correct?

25 A Yes.

DIRECT EXAMINATION OF CONANT BY STONE

1 Q Did he tell you if he saw any children out in
2 the area during all of this?

3 A He did say that he noticed children on the
4 trampoline.

5 Q Where is the trampoline located, do you know?

6 A If you are facing the house, when you came
7 out it would be to the left.

8 Q Okay. And did he identify the truck that was
9 chasing him?

10 A He described it as an F150, old school, 1985
11 truck.

12 Q All right. Your Honor, I don't have any
13 further questions of this witness at this time.

14 THE COURT: Thank you. Mr. Vaux.

15 MR. VAUX: May I have just a second please,
16 Your Honor?

17 (Pause.)

18 MR. VAUX: Your Honor, we would essentially
19 make the same objections as to coke deal gone bad
20 on the road. But other than that I have no -- I
21 mean, I can go into the specifics if you want me
22 to.

23 THE COURT: I understand. Your objection is
24 as to an earlier coke deal that went bad?

25 MR. VAUX: Yes, sir.

DIRECT EXAMINATION OF CONANT BY STONE

1 THE COURT: I will note that. But this is a
2 little different in coming in in this witness'
3 testimony than it was earlier.

4 MR. VAUX: Yes, sir.

5 THE COURT: Mr. Ferguson.

6 MR. FERGUSON: No questions.

7 THE COURT: Mr. Robinson, any questions that
8 you would like to ask this witness?

9 MR. ROBINSON: No, sir.

10 THE COURT: Anything further?

11 MR. STONE: No, sir.

12 THE COURT: You may step down.

13 MR. STONE: As to the Jackson Denno hearing
14 for Tyrone Robinson that concludes this. We are
15 ready to go forward with the Youngs as well, but
16 as far as the Tyrone Robinson.

17 THE COURT: Mr. Robinson, you understand that
18 the purpose of this hearing is to determine
19 whether or not the things that you told the police
20 officers, both Corporal Conant that just testified
21 and Sergeant Thomas that testified earlier,
22 whether or not the jury will be allowed to hear
23 those things. You understand that is the purpose?

24 MR. ROBINSON: Yes, sir.

25 THE COURT: All right.

DIRECT EXAMINATION OF CONANT BY STONE

1 MR. ROBINSON: Your Honor, I would like to
2 say one thing. In that testimony with the
3 officer, the first officer who testified, the
4 statement that I gave him he -- it clearly reveals
5 that he read me my rights after I gave a lot of
6 that statement, so I just want to say that.

7 THE COURT: That is right. He did. But, of
8 course, the question is whether you were in
9 custody at the time. And the State's position is
10 that you were not put in custody until at or after
11 he read you your rights, but before that time,
12 according to his testimony, you actually came up
13 to him and started talking to him about that. The
14 Miranda doesn't apply to those. You have to be
15 under arrest or you have to be detained in some
16 way; your freedom has to be limited before they
17 are required to give you Miranda warning.

18 The position of the State is that those
19 earlier statements were made before you were put
20 into custody. You were given the Miranda warning,
21 as the State said, after you talked to him for a
22 while. And then from that point on, whatever you
23 tell him the Miranda warnings can be admissible.
24 You understand those distinctions?

25 MR. ROBINSON: Yes, sir.

DIRECT EXAMINATION OF CONANT BY STONE

1 THE COURT: Do you have any reason to object
2 to the voluntariness of the statements that you
3 made either to Sergeant Thomas or Corporal Conant?

4 MR. ROBINSON: No, sir.

5 THE COURT: All right. Thank you, sir. You
6 may be seated. All right. What do we have next?

7 MR. STONE: Your Honor, the State calls Curt
8 Evans, Officer Evans to the stand.

9 THE COURT: Officer Evans come forward and be
10 sworn.

11 Thereupon,

12 CURTIS EVANS

13 was called as a witness, having been first duly sworn,
14 was examined and testified as follows:

15 THE CLERK: State your name and spell it for
16 the court reporter.

17 THE WITNESS: Curt Evans, E-V-A-N-S.

18 DIRECT EXAMINATION

19 BY MR. STONE:

20 Q Officer Evans, you are a patrol officer; is
21 that correct?

22 A That's correct.

23 Q On September 1st, 2012, you were a patrol
24 officer as well?

25 A That's correct.

DIRECT EXAMINATION OF EVANS BY MR. STONE

1 Q Specifically, let me go to the traffic stop
2 that you made on the F150 that held the Youngs and
3 Ebony Campbell. You made that stop?

4 A I did.

5 Q Was this after you received information from
6 dispatch that that truck might have been involved in a
7 crime?

8 A That is correct.

9 Q Tell me how that came about?

10 A I was on my way to work. I was traveling
11 eastbound on 278 when I received a BOLO for a gray F150
12 pick-up. While traveling eastbound I passed Squire
13 Pope. And at this point I was patrolling to see if I
14 could locate that vehicle. I traveled east bound to
15 Gum Tree Road at which time I did a U-turn at Gum Tree
16 Road and become eastbound on 278, heading back towards
17 Spanish Moss Road and Wild Horse Road. I came to the
18 intersection of US 278 and Wild Horse Road. And at the
19 red light while sitting at the intersection waiting for
20 the light to turn green again I was actively searching
21 the area for the vehicle, at which time I observed the
22 vehicle, the gray F150, come from Wild Horse Road and
23 cut in front of me and go eastbound on US 278. It
24 matched the BOLO that was given to me less than ten
25 minutes beforehand, at which time I turned around on US

DIRECT EXAMINATION OF EVANS BY MR. STONE

1 278 and got behind the vehicle on 278 and conducted a
2 traffic stop.

3 Q Who was in the vehicle?

4 A There were three people in the vehicle. Mr.
5 Young Senior was driving, Young Junior was in the
6 middle. And Ebony Campbell was in the passenger's
7 seat.

8 Q Okay. Did you order them out of the car or
9 did you get them out of the car?

10 A Not initially.

11 Q Okay. What did you do initially?

12 A Initially, as I stated in my report, the BOLO
13 didn't quite match. So I was waiting for backup to
14 arrive. And once backup arrived then I approached the
15 vehicle. I wanted to question the individuals to see
16 if I had the right individuals in the BOLO.

17 Q All right. And You walked up to the car and
18 what happened after that?

19 A As soon as I approached the vehicle and
20 identified myself Mr. Young Senior stated before I
21 could say anything else that he was just about to call
22 the Sheriff's Office because someone had shot at him in
23 his residence at ■ Wild Horse Road.

24 Q Did you ask him any questions prior to that?

25 A I did not.

DIRECT EXAMINATION OF EVANS BY MR. STONE

1 Q Okay. This was just a statement that he
2 made?

3 A Yes, sir.

4 MR. STONE: Okay. I don't have anything else
5 at this time, Your Honor.

6 THE COURT: Okay. Mr. Vaux.

7 CROSS EXAMINATION

8 BY MR. VAUX:

9 Q What do you mean by "cut in front"?

10 A I was heading west bound on US 278, I was
11 sitting at the light. Wild Horse is here, 278 is here,
12 and eastbound is over here. They came out of Wild
13 Horse Road at a good rate of speed, cut in front of my
14 vehicle to go -- they came in front of my vehicle to
15 get onto 278 eastbound.

16 Q And you said that the BOLO didn't exactly
17 match?

18 A The BOLO was for a -- this was an older model
19 F150. The BOLO was for a gray -- not as -- I can't
20 remember the exact BOLO.

21 MR. VAUX: Nothing further, Your Honor.

22 THE COURT: Thank you. Mr. Ferguson?

23 MR. FERGUSON: No questions.

24 THE COURT: Thank you. Mr. Robinson, do you
25 have any questions of Mr. Evans with regard to

CROSS EXAMINATION OF EVANS BY VAUX

1 statements made by Mr. Young?

2 MR. ROBINSON: No, Your Honor.

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

4 MR. STONE: The State calls Doug Seifert,

5 Investigator Doug Seifert, S-E-I-F-E-R-T.

6 Thereupon,

7 DOUG SEIFERT

8 was called as a witness, having been first duly sworn,

9 was examined and testified as follows:

10 THE CLERK: Please be seated state your name

11 and spell it for the court, please sir.

12 THE WITNESS: Sergeant Doug Seifert. It is

13 S-E-I-F-E-R-T.

14 DIRECT EXAMINATION

15 BY MR. STONE:

16 Q So, I pronounce your name incorrectly. It's
17 Seifert?

18 A Yes, sir.

19 Q I'm sorry about that. And you are a
20 sergeant; is that correct?

21 A That is correct, sir.

22 Q All right. And what is your duty with the
23 Beaufort County Sheriff's Office? What's your job?

24 A I work at the Southern Investigations Branch.

25 Q Okay. Specifically, September the 1st, 2012,

DIRECT EXAMINATION OF SEIFERT BY STONE

1 is that the capacity you were in at that time?

2 A Yes, sir.

3 Q And did you respond to a car stop on 278,
4 involving -- that Officer Evans just described?

5 A Yes, sir.

6 Q Okay. Tell me what happens when you get
7 there?

8 A I arrived at the 278 and Gum Tree Lane, where
9 the vehicle was stopped by Corporal Evans.

10 Q This is the truck, the F150 truck?

11 A That's correct.

12 Q Okay.

13 A The vehicle is actually facing eastbound,
14 which is right where the turning lane is. It's between
15 the turning lane and what we call lane one, which is on
16 278.

17 Q All right.

18 A Once -- once I assessed and talked to
19 Corporal Evans and finding, you know, as far as his
20 information and getting the information from him,
21 that's when I actually approached where Mr. Aaron
22 Young, Junior was, which was in Corporal Garcia's
23 backseat.

24 Q Now, at some point you talked to both Young
25 Junior and Young Senior; is that correct?

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A That's correct.

2 Q The first one you went to was Young Junior;
3 is that correct?

4 A That's correct.

5 Q Now, where is that taking place?

6 A That is taking place behind the stopped
7 vehicle, which is the F150, Ford F150.

8 Q And Aaron Young Junior is in the back seat of
9 the patrol car; is that correct?

10 A That is correct.

11 Q He is handcuffed, I'm assuming?

12 A Yes, he is.

13 Q Are you in the apex of the door? Is the
14 window rolled down? Are you in the backseat; where are
15 you?

16 A The door is open, so I'm apex to him.

17 Q Tell me what you do at this point?

18 A I knew Mr. Aaron Young Junior prior before
19 this. And what I did is, I actually read his rights
20 from my card that I have.

21 Q You carry the card with you?

22 A I do.

23 Q Do you have a card similar to that today?

24 A I do.

25 Q You read those rights off of that card?

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A Yes, sir.

2 Q Would you read us what you read to Mr. Young
3 Junior, please?

4 A You have the right to remain silent, anything
5 you say can and will be used against you in a court of
6 law. You have the right to talk to an attorney, have
7 him or her present while you're being questioned. If
8 you can't hire an attorney, one will be appointed to
9 represent you -- represent you before any questioning,
10 if you want. You can decide at any time to exercise
11 these rights and not answer any questions or make any
12 statements. Do you understand your rights, these
13 rights that I've explained to you? And having these
14 rights in mind, do you wish to talk to me now?

15 Q Did he understand those rights?

16 A He did.

17 Q Did he ask any follow-up questions, any
18 confusion or anything like that over those rights?

19 A No, sir.

20 Q Did he, in fact, give you a statement while
21 he was in the back of the patrol car?

22 A He did.

23 Q Okay. And what did Mr. Young Junior tell
24 you?

25 A He stated at first that there was -- nothing

DIRECT EXAMINATION OF SEIFERT BY STONE

1 that -- nothing was wrong.

2 Q Okay. Did he tell you what he was doing in
3 the truck?

4 A He did. He said that he was being dropped
5 off at work.

6 Q Did you at any point ask him specifically
7 about anything at Allen Road?

8 A I asked him about a shooting at Allen Road.

9 Q And what did he tell you?

10 A He stated that "it was just a thing."

11 Q Later on did you also talk to Aaron Young
12 Senior?

13 A I did, sir.

14 Q Now, where was Aaron Young Senior located?

15 A He was in the back of the vehicle -- of
16 Corporal Kaminski's vehicle, patrol vehicle.

17 Q Okay. And is this, I'm assuming all of these
18 are lined up pretty much down the road, down 278?

19 A That is correct.

20 Q All right. Did you also approach him in the
21 same way that you approached his son, Young Junior?

22 A I did.

23 Q Was the door open? Were you standing in the
24 door as the same thing?

25 A Correct.

DIRECT EXAMINATION OF SEIFERT BY STONE

1 Q Okay. Did you explain to Aaron Young Senior
2 his rights?

3 A Yes, I did.

4 Q And did you read him the same rights that you
5 read to Aaron Young Junior?

6 A I did, sir.

7 Q From the same card?

8 A I did, sir.

9 Q Did he indicate whether or not he understood
10 those rights?

11 A Yes, sir.

12 Q And how did he do that?

13 A Verbally. He acknowledged and stated that he
14 understood them.

15 Q Did he ask you any follow-up questions on it?
16 Did he seem confused in any way?

17 A No, sir.

18 Q Did he talk to you?

19 A He did.

20 Q And what did -- in order for him -- before he
21 talked to you, did you promise him anything, threaten
22 him in any way, anything like that?

23 A No, sir.

24 Q And I should have asked you this as far as
25 Aaron Young Junior's concerned. Did you promise him

DIRECT EXAMINATION OF SEIFERT BY STONE

1 anything, threaten him in any way, before he says that
2 the shooting was just a thing?

3 A No, sir.

4 Q Now, going back to Aaron Young Senior, what
5 did Aaron Young Senior tell you?

6 A He stated that he -- there was a fight at his
7 house, which is on Wild Horse Road, earlier that
8 afternoon. He stated that there was a gun that was
9 drawn on him. He stated that there were shots fired.
10 He also stated that there was a .38 special gun that
11 was involved. He also stated that he got away and went
12 into -- inside his residence to get his guns. He also
13 stated that he jumped in his Ford F150 to give chase.

14 Q All right. Now, you said "give chase," is
15 that your words or his?

16 A That's my words.

17 Q Okay. All right. Jumped into his Ford F150;
18 is that correct?

19 A That's correct.

20 Q Did he tell you anything else? I'm sorry to
21 interrupt you.

22 Do you say that he should have let it
23 go?

24 A That was his words. That he stated that he
25 went down to Allen Road, and there was gunfire that was

DIRECT EXAMINATION OF SEIFERT BY STONE

1 exchanged. And then he went back to his house to get
2 rid of the gun.

3 Q And as you're talking to Aaron Young Senior
4 -- and I cut you off, I apologize for that. As you're
5 talking to him, did he tell you the purpose or why he
6 jumped into that F150?

7 A I'm sorry?

8 Q Did he tell you why he was -- why he got in
9 his truck. He goes inside, he gets his guns, he jumps
10 into his F150, and then what does he do?

11 A He went to go after -- to give chase.

12 Q Okay. All right. Now, you also interviewed,
13 or were involved in Aaron Young Senior's interview at
14 the Sheriff's Office on Hilton Head; were you not?

15 A I did, sir.

16 Q And that also was September the 1st; is that
17 correct?

18 A That is correct, sir.

19 MR. STONE: Let me mark this.

20 *(Whereupon, State's Exhibit No(s). 3 marked*
21 *for identification.)*

22 BY MR. STONE:

23 Q Let me show you what been marked as State's
24 Exhibit 3, and ask if you can identify that for me,
25 please.

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A Yes, sir. This is the Beaufort County
2 Sheriff's Office Miranda warning form, sir.

3 Q Now, obviously, I'm assuming you don't have
4 those with you when you're out on the street. That's
5 something you have at the Sheriff's Office; is that
6 correct?

7 A That is correct, sir.

8 Q And did you go through those rights again,
9 with Aaron Young Senior, that are on that form?

10 A I did, sir.

11 Q Now, there are some initials along the right.
12 So first of all, tell me how that goes? How did you do
13 that?

14 A It explains on top of the Miranda form, which
15 is the case number, the location where the Miranda form
16 was read, and also the name of the individual's -- and
17 date of birth of the individual that you're reading the
18 Mirandas to. And then on the -- below that, it's
19 actually the statement of rights. And if I can go
20 through those.

21 You have the right to remain silent.
22 Anything you can say will be used against you in a
23 court of law. You have the right to have an
24 attorney present before or during questioning. And
25 if you can't afford an attorney, one will be

DIRECT EXAMINATION OF SEIFERT BY STONE

1 appointed for you, before any questioning if you
2 wish. And those were all initialed by Mr. Aaron
3 Young Senior.

4 Q And is he initialing those as you're going
5 through those rights individually?

6 A Correct.

7 Q Okay. And he is obviously sitting right
8 beside you. But do you also go down and ask him about
9 the waiver of his rights?

10 A I do, sir.

11 Q And is that his check or your check?

12 A That is his.

13 Q All right. Tell me about those waivers?

14 A It states: Do you understand each of these
15 rights that I explained to you? It's either yes or no,
16 and he checked yes. And after that I read -- I said,
17 having these rights in mind, do you wish to talk to me
18 now, and he checked yes.

19 Q And then the signature under that?

20 A That's his signature, with the date and time,
21 and then a witness underneath it.

22 Q Did he give you a statement?

23 A He did.

24 Q Okay. First of all, did he indicate that he
25 understood those rights, as well as initialing them?

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A Yes, sir.

2 Q Did he threaten him or coerce him in any way
3 to get him to give you a statement?

4 A No, sir.

5 Q All right. What statement did he give you at
6 the Sheriff's Office?

7 A He stated that there is -- a fight began at
8 ■ Wild Horse Road, in his yard. He stated that he
9 knew the situation was going to escalate. He also
10 stated that it sounded like four or five shots in his
11 yard. He stated that he leaves his house in a truck,
12 and goes down to Oak View, then to Allen Road. He also
13 stated that he hears gunshots as he's driving off from
14 Allen Road. He also stated that he wanted to send a
15 message. And he also stated that, don't come back in
16 his -- in my yard with that gunplay because I've -- I
17 got guns too.

18 Q And that was the message he wanted to send?

19 A Correct.

20 Q Okay.

21 MR. STONE: I don't have any further
22 questions at this time, Your Honor.

23 THE COURT: Thank you. Mr. Vaux?

24 REDIRECT EXAMINATION

25

DIRECT EXAMINATION OF SEIFERT BY STONE

1 BY MR. VAUX:

2 Q Investigator Seifert, when you pulled up to
3 the scene on 278, at the Gum Tree Light, can you
4 describe that scene to me, please.

5 A Yes, sir. It was a sunny, hot day. It
6 actually was the vehicle, the F150, Ford F150 was
7 between the turn lane to go on to Gum Tree.

8 Q In the left-hand turn?

9 A In the left-hand turn, yes, sir.

10 Q Okay.

11 A And to the right of it was lane one, which is
12 a -- there's one, two and three, it was right between
13 lane one and the turn lane.

14 Q Okay. And who was in that lane?

15 A Who was in --

16 Q Oh, the truck was straddling between the left
17 turn and one?

18 A That's correct, sir.

19 Q Okay. Now, was there a vehicle directly
20 behind the truck?

21 A Yes, sir.

22 Q Who was directly behind the truck?

23 A That would be Corporal Evans.

24 Q Evans?

25 A That's correct.

DIRECT EXAMINATION OF SEIFERT BY STONE

1 Q All right. Was there a vehicle to the left
2 of the truck?

3 A In the --

4 Q In other words, to the left of it. Was it
5 blocked in some way, or was it just lined up in a line
6 behind it?

7 A There were just cars that were behind it.
8 But there was nothing -- there was not a vehicle that
9 was to the left of it.

10 Q Or to the right of it?

11 A Or to right of it.

12 Q Okay. So they were just lined up like a
13 string, one behind the other?

14 A Correct. It was very -- due to the
15 traffic -- it was heavy traffic at the time.

16 Q Sure.

17 A That's why it was like that.

18 Q I understand. So you had the truck, then you
19 had Evans, and then who did you have?

20 A It would be Corporal Garcia.

21 Q Garcia?

22 A Correct. And then Corporal Kaminski.

23 Q Okay. And where were you?

24 A I was behind all of those vehicles.

25 Q Behind Kaminski?

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A Yes, sir.

2 Q Okay. Evans have his blue light on?

3 A Yes, sir.

4 Q How about Garcia?

5 A Yes, sir.

6 Q How about Kaminski?

7 A Yes, sir.

8 Q How about you?

9 A Yes, sir.

10 Q Okay. Now, do you have a marked car or

11 unmarked?

12 A I have an unmarked car, sir.

13 Q Now, when you turn on your blue lights and, I

14 guess, the siren, does that activate your video

15 recorder and so on?

16 A No, sir.

17 Q Do you have one?

18 A I don't, sir.

19 Q Okay. How about Kaminski, does he have one?

20 A Yes, sir.

21 Q Okay. How about Garcia, does he have one?

22 A Yes, sir.

23 Q Now, we know Evans had one, because you were

24 in the courtroom when they played his video; did you

25 not?

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A Yes, sir.

2 Q Do you know where the videos and the
3 recordings are for Garcia and Kaminski?

4 A No, sir.

5 Q Are you aware that we filed a notice -- a
6 motion to compel discovery for the production of the
7 in-car video from Kaminski and Garcia?

8 A No, sir.

9 Q Now, have you seen any of those videos?

10 A No, sir. No, sir.

11 Q Is there any kind of a transcript for those?

12 A Not that I'm aware of, sir.

13 Q Okay. Now, if -- and I'm not disputing that
14 you do read him the rights; I'm not saying that you
15 didn't. But it would -- it would be on that tape.
16 Would it not be on the video?

17 A Yes, sir.

18 Q Okay. And he said there was -- did you ask
19 him if there was a shooting at Allen Road? Or did he
20 just say that there was a shooting at Allen Road?

21 A I don't know who you're talking about, sir.
22 There's two individuals that I was talking to.

23 Q You don't -- when they were talking about --
24 you were talking to Junior, and you were in Garcia --
25 he was in Garcia's truck, and you were in the apex of

DIRECT EXAMINATION OF SEIFERT BY STONE

1 the door of Garcia's truck. You said that you had
2 asked him and if there was something wrong. And he
3 said there was nothing wrong, he was going to work; do
4 you remember that?

5 A I do, sir.

6 Q Okay. Did you write down specifically what
7 he said?

8 A I did not, sir.

9 Q Okay. If it was on the tape, it would be
10 audible, it would be heard; would it not?

11 A That is correct, sir.

12 Q Okay. Then you said that you asked him
13 something about a shooting at Allen Road, and his
14 response was "it was just a thing"?

15 A Yes, sir.

16 Q Okay. What exactly did you say to him?

17 A I asked him about the shooting that occurred
18 at Allen Road, trying to get at the actual story of
19 what happened. And he blurted out that "it was just a
20 thing."

21 Q Did you ask him what he meant?

22 A No, sir. Not after that.

23 Q Okay. Now, then you went apparently to
24 Kaminski's vehicle and were talking to Senior?

25 A That's correct, sir.

DIRECT EXAMINATION OF SEIFERT BY STONE

1 Q Now, tell me what he said about a fight at
2 Wild Horse Road and shots fired?

3 A He stated that there was a fight at his house
4 on Old Wild Horse Road earlier that afternoon.

5 Q Okay. And did he say that -- if there
6 were -- and he said there were shots fired?

7 A That is what he stated, yes.

8 Q Okay. Did he indicate to you, not who now or
9 anything like that, but if a gun was pointed at him?

10 A He stated that there was a gun drawn on him,
11 yes, sir.

12 Q A gun drawn on him?

13 A Yes, sir.

14 Q And then you say he jumped into the F150?

15 A After the gun was drawn on him, there were
16 shots fired.

17 Q Okay.

18 A Then he stated that there was a gun, which
19 was a .38 special.

20 Q Okay. Did he indicate that -- I'm sorry,
21 excuse me for interrupting -- if that was his gun, the
22 .38 special?

23 A He didn't state that, sir.

24 Q Okay. And then you said something about, he
25 should have let it go, or let it to go or --

DIRECT EXAMINATION OF SEIFERT BY STONE

1 A There's a couple of other things before that.

2 Q Oh, I'm sorry. Go ahead. I didn't mean to
3 interrupt you.

4 A He just stated that he -- he got away and
5 went inside his house to get his guns.

6 Q Okay.

7 A Then he jumped into his Ford F150 to give
8 chase. And then that's when he stated that he should
9 have left to go.

10 Q Have left to go?

11 A Should have left to go.

12 Q L-E-F-T to G-O?

13 A That's correct.

14 Q Okay. And then he said he came back home to
15 get rid of the gun -- or guns?

16 A Sorry?

17 Q Did he say gun or guns?

18 A Guns, sir, plural.

19 Q Okay. But when he came back home, you say he
20 came to get rid of -- and you said gun?

21 A That's correct.

22 Q Singular?

23 A That's correct.

24 Q Okay.

25 MR. VAUX:- I have nothing further, Your

DIRECT EXAMINATION OF SEIFERT BY STONE

1 Honor.

2 THE COURT: Thank you. Mr. Ferguson?

3 MR. FERGUSON: Thank you, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. FERGUSON:

6 Q When you said that the Aaron Young Senior
7 said that there were shots fired, he didn't say that he
8 had fired any shots, did he?

9 A No, sir.

10 Q Okay. And so what he really said was, the
11 shots were fired at him?

12 A He stated -- are you talking when Senior was
13 talking to me on the side of the road?

14 Q First on the side of the road, yes, sir.

15 A He was saying that he -- there were shots
16 fired. He didn't state that, you know, they were
17 coming at him.

18 Q Okay. And that a .38 was involved?

19 A Correct.

20 Q But that he didn't have a .38, correct?

21 A No, sir.

22 Q That shots were fired with a .38 while a
23 fight was occurring in his yard?

24 A Correct.

25 Q And then I believe you said that your words

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 were, jumped into the F150 to give chase. What exactly
2 did he say in regards to jumping in his F150?

3 A You mean, specifically, I don't -- I said
4 that he stated that he went to get in his truck to give
5 chase. And that's not his course.

6 Q Okay. And then again, you spoke to him at
7 the Hilton Head substation, and again, there was four
8 to five shots in the yard. Now, that's not Aaron Young
9 Senior telling you that he shot in the yard, correct?

10 A That's correct.

11 Q Okay. But what you're saying is, that he
12 didn't say that four to five shots were shot at him in
13 his yard?

14 A He just stated that it sounded like four to
15 five shots in his yard?

16 Q Okay.

17 MR. FERGUSON: No further questions, Your
18 Honor.

19 THE COURT: Okay. Mr. Robinson, do you have
20 any question you want to ask Mr. Seifert about the
21 statements supposedly made by the Youngs?

22 CROSS EXAMINATION

23 BY MR. ROBINSON:

24 Q When he gave you that statement he said that
25 he went to Allen Road. Did he say what he went to

CROSS EXAMINATION OF SEIFERT BY ROBINSON

1 Allen Road to do?

2 A Who are you talking about, sir?

3 Q I'm referring to Aaron -- who gave the
4 statement, Aaron? Aaron, Senior? Junior?

5 A Two of them did.

6 Q Two of them gave you a statement? What did
7 he say he went to Allen Road for?

8 THE COURT: Who now?

9 Q Aaron Senior.

10 A Senior stated that he just went to Allen
11 Road.

12 Q And what did Junior say to you?

13 A He was just on his way to work.

14 Q So they didn't say they did anything down the
15 Allen Road? Did you say -- Aaron Senior, did Aaron
16 Senior say when he was leaving Allen Road he heard
17 gunshots?

18 A Yes, sir.

19 Q Did Aaron Junior say that also?

20 A No, sir.

21 MR. ROBINSON: Your Honor, I want to object
22 to that statement that he made as hearsay.
23 Because it's not a confession on Aaron Junior or
24 Aaron Senior confessing. It is implicating that
25 somebody else committed the act. And it should be

CROSS EXAMINATION OF SEIFERT BY ROBINSON

1 admissible as hearsay?

2 THE COURT: I'll note your objection, but I
3 don't --

4 MR. ROBINSON: They're not confessing to
5 committing a crime, they're stating somebody else
6 committing a crime.

7 THE COURT: Well, he's testifying about --
8 allegedly about what he saw or what he heard. And
9 he doesn't say who.

10 MR. ROBINSON: And I would object to it as
11 lack of personal knowledge also, because he said
12 -- they said they heard shots. They didn't say
13 they see anybody shooting a gun.

14 THE COURT: That's all he said he heard.

15 THE WITNESS: Are you asking me?

16 BY MR. ROBINSON:

17 Q Did he say he see anybody -- saw anybody
18 shooting a gun?

19 A No, sir.

20 Q So, he heard shots?

21 A Yes, he heard shots.

22 MR. ROBINSON: I would like to object to that
23 as under lack of personal knowledge.

24 THE COURT: When you hear something, that's
25 personal knowledge. He said he didn't know who

CROSS EXAMINATION OF SEIFERT BY ROBINSON

1 shot. He did not know whether they were shooting
2 at him or somebody else. He just said he heard
3 shots.

4 MR. ROBINSON: Right.

5 THE COURT: And the jury's entitled to that.
6 That is his personal knowledge, sir.

7 MR. ROBINSON: I will also object under
8 hearsay.

9 THE COURT: I'll note your objection. Thank
10 you.

11 MR. STONE: Your Honor, I didn't want to
12 interpret the process with Mr. Ferguson or Mr.
13 Robinson. What I was told, Investigator Seifert
14 very particular, is that the only thing he can
15 talk about is the Defendants as they relate to
16 each other. He's got a full incident report that
17 obviously goes into detail, indicating the people
18 shooting. I just -- I wanted to be fair to the
19 defense counsel on that. That's the reason that
20 those responses were like that.

21 THE COURT: And that's the way it should be,
22 obviously. So, there's no cross-pollunization, as
23 it were, of those statements. All right.

24 Anything on redirect?

25 MR. STONE: No, sir.

CROSS EXAMINATION OF SEIFERT BY ROBINSON

1 THE COURT: Mr. Seifert, you can step down.

2 Time is now 4:45.

3 All right. Solicitor?

4 MR. STONE: The State calls John Adams.

5 THE COURT: Mr. Adams, come forward and be
6 sworn.

7 Thereupon,

8 SERGEANT JOHN ADAMS

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 THE WITNESS: I do.

12 THE CLERK: Please be seated. State your
13 name and spell it for the Court, please.

14 THE WITNESS: My name is John Adams, last
15 name is A-D-A-M-S.

16 DIRECT EXAMINATION

17 BY MR. STONE:

18 Q And what is your rank, sir?

19 A I am a sergeant.

20 Q And on September the 1st, 2012, you were a
21 sergeant then, as well; is that correct?

22 A Yes, sir.

23 Q And what was your job when it came to this
24 case? What was your role?

25 A I was an investigator with the Sheriff's

DIRECT EXAMINATION OF ADAMS BY STONE

1 Office, Southern Investigative Section.

2 Q All right. Did you at some point have a
3 conversation with Aaron Young Senior?

4 A Yes, sir, I did.

5 Q And your conversation with Aaron Young
6 Senior, where did that take place?

7 A The Beaufort County detention center.

8 Q So, this is after he has been arrested and
9 actually booked into the detention center; is that
10 correct?

11 A Yes, sir.

12 Q And what date is that?

13 A September the 6th of 2012.

14 Q All right. Prior to talking to Mr. Adams --
15 excuse me, Mr. Young Senior, did you read him his
16 rights?

17 A Yes, sir, I did.

18 Q Okay. And how did you do that?

19 A With a Beaufort County Sheriff's Office
20 Miranda warning form.

21 MR. STONE: If I could get that marked as
22 State's Exhibit 4?

23 *(Whereupon, State's Exhibit No(s). 4 marked*
24 *for identification.)*

25 BY MR. STONE:

DIRECT EXAMINATION OF ADAMS BY STONE

1 Q Let me show you what's been marked as State's
2 Exhibit 4. Ask you if you could identify that, please,
3 sir.

4 A This is the Miranda form that I read to Aaron
5 Young Senior.

6 Q The writing and the initials on there, whose
7 are those?

8 A Mr. Young has initialed the form in four
9 different places, and signed it and dated at the
10 bottom. And I have also signed and dated it at the
11 bottom of the form.

12 Q Okay. Go through it, if you don't mind,
13 please, the rights that you read to Mr. Young and
14 Mr. Young Senior, both of them?

15 A It says, you have the right to remain silent.
16 Anything you say can and will be used against you in a
17 court of law. You have the right to have an attorney
18 present before and during questioning. If you cannot
19 afford an attorney, one will be appointed for you
20 before any questioning, if you wish.

21 Q And did you read those to him and then did he
22 initial those as you were reading them? Or did you
23 read them all, and then have him initial them? Or how
24 did that work?

25 A I don't remember the order, sir. But he did

DIRECT EXAMINATION OF ADAMS BY STONE

1 initial them.

2 Q Okay. That's his initial, that's not yours?

3 A Those are his initials.

4 Q Okay. Did he indicate to you that he
5 understood those rights?

6 A He did.

7 Q And did you then ask him if he wished to make
8 a statement to you?

9 A Yes, sir.

10 Q Okay. Now, the second section -- next
11 section on that form is called a waiver of rights. Did
12 you read that to him, as well?

13 A Yes, sir, I did.

14 Q Tell me what that is.

15 A It says, do you understand each of these
16 rights as I've explained them to you? Having these
17 rights in mind, do you wish to talk to us now?

18 Q And did he indicate one way or the other on
19 those?

20 A He indicated with a checkmark in both of
21 places.

22 Q Okay. A checkmark, what is he checking?

23 A He is checking, yes or no. And he checked
24 yes.

25 Q Okay. So, when you asked him if he

DIRECT EXAMINATION OF ADAMS BY STONE

- 1 understand your rights, he checked yes?
- 2 A Yes, sir.
- 3 Q And ask -- having those rights in mind, did
- 4 he wish to talk to you, he also checked yes?
- 5 A Yes, sir.
- 6 Q And then that would be his signature
- 7 underneath; is that correct?
- 8 A That is correct, sir.
- 9 Q Did he give you a statement?
- 10 A He did.
- 11 Q And did you promise him, threaten him, coerce
- 12 him in any way, prior to him giving you that statement?
- 13 A No, sir.
- 14 Q Okay. Tell me what Aaron Young Senior told
- 15 you?
- 16 A He discussed an argument that had happened
- 17 earlier at the house on Wild Horse Road.
- 18 Q Do you know whose house that is on Wild Horse
- 19 Road?
- 20 A I believe it's the Young's residence.
- 21 Q Okay. Go ahead.
- 22 A He told me that he had smacked the gun and it
- 23 went off.
- 24 Q Did he tell you what type of gun it was that
- 25 he smacked?

DIRECT EXAMINATION OF ADAMS BY STONE

1 A He said it was a .38 revolver.

2 Q Okay.

3 A He tried to have a physical fight instead of
4 a gun fight. And after the shots went off, he says, I
5 ran into the house. I was like, Leave my yard, leave
6 my yard, leave my yard. So I got the gun, and that's
7 where the chase proceeded from there.

8 Q Okay. And you said that using "I". Are
9 those direct quotes from what he said?

10 A Yes, sir.

11 Q Okay. Now, at some point, did you also talk
12 to Aaron Young Junior?

13 A Yes, sir.

14 Q Where did that conversation take place?

15 A At the Beaufort County detention center.

16 Q At that point, Mr. Young Junior, I'm
17 assuming he'd already been booked into the detention
18 center; is that correct?

19 A Yes, sir.

20 MR. STONE: Can I mark this as State's

21 Exhibit 5?

22 *(Whereupon, State's Exhibit No(s). 5 marked*
23 *for identification.)*

24 BY MR. STONE:

25 Q I'll hand you what's been marked as State's

DIRECT EXAMINATION OF ADAMS BY STONE

1 Exhibit 5, and ask if you can tell us what that is,
2 please.

3 A It's the Beaufort County Sheriff's Office
4 Miranda warning form. It's the form that I read to
5 Aaron Scott Young Junior.

6 Q Okay. The same form that you read to his
7 father?

8 A Yes, sir.

9 Q And you're obviously -- and you're with him,
10 Aaron, this is a separate time from when you're talking
11 to Aaron Young Senior; is that correct?

12 A Yes, sir.

13 Q Okay. Tell me what rights you read to Aaron
14 Young Junior?

15 A The form says, you have the right to remain
16 silent. He initialed beside that. And it said,
17 anything that you say can and will be used against you
18 in a court of law. You have the right to have an
19 attorney present before and during questioning. If you
20 cannot afford an attorney one will be appointed for you
21 before any questions, if you wish. All four places
22 were initialed.

23 Q By whom?

24 A Mr. Young Junior.

25 Q Okay.

DIRECT EXAMINATION OF ADAMS BY STONE

1 A And at the bottom there's another waiver. It
2 says, Do you understand each of these rights as I have
3 explained them to you, and having these rights in mind,
4 do you wish to talk to us now? And he indicated --
5 there appears to be a checkmark beside yes on both of
6 those.

7 Q Okay. Did he also sign that form?

8 A He did.

9 Q Did he ask you any follow-ups, have any
10 confusion about those rights?

11 A I made very clear to Mr. Young Junior, I
12 believe I actually read the form to him twice, before
13 he indicated that he wanted to speak to us.

14 Q All right. Did you threaten him, coerce him
15 in any way to get him to give you a statement?

16 A No, sir.

17 Q And did he, in fact, tell you -- give you a
18 statement?

19 A He did.

20 Q What did Aaron Young Junior tell you?

21 A He also -- he discussed an argument earlier
22 at his house on Wild Horse Road. He said that three
23 shots had gone off in the yard at the Old Wild Horse
24 Road address. Got a gun and went in pursuit. Shot a
25 car to send a message. And he heard three shots as he

DIRECT EXAMINATION OF ADAMS BY STONE

1 was leaving the Allen Road area. He said that he saw
2 two little boys when he got to Allen Road, but only one
3 when he left.

4 Q All right.

5 MR. STONE: That's -- there's nothing else at
6 this time, Your Honor.

7 THE COURT: Thank you. Mr. Vaux?

8 CROSS-EXAMINATION

9 BY MR. VAUX:

10 Q Sergeant Adams, just for the sake of brevity,
11 some of my questions will be about both statements. It
12 will be clear.

13 A Yes, sir.

14 Q I think that you said both Senior and Junior
15 had said that the argument took place at their
16 residence for -- on Wild Horse Road?

17 A Yes, sir.

18 Q Okay. No mistake, it wasn't Squire Pope
19 Road?

20 A No, sir, I believe it was Wild Horse.

21 Q All right. You're certain of that?

22 A I am as certain as I can be without listening
23 to it again.

24 Q I understand. And Senior smacked the gun
25 away? Senior indicated to you that he smacked the gun

CROSS EXAMINATION OF ADAMS BY VAUX

1 away?

2 A He smacked the gun and it went off.

3 Q The .38?

4 A Yes, sir.

5 Q Okay. Both of them, I think you said, had
6 gotten their gun or guns?

7 A No, sir.

8 Q Junior said he got a gun?

9 A Senior said, after the shots went off --

10 Q Right.

11 A -- I ran into the house. I was like, Leave
12 my yard, leave my yard, leave my yard. So, I got my
13 gun, and that is where the chase proceeded from there.

14 Q Singular gun?

15 A Yes, sir.

16 Q Okay. You indicated with regard to Junior
17 that you read him the form twice; why was that?

18 A I wanted to be one hundred percent sure that
19 he understood his Miranda rights.

20 Q Did you read the form to Senior twice?

21 A No, sir, I did not.

22 Q Okay. Why the difference between the two?

23 A I believe there was some confusion with
24 Junior, and I felt like I needed to read that form
25 again.

CROSS EXAMINATION OF ADAMS BY VAUX

1 Q Okay. What kind of confusion?

2 A I wanted to be one hundred percent sure that
3 he understood his Miranda rights.

4 Q Yes, sir. And you said, I think a second
5 ago, that you thought that there might be some
6 confusion; what was the confusion?

7 A At the very beginning there was some
8 discussion back and forth about whether I was going to
9 talk to him, or he was going to talk to us. And I
10 wanted to make sure that he knew his Miranda rights
11 clearly before we continued with the interview.

12 Q You said "us"; were there more than one
13 person involved on behalf of the State present?

14 A Investigator Albertson was with me at the
15 time.

16 Q Anybody else?

17 A No, sir.

18 Q Okay. Did you videotape it or audio tape the
19 conversation?

20 A It was recorded on audio, yes, sir.

21 Q Okay. Now, let's go through Junior's
22 statement, again. He said that there was an argument
23 on Wild Horse Road, and there were three shots fired?

24 A That went off in the yard.

25 Q That went off in the yard, okay. And then

CROSS EXAMINATION OF ADAMS BY VAUX

1 what?

2 A He got a gun -- got a gun and went in
3 pursuit.

4 Q Okay. And then what?

5 A Shot a car to send a message.

6 Q Okay. Did he say -- okay. And then he heard
7 three shots when he was leaving?

8 A The Allen Road area.

9 Q As he left the Allen Road area, he heard
10 three shots?

11 A Yes, sir.

12 Q Okay. And then when he -- he saw one boy
13 where he had seen two earlier?

14 A Yes, sir.

15 MR. VAUX: I have no further questions, Your
16 Honor.

17 THE COURT: Thank you. Mr. Ferguson?

18 MR. FERGUSON: No questions, Judge.

19 THE COURT: Thank you. Mr. Robinson, do you
20 have any questions to ask of Sergeant Adams,
21 concerning the statements of the Youngs?

22 MR. ROBINSON: No.

23 THE COURT: Any redirect?

24 MR. STONE: No, sir.

25 THE COURT: Thank you. You can step down,

CROSS EXAMINATION OF ADAMS BY VAUX

1 Sergeant.

2 MR. STONE: Investigator Laurel Albertin.

3 Thereupon,

4 LAUREL ALBERTIN

5 was called as a witness, having been first duly sworn,

6 was examined and testified as follows:

7 THE WITNESS: I do.

8 THE CLERK: State your name and spell it.

9 THE WITNESS: Laurel Albertin,

10 A-L-B-E-R-T-I-N.

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q Investigator Adams just referred to you, I
14 believe, as being with him when he questioned Aaron
15 Young Senior?

16 A Yes, sir.

17 Q Senior or Junior?

18 A Junior.

19 Q Junior. Okay. That was at the jail; is that
20 correct?

21 A Yes, sir, correct.

22 Q You were there and witnessed the Miranda at
23 that time?

24 A Yes, I did.

25 Q And did Investigator Adams threaten or coerce

DIRECT EXAMINATION OF ALBERTIN BY STONE

1 Aaron Young Junior in any way in order to get them --
2 to get him to give you that statement?

3 A No, we didn't.

4 Q Okay. Now, you spoke also as well to Aaron
5 Young Junior, September the 1st; did you not?

6 A Yes, sir.

7 Q And that was after Seifert had read him his
8 Miranda rights; is that correct?

9 A That's correct.

10 Q And this took place at the Beaufort County
11 Sheriff's Office?

12 A Yes, at Hilton Head.

13 Q All right. At that point did Aaron Young
14 Junior tell you a statement -- give you a statement?

15 A Yes, he did.

16 Q Did you promise him, threaten him in any way
17 to get him to give you that statement?

18 A No, sir.

19 Q First of all, Aaron Young Junior, did you ask
20 him what time this started or what time this took
21 place?

22 A Yes. He specifically stated he went around 4
23 o'clock.

24 Q Okay. Where did he go first?

25 A He said the first time, he went to Bryant

DIRECT EXAMINATION OF ALBERTIN BY STONE

1 Road area. It didn't go down like he wanted it to,
2 because his gun jammed.

3 Q All right. Where is the Bryant Road area?

4 A That's off of --

5 Q That would be what was described, I think,
6 earlier, you cross over 278 heading down towards the
7 south end of the island, I guess?

8 A Yes.

9 Q Okay. All right. And so, in the Bryant Road
10 area, what did he tell you happened at that point? I
11 guess, he told you what didn't happen at that point; is
12 that right?

13 A Right. He stated his gun jammed.

14 Q His gun jammed. Okay. Anything specific
15 about the Bryant Road area?

16 A He also specifically stated, he wouldn't --
17 nobody knew nothing, because it was a dead road, nobody
18 wouldn't know nothing, but the gun just wouldn't go
19 off.

20 Q Now, you said "specifically," and is that
21 quoted his language, actually? Is what he said
22 specifically?

23 A Yes, sir.

24 Q All right. Did he discuss at some point, the
25 Allen Road shooting?

DIRECT EXAMINATION OF ALBERTIN BY STONE

1 A Yes, he did. He finally admitted to being
2 there.

3 Q When you say "finally," I assume at some
4 point he denied being there?

5 A Yes. The first couple of hours of the
6 interview, towards the third hour, he did admit to it.

7 Q Okay. All right. Did he tell if he saw any
8 children in the Allen Road area?

9 A Yes, he did see some children.

10 Q Okay. And did he say where they were?

11 A He said there two little kids playing on the
12 trampoline across the street.

13 Q Okay. And did he tell you specifically what
14 he did?

15 A He stated he Swiss-cheesed the car.

16 Q And Swiss-cheesed was his phrase?

17 A Yes, sir.

18 Q And did he tell you what he meant by that?

19 A He basically said he shot up the car.

20 Q Okay. And did he tell you anything about
21 shooting up the car, at the same time that the children
22 were around there?

23 A Yes, sir. He stated specifically that, Every
24 shot I took I made sure I hit the car; I don't aim at
25 children.

DIRECT EXAMINATION OF ALBERTIN BY STONE

1 Q Okay. And that's a direct quote from him?

2 A Yes, sir.

3 Q Where was the car parked?

4 A The car was parked beside a house.

5 Q And did he mention anything about shooting
6 directly at the car? Was it close to the house, away
7 from the house, or was it sitting behind the house?

8 What are we --

9 A He stated the car was parked beside the
10 house, and he didn't hit the house one time.

11 Q Okay. Did he tell you at some point that he
12 left the Allen Road area, I assume?

13 A Yes, sir.

14 Q And did he tell you anything about as he was
15 leaving?

16 A Stated as he was leaving Allen Road he heard
17 two shots.

18 Q Okay. Did he at any point during this
19 statement to you indicate anything as to his
20 responsibility concerning the child's death?

21 A Yes. He specifically stated, if I wouldn't
22 have went down there the little boy wouldn't have
23 gotten hit, period, ma'am.

24 Q I don't have any further questions. Answer
25 any questions Defense has.

DIRECT EXAMINATION OF ALBERTIN BY STONE

1 THE COURT: Mr. Vaux?

2 CROSS-EXAMINATION

3 BY MR. VAUX:

4 Q Did he mention Oak View Road?

5 A Sometime during the interview, I believe he
6 might have mentioned the Oak View Road.

7 Q But you referenced Bryant Road?

8 A Yes. He said the gun jammed on Bryant Road.

9 Q Bryant Road?

10 A Yes, sir.

11 Q Okay. If you would --

12 MR. VAUX: Your Honor, may she come down for
13 just a minute, please.

14 THE COURT: Sure. Where do you want to put
15 her?

16 MR. VAUX: I want to put her at this model.

17 (The witness exits the witness
18 stand.)

19 MR. STONE: I'm going to unplug this at this
20 point, Your Honor, and get that out your way.

21 THE COURT: Okay. Thanks.

22 MR. STONE: Hang on just a second, so he can
23 see it.

24 Can you see, Your Honor?

25 THE COURT: Yes, sir, that's fine.

CROSS EXAMINATION OF ALBERTIN BY VAUX

1 BY MR. VAUX:

2 Q Do you -- from the discussions with Junior,
3 do you have any idea where the car was at the time it
4 was, to quote him, Swiss-cheesed?

5 A The car was back -- right back here.

6 THE COURT: Investigator Allen, if you could
7 stand on the other side where Mr. Vaux is
8 standing, facing the general direction of the
9 court reporter.

10 THE WITNESS: Yes, sir.

11 THE COURT: Then she'll be able to hear you,
12 and I will too. Thank you. Go ahead.

13 A It was parked right behind [REDACTED] Marshland
14 Road.

15 Q Sort of where it is now?

16 A Yes.

17 Q Now, where is the trampoline?

18 A Right there in the side yard.

19 Q Where my finger is?

20 A Yes, sir.

21 Q Okay. And where was the deceased found,
22 lying dead on the road? I believe it was in the road?

23 A Yes, it was right about here.

24 Q Now, let me just ask you, because there's no
25 jury present, when the Solicitor was kind enough to

CROSS EXAMINATION OF ALBERTIN BY VAUX

1 show us this model on Friday, I asked him what that X
2 meant that you'll see further up the road. And that X,
3 he indicated -- the X here, was indicated where he
4 thought the child was. Does that help your memory?

5 A Yes, sir. It was in that area, yes, sir.

6 Q So, Solicitor's right and you're wrong? That
7 helps your memory?

8 A It was in that area, sir. That does help me.

9 Q I'm not trying to be cute, I just want to be
10 sure while we don't have a jury. Thank you.

11 (Witness returns to the witness
12 stand.)

13 BY MR. VAUX:

14 Q Do you have any kind of time line from what
15 the statement that he gave you, as to what time the
16 shooting, the Swiss-cheesing of the car started, versus
17 the three shots or two shots? One, I think, Sergeant
18 Adams said there were three shots, and I believe that
19 you said there were two shots. So, there were two or
20 three shots between the two statements. Any kind of a
21 time line between those two sets of shots?

22 A Based on the witness statements?

23 Q Yes, ma'am.

24 A They said there was a very short period of
25 time between the two.

CROSS EXAMINATION OF ALBERTIN BY VAUX

1 Q Okay. From anything else, do you have any
2 idea of the time?

3 A I'm not sure.

4 Q All right. I mean, I'm trying to find out
5 whether there was anything else that you inquired about
6 as to the difference, the time -- the difference
7 between the Swiss-cheesing of the car, to use your
8 phrase or his phrase, and the two or three shots as
9 they were leaving?

10 A He said that he Swiss-cheesed the car, and as
11 he was leaving he heard two shots.

12 Q Okay.

13 A That was his statement to me.

14 Q All right. And when you interviewed Junior,
15 I think you said on the 6th?

16 A With Sergeant Evans?

17 Q Yes.

18 A Yes, sir.

19 Q All right. So you didn't interview him
20 separately from Adams or anybody else on the 6th? It
21 was just you and Adams together?

22 A That's correct.

23 Q Okay. And on the 1st you said that after
24 about the third hour -- how long did this interview
25 take place?

CROSS EXAMINATION OF ALBERTIN BY VAUX

1 A I said after the second hour.

2 Q Second hour?

3 A Yes, sir.

4 Q Okay.

5 A About three hours.

6 Q How many?

7 A About three hours.

8 Q Total?

9 A Yes.

10 MR. VAUX: I have nothing further, Your
11 Honor.

12 THE COURT: Thank you. Mr. Ferguson?

13 MR. FERGUSON: Thank you, Your Honor.

14 CROSS-EXAMINATION

15 BY MR. FERGUSON:

16 Q What time did your interview with Aaron Young
17 Senior begin?

18 A With Aaron Young Junior?

19 Q No, ma'am, the Senior, at the Hilton Head
20 substation.

21 A I would have to refer to my notes for the
22 exact time, Sergeant Adams.

23 Q Estimation would be fine. This is at the
24 Hilton Head Substation when you interviewed with
25 Seifert. You were present during that interview; were

CROSS EXAMINATION OF ALBERTIN BY FERGUSON

- 1 you not?
- 2 A With Aaron Senior there?
- 3 Q Yes, ma'am.
- 4 A I was in there briefly, very briefly.
- 5 Q Okay. Do you know how long total Mr. Aaron
- 6 Young Senior was at the Hilton Head Substation?
- 7 A No, sir, I don't.
- 8 Q Okay. Do you know what he was wearing that
- 9 night?
- 10 A I don't recall. I briefly saw him.
- 11 Q Did he have a shirt on?
- 12 A He was wearing a shirt, I believe, yes.
- 13 Q Okay. And the date was September the 1st?
- 14 A Yes, sir.
- 15 Q Do you remember what the weather was like
- 16 that evening?
- 17 A It was very warm.
- 18 Q Okay. Who else was present during the Hilton
- 19 Head interview of Aaron Young Senior?
- 20 A Sergeant Seifert was present.
- 21 Q Anyone else?
- 22 A I don't recall anyone else, sir.
- 23 Q Do you recall Investigator Bromage coming in
- 24 and speaking to Aaron Young Senior?
- 25 A He may have come in at some point, yes, sir.

CROSS EXAMINATION OF ALBERTIN BY FERGUSON

1 Q Okay. Do you recall if Aaron Young Senior
2 ever left with Investigator Bromage to go smoke a
3 cigarette outside?

4 A I really wasn't involved in that interview
5 with Aaron Young Senior.

6 Q Do you know what time Aaron Young Senior was
7 transported to the detention center?

8 A No, sir, I don't.

9 Q Okay. Can you give an estimation?

10 A I would say approximately 2:00 in the
11 morning, 2:30.

12 Q Was the Sheriff present during these
13 interviews?

14 A The Sheriff was, yes.

15 Q Okay. Did the Sheriff --

16 A During the one with Aaron Junior.

17 Q Okay. So, the Sheriff was present with the
18 statement interviewing Junior? Was he present --

19 A Not the whole time he was there.

20 Q Okay. But did he take a statement from
21 Junior?

22 A He didn't. Can you explain?

23 Q Did he question Junior?

24 A He did speak with Junior, yes, sir.

25 Q Okay. All right. And did he speak with

CROSS EXAMINATION OF ALBERTIN BY FERGUSON

1 Aaron Young Senior?

2 A I don't recall him -- I was not there if he
3 did.

4 Q But Investigator Bromage did speak with Aaron
5 Young Senior, to your knowledge?

6 A I don't know. I can't answer that question.

7 Q Okay. Thank you.

8 MR. FERGUSON: I have no further questions.

9 THE COURT: Mr. Robinson, do you have any
10 questions that you want to ask Investigator Allen
11 about the statement she testified about Mr. Young?

12 MR. ROBINSON: No.

13 THE COURT: Thank you. Redirect, Mr. Stone?

14 REDIRECT EXAMINATION

15 BY MR. STONE:

16 Q Just briefly. I know that there was
17 questions earlier about the clothes. If you reviewed
18 yours notes, would you be able to tell the answer to
19 that?

20 A Yes, sir.

21 Q Okay, we'll cover that later then.

22 MR. STONE: I don't have any further
23 questions at this time.

24 THE COURT: Investigator, you may step down.

25 MR. STONE: Finally, we call Captain Bob

CROSS EXAMINATION OF ALBERTIN BY FERGUSON

1 Bromage to the stand.

2 THE COURT: Captain Bromage, come forward,
3 please.

4 Thereupon,

5 CAPTAIN ROBERT E. BROMAGE

6 was called as a witness, having been first duly sworn,
7 was examined and testified as follows:

8 THE CLERK: Please be seated. State your
9 name and spell it for the Court, please.

10 WITNESS: Robert E. Bromage, B-R-O-M-A-G-E.

11 DIRECT EXAMINATION

12 BY MR. STONE:

13 Q And you are a lieutenant with the Sheriff's
14 Office?

15 A I'm a captain, sir.

16 Q Captain, I'm sorry. Captain Bromage, how
17 long have you been with Beaufort County Sheriff's
18 Office?

19 A 24 years.

20 Q Okay. On September the 1st, 2012, you were
21 involved in the investigation of this case?

22 A I was.

23 Q All right. And as, I guess, as a Captain
24 you'd be the supervisor over all of this; is that
25 right?

DIRECT EXAMINATION OF BROMAGE BY STONE

1 A I was the supervisor.

2 Q Okay. And at some point, did you and -- at
3 some point, did you talk to Aaron Young Senior?

4 A I did.

5 Q And where was that? Where did that take
6 place?

7 A In the Shelter Cove Beaufort County Sheriff's
8 Office substation.

9 Q Okay. And you have been present during the
10 Jackson-Denno hearing; is that correct?

11 A I have.

12 Q Is this before or after the rights were read
13 to Aaron Young Senior?

14 A After.

15 Q Okay. So tell me, if you don't mind briefly,
16 you're dealing with Aaron Young Senior. First of all,
17 do you recall what he was wearing?

18 A I don't. It was warm. And I do recall that.
19 In -- probably shorts or something like that, my
20 recollection. But I can't tell you. It's been a year
21 and a half.

22 Q All right. At some point did Aaron Young
23 Senior tell you where the gun was located?

24 A He did. He brought me to a gun off of Wild
25 Horse Road.

DIRECT EXAMINATION OF BROMAGE BY STONE

1 Q Tell me how that conversation started or how
2 that happened.

3 A It was an interview that we conducted. Aaron
4 Young Senior was in one of the interview rooms, and I'd
5 dealt with him prior. I knew him. And I went in and
6 talked to him, and told him the importance of
7 recovering a gun. Obviously minimizing the fact that
8 that gun may have been the one that killed Khalil

9 S. . And that process went on for a little
10 while. And at that point he decided that he would
11 bring us to the gun. Which he initially did not, but
12 we ended back up at Wild Horse Road.

13 Q And this would have been his gun? This would
14 have been Young Senior's gun?

15 A Yes.

16 Q The one that he had talked about earlier to
17 these officers?

18 A Yes.

19 Q What caliber of gun was that, sir?

20 A A nine millimeter.

21 Q Did you tell him what caliber of gun -- of
22 bullets -- excuse me, killed Khalil S. ?

23 A We did not know at that point.

24 Q Okay. But at some point you gave him the
25 indication that the nine millimeter may have not been

DIRECT EXAMINATION OF BROMAGE BY STONE

1 the one?

2 A Based on what we're gathering from the
3 interviews, it felt like it was -- it seemed like that
4 probably was less likely that that gun was involved in
5 the actual shooting of Khalil S. . We felt it
6 was a different caliber and a different area of Allen
7 Road.

8 Q At then at some point then, did Aaron Young
9 tell you where the gun was?

10 A He did. He actually came to me. We went to
11 Wild Horse Road. And I can't remember the name of the
12 road off of there. But it was Young Senior's
13 residence, his father's residence that was --

14 Q Is that Red Tip off of --

15 A Red Tip, yes, sir.

16 Q Was it Mustang or Red Tip?

17 A Red Tip, as I recall.

18 Q Okay. That Red Tip actually curves around
19 after -- after you go through Mustang, that road
20 becomes Red Tip; is that correct?

21 A I believe so.

22 Q Okay. And then you recovered the gun? You
23 and I believe a --

24 A I actually walked up with Aaron Young Senior
25 out in the shed -- I'll say shed.

DIRECT EXAMINATION OF BROMAGE BY STONE

1 Q Yes, sir.

2 A And he told me it was right at the door. I
3 opened the door and saw it, and lit it up with a little
4 flashlight. Unzipped the bag, and backed away and
5 called Investigator Conant to come and collect it.

6 Q All right. Okay. I don't have any further
7 questions. If you'll answer any questions the Defense
8 has.

9 THE COURT: Mr. Vaux?

10 CROSS-EXAMINATION

11 BY MR. VAUX:

12 Q Why did you feel that the nine millimeter was
13 not the gun?

14 A The vehicle that Tyrone Robinson was driving
15 was parked behind a house, when Aaron Young Senior and
16 Aaron Young Junior lit it up with a nine millimeter.
17 It was not in the direction of where Khalil S.
18 was shot.

19 Q Just for the sake of it. The car was behind
20 this residence here?

21 A That's correct.

22 Q Okay. And Khalil S. was in this
23 approximate area?

24 A That's correct.

25 Q And the trampoline is in this area?

CROSS EXAMINATION OF BROMAGE BY VAUX

1 A That is correct.

2 Q Okay. Do you have any idea where or how
3 the -- Mr. Young allegedly was standing, or what
4 direction the bullets were fired?

5 A Based on where the vehicle was parked and it
6 was shot up, and we found some casings at some point.
7 It appears that that probably was unlikely that that --
8 one of the bullets from the nine millimeter struck
9 Khalil S.

10 Q Okay. Now, let me ask you. When you were
11 doing the investigating here, did you find any bullets
12 in the house?

13 A I don't recall. I didn't do the crime scene
14 search myself.

15 Q Who did do that?

16 A Boy, I would have to refer to the report.

17 Q Okay. To your knowledge, there were no
18 bullets in the house?

19 A Not that I know of. I think that they were
20 all in the vehicle and off the vehicle, and so on.

21 Q Okay. Did Mr. Young Senior indicate that he
22 had a gun or guns, plural or singular?

23 A Which interview are you talking about, my
24 interview with him?

25 Q Yes, sir, your interview, so that -- what you

CROSS EXAMINATION OF BROMAGE BY VAUX

1 know of your own knowledge, so you can testify.

2 A He brought me to a gun, that's what I can
3 testify to.

4 Q Okay. And that was the nine millimeter?

5 A Nine millimeter.

6 Q Okay. What time did this interview start?

7 A The interview was on and off. It was
8 around -- I think his rights were read around 9
9 o'clock. I was probably in there a little bit later.

10 Q So?

11 A Probably around, I'm thinking 10:30 or so on
12 that.

13 Q So the shooting took place at about what
14 time?

15 A 4:15 or so.

16 Q 4:15?

17 A 4:00 or 4:15.

18 Q Between 4:00 and 4:30?

19 A Late afternoon.

20 Q In the afternoon, p.m.?

21 A Correct.

22 Q And you talked to him, roughly five hours
23 later?

24 A Sometime after 9:00.

25 Q And what time did you go to the house on Wild

CROSS EXAMINATION OF BROMAGE BY VAUX

1 Horse Road? I'm sorry, yes, Mr. Bennington's house?

2 A The Red Tip?

3 Q Red Tip.

4 A We got there about five till 1:00 in the
5 morning on the 2nd.

6 Q Okay. So that's about nine hours in?

7 A That's when we recovered the gun. This went
8 on for a while. We went down on the curve of Marshland
9 Road, which is initially where he said he got rid of it
10 initially. But it turned out that's not where it was.
11 And he said, well, here let me take you to it. Went
12 down to Wild Horse. So, initially, he was being
13 deceptive.

14 Q Okay.

15 MR. VAUX: I have nothing further.

16 THE COURT: Thank you. Mr. Ferguson?

17 MR. FERGUSON: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. FERGUSON:

20 Q Captain Bromage, you said that you downplayed
21 the importance of recovering the gun when you were
22 speaking to Aaron Young Senior; is that correct?

23 A That's correct.

24 Q Okay. Isn't it true that you stated that you
25 needed that gun so that you could exonerate that

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 situation?

2 A In other words, it was not the gun. We
3 didn't feel it was the gun that actually killed Khalil

4 S.

5 Q Okay.

6 A We knew it was involved in the entire event.

7 But the actual bullet that struck Khalil S. , I
8 don't believe they came from a nine millimeter.

9 Q Okay. Do you recall using that phrase
10 towards Aaron Young Senior?

11 A That sounds -- that sounds accurate.

12 Q Okay. And that your purpose of asking him to
13 retrieve the gun, was to exonerate his son as possibly
14 hitting that kid?

15 A Yes.

16 Q And that was huge?

17 A It was a big deal, in my opinion.

18 Q Okay. At any point, did you and Aaron Young
19 Senior leave the area that's visible on the videos --
20 of the actual interview rooms and go outside?

21 A I think we probably went out and had a
22 cigarette, which is, you know -- that's the right thing
23 to do. You got to make sure that the person you're
24 interviewing was comfortable, not overly anxious.

25 Q And part of making that person comfortable,

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 you talked to him while you all were out there smoking
2 that cigarette, didn't you?

3 A Just casual conversation, I'm sure. Probably
4 didn't continue on with much of the interrogation
5 outside. I don't generally do that unless I have a
6 recorder on. If I intend on questioning him during
7 that period, I would have had a recorder at that time
8 and switched it on.

9 Q Okay. So it's your statement that you all
10 didn't discuss this case at all while outside smoking a
11 cigarette?

12 A Not to any significance.

13 Q Okay. Okay. Did you talk to Aaron Young
14 Senior at any other time?

15 A That's the only interview I did with him
16 regarding this case. I may have talked to him 15 years
17 ago, I don't know.

18 Q Now, were you present -- how did you all get
19 to the area where the gun was recovered?

20 A He was transported in a patrol car driven by
21 Sergeant Tray Simmons. I drove myself.

22 Q Okay. So, you were not in the car with Aaron
23 Young Senior?

24 A No, I was not. No. I think I drove by
25 myself and Sergeant Simmons had him in the back of the

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 car. And again, it's been about a year and a half.
2 But again, this is -- my recollection is, I followed
3 them and he was pointing out the area. So I'd get out
4 of the car and look around, at the curve of Marshland
5 Road and the house as well. But I walked with Aaron
6 Young Senior and Junior, where he pointed out the gun
7 myself.

8 Q Thank you.

9 MR. FERGUSON: No further questions, Your
10 Honor.

11 THE COURT: Mr. Robinson, do you have any
12 questions you want to ask Captain Bromage about
13 the interviews with the Youngs?

14 MR. ROBINSON: No.

15 THE COURT: Anything else?

16 MR. STONE: No, sir, nothing else.

17 THE COURT: Thank you, Captain. You may step
18 down. All right.

19 MR. STONE: That is all the State would offer
20 as to Jackson-Denno hearings on this. And I
21 think, also, you've now heard the redactions in
22 the statements as in their redacted forms, as
23 well.

24 THE COURT: In essence, what they said on the
25 stand today is essentially what they will say to

CROSS EXAMINATION OF BROMAGE BY FERGUSON

1 the jury?

2 MR. STONE: That's correct, yes, sir.

3 THE COURT: Thank you. Mr. Vaux, does he
4 plan to offer any testimony regarding the
5 voluntariness of the statement?

6 MR. VAUX: No, sir.

7 THE COURT: Thank you. Mr. Ferguson, does
8 Aaron Young Senior wish to offer any evidence or
9 testimony regarding the voluntariness of the
10 statement?

11 MR. FERGUSON: He does, Your Honor.

12 THE COURT: He does?

13 MR. FERGUSON: Yes.

14 THE COURT: All right. Come forward, please,
15 sir, Mr. Young.

16 MR. FERGUSON: Well, we do have one
17 additional witness we can call prior to his being
18 on the stand, Your Honor.

19 THE COURT: Okay. Who?

20 MR. FERGUSON: We call Dr. Amanda Salas.

21 THE COURT: Dr. Who?

22 MR. FERGUSON: Dr. Salas.

23 THE COURT: Come forward and be sworn.

24 Thereupon,

25 AMANDA SALAS

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows:

3 THE WITNESS: I so affirm.

4 THE CLERK: Please be seated and spell your
5 name for the Court, please, ma'am.

6 THE WITNESS: Amanda Salas, A-M-A-N-D-A, last
7 name Salas, S-A-L-A-S.

8 DIRECT EXAMINATION

9 BY MR. FERGUSON:

10 Q Dr. Salas, where do you work?

11 A In a variety of places. My primary job is at
12 Self Regional Hospital, medical director of their
13 inpatient unit. I also have a private practice, where
14 I see a small number of clients here at Beaufort, South
15 Carolina. And Palmetto Psychiatry, which is the
16 practice of Associated Forensic Services, for a variety
17 of court issues throughout the state. I also work as a
18 locum tenens, where I provide weekend call coverage to
19 several different hospitals in South Carolina, as well.

20 Q Are you a licensed physician?

21 A Absolutely.

22 Q And what licenses do you hold?

23 A On the medical license?

24 Q Yes, ma'am.

25 A To practice in South Carolina, as well as a

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 medical license to practice in Georgia. I also have
2 board certifications in general psychiatry, child
3 psychiatry and forensic psychiatry.

4 Q Now, could you describe for the Court your
5 level of education, please.

6 A I have a medical degree obtained from the
7 University of South Carolina School of Medicine in
8 2003. And then the board certifications as I have
9 already outlined.

10 Q How about training specific to your field?

11 A Specific to psychiatry?

12 Q Yes, ma'am. And certainly, that would be
13 fine.

14 A I went to the Medical College of Georgia for
15 my internship and for the first several years of my
16 residency program. There I completed general
17 psychiatry. And then I did two years in child
18 psychiatry, completing both of those degrees in 2008.

19 And then in 2009 I returned to the
20 University of South Carolina for their forensic
21 psychiatry fellowship and completed that fellowship
22 program in 2010.

23 Q And now, could you explain your experience as
24 a forensic psychiatrist?

25 A It's wide and varied. I have done a lot of

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 work with competency to stand trial evaluations,
2 criminal responsibility, capacity to perform
3 evaluations, competency to be executed evaluations,
4 competency to waive your right to counsel. I've done
5 some civil work. I've also done review of the
6 statements that have been made, particularly for
7 criminal sexual conduct circumstances where a child has
8 given a statement. And also reviewed issues pertaining
9 to the voluntariness and the issues of false
10 confessions and psychological factors that may
11 influence an individual's confession.

12 Q And would one of those areas be coercion?

13 A Yes.

14 Q Okay. Now, have you ever been previously
15 qualified as an expert in a State Court in South
16 Carolina?

17 A Yes.

18 Q In what field?

19 A I believe it all came under forensic
20 psychiatry. At times they even called me a
21 child/adolescent forensic psychiatrist, but in the
22 field of forensic psychiatry.

23 Q And how many times would you say you've
24 previously been qualified in a court of law in South
25 Carolina?

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 A Over ten times. I can't state specifically
2 today.

3 Q Thank you.

4 MR. STONE: Your Honor, at this point, I
5 would move to have Dr. Salas qualified as an
6 expert in the field of forensic psychiatry, with
7 specialized knowledge on psychological factors
8 that influence confessions.

9 THE COURT: Mr. Stone?

10 MR. STONE: Briefly, Your Honor.

11 VOIR DIRE EXAMINATION

12 BY MR. STONE:

13 Q Is there a particular special field in which
14 you can offer testimony as to factors that influence a
15 confession?

16 A There is no specialized training. Once you
17 have completed forensic psychiatry -- forensic
18 psychiatry training.

19 Q Right.

20 A It Is very generalized. And you kind of
21 narrow it down according to what your additional
22 backgrounds and training and experiences are, and what
23 information you kind of turn to. So, there's certainly
24 things that other forensic psychiatrists would do, such
25 as evaluation of sexual recidivism rates and such as

VOIR DIRE EXAMINATION OF SALAS BY STONE

1 that.

2 Q Right.

3 A And I don't do any of that. Even though I
4 could. I just have to go and get to a point where I
5 feel comfortable with the knowledge base. And there
6 are areas that I don't do that in. What I've outlined
7 is what I certainly feel that I have the specialized
8 knowledge in order to be able to do the task at hand in
9 this case.

10 Q All right. And the specialized -- and I
11 guess that was my question, the specialized field. Is
12 that -- is there a specialized field of this or is this
13 something that you would have to take various classes
14 to learn something about, or is that just encompassed
15 in the forensic psychiatry?

16 A It is all under the forensic psychiatry, and
17 it's a component of that.

18 Q All right.

19 A And whether somebody develops that as an
20 interest really depends on where they receive their
21 additional training or research.

22 Q Have you gotten -- have you received or
23 pursued additional training in the area of what factors
24 lead to various things when it comes to confessions?

25 A I have.

VOIR DIRE EXAMINATION OF SALAS BY STONE

1 Q Okay.

2 A Through continuing medical education as well
3 as through consultations with Donna Schwartzkopf at
4 times, and through Charles Scott and Barry Zuckerman to
5 have conversations with him about this, and others as
6 well that were helpful for putting together some
7 research that I've done, unique to the circumstance.

8 Q Okay. Unique to this particular
9 circumstance?

10 A Not to this particular case, but to the
11 circumstance of becoming a person that is an expert in
12 the field of forensic psychiatry, with unique training
13 for confessions.

14 Q Okay. Are you board certified in this?

15 A Yes.

16 Q And what is your board certification?

17 A In forensic psychiatry I'm board certified,
18 yes.

19 Q Okay. Is there a board certification as to
20 confessions or how -- the factors leading into
21 statements?

22 A This is where psychiatry gets even more
23 blurry.

24 Q Okay.

25 A But we don't have board certifications once

VOIR DIRE EXAMINATION OF SALAS BY STONE

1 you go through just general topics in like adult
2 psychiatry, or through addiction psychiatry, or child
3 psychiatry, forensic psychiatry. I think there's even
4 one for sleep. There's probably about six or seven
5 different specialties.

6 Q Right.

7 A And I have two of those that I've already
8 mentioned. But there is no additional training that
9 you go and get certification through the State. I have
10 the certificate that says that I have achieved this
11 level of training beyond something other than what
12 you've already done.

13 Q Okay. I understand. Thank you, Doctor.

14 MR. STONE: I don't have any objection to her
15 being qualified as an expert for purposes of this
16 hearing.

17 THE COURT: Okay. All right. Mr. Vaux, any
18 objection?

19 MR. VAUX: No objection.

20 THE COURT: Mr. Robinson, do you have any
21 objection?

22 MR. ROBINSON: No.

23 DIRECT EXAMINATION CONTINUED

24 BY MR. FERGUSON:

25 Q Dr. Salas, have you reviewed materials in

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 regards to this case?

2 A Yes, sir.

3 Q And what are those materials?

4 A I have reviewed -- I'll try to be as specific
5 as possible. It looks like these are incident reports
6 by -- I may mispronounce someone's name, and I
7 apologize in advance, PFC Alor, (phonetic) dated August
8 1st, 2012. And that was three pages.

9 A supplemental incident report by
10 L.J. Glass, dated September 20th. This is a
11 one-page supplemental incident report from --

12 THE COURT: What's the date of the first
13 incident report, Dr. Salas?

14 THE WITNESS: September 1st, 2012.

15 THE COURT: September 1st. Thank you.

16 THE WITNESS: That was three pages. And then
17 L.J. Glass, dated September 2nd, 2012, a
18 supplemental incident report.

19 And then there's one by D/S Jackson, dated
20 September 2nd, 2012. Also a supplemental incident
21 report.

22 And there's Thomas Martin, L., dated
23 September 2nd, 2012. Two pages.

24 Supplemental incident report by Corporal
25 Evans, dated September 1st. Three pages.

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1 Corporal T. Kaminski, K-A-M-I-N-S-K-I, dated
2 September 6th, 2012, which is a supplemental
3 incident report.

4 Captain R.E. the last letters of the last
5 name ends in A-D-E, dated December 10, 2012. That
6 was one page.

7 J. R. Benninger, (phonetic) supplemental
8 incident report. One page.

9 Sergeant Andre Florencia, (phonetic) dated
10 September 4th, 2012. That was four pages.

11 B. Cooler, dated September 10th, 2012.
12 Supplemental incident report. Was one page.

13 Corporal Seifert, dated September 12th, 2012.
14 That was two pages. Again, a comment and
15 supplemental incident report date September 8th,
16 2012. And that was two pages.

17 And I also have materials pertaining to
18 individuals that were provided, and they are
19 labeled as Number State's 1, interview Aaron Young
20 Senior, 9/6/2012. Interview Young Senior, Jontu
21 Singleton, Tyrone Robinson, 9/1 through 9/2/2012,
22 which was State's Number 14 and State's 15,
23 interviews with Aaron Young Junior. And then
24 there's another State number 16, interviews with
25 Young Senior and Junior. In addition, I have

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 approximately a two-hour 45-minute interview with
2 Aaron Young Senior that I completed yesterday.

3 Q Okay. What are the psychological factors
4 that influence confession?

5 A Well, basically they're wide and varied. And
6 the application of what we would look for in
7 examinations that would be clinical in nature. But
8 what would make one person vulnerable or more
9 suggestible than another person? And how those
10 components apply to errors that can occur. This isn't
11 saying that there's a mistake or an egregious
12 misconduct on police behalf, but were some of the
13 errors encountered in psychological factors that can
14 influence getting a false confession, or an involuntary
15 confession, when you may otherwise have believed it to
16 be a voluntary confession.

17 So, there are psychological factors
18 that pertain to someone's psychological makeup,
19 social issues which you may come into, biological
20 issues that maybe influencing someone. Such as they
21 were under the influence of drugs, alcohol,
22 medications, psychological factors related to their
23 defense mechanisms, their strengths, their
24 weaknesses, their vulnerabilities, their experiences
25 as to how an individual comes to understand their

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 own experiences. And social factors that include,
2 what's happening in their social structure right
3 now, and how they are impacted by their social
4 structure, which goes hand-in-hand with the
5 psychological factors, which are past experiences
6 and understanding.

7 Q Now, in your review of those materials and
8 your meeting with Aaron Young Senior, were any of those
9 psychological factors that influenced his statement
10 present?

11 A What I found is that there were psychological
12 factors that I believe were present. But what I found
13 that was probably most striking in this particular
14 case, is that the errors that we looked for evaluating
15 in forensic psychiatry, in the context of psychological
16 influences that actually impact a confession, is
17 whether or not someone has been misclassified as an
18 error. And so, for example, if a detective or police
19 agent goes and inappropriately targets somebody, and
20 thinks that they have done whatever it is they've done,
21 then they automatically get -- the suspect is
22 automatically put into that category that they have
23 done it.

24 I don't believe that error exists.
25 So, we just kind of leave that error off. The

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 coercion error is an area that I found to be rather
2 significant. And that was the element related to,
3 Mr. Young Senior believed that the nature of how the
4 interviews were set up, in his experience from where
5 he was sitting, which is certainly an experience
6 which is designed to be stressful and unpleasant,
7 that doesn't rise to a level of psychological
8 coercion in and of itself.

9 But what did move this to a higher
10 level of coercion is when he saw that there was no
11 other way for him to escape the intolerably
12 stressful environment and situation, other than what
13 he thought was to do, which was to give the
14 detectives, who are interrogating him now, what he
15 perceives that they wanted.

16 In this particular case that was
17 influenced by his perception, which was that he was
18 going to have exoneration for himself and for his
19 son to be made star witnesses on another side of the
20 matter, on behalf of the Solicitor's office. That
21 he could liberate himself and his son from facing
22 charges that would include, as far as what had been
23 told to him, quite a significant amount of time
24 behind bars, and that he would be locked up.

25 And so, when I reviewed the tapes it

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 did appear to me that there was a basis for which he
2 would have had that experience, and he would have
3 perceived that without that being an unreasonable
4 factor into what was influencing him.

5 That factor for me was so
6 overwhelming that some of the other psychological
7 factors that I normally look to see what
8 significance they are, that paled in comparison.
9 Specifically, he was uncomfortable for reasons that
10 weren't acknowledged. There were times he was
11 offered drinks and cigarettes and stuff like that,
12 but the fact that he was wearing no shirt, that he
13 was cold, discomfort.

14 So it was not near significant as the
15 belief that he thought that he was going to be able to
16 be exonerated. The specific word that came out in
17 the interrogation. That he believed that
18 exoneration was being offered to him, if he
19 complied with two prongs, in order to get that
20 exoneration.

21 The two prongs were to confess in a
22 fashion that was suggested that there was a
23 shoot-out that was present, that involved the Young
24 Senior and Young Junior against Tyrone Robinson.
25 And the other side of that was that he felt that he

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 was obligated in order to go and produce the weapon
2 that was in their possession at the time that this
3 alleged shoot-out happened.

4 When they interviewed him he
5 acknowledged that even though he knew that his story
6 would not make sense, he went with it anyway,
7 because he felt so overwhelmed with the emotion of
8 being able to have an opportunity to exonerate
9 himself and his son so that they wouldn't be facing
10 murder charges that would lead to punishment of
11 being locked up for a really long time.

12 Q Is this something that he perceived or was
13 this support by the investigator's conduct that you
14 observed?

15 A Both.

16 Q What specific conduct that you observed led
17 to the Defendant having this belief?

18 A Let me pull my notes out from when I reviewed
19 this material. When I looked through the -- this is --
20 I have it labeled, Aaron Young Senior interview, time,
21 (witness reading document). I believe that one goes to
22 what was provided me in this one labeled State Number
23 14. I do not have a transcript, so these are my
24 personal notes. And I do not have the ability to do
25 very well at making transcripts, so, please bear with

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 me. But Mr. Young Senior acknowledged that he had
2 already, quote, done this on the side of the road. Or
3 I'm sorry, he didn't actually, the investigator, when
4 reading the Miranda rights, indicated that they had
5 already done this on the side of the road. And then
6 they proceeded with Miranda rights. And I believe that
7 the time that was dictated on the tape was 9:18 p.m..

8 And the investigator, and I don't
9 know which of those two that were in the room at the
10 time, asked what conspired with and you Tyrone
11 today. Aaron gave an account. He started at the
12 incident beginning in his yard. He acknowledges
13 that he believed at that time Tyrone was driving the
14 blue Mercedes. He goes over the incident as to
15 Tyrone in the driveway. I wrote down, that is when
16 the shooting -- that is when he came out shooting,
17 never got out of the truck.

18 And at some point around 2157 it was
19 stated in there that, Right now you are saying that
20 somebody is dead. And it was acknowledged that
21 there was an eight year old who was deceased. And
22 then this is when I began to see a shift in some of
23 Mr. Young Senior's affect, which is the expression
24 on his face, the level of concern that he appeared
25 to have for the events as they -- excuse me, as they

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 panned out.

2 At this point he's stating --

3 Mr. Young senior is stating, As far as shooting at
4 him, we never did. He did all of the shooting at
5 us. He reiterates then, That man shot at us. And
6 we are not saying -- I don't know what the rest of
7 that was, I didn't write it down. But he was told
8 at that point, and I believe this is when the third
9 investigator came in, This was a humdinger hell of a
10 shoot-out and I need to know where the gun is.

11 Sorry, that may have been where there
12 were only two. On the next page around 2159 is when
13 there is a third detective who comes in, and this is
14 when I see the story beginning to shift is when
15 there is three investigators and there's one
16 suspect. And the nature of having three people in a
17 position of power and one person literally in the
18 corner, shortless and cold with his back up against
19 the wall in handcuffs, I understand that those are
20 some things that are typical. This is where it
21 begins to escalate the vulnerability that he would
22 have been experiencing.

23 This is when Aaron Young Senior's
24 story begins to shift and begins to come comply to
25 the elements of coercion that I believe are offered

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 in this event. "I don't give a shit about his car"
2 was one of the statements that was made. Indicating
3 that what Aaron Young Senior has acknowledged
4 participating in and at the time outside of this
5 interview that actually is not a self-protected
6 statement but incriminating statement for himself
7 pertaining to his actions involving the car.

8 Aaron says, Yes, but there's a child
9 involved. And so you can begin to see the gravity
10 of the affect shift on his face and expression. And
11 the interrogator states, We are going to find the
12 gun, we are going to match the gun to the bullet.
13 But if you are just driving the car, you ain't
14 shooting at nobody.

15 Aaron Young Senior then starts
16 talking about how that is not going to stop the fact
17 of him being an accessory. And somewhere in there,
18 lost in my inability to record things, there is more
19 dialogue going on pertaining to how Aaron sees that
20 he still has charges that are likely going to come
21 his way. And that the detective, the interrogator,
22 is saying that it's more involved than this now.
23 And Aaron says, Yes, because there is a child
24 involved. And then what happens is Aaron has
25 already drawn a picture of his rendition of what

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 happened in his events that day. And now he's asked
2 to draw another picture of what happened at Missy's
3 house and now he begins to describe Tyrone coming
4 from this way shooting at us.

5 And there are some leading questions
6 that are beginning to be introduced by the
7 interrogator. Quite honestly, to spare you the time
8 of me going through this in greater detail because I
9 know it can be painfully long, it wasn't until I was
10 sitting in here today that I heard I believe the
11 element of contamination was actually introduced.
12 That is something that I had a concern about is why
13 would the police introduce a contaminant that then
14 the suspect could harp on, embrace, and integrate
15 into their own story when it didn't make sense. And
16 what I heard when I was sitting here today and
17 whatever was being played up on the screen up here
18 was -- I believe that was the responding officer and
19 Tyrone had come up and asked, Why is my car so shot
20 up. And Tyrone had first said, The shoot-out on
21 Squire Road. It was a coke deal gone bad. So, the
22 whole concept of there being a shoot-out where
23 Mr. Young Senior had insisted several times
24 throughout the interviews it was a not a shoot-out,
25 it was not with gun fight as it was being portrayed.

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 Perhaps it would be worth my time to go and review
2 additional material that I haven't reviewed to see
3 if that would be an opportunity where the initial
4 contaminant came from.

5 Part of my evaluation of this
6 particular circumstance is that some of the
7 interrogation and interaction of Mr. Young being
8 detained by the police are not recorded or available
9 as I understand. And that means that you lose the
10 opportunity for me to go back and review and obtain
11 objectively what would have transpired proceeding
12 this interview that I believe begins somewhere
13 around 9:18 that evening or night. So, I don't have
14 the ability to look at the dialogue and see, Who
15 specifically said what. The retrospective
16 opportunities to find errors are invaluable. And
17 what is very unfortunate is that as a case moves in
18 this criminal justice system from one stage to the
19 next and it's hinging on what is a confession, it
20 becomes even more difficult to reverse the
21 collective force and the movement that moves a case
22 forward that hinges on an involuntary or a coerced
23 or a false confession.

24 I can't today speak to the nature of
25 whether this statement was false or not with any

DIRECT EXAMINATION CONTD OF SALAS BY FERGUSON

1 sort of medical certainty because I haven't reviewed
2 the materials that would allow me to speak to that.
3 I'm here today for the purpose to give an opinion
4 about whether or not there's an element of
5 psychological coercion that has influenced voluntary
6 statement made by Mr. Young.

7 It is my opinion that they are
8 present in these tapes and interviews and the
9 materials that I have reviewed have been tainted by
10 anything that's come subsequent to that including
11 interviews that may have happened a day later, two
12 days later, five days later.

13 MR. FERGUSON: No further questions. Thank
14 you, Dr. Salas.

15 THE COURT: Okay, cross-examination.

16 CROSS EXAMINATION

17 BY MR. STONE:

18 Q Now, I want to make sure I understand. You
19 found elements of psychological factors; is that
20 correct?

21 A Yes.

22 Q And that means that basically you have found
23 things out there that may suggest coercion; is that
24 correct?

25 A Yes.

CROSS EXAMINATION OF SALAS BY STONE

1 Q You are not testifying here that Aaron Young
2 Senior's will was overborne?

3 A That his will was overborne?

4 Q Yes.

5 A Meaning that someone forced him to talk and
6 give a confession.

7 Q That's correct?

8 A I don't believe that he was ever in a
9 circumstance outside of what would be expected that
10 there's a threat of time that you may serve if you got
11 convicted on some horrible coercion charges, but I
12 don't believe that anybody conducted any type of police
13 misconduct to force him into something that was
14 happening on a very subjective level.

15 Q And in fact, during this process basically
16 Aaron Young Senior seemed to be giving answers that
17 were benefiting him, basically or at least that he
18 perceived to benefit him?

19 A In the process of?

20 Q Well, Let me back up and I will be more
21 specific. When he was originally stopped -- and you
22 read all of the incident reports; is that correct?

23 A I read the ones that I reviewed earlier, I
24 don't know if that's conclusive.

25 Q When he was initially stopped his first

CROSS EXAMINATION OF SALAS BY STONE

1 reaction was, when the officer walked up to the door
2 was, Oh, I was about to call you guys because I was
3 shot at. Are you familiar with that?

4 A Yes.

5 Q And now after reviewing the entire case it's
6 pretty clear that he wasn't about to call the police,
7 is that not -- is that sort of a fair assessment of how
8 that works?

9 A I can't tell you if he was about to call the
10 police at that point or not. I don't know if that
11 would have been accurate at that time.

12 Q But certainly back from the time that the
13 original shooting took place he had had plenty of time
14 to call the police and chose not to do so?

15 A I would agree with that, yes.

16 Q And yet, when the officer appears, the first
17 thing out of his mouth was, Wait a minute, I was about
18 to call you guys?

19 A I believe that is what they said was the
20 first thing he reported, yes.

21 Q Is it fair to say that that comment to the
22 officer was something that Aaron Young Senior chose to
23 say in order to benefit Aaron Young Senior to make him
24 look like he was more of a victim as opposed to a
25 participant?

CROSS EXAMINATION OF SALAS BY STONE

1 A To give you my opinion --

2 Q Yes.

3 A -- that statement made at that time, in terms
4 of voluntariness is way more voluntary than anything
5 that happened from the point that I referenced already.

6 Q Right. But my question specifically was,
7 this was a statement that Aaron Young Senior made to
8 benefit Aaron Young Senior? It was a choice -- it was
9 a decision that he made to make that statement?

10 A Which statement are you referring to?

11 Q When the officer walks up to the car and he
12 tells the officer very first thing, I was about to call
13 you, despite the fact that a number -- good bit of time
14 had elapsed since that time. That was a statement that
15 Aaron Young Senior said with the intent of making Aaron
16 Young Senior look more like a victim than defendant?

17 A I don't know his intent.

18 Q Right.

19 A But that would be a voluntary statement as I
20 portray it in the reports that I have viewed.

21 Q Well, I'll let that go. I take it from the
22 standpoint of him -- but he made a decision to say
23 something like that, did he not?

24 A He did.

25 Q He also said, I believe, that you said

CROSS EXAMINATION OF SALAS BY STONE

1 earlier that he went with a story that didn't make
2 sense but he went with it any way?

3 A That is what he told me, yes.

4 Q All right. What are we talking about there?
5 I don't think understand that.

6 A When I interviewed him yesterday he explained
7 that he knew that they were going to be able -- the
8 police were going to be able to go and find that there
9 were bullets that would have come from the gun that had
10 been in possession of Aaron Young Senior and Aaron
11 Young Junior that would incriminate them in shooting
12 that car that was at the house that I believe is Tyrone
13 Robinson's vehicle. And he knew that it would be
14 determined that even though he had not said and would
15 not admit to shooting the car and at one point in time
16 he was blaming somebody who didn't exist and doesn't
17 make sense, he knew that he was going to have a time
18 that that was going to come out. And it was going to
19 be incriminating for him to know that he had
20 misrepresented what the truth was at that time. So, he
21 essentially lied about that.

22 Q He recognized that he lied to the police and
23 he recognized that he was going to get caught in that
24 lie and that caused him some problems?

25 A It did cause him some problems, I'm sure.

CROSS EXAMINATION OF SALAS BY STONE

1 And it also, despite knowing that it was going to
2 magnify and become more problematic for him, he
3 continued to give other false statements in order to
4 get what he believed was going to be exoneration.

5 Q So, he was basically telling the police lies
6 to try to get out from under it?

7 A He was telling lies believing that not only
8 he was not going to be charged with murder but that his
9 son was not going to be charged with murder or
10 accessory, I believe was his concern at the time. I
11 believe that accessory to murder was what he was
12 referencing at the time that the interrogation is going
13 on.

14 Q So he's making decisions, basically, when
15 talking to some of these officers, he's making
16 decisions that at least he thinks is benefiting
17 himself; is that correct?

18 A At the time that he was making decisions in
19 the interrogation --

20 Q Right.

21 A -- he was making decisions that were going to
22 be congruent with what he thought was an understanding
23 of protection for him.

24 Q Okay. And then when he showed Captain
25 Bromage the gun, when he took him to the gun, that too

CROSS EXAMINATION OF SALAS BY STONE

1 was something that he decided to do because he was
2 hoping that it would benefit him and maybe hoping that
3 it would benefit his son as well; is that correct?

4 A That is what I understood.

5 MR. STONE: Okay. Excuse me just a moment,
6 Your Honor.

7 THE COURT: All right, sir.

8 MR. STONE: I don't have any further
9 questions, Your Honor. Thank you. Thank you,
10 Doctor.

11 THE COURT: Mr. Vaux, do you have any
12 questions?

13 MR. VAUX: Just a couple.

14 CROSS EXAMINATION

15 BY MR. VAUX:

16 Q Doctor, with regard to the statement about
17 the -- that he first made when approached by the deputy
18 on the side of the road, as it turned out the -- I'm
19 not talking about whether or not he was about to call
20 the Sheriff's Department, but the business about the
21 shooting in his yard, that ended up, from his point of
22 view, being a true statement?

23 A You are referring to, was it a true statement
24 when he was referring to the incident that happened
25 earlier in the day, away from Allen Road at his house?

CROSS EXAMINATION OF SALAS BY VAUX

1 Q Yes, ma'am.

2 A Yes.

3 Q Now, with regard to the gun, and I believe
4 that from the earlier testimony that we heard this
5 afternoon, that Captain, not Lieutenant, but Captain
6 Bromage had a conversation with Aaron Young Senior and
7 as a result of that conversation Aaron Young Senior
8 took him someplace and then ended up taking him to his
9 father's house?

10 A That is what was testified to earlier, I
11 believe.

12 Q Did you have occasion to look at that --
13 those reports? And do you have an opinion as to the
14 voluntariness, if that's the right word, of his having
15 shown where the gun was?

16 A I don't remember seeing in the report
17 anything except he just took the detectives to or the
18 captain to where the gun was. I believe at that time
19 several things were going on that Aaron Young Senior
20 believed would happen to be true, which is he wanted to
21 speak with his son and he was promised an opportunity
22 to speak with his father if he would take the
23 detectives to where the gun was.

24 And so, what happened with this
25 finding of the gun and the disclosures to where the

CROSS EXAMINATION OF SALAS BY VAUX

1 gun was is that he knew at the time when he took the
2 detective to the gun it was not the place where it
3 was revealed to him in the interrogation. It was
4 not going to be found in his residence, Mr. Aaron
5 Young Senior's residence. It was not there. That
6 is not where it was placed.

7 He knew that they were going to look
8 in that place with the search warrant and these
9 elements of coercion came into play and rose to a
10 level that he chose to move forward with what he
11 thought was compliance with the coercive qualities
12 that influence him. Because Otherwise he was not
13 going to say anything about where the gun was, he
14 was not going to say that there was a shoot-out.

15 Because there was no shoot-out in the
16 story or rendition that he gives as to what
17 happened. And he has no reason or motivation to go
18 and get the gun because there was no shoot-out. He
19 didn't have any reason to believe that the weapon
20 that was in the in possession of Aaron Young Senior
21 or Aaron Young Junior had ever been in the direction
22 where the children would have been playing and ended
23 up in the circumstance where there was a death.

24 Q And, Doctor, let me see if I can reduce that
25 down to a common denominator that I can understand.

CROSS EXAMINATION OF SALAS BY VAUX

1 Are you telling me that the turnover of the gun was
2 basically coerced in his mind?

3 A Yes. That was part of the coercion, is that
4 if he -- there were two prongs. The first prong was
5 that if Aaron Young Senior would give a story that
6 would say a narrative that there was a shoot-out and
7 that Aaron Young Senior and Aaron Young Junior were
8 engaged in a shoot-out with Tyrone Robinson, that was
9 the first thing he thought that he needed to do.

10 The second thing he thought that he
11 needed to do was disclose where the gun was and
12 provide the weapon. And that if he did those two
13 elements of those two, what I identified as prongs,
14 then he and his son would have exoneration and be
15 given an opportunity to be star witnesses for the
16 State.

17 Q Now, Doctor, do you have an opinion as to
18 whether, based on reasonable forensic --

19 A Medical certainty?

20 Q Medical or psychiatric certainty, however you
21 want to phrase it that way, on that certainty, as to
22 whether or not this was a hope of exoneration or of
23 being cleared of it, or whether it was a promise in his
24 mind?

25 A Whether it was a hope or whether it was a

CROSS EXAMINATION OF SALAS BY VAUX

1 promise?

2 Q Yes, ma'am.

3 A In his mind he believed that he was going to
4 be exonerated, period; and that he was going to be a
5 star witness for the State, period.

6 Q Okay.

7 A And I really don't want to discriminate
8 between hopes and promises because that was his
9 understanding.

10 MR. VAUX: Okay. Thank you, ma'am. I have
11 no further questions.

12 THE COURT: Thank you. Mr. Robinson, do you
13 have any questions that you want to ask the
14 doctor?

15 CROSS EXAMINATION

16 BY MR. ROBINSON:

17 Q I just want to know, do you plan to testify
18 tomorrow at trial?

19 A I don't plan to do anything. I respond to
20 what the Court asks of me.

21 Q You are not testifying in this case?

22 A I'll do what is asked of me at the time that
23 the Court asks me to come to provide my expert
24 testimony. But as far as planning to do that, that is
25 not anything that I have planned on my calendar to say

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1 that I will be here to do something or another.

2 Q The reason why I asked you that, I just
3 wanted to mimic your testimony as far as me,
4 implicating me in a shoot-out because that would be
5 inadmissible to me being in a crime.

6 THE COURT: Are you worried about her
7 indicating that the Youngs have implicated you and
8 she's going to testify to that?

9 MR. ROBINSON: Yes, sir.

10 THE COURT: She can't do that. Thank you.
11 Mr. Ferguson, back to you.

12 MR. FERGUSON: Yes, sir. At this point, I'll
13 call --

14 THE COURT: Excuse me. You are through with
15 the doctor?

16 MR. FERGUSON: Yes, I am.

17 THE COURT: Dr. Salas, you mentioned that he
18 made certain false statements. Can you tell me
19 specifically what false statements you are
20 referring to?

21 THE WITNESS: In terms of false statements
22 that Mr. Young Senior has told me. The statement
23 that he gave me yesterday was different than the
24 statements that were given in the recordings that
25 I have reviewed. Quite honestly I was confused in

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1 what was going on in the information that I had
2 reviewed.

3 And when I conversed and interviewed with
4 Mr. Young Senior yesterday we went through me
5 trying to find out in his words an understanding
6 of what happened. In the summary of what he gave
7 me is what I can provide to you now if that's what
8 you would like.

9 THE COURT: Actually, what I'm concerned
10 about is the statements that you heard the
11 officers testify that they say he made to them
12 today on the stand. In essence, that is the
13 statements that they intend to provide to the
14 jury. Which statements of them does he contend is
15 false?

16 THE WITNESS: There was no shoot-out. There
17 was no confrontation of guns being pointed at
18 individuals on Allen Road. There was no time that
19 you could have Aaron Young Senior or Junior point
20 a gun at Tyrone Robinson because in the statements
21 that Aaron Young Senior gave me that opportunity
22 did not exist because that did not happen.

23 THE COURT: All right. When Aaron Young
24 Senior testified to Seifert when he was in the
25 back of the patrol car at the time that there had

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1 been a fight in the house earlier, guns were
2 drawn, shots were fired, he mentioned a .38
3 special. He got his gun and he got in the F150 to
4 give chase. He should have let it go there. And
5 gun fire was exchanged on Allen Road. He left to
6 get home at that point in time.

7 Now this, according to my understanding of
8 the time line, I was not realizing how many
9 statements there would be. That was a relatively
10 early statement made, I understand, at the scene.
11 Would any of those coercive elements have had a
12 chance to be injected into his statements at that
13 time?

14 THE WITNESS: Is that what you are reading?

15 THE COURT: I was reading from what Seifert
16 testified to earlier today, from my understanding
17 of it.

18 THE WITNESS: From what I understand from
19 Mr. Young Senior is that that was an inaccurate
20 statement. There were no guns there were pulled
21 at his home. There was one gun that was presented
22 and used at his home. So, the idea that there
23 were two guns at his home did not exist.

24 There was another incident in which that
25 statements indicates that there was a gun or a

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1 weapon in the home of Mr. Aaron Young Senior's
2 house. That was inaccurate according to what he
3 told me. He had to leave his residence to go
4 retrieve a weapon.

5 There was a gun confrontation on a second
6 road, Oak View something, I believe is what it
7 was. There was no gun presentation where one
8 person had a gun and another person had a gun
9 pointed at each other, because in that
10 confrontation Aaron Young Junior had a weapon that
11 he was brandishing, pointing it at Tyrone Robinson
12 but Tyrone Robinson didn't brandish a weapon
13 against them at that time. And there was no gun
14 exchange there.

15 And then the third incident at Allen Road,
16 there was again no confrontation in Aaron Young
17 Senior's story that he gave me yesterday in that
18 narrative. Aaron Young Senior and Aaron Young
19 Junior saw the car, put bullet holes in the car,
20 which is what he initially was denying in the
21 interrogation. And Tyrone Robinson never came out
22 of the house for them to confront at that time.

23 And at the interview I obtained yesterday
24 from Tyrone -- I am sorry, from Aaron Young Senior
25 was that Tyrone Robinson probably -- or anybody

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1 else at any time when Aaron Young Senior or Junior
2 were engaged in shooting up the car, anyone could
3 have come out and shot at them and they wouldn't
4 have even been prepared to deal with that because
5 they were not there to shoot at anybody.

6 THE COURT: Now, my understanding was that
7 Aaron Young Junior testified that he Swiss-cheesed
8 Mr. Robinson's car.

9 THE WITNESS: I heard that testimony too.

10 THE COURT: And the evidence, the physical
11 evidence indicates that somebody shot up his car.
12 There's bullet holes all in it. I have seen it.
13 Have you seen that?

14 THE WITNESS: I have not seen the physical
15 evidence.

16 THE COURT: I can tell you I have and
17 somebody shot his car. He said they did. My
18 understanding of what Junior said is that he had
19 done it. And then as they were leaving then they
20 heard shots. Somebody says they heard two and
21 somebody said they heard three. Which of those
22 statements does he contend was false?

23 THE WITNESS: I don't think that he contends
24 any of those that you just summarized were false.
25 Aaron Young Senior says that he was driving the

CROSS EXAMINATION OF SALAS BY ROBINSON

1 truck, Aaron Young Junior had the gun, that they
2 lined up to match the truck to the car, Aaron
3 Young Junior used the nine millimeter weapon to
4 Swiss-cheese the car and drive off.

5 They never saw Tyrone. Never saw anybody
6 with a gun. As they were driving off, somewhere
7 in that driving away they heard additional shots.

8 THE COURT: Right. And so that is not one of
9 the false statements that you are concerned about
10 his having made?

11 THE WITNESS: That is not what I believe to
12 be a false statement. That is not something that
13 I have concerns about at this point.

14 THE COURT: All right. Now, if there's proof
15 that what he might contend is a false statement,
16 that in fact it's not a false statement, there's
17 evidence to support it; would that have any impact
18 on your opinion?

19 THE WITNESS: If there was information -- and
20 this is why I don't have an opinion today to say,
21 this is false, this is true for the purposes of
22 identifying a false confession. I am obligated to
23 go and obtain that information.

24 THE COURT: Right.

25 THE WITNESS: Which I have not been asked to

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1 do at this point in time and do not have the
2 materials necessary to ultimately be able to say,
3 this is someone telling a true statement because
4 there is evidence to support that, or this is
5 somebody clearly telling a lie. Because there's
6 evidence that contests that and supports that it
7 is a lie. But that is not part of what I have
8 done in my role of what I have been asked to do at
9 this point in time.

10 THE COURT: Other than the -- other than the
11 location of a weapon that Captain Bromage said
12 that there's some testimony about, that is a point
13 that intend to exonerate you all -- I think that
14 testimony came out -- whether that was one of the
15 questions or answers which led to the discovery of
16 the weapon itself. And that is what he testified
17 to. Other than that statement that that could
18 help exonerate, is there any other, any other
19 promise or hope? And I realize that you are
20 having difficulty making that distinction and I
21 don't blame you.

22 The only reason that I mention that is
23 because the case that the Defense is relying on is
24 State versus Miller and it uses that distinction.
25 But other than that, was there any other

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1 testimony, in your opinion, exacted by means of
2 coercion, assuming that that promise of
3 exoneration did exist that led to the gun
4 retrieval. Is there any other statement that he
5 testified to, in your opinion, exacted by any type
6 of coercion?

7 THE WITNESS: Yes, because Mr. Young senior
8 believed that his son was going to, with himself,
9 but he was actually more concerned about his son,
10 that he wanted all of the charges given to him if
11 they would let his son go.

12 THE COURT: Right.

13 THE WITNESS: So there's an element of
14 psychological coercion that exists when you see it
15 to the level of father, regardless of the nature
16 of the truth or accuracy of a charge, wants all
17 charges against him to let his son be free. So
18 there is an element of pressure because there's a
19 time in the tape that the accusation is made, If
20 we can't figure it out, we are going to get all
21 three of you.

22 THE COURT: Of course you have heard much
23 more of that than I have, thank goodness. At
24 least at this juncture. But my job is to
25 determine which of these things, any or all, will

CROSS EXAMINATION OF SALAS BY ROBINSON

1 be admissible and which, any or all, are induced
2 by coercion.

3 And you said, Of course, he wanted to get his
4 son off and that's understandable. And the
5 coercion I take it was a promise of something that
6 he contends was leniency offered to him or his
7 son?

8 THE WITNESS: Correct.

9 THE COURT: Was that -- did that coercion
10 induce any statement other than the location of
11 the gun?

12 THE WITNESS: It did. It led to the
13 statements that were just completely inaccurate
14 related to there was a shoot-out, there was Tyrone
15 having a gun and that they were shooting at each
16 other. And it led to the inaccuracy of one person
17 holding a weapon and pointing it at another as if
18 it were the Okay Corral or something.

19 THE COURT: Right.

20 THE WITNESS: In the story that I have
21 obtained from Mr. Young from yesterday is very
22 different from that. And there is an explanation
23 from him that he knows that he gave me
24 incriminating statements yesterday despite knowing
25 that he was incriminating himself for what he was

CROSS EXAMINATION OF SALAS BY ROBINSON

1 trying to help liberate what the truth would be.
2 He was very clear that he believed that he was
3 going to be exonerating himself and his son. And
4 if nothing else it would put his son in a position
5 to be exonerated and not charged.

6 THE COURT: Thank you, Dr. Salas. Have my
7 questions of Dr. Salas engendered any further
8 questions from you, Mr. Ferguson?

9 MR. FERGUSON: No, sir.

10 THE COURT: Mr. Stone?

11 MR. STONE: I don't believe so, Your Honor.

12 THE COURT: Mr. Vaux?

13 MR. VAUX: One second, please, Your Honor.

14 CROSS EXAMINATION

15 BY MR. VAUX:

16 Q Sergeant, based on the rest of certainty, do
17 you have an opinion as to whether or not Mr. Young
18 Senior made the statements in response to suggestions
19 or promises promulgated by the police?

20 A It is my opinion within a reasonable degree
21 of medical certainty that the statements came in
22 voluntarily from an element of coercion that existed
23 and led to inaccurate statements that he knew were
24 inaccurate and he gave them any way because of the fact
25 that he had, in his belief system and what he was

CROSS EXAMINATION OF SALAS BY VAUX

1 experiencing and his understanding, the promise that he
2 was going to be exonerated for himself and his son.

3 THE COURT: Thank you, Doctor. I have
4 nothing further.

5 Okay. Mr. Robinson, do you have any question
6 that you want to ask?

7 MR. ROBINSON: No, sir.

8 THE COURT: Thank you. Dr. Salas, you may
9 step down.

10 THE WITNESS: May I be excused?

11 THE COURT: As far as I'm concerned.

12 MR. STONE: I want to make sure that I
13 understood the last statement, Your Honor. I'm
14 not real clear on that, if I may.

15 THE COURT: Okay.

16 CROSS EXAMINATION

17 BY MR. STONE:

18 Q They were false statements for the purpose
19 of, at least in Mr. Young Senior's mind, of the hopes
20 of being able to be exonerated for not only himself but
21 his son, is that correct; is that what you were
22 testifying to?

23 A Correct.

24 Q And so the voluntariness from the standpoint
25 is that there were elements of coercion; is that

CROSS EXAMINATION OF SALAS BY STONE

1 correct?

2 A Yes.

3 Q Okay.

4 A What we call them are errors of coercion.

5 Q Oh, I got that wrong. Errors of coercion?

6 A Errors of coercion. Errors that are made are
7 coercive, so you find them retrospectively when you
8 look back at the record. It is not saying that the
9 police officer is going to be conducting this conduct,
10 it is an element of coercion that exists when you look
11 at the psychological factors and how the person sitting
12 in the subject's chair is actually understanding the
13 circumstances as they unfold.

14 So I liken it to sexual harassment
15 and the perception if somebody makes a comment when
16 a woman is walking by, the element of harassment
17 would be there because the person walking by,
18 subject one, may say, I have been harassed. And
19 subject two may not even think about it at all. So
20 the element that we look for is just, what is the
21 experience and the psychological impact as to how
22 this person who is the subject in that interview is
23 experiencing it.

24 And in this particular case, for
25 Aaron Young Senior, he has been in his mind promised

CROSS EXAMINATION OF SALAS BY STONE

1 exoneration or decrease the nature of charges for
2 himself and for his son. And the element of
3 bringing his son into it really elevates what his
4 motivation would be in terms of accepting what he
5 believes to be an element of coercion, a promise of
6 exoneration, or however you want to state that the
7 exoneration term came to be presented to him.

8 Q Okay. It wasn't actually a promise, but he
9 was hoping that because he was going to help them or
10 give them whatever story he was going to give them that
11 he would exonerate himself and his son?

12 A The psychological factor is what I can speak
13 to.

14 Q Right.

15 A I don't think that it would be my role to
16 state, when I look at the tape, that, Yes, this is a
17 promise or, No, this is not a promise. But
18 psychologically Mr. Young Senior, as far as his
19 perception, there was a promise as far as how he
20 understood it to be.

21 THE COURT: Thank you, ma'am. You can be
22 excused. You came under subpoena.

23 MR. FERGUSON: By request, Your Honor, yes,
24 she's free to go.

25 THE COURT: Okay, Mr. Ferguson is the one

CROSS EXAMINATION OF SALAS BY STONE

1 that got you here and he has agreed to let you go.

2 THE WITNESS: Okay. Okay. Thank you and
3 thank you for the water.

4 THE COURT: You are quite welcome. It is the
5 least that we can do. I hope that someone is
6 going to pay you more than that.

7 WITNESS: We will see.

8 MR. VAUX: We have been going two hours and
9 45 minutes. Can we take a short break?

10 THE COURT: We will take ten minutes for a
11 bathroom break and we will come back for Mr. Young
12 to testify.

13 (Brief recess was given at 6:15 p.m.)

14 THE COURT: All right. Mr. Ferguson, call
15 your witness.

16 Thereupon,

17 AARON YOUNG SENIOR

18 was called as a witness, having been first duly sworn,
19 was examined and testified as follows:

20 THE COURT: You are Aaron Young Senior?

21 THE WITNESS: Yes, sir.

22 THE COURT: Thank you. Mr. Ferguson?

23 DIRECT EXAMINATION

24 BY MR. FERGUSON:

25 Q Thank you, Your Honor. Mr. Young, when you

DIRECT EXAMINATION OF YOUNG SENIOR BY FERGUSON

1 first spoke with Deputy Seifert on the side of the road
2 after being pulled over by Corporal Evans?

3 A Yes, sir.

4 Q Were you ever promised or threatened in any
5 way?

6 A Yes, sir.

7 Q In what way?

8 A With some lengthy jail time. And if I were
9 to help them out in the investigation.

10 Q That was by Detective Seifert directly?

11 A Yes, sir.

12 Q And so, would you have given those statements
13 in the absence of those threats or promises?

14 A No, sir.

15 Q Now, when you were at the Hilton Head
16 substation did you experience threats or promises or
17 hopes of reward or anything of that nature when they
18 spoke to you at the Hilton Head law enforcement center?

19 A Yes, sir.

20 Q What were they?

21 A Bribes, promises. Also, threats. As well as
22 not cooperating, lengthy jail time.

23 Q What was your understanding if you gave them
24 what you wanted -- or what they wanted?

25 A We would be exonerated and made star

DIRECT EXAMINATION OF YOUNG SENIOR BY FERGUSON

- 1 witnesses against Tyrone Robinson.
- 2 Q Who told you that?
- 3 A Bob Bromage.
- 4 Q Now, is that something that you were hoping
- 5 for or something that was said to you?
- 6 A That is something that was said to me.
- 7 Q Okay. Now, did you ever talk to Captain
- 8 Bromage outside of what is seen on the audio and video
- 9 tapes?
- 10 A Yes, sir, I did.
- 11 Q Were there any promises exchanged during that
- 12 portion of your conversation with Captain Bromage?
- 13 A Yes, sir, we talked about as far as going to
- 14 get the weapon, retrieving the weapon, exoneration, us
- 15 being made star witnesses against Tyrone. I asked him
- 16 if I gave up the weapon if I could talk to my son and
- 17 he also said that he would give me a chance to talk to
- 18 my father once we got to Bryant Road.
- 19 Q And did you in fact get an opportunity to
- 20 talk to your son?
- 21 A Yes, sir, I did, after I gave him the weapon.
- 22 Q Okay.
- 23 A And he also gave me a chance to talk to my
- 24 father at Bryant Road.
- 25 Q Now, about the statements of what occurred on

DIRECT EXAMINATION OF YOUNG SENIOR BY FERGUSON

1 Allen Road, was the events as you relayed them, was
2 that -- the way that you remembered it happening or
3 what they wanted to hear you say?

4 A That is pretty much a story that I came up
5 with to go along with the exoneration, because that was
6 the only way to get me and my son out of the trouble
7 that we were in.

8 Q Did anyone suggest that story to you?

9 A No, sir.

10 MR. FERGUSON: No further questions, Your
11 Honor.

12 THE COURT: Thank you.

13 CROSS EXAMINATION

14 BY MR. STONE:

15 Q You made up stories in hopes of getting you
16 and your son out of it?

17 A Yes, sir.

18 Q Okay, this star witness thing. I have looked
19 at the transcripts, and I couldn't find any of that.
20 Is that your phrase, or did someone actually say star
21 witness?

22 A When I was being interrogated they came in --
23 at first I was being interrogated by Officer Amundson
24 (phonetic) and Officer Seifert. I gave in Uthe
25 interrogation -- Bob Bromage came in and said -- he

CROSS EXAMINATION OF YOUNG SENIOR BY STONE

1 moved them out and told them, Hey, I want to talk to
2 you specifically, this is what I have got on you. If
3 you can tell me that you are shooting out there and
4 give me your gun, I'll exonerate you and your son and
5 make you star witnesses against Tyrone, Tyrone
6 Robinson.

7 Q Okay. So your testimony is that he said,
8 I'll exonerate you and your son and I'll make you star
9 witnesses?

10 A Yes.

11 Q Okay.

12 A From that point on I just began to make up a
13 story just to please him. I pretty much knew that the
14 story wasn't going to make any sense. I knew that we
15 didn't kill anybody, we didn't hurt anybody. We simply
16 shot up a car and left. So, at that point I don't
17 think that the story would come back to hurt me. I
18 didn't kill anybody. But I figured that they would go
19 out and do their own investigation and see that the
20 story didn't make any sense at all. So, I was
21 comfortable in giving them what they wanted to hear.

22 Q So you told them stuff that you knew wasn't
23 true and -- basically to help yourself?

24 A Basically to get exoneration to help me and
25 my son.

CROSS EXAMINATION OF YOUNG SENIOR BY STONE

1 Q Got you. Got you. But you said that you did
2 the same thing to Seifert when he stopped you or when
3 he --

4 A Seifert asked me the same questions, Officer
5 Seifert asked me if I could give him a gun. He knowed
6 that he could help me. He also stated that he was
7 aware of all of the crimes and terroristic things that
8 Mr. Robinson was doing on the island. He said that he
9 was aware Mr. Robinson hitting Mr. Snake, that is a
10 nick name for him. I don't know his real name. I know
11 that he lives off of Bryant Road.

12 He also told me about a Joe Miller,
13 that Mr. Robinson burned down his house or
14 something, somewhere along that. He said if I could
15 come up with a gun and tell him that we were
16 shooting out there, then he could help me. At that
17 point he said if I didn't help him he promised me
18 that me and my son would never see the light of day.

19 Q Seifert told you that?

20 A Yes, sir.

21 Q He told that to you on the side of the road?

22 A Yes, sir.

23 Q You have been through the system before, have
24 you not?

25 A Yes, sir.

CROSS EXAMINATION OF YOUNG SENIOR BY STONE

1 Q A couple of times?

2 A Just once in my life. I have been arrested
3 in 2000 for possession of crack cocaine.

4 Q Okay.

5 A I did my debt, paid my debt to society and I
6 came home. I am an honest, working man, line cook at
7 Charter House on the Island.

8 Q At sometime during the statement you actually
9 said that you felt sorry about the child dying?

10 A Yes, sir.

11 Q But you also said at the same time if you had
12 a chance to kill Tyrone Robinson you would do it?

13 A Yes, I did say that.

14 Q All right. And when you got in your car
15 leaving your house, which is Wild Horse Road -- that
16 was your house, right?

17 A Yes, sir.

18 Q If you had a chance to kill Tyrone Robinson
19 you would have done it?

20 A Yes, sir.

21 Q You saw him on Bryant Road and you guys -- is
22 that when your son's gun wouldn't work; is that when
23 his gun jammed?

24 A Yes, sir.

25 Q Okay. And I think that you also said later

CROSS EXAMINATION OF YOUNG SENIOR BY STONE

1 on when you got to Allen Road that he shot at you guys?

2 A No, sir.

3 Q You didn't say that?

4 A I said that as part of my whole story.

5 Q But that was a lie, that wasn't the real
6 story?

7 A Yes, that was a lie.

8 Q Okay.

9 MR. STONE: Nothing else, Your Honor.

10 THE COURT: All right. Mr. Vaux.

11 MR. VAUX: Yes, sir.

12 THE COURT: All right.

13 CROSS EXAMINATION

14 BY MR. VAUX:

15 Q Aaron, why did you say that there was a
16 running gun battle?

17 A I don't recall saying it was a running gun
18 battle.

19 Q Or some short of a shoot-out something like a
20 running gun battle? You don't remember --

21 A I didn't make any remarks as far as a running
22 gun battle. I gave them a story of a shoot-out or
23 something called shoot-out on Allen Road, but no
24 running gun battle.

25 Q How about the shoot-out on Allen Road, why

CROSS EXAMINATION OF YOUNG SENIOR BY VAUX

1 that statement?

2 A Because I was promised if I could come up
3 with a story about a shoot-out and return to my gun I
4 would be exonerated and be made a star witness against
5 Tyrone.

6 Q On the search for the gun, why did you take
7 Mr. Bromage to your father's house, or to the shed
8 behind your father's house?

9 A At that time after me and him being at the
10 police office and being interrogated he offered me
11 exoneration and said if I could take him to the gun and
12 gave that story he would exonerate me.

13 Q Okay. And then so you took him to your
14 father's house?

15 A Yes, sir.

16 Q Okay. On Red Tip Road?

17 A Yes, sir.

18 Q Did you show him where the gun was before or
19 after you talked to your father?

20 A He gave me an opportunity to talk to my
21 father and my girlfriend as well. And I asked my
22 father, I was -- I told him that I was in a specific, a
23 specific, how do I say this, incident with Tyrone. And
24 he asked me, Well, what all did he say? And I say,
25 Officer Bromage told me if I could give him the gun and

CROSS EXAMINATION OF YOUNG SENIOR BY VAUX

1 give him the story, then he could exonerate me. And my
2 father told me, Well, if that's what he wants you to do
3 then give him the gun.

4 MR. VAUX: I have nothing further.

5 THE COURT: Mr. Robinson, do you have any
6 questions that you want to ask him about the
7 statements that he's made today?

8 CROSS EXAMINATION

9 BY MR. ROBINSON:

10 Q When you testified to, I guess, in the last
11 statement that you made. You made a statement at
12 Beaufort County Detention, correct, you explained to
13 them in that statement you never saw me on Allen Road?

14 A Yes.

15 Q And we never had a shoot-out on Allen Road?

16 A Exactly.

17 MR. ROBINSON: Thank you.

18 THE COURT: Mr. Young, are you saying that
19 the nine millimeter gun which was found in your
20 father's shed was not involved in any shooting, as
21 far as what we are talking about here?

22 THE WITNESS: No, sir.

23 THE COURT: You are not saying that?

24 THE WITNESS: No, I'm not saying that.

25 THE COURT: So, are you saying that that gun

CROSS EXAMINATION OF YOUNG SENIOR BY ROBINSON

1 that was found in your father's shed was involved
2 in the shoot-out? Was involved in some of the
3 shooting going on?

4 THE WITNESS: In the shooting of the car, not
5 a shoot-out, actual indication of an ongoing gun
6 battle.

7 THE COURT: Thank you. I misunderstood that
8 earlier. I think that I have it straight now.

9 Mr. Ferguson, any redirect?

10 MR. FERGUSON: No, sir.

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

12 Any other matters on the voluntariness of
13 Aaron Young Senior's statement?

14 MR. FERGUSON: Just one other witness, Your
15 Honor. Mr. Bennie Young.

16 THE COURT: Okay. Mr. Young, come forward
17 and be sworn.

18 Thereupon,

19 BENNIE YOUNG

20 was called as a witness, having been first duly sworn, .
21 was examined and testified as follows.

22 THE CLERK: Please be seated. State your
23 name and spell it for the Court, please sir.

24 THE WITNESS: My name is Bennie Young,
25 Y-O-U-N-G.

DIRECT EXAMINATION OF B YOUNG BY FERGUSON

1 THE COURT: Mr. Ferguson.

2 MR. FERGUSON: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MR. FERGUSON:

5 Q Mr. Young, did you have an opportunity to
6 speak with your son after he was arrested?

7 A Yes, sir, I did.

8 Q When and where was that?

9 A That was on Wild Horse Road and Mustang Lane.

10 Q Do you recall that conversation?

11 A Yes.

12 Q What did your son tell you?

13 A He said, Dad, we didn't do anything. We are
14 sorry about Khalil, but we didn't have nothing to do
15 with that part of it. We went down there and shot the
16 car but the kid got hurt. They were really sorry about
17 that. And I'm sorry about that too, but anyhow.

18 Q Yes, sir.

19 A That is what happened.

20 Q Yes, sir. And did he tell you anything about
21 the gun that they were looking for?

22 A He said -- yes. He said, Dad, we hid the
23 gun. And I said, Well. And he said, Dad, what do you
24 think that I should do? And I said, Well, if you all
25 are innocent you need to give up the gun when Officer

DIRECT EXAMINATION OF B YOUNG BY FERGUSON

1 Bromage let me talk to him. I said, If you are
2 innocent, cooperate with the law enforcement. And
3 Bromage also said, Well, if you guys cooperate the law
4 shall go easy on you guys just because you are
5 cooperating.

6 Q Is that all that you remember about your
7 conversation with your son that night?

8 A That it, yeah.

9 Q Thank you, Mr. Young.

10 THE COURT: Okay. Mr. Young, if you will
11 stay there a minute. Some of these other folks
12 may ask you some questions. Mr. Stone.

13 CROSS EXAMINATION

14 BY MR. STONE:

15 Q Basically, you were the one that talked your
16 son into turning the gun over?

17 A He asked me. And I said, Yes, you all are
18 innocent, that would be the right thing to do.

19 Q Up to that point he had not turned the gun
20 over; is that right?

21 A No.

22 Q In fact, up to that point he actually took
23 the police to a different location; is that right?

24 A No, he brought the police down to Mustang
25 Lane and they let me talk to him and then we proceeded

CROSS EXAMINATION OF B YOUNG BY STONE

1 to my house.

2 Q I got you, okay. And when you say that they
3 let you talk to him, they didn't -- they were not mean
4 to you in any way, were they?

5 A No.

6 Q Okay. And you know Captain Bromage, do you
7 not?

8 A Yes, I do.

9 Q Captain Bromage wasn't mean to you, or he
10 wasn't mean to your son in your presence or anything
11 like that was he?

12 A No.

13 Q And up to that point when you talked to your
14 son, he had not turned over the nine millimeter gun; is
15 that correct?

16 A No, not until they brought him down to
17 Mustang Lane and they let me talk to him.

18 \ MR. STONE: Got you. Thank you, sir.

19 THE COURT: Okay. Mr. Vaux.

20 CROSS EXAMINATION

21 BY MR. VAUX:

22 Q What did Mr. Bromage say to you and to Aaron
23 Senior?

24 A Mr. Bromage said, just like I said, If you
25 guys are innocent and the story you telling me, you

CROSS EXAMINATION OF B YOUNG BY VAUX

1 told me that happened at Allen Road seems to be on the
2 level, and from what we can gather it seems that you
3 boys are telling the truth. So, I tell him, Well, the
4 guys said that you all's story seems to be the truth,
5 that you tell him that you wasn't in a shoot-out. You
6 didn't shoot anybody, so cooperate with law
7 enforcement.

8 Q Mr. Bromage, Captain Bromage, excuse me, did
9 he indicate that he would help the boys in any way?

10 A He said that law enforcement would be easy on
11 them for cooperating.

12 MR. VAUX: Thank you. I have nothing
13 further.

14 THE COURT: Okay. Mr. Young, stay there for
15 a moment. Mr. Robinson, do you have anything to
16 ask Mr. Young about his testimony here today?

17 MR. ROBINSON: No, sir.

18 THE COURT: Redirect, Mr. Ferguson?

19 MR. FERGUSON: No, sir.

20 THE COURT: Okay. Mr. Young, you may step
21 down now. Thank you.

22 Mr. Ferguson, anything further in regard to
23 Mr. Young Senior's statement?

24 MR. FERGUSON: No, sir.

25 THE COURT: Mr. Robinson, when I was dealing

COLLOQUY

1 with you earlier I didn't give you an opportunity
2 to offer any additional testimony or evidence with
3 regard to your statement. You told me your
4 position. I didn't know if you had any witnesses
5 or argument to offer regarding your statement?

6 MR. ROBINSON: No, I don't have any
7 additional statements about my statement. The
8 statement that I said about the officer earlier,
9 they also made an interview and in that interview
10 she testified that she never saw me shoot any gun
11 and she never saw me with any gun either.

12 THE COURT: All right. Who was that?

13 MR. ROBINSON: The lady screaming on the
14 video that I objected to as hearsay on the video
15 to the officer that said the statement that I
16 made. They played on the video. Her name I think
17 is Christy, and she made a recorded interview with
18 officers that she stated that when she saw me she
19 didn't see me shooting a gun or carrying any gun.

20 THE COURT: All right. She is listed as a
21 potential witness for the State. I don't know
22 what she will testify to but she's on the witness
23 list.

24 MR. ROBINSON: I object to them playing the
25 video, to the officer testifying to the statement

COLLOQUY

1 that she made on the video.

2 THE COURT: Now, are you objecting to the
3 statement that says that she didn't see you
4 shooting anybody?

5 MR. ROBINSON: No, no, on the video, they
6 played a video of the officer and I made a
7 statement to him.

8 THE COURT: Right.

9 MR. ROBINSON: On that video it has her
10 making a statement and also a young boy making a
11 statement. And I make an objection to her and the
12 young boy as to hearsay as to the officer
13 testifying to.

14 THE COURT: All right. I am going to -- I
15 still have that matter to deal with. And if we
16 ever get out of here tonight I have a case that
17 I'm going to read when I get home and I'll deal
18 with that tomorrow.

19 All right. Thank you.

20 All right. Any other statements that we need
21 to deal with tonight?

22 MR. STONE: I don't believe so. Not from the
23 State.

24 THE COURT: All right. In regard to the
25 statements that were made by Mr. Tyrone Robinson,

COLLOQUY

1 I find that the initial statements in that regard
2 made before Sergeant Thomas occurred before he was
3 placed in custody, and that he was then Mirandised
4 before he made additional statements.

5 I find that any of those statements that were
6 made were freely and voluntarily given after full
7 warning of the rights under the Miranda, the
8 statements made to Ms. Conant and Sergeant Thomas.
9 I think those are the only two statements
10 involving Mr. Robinson; is that right?

11 MR. STONE: Yes, sir.

12 THE COURT: I find that those are admissible.
13 I find that the statements made by Mr. Young
14 Junior initially were not custodial statements to
15 begin with. Mr. Young Senior's statement about to
16 call someone, someone had shot at him on Wild
17 Horse Road, that was a non-custodial statement.
18 Those are admissible.

19 And I'm trying to separate the statements
20 made by Mr. Senior and Young Junior.

21 The statement made by Junior that there was
22 nothing wrong, that the shooting was just a thing,
23 is admissible.

24 And the other statements made by Mr. Young
25 Junior came after Mirandised, properly Mirandised,

COLLOQUY

1 are admissible. I'll review it tonight, again,
2 the State versus Miller case and I'll be glad to
3 hear you all further when we get here in the
4 morning. I'll be here and we can start at 9:30 so
5 I can hear further argument in regard to this
6 Mr. Young Senior statement. I need to read it and
7 I have that right up here. And I also need to
8 review Michigan versus Bryant to determine how
9 much of this background talk on the video is going
10 to be admissible. I'll be able to let you all
11 know when I get back here tomorrow morning at
12 9:30. All right.

13 Mr. Stone, anything further from the State
14 before we break for the day?

15 MR. STONE: I don't think so, Your Honor. I
16 think that everybody is pretty aware of what we
17 have and what we are offering. We would start
18 tomorrow morning with 911 tapes as far as the
19 witness, and I'm taking out -- Tyrone Robinson
20 called 911 and I have taken that out and we are
21 not going into that.

22 THE COURT: Right.

23 MR. STONE: We should be ready to go forward
24 at that point with everybody else.

25 THE COURT: All right. Good. Mr. Vaux,

COLLOQUY

1 anything further from Mr. Aaron Young Junior?

2 MR. VAUX: Just to be sure that the
3 statements that we heard today are the only parts
4 of the statements that they plan on using?

5 MR. STONE: That's correct.

6 THE COURT: That is what they talked about.

7 MR. VAUX: The only other thing, Your Honor,
8 I raise the issue of the motion to compel
9 discovery with regard to the car video of the
10 Deputy Sheriff Kaminski, Garcia, and the written
11 statement of Brinson which was Bates Stamped
12 number 28.

13 Oh, I'm sorry, it's referenced on Bates Stamp
14 28, Page 28, and any and all statements or summary
15 of statements from the Defendants in addition to
16 the audio and video statements previously
17 provided.

18 THE COURT: Mr. Stone, do you understand what
19 he's asking for?

20 MR. STONE: I'm not -- I apologize, I'm not
21 real clear on what we are talking about. What
22 Bates Stamp are we talking about?

23 MR. VAUX: There is a Bates Stamp 28, and on
24 that Bates Stamp it references to a written
25 statement of Brittany Brinson.

COLLOQUY

1 THE COURT: Right.

2 MR. VAUX: On Page 28, Bates Stamp Page 28.

3 THE COURT: After we break for the night, can
4 you have somebody check into that Mr. Stone?

5 MR. STONE: I will.

6 THE COURT: And see what's there and if you
7 have got it give it to him.

8 MR. STONE: I will.

9 THE COURT: Okay. Thank you.

10 Mr. Vaux, anything other than that?

11 MR. VAUX: No, sir.

12 MR. STONE: I do, I think that I have looked
13 into this. Brittany Brinson was at the scene, she
14 was a relative to the child and she was the one
15 who was trying to perform CPR. And I'll check on
16 this to make sure, but my understanding is that
17 she went and followed the child directly to the
18 hospital. She didn't give a written statement,
19 but the officer indicated that she thought that
20 she had. But that is where the reference was
21 from, but I will look at that again and make sure.

22 THE COURT: Okay. Mr. Ferguson, anything
23 further before we break tonight?

24 MR. FERGUSON: Your Honor, it is just a joint
25 Motion to Compel in terms of the statements not

COLLOQUY

1 previously produced. And you know I do have
2 certain times where Mr. Young Senior is
3 referencing previous conversations with Captain
4 Bromage. We have not been provided a summary of
5 those statements or substance of those statements,
6 so we would just ask for that on the record, that
7 any and all statements not previously provided,
8 that we be provided a statement or summary
9 thereof.

10 THE COURT: Mr. Stone, look at that and make
11 sure that they have everything under the rules.

12 MR. STONE: Correct. Yes. I think that what
13 Captain Bromage testified to today was the best
14 summary that he could have given. I think the
15 question was, When you went outside to smoke a
16 cigarette with Aaron Young Senior, what did you
17 talk about. And the best that Captain Bromage
18 could say was, It really wasn't of any
19 significance, we were talking small talk. So, I
20 think that we can get him to write that up. But
21 he testified to that under oath.

22 I don't know that there was anything else
23 that we were talking about. I think that that
24 covered it. I'll check to make sure that we don't
25 have anything else out there, but I think that

COLLOQUY

1 that will be the extent of it.

2 THE COURT: Mr. Robinson and Bax, anything
3 else before we break for the evening from your
4 side?

5 MR. ROBINSON: No, sir.

6 THE COURT: All right.

7 MR. BAX: Your Honor, if I could, I am sorry.
8 This is something that I discussed with him. I
9 did want to ask, because unlike myself he cannot
10 go back to the jail and look up a case that has
11 been referenced here today. If yourself or
12 Mr. Stone can allow a copy of that Michigan case
13 be made available to him that was referenced here
14 today.

15 MR. STONE: I will. I have got that.

16 MR. BAX: Thank you because that impacts his
17 case heavily. That takes care of it. Your Honor.

18 THE COURT: In recess until 9:30 in the
19 morning, at which time I'll deal with the
20 evidentiary issues. We will bring the jury in.
21 I'll appoint a foreperson and the jury will be
22 sworn at that time.

23 MR. BAX: Sorry, Your Honor.

24 THE COURT: The jury will be brought in at
25 10, I will appoint a foreperson, the will be jury

COLLOQUY

1 sworn at that time. I'll make brief introductory
2 comments outlining their role in the process. The
3 State will present an opening statement. Mr. Vaux
4 on behalf of Aaron Young Junior will present an
5 opening statement if he chooses to do so.
6 Mr. Ferguson on behalf of Aaron Young Senior will
7 present an opening statement if he chooses to do
8 so.

9 Mr. Robinson, you have a right to make an
10 opening statement if you choose to do so. You
11 have no obligation to do so, but you have the
12 right to do it.

13 You cannot testify, of course, but you can
14 simply outline what this case is all about from
15 your perspective. If you intend to offer evidence
16 and testimony you can tell what you intend to
17 offer by way of evidence and testimony. You can't
18 testify before this jury, obviously, because you
19 are not under oath. You have to limit yourself in
20 that regard. And I'll try to keep it within the
21 limits, as I'm sure these other folks will as
22 well. All right, folks, 9:30 tomorrow morning.

23 (Trial adjourned for the day.)

24 APRIL 22, 2014 PROCEEDINGS

25 THE COURT: Ladies and gentlemen, we have

COLLOQUY

1 several matters pending from yesterday. The first
2 is to deal with Mr. Robinson's motion to exclude
3 the comments which were made on one of the
4 recorded statements. The comments of, I think, Ms.
5 Simmons and Jontu Singleton, to exclude those as
6 hearsay..

7 Mr. Robinson was furnished, overnight, a copy
8 of the State of Michigan versus Richard Perry
9 Bryant. I was as well. I have had a chance to
10 read those, that case, overnight and prepare to
11 rule in that regard. .

12 But Mr. Robinson, I'll be glad to hear, first
13 of all, from you, if there's anything that you
14 want to add to your arguments. You asked to
15 exclude those yesterday as hearsay. And the fact
16 that you would not have the right to cross-examine
17 those folks who were making the statements. And
18 so having had a chance to look at Michigan versus
19 Bryant, is there anything that you would like to
20 add to your argument in that regard?

21 MR. ROBINSON: Yes, sir, I would like to --
22 the United States Supreme Court of America case of
23 Michigan versus Richard Perry Bryant. From my
24 understanding it pertains to a person who is
25 actually the victim in the case who has been,

COLLOQUY

1 wounded and beaten from life threatening injuries
2 who has a clear emergency situation, who gives a
3 statement during their emergency who identifies
4 who shot them.

5 The victim later dies as a result of his
6 injuries and is unable to testify. In this case
7 the woman and boy who are making accusations are
8 not the victim at all. They were not wounded or
9 harmed and had no personal emergency situation
10 going on themselves. Plus they both gave
11 statements in a recorded interview explaining they
12 never saw anybody shooting a gun, they never saw
13 anyone in possession of a gun, and never saw anyone
14 shooting.

15 And also the woman and boy referred to in
16 this case are still alive and able to testify if
17 the State needs them to testify. And they are not
18 available in the case of Michigan versus Richard
19 Perry, the victim died after he gave the
20 statement, so he was unavailable. He was the
21 victim..

22 And also, for the record, my objection, as
23 you say, for introducing -- excluding these
24 statements, I'm objecting under the South Carolina
25 rules of hearsay. In a United States Supreme

COLLOQUY

1 Court case of Michigan versus Perry, the Supreme
2 Court decided and it was specifically stated, and
3 I quote, We leave the Michigan Court to decide on
4 remand rather the statement as admission otherwise
5 permitted as hearsay rules. So, the United States
6 of America never decided on the issue of hearsay
7 that I'm objecting to now. So I would ask that,
8 for those reasons, that those statements be
9 excluded under the South Carolina rules of
10 hearsay and because it'll prejudice me because I
11 would not have the right to confrontation while
12 the officer is on the stand.

13 THE COURT: All right. Thank you. Mr.
14 Robinson, you are exactly right on the points that
15 you made. The facts or distinctions that you have
16 drawn are an accurate distinction, however I
17 think that Michigan versus Bryant could apply to
18 any case of an unavailable witnesses. In this case
19 the witness is unavailable because he is dead.
20 There are other cases that the witness is
21 unavailable and the rules allow certain testimony
22 to come in under those circumstances. But in my
23 view it is not Michigan versus Bryant that
24 decides this case. There was an exhaustive
25 discussion within that case of whether these

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1 statements were testimonial or non-testimonial. I
2 think that the statement was non-testimonial in
3 that regard because it was made when the
4 circumstances were ongoing. There was an ongoing
5 emergency. And the primary purpose of those
6 statements was to deal with that ongoing
7 emergency.

8 But I don't think that the Michigan versus
9 Bryant analysis is really what decides this case,
10 because as you said, even after the Supreme Court
11 had gone into that it said, We leave it up to the
12 Michigan courts to decide whether or not this
13 statement is admissible under their hearsay rules.

14 Under our hearsay rules, 8012, an exception
15 to the hearsay rules, that is statements which are
16 not excluded by the hearsay rule, even though the
17 declarant is available as a witness is an excited
18 utterance. An excited utterance is a statement
19 relating to a startling event or a condition while
20 the person who made the statement was under the
21 stress of excitement caused by the event or
22 condition.

23 It is inescapable to anyone who hears that
24 statement to avoid the conclusion that Ms. Simmons
25 and Jontu were extremely excited. As a matter of

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1 fact, the officer could hardly get Ms. Simmons to
2 shut up. He was talking to her as much as he was
3 to the witness -- to you at that point in time,
4 Mr. Robinson. And he was -- he was dealing with
5 her. Clearly, she was under of the stress of
6 excitement that was caused by the conditions that
7 existed at that time. As was true of the younger
8 person as well, Jontu Singleton. So, the
9 statements come in not under Michigan versus
10 Bryant, but under the exception to the hearsay
11 rules under 803(2). These are excited utterances
12 entitled to admissibility under that rule.

13 Now, of course, that -- you obviously have,
14 as you say, the recorded statements and other
15 statements in which they indicated that they did
16 not see anything or hear anything about this
17 particular event. And that is -- those things are
18 pieces of evidence that you can use to rebut these
19 things should the need arise.

20 MR. ROBINSON: My understanding -- so, you
21 say that I can use these DVDs to rebut it, but
22 how would I use it because if the officer is
23 testifying, you are going to allow me to use it
24 while he testifying?

25 THE COURT: I don't know what he would be

COLLOQUY

1 testifying to or how you could get it in through
2 him. There are ways you can get it into the
3 record, obviously. You can introduce it yourself
4 if you choose to do it.

5 MR. ROBINSON: That is what I'm trying to
6 figure out. While he's testifying, when they play
7 that video during the officer's testimony, when
8 it's my turn to cross-examine, I could play it
9 then?

10 THE COURT: No, sir, it wouldn't come in
11 under that because that officer wouldn't know
12 anything about that interview, he wouldn't be the
13 one to testify about that. If that's a recorded
14 interview, that is entitled to admissibility on
15 its own. I assume that this was an interview that
16 was taken and was produced to you all. It was
17 taken -- any of these witnesses, for example, if
18 Ms. Simmons testified or Jontu Singleton
19 testifies, then you would be able to get it in to
20 rebut that testimony.

21 MR. ROBINSON: I don't think the State would
22 want them to testify to get it in, that is why I
23 asked you.

24 THE COURT: Well, there are ways to get it in
25 if it is -- if you choose to offer it, there will

COLLOQUY

1 be ways to get it in under our rules of evidence.
2 All right. The motion, then, to suppress those
3 statements is respectfully denied for the reasons
4 that I have stated.

5 There's also outstanding the rule on Aaron
6 Young Senior's motion to suppress his statements
7 as coerced, and we heard testimony yesterday from
8 Dr. Salas and argument in that regard, as well as
9 from Mr. Young himself and his father. I'm going
10 to postpone and hold in abeyance my ruling on that
11 particular motion because some other evidence has
12 come to light very recently that both sides were
13 unaware of in this particular case and that
14 evidence has to be taken into account by both the
15 State and the Defense in order to fully develop
16 the argument on the admissibility or the
17 inadmissibility of that particular statement, or
18 those statements. And for that reason I'm going
19 to hold in abeyance my ruling in that regard.

20 That -- that late development which comes at
21 the surprise of everybody, Mr. Stone, the State
22 was surprised by it, the Defense was surprised by
23 it, is going to require that the beginning of this
24 trial be postponed until tomorrow morning in order
25 to give both sides a chance to look at the

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1 evidence which they have not yet seen and to be
2 able to respond to it appropriately.

3 The jury is going to come in now and I'm
4 going to advise them of that, the status of this
5 case and ask them to be back in the morning at
6 9:30. And hopefully the balance of the day will
7 be sufficient time for everybody to be able to
8 review that evidence and to make the appropriate
9 responses to it. Having said that, Mr. Stone, is
10 the State ready for me to bring in the jury and
11 advise them?

12 MR. STONE: Yes, sir.

13 THE COURT: All right. Mr. Vaux?

14 MR. VAUX: Yes, Your Honor.

15 THE COURT: Mr. Ferguson?

16 MR. FERGUSON: Yes, sir, Your Honor.

17 THE COURT: Mr. Robinson?

18 MR. ROBINSON: Yes, Your Honor.

19 THE COURT: Bring in the jury, please.

20 THE BAILIFF: Your Honor, the jury is
21 entering.

22 (Jury enters the courtroom at 10:15 a.m.)

23 THE COURT: Thank you. Good morning, ladies
24 and gentlemen. Thank you for your prompt return
25 this morning. We were prepared to go forward with

COLLOQUY

1 the beginning of the trial in this case, right
2 this minute or at 10:00 this morning. We worked
3 until 7:00 here last night and got here early this
4 morning in order to be able to put this case in
5 your hands and start dealing with it this morning
6 at 10.

7 This case has been ongoing, of course, since
8 September the 1st, 2012 and an untold amount of
9 work has gone into the preparation of this case
10 from both sides, both the State and the Defense.
11 Forty-five witnesses that you heard yesterday
12 read to you are involved in this case in one way
13 or another as potential witnesses. And untold
14 items of evidence have been developed during that
15 period of time. And everyone has worked very hard
16 to get to this point, that this case can be
17 presented to you this morning..

18 Despite those efforts, recent developments
19 have come up overnight that neither side knew
20 about. The State didn't know about them. The
21 Defense didn't know about them. They were not
22 able to respond to them. We have to take the
23 balance of the day to look into that new
24 information. We are not going to be able to start
25 this case until tomorrow morning, so we got you

COLLOQUY

1 here today, this morning, unfortunately, without
2 being able to give you anything to do. Nobody knew
3 that until late last night, too late to advise
4 you.

5 And if it's any consolation, you get a full
6 day's pay for having come here today. You are not
7 going to think that it is a full day's pay, but it
8 will be. And we will be able to start the case in
9 the morning at 9:30.

10 I have to remind you again, don't talk to
11 anybody about this case. Don't read newspaper
12 articles that might have generated as a result
13 what happened yesterday. And there won't be any
14 news about this case tomorrow except for what I'm
15 telling you right now. Nothing else is going to
16 happen in this courtroom today, as far as I know,
17 regarding this particular case. If it is, or it
18 does outside of your presence, please remember,
19 you are not allowed to look at those things, read
20 them or talk about them with anyone.

21 I apologize for getting you here this
22 morning. Some of you came a long distance and I
23 realize that. And I promise you if any of us,
24 State or Defense attorneys or I, had known when we
25 could have headed you off and stopped you from

COLLOQUY

1 coming here unnecessarily, we would have done so.
2 But we couldn't. I'm not going to keep you here
3 and apologize to you any longer and keep you
4 delayed from getting back to your business..

5 So, please remember my instructions and be
6 back in the jury room at 9:30 tomorrow morning and
7 we will begin the trial at that time. Thank you,
8 ladies and gentlemen.

9 (Jury exits the courtroom at 10:20 a.m.)

10 THE BAILIFF: The jury is clear, Your Honor.

11 THE COURT: Any exceptions of those remarks to
12 from the State?

13 MR. STONE: No.

14 THE COURT: Mr. Vaux?

15 MR. VAUX: No, Your Honor.

16 THE COURT: Mr. Ferguson?

17 MR. FERGUSON: No.

18 MR. ROBINSON: Nothing.

19 THE COURT: Mr. Robinson, thank you. All
20 right. Folks, is there anything further for this
21 courtroom before we break for today? And, of
22 course, we all need to be in touch with each other
23 pending the developments which we discussed in
24 chambers a while ago so that we can all be advised
25 of those things and be available to examine them

COLLOQUY

1 and be able to get them to wherever we need to get
2 them to. So, the Solicitor's office will be in
3 touch with you all and let you know as soon as
4 they know.

5 MR. BAX: Thank you, Your Honor. I'm sorry, I
6 wanted to make sure that I got the opportunity to
7 put this out. Based on your rulings, I have
8 discussions with Mr. Robinson about the questions
9 that he asked you about trying to find a way to
10 potentially get the interview of Jontu Singleton
11 Junior at Hope Haven introduced into evidence. As
12 a result of that I have advised him that the
13 people involved with the taking of that video may
14 be considered important in laying a foundation
15 for that. He's indicated that he doesn't know the
16 identity of the forensic interviewer. I just
17 wanted to put on the record, especially in a pro
18 se situation, the Court may find it helpful to
19 assist him in requesting the presence of a
20 witness if a witness is available.

21 In this particular situation the identity of
22 the forensic interviewer and potentially a
23 court-ordered subpoena to have that person
24 available to Mr. Robinson if he so finds that
25 putting that person up on the stand potentially in

COLLOQUY

1 a defense setting to authenticate that video in an
2 attempt to get it introduced may be necessary.
3 And I figured the earlier I get that information
4 to Your Honor the better off we would be prepared
5 to move this trial forward.

6 THE COURT: Mr. Solicitor, can you have
7 someone supply that video?

8 MR. STONE: Yes, sir, I can. I don't know it
9 off of the top of my head. I can't remember. But
10 we will get that for you.

11 MR. BAX: Thank you, Your Honor.

12 THE COURT: Is there anything further then
13 before we recess this trial until 9:30 tomorrow
14 morning?

15 MR. VAUX: No, sir.

16 MR. FERGUSON: No, Your Honor.

17 THE COURT: We will stand in recess in this
18 case until 9:30 tomorrow morning. But, Solicitor,
19 if you have something else for me to do, I'm
20 there.

21 MR. STONE: I'll check on that right now, Your
22 Honor.

23 THE COURT: Okay. We will stand down until
24 tomorrow morning at 9:30 in this case. Thank you.

25 (Trial adjourned for the day.)

COLLOQUY

1 APRIL 23, 2014 PROCEEDINGS

2 THE COURT: Good morning. Mr. Solicitor, from
3 our conferences yesterday, I understood that you
4 want now to join in the motion to sever; is that
5 right?

6 MR. STONE: I think, with the new evidence
7 and some other issues, I think that the proper
8 thing at this point would be to sever these
9 Defendants. The only concern that I have at that
10 point is that with the number of witnesses that we
11 have and restructuring, I don't believe that it
12 would be possible for us to complete this trial
13 within this week. That is a consideration that I
14 would just offer up to Your Honor to determine the
15 best way to structure this.

16 THE COURT: All right. Thank you, sir. Mr.
17 Vaux and Mr. Ferguson, I take it that you have no
18 objection joining in the motion?

19 MR. VAUX: We have no objection.

20 MR. FERGUSON: No, sir.

21 THE COURT: Mr. Robinson, you understand that
22 the State is now also asking me to sever the two
23 cases. That is to separate the trial against you
24 from the trial against Mr. Young Junior and Young
25 Senior do you understand that?

COLLOQUY

1 MR. ROBINSON: Yes, sir.

2 THE COURT: I'll be glad to hear from you in
3 that regard.

4 What is your position?

5 MR. ROBINSON: I would like to object to the
6 point that Mr. Senior and Mr. Junior, they want to
7 sever this to do discovery. I respect that. They
8 should have enough time.

9 THE COURT: I am sorry?

10 MR. ROBINSON: I respect their wish for the
11 sever. And they should have enough time to prepare
12 for their defense. This is a serious case. But as
13 far as me, I'm ready to go to trial. We have
14 picked a jury and you have all of these people
15 here, and the Court and jury. I have been going
16 on almost two years preparing for this case
17 sitting in this jail. I think what they have going
18 on between them shouldn't affect me. I'm ready to
19 go to trial. I would like to proceed with the
20 jury.

21 THE COURT: I understand. The difficulty with
22 continuing the trial at this point in time, Mr.
23 Robinson, has to do with re-preparing a good part
24 of this case from the State's perspective. They
25 have prepared this case all along for trial with

COLLOQUY

1 all of you together. That means that they have
2 taken out of the various statements that have been
3 made any reference to Mr. Young against you, any
4 reference by you against the Youngs. If this case
5 is tried separately, as it will be, then what you
6 say against the Youngs may be admissible and what
7 they say against you may be admissible. It is
8 impossible in the time that we have to undo all of
9 that and to redo it in such a way that those
10 tapes and those videos that you have seen are put
11 back into another fashion.

12 They spent yesterday, as you know, because
13 you spent a lot of time looking at them yourself,
14 five or six hours looking at various tapes. That
15 has to be redone. All of that new information
16 now has to be embodied into this record, somehow
17 or another, so that the jury can hear it in the
18 fashion that they should hear it. It is impossible
19 for us, in the time that we have left this week,
20 in the time it would take to try this case, to do
21 all of that.

22 And I would agree with you, we have all spent
23 a lot of time getting ready for this trial. We
24 have spent a lot of time getting a jury in place
25 to do this. And frankly, everybody was prepared to

COLLOQUY

1 try this case. Everybody in this room was prepared
2 to try it. The disclosure of those additional
3 taped conversations from certain of the patrol
4 cars, which the Solicitor didn't know about it, he
5 didn't know about it, the Defense didn't know
6 about it, you didn't know about it until late
7 Monday or early Tuesday and it has upset that time
8 schedule.

9 And we all regret the fact that it has to be
10 continued at considerable expense to everybody.
11 But it's impossible for this case to go forward in
12 a fair and complete way without giving everybody
13 time now to accommodate all of that new
14 information and the Youngs, giving them time of
15 course, to put it into their experts' hands. But
16 that is another matter and that would not affect
17 your trial, necessarily, but that has to be done
18 and we have to continue the trial. I note your
19 objection to that, but it has to be done. Thank
20 you.

21 MR. BAX: And Your Honor, I did promise Mr.
22 Robinson that I would address this issue briefly.
23 Obviously in order to represent himself
24 adequately, your Honor, I think that he will need
25 the transcript of everything that has been said in

COLLOQUY

1 this court during the course of this week. And
2 obviously that is something that costs some
3 money. So I have let him know that I will be
4 asking the Court to look at a proposed order for
5 funding to purchase an expedited copy of the
6 transcript of everything that has gone on for his
7 use in any future trial.

8 Thank you, Judge.

9 THE COURT: All right. Thank you. All right.
10 Mr. Solicitor, is there anything further from the
11 State?

12 MR. STONE: No, sir, not from the State.

13 THE COURT: Thank you. Mr. Vaux.

14 MR. VAUX: No, sir, Your Honor.

15 THE COURT: Mr. Ferguson.

16 MR. FERGUSON: No, sir, Your Honor.

17 THE COURT: Mr. Robinson, anything further?

18 MR. ROBINSON: No, sir.

19 THE COURT: Thank you. Folks. I have put on
20 the record, in connection with my colloquy with
21 these individuals, the difficulty that has
22 occurred as a result of some late evidence that
23 was inadvertently overlooked. Not by the
24 Solicitor's office. I want to make -- I emphasize
25 that this delay in no way falls at the feet of the

COLLOQUY

1 Solicitor's Office. They have done a thorough
2 job. They have done everything in preparing this
3 case for trial and have revealed every piece of
4 information of which they were aware.

5 It was only late on Monday or early Tuesday,
6 and I'm not exactly sure when, but it was after we
7 broke Monday or before we got here Tuesday, that
8 the Solicitor's office was made aware of an
9 additional recording from one of the patrol cars
10 that was at the scene when this event occurred. As
11 it turns out, there were actually two more
12 recordings. One was relatively insignificant and
13 one was relatively short, probably doesn't have
14 any bearing on this case. The other two may very
15 well have bearing on one of the issues involved in
16 this case, and that is the admissibility of Mr.
17 Aaron Young Senior's statements.

18 Now, whether or not it has a bearing, I don't
19 know, I'm not saying that it does, but I am
20 saying that it could. And certainly it is the
21 sort of information that needs to be explored
22 fully. The expert witness who has been retained in
23 this case needs to have a chance to review those
24 matters to see if they bear at all on a Court's
25 decision as to whether or not to allow those

COLLOQUY

1 statements into evidence. That could not have been
2 done in a day.

3 As a matter of fact, it took all of yesterday
4 just to go through those tapes and for the
5 lawyers to look at them. Clearly the expert did
6 not have time to review them. And certainly not
7 time to render an opinion. So, this case will
8 necessarily be severed for the reasons that I have
9 mentioned. It will have to be continued for the
10 reasons that I have already put on the record.

11 We will stand aside in this case until
12 further call of the case by the Solicitor. The
13 Solicitor will determine the timing of this. And
14 it'll depend on the availability of transcripts
15 and availability of witnesses. That will be the
16 Solicitor's call. All right.

17

18 MR. STONE: Yes, sir.

19 THE COURT: All right. Folks, we will stand
20 down in this particular case then. And I'll go
21 back to the jury and explain.

22 (Whereupon, the case was adjourned and the
23 jury was dismissed.)

24

25

CERTIFICATE PAGE

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this August day of 28th, 2016.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

Circuit Reporter for the 14th Circuit

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1 In the Court of Common Pleas for the
2 State of South Carolina, County of Beaufort

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4 Case No.: 2014-GS-07-1941

5 2012-GS-07-2173

6 State of South Carolina,

7 Plaintiff(s),

8 vs. Transcript of Record.

9 Aaron Young, Sr.,

10 Defendant(s).

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16 August 10-12, 2015

17 Beaufort, South Carolina

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22 BEFORE:

23 The Honorable THOMAS W. COOPER

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1 AUGUST 10, 2015 PROCEEDINGS

2 THE COURT: Folks, let me tell you what we'll be
3 doing for the next few minutes in advance of this
4 process itself. In just a moment we're going to go
5 through a series of questions that will be the
6 qualification process for this particular case. You
7 have already been qualified, generally, as jurors to
8 try any case in this court that's called or the one
9 down the hall during the week. But now we need to
10 focus in on a particular case with particular events
11 and circumstances and people involved that we will
12 qualify you for now.

13 So what we'll do is ask you questions regarding
14 this case and some of the things that we did during the
15 general qualification process.

16 Mr. Stone, is the State ready to proceed to jury
17 selection?

18 MR. STONE: The State's ready, Your Honor.

19 THE COURT: Mr. Ferguson, is Defense ready to
20 proceed?

21 MR. FERGUSON: Yes, sir, Your Honor.

22 THE COURT: Solicitor, you can call your case.

23 MR. STONE: Your Honor, the State calls
24 2012-GS072173, charging Aaron Scott Young, Sr. with the
25 offense of murder; docket number 2014-GS071941,

CALLING OF THE CASE

1 charging Aaron Scott Young, Sr. with the offense of
2 attempted murder.

3 I'll hand those indictments up, Your Honor.

4 THE COURT: Thank you.

5 Ladies and gentlemen, as you have heard, the State
6 has called the case of the State versus Aaron Scott
7 Young, Sr. This indictment charges that in Beaufort
8 County on or about September the 1st of 2012 Aaron Scott
9 Young, Sr. did willfully, unlawfully and with malice and
10 forethought engage in mutual combat with Tyrone Robinson
11 and to thereby cause the victim, Khalil S. , to be
12 shot and killed. And then Khalil S. died in
13 Beaufort County as a result of that on September
14 the 1st, 2012.

15 The next indictment charges attempted murder and
16 alleges that in Beaufort County on or about September
17 the 1st, 2012, the same day, the Defendant Aaron Young,
18 Sr., with the intent to kill and malice and aforethought
19 either expressed or implied attempted to the murder the
20 victim, Tyrone Robinson, in violation of the law.

21 Now, ladies and gentlemen, the indictments which I
22 have just read to you are not evidence nor are they
23 proof of the charges that they contain. They're simply
24 charging documents, legal documents that tell you or me
25 or anybody else who reads them what these charges are

JURY SELECTION

1 THE COURT: Folks, we'll go to the motions that
2 have been filed now by the Defense. To begin with, the
3 Jackson v. Denno is a matter that will be the most
4 lengthy, so what I would suggest is, as counsel has
5 already indicated, that be left till the end.

6 There's a motion to sequester witnesses by the
7 Defense. As long as that's a reciprocal motion, does
8 anybody have a problem with it?

9 MR. STONE: No, sir. No objection.

10 THE COURT: Okay. Granted.

11 Motion to exclude prejudicial materials from the
12 Courthouse and the Courtrooms, specifically signs,
13 banners, T-shirts, and material depicting the victim on
14 the grounds of the Courthouse or the Courtroom. Any
15 problem with that?

16 MR. STONE: No, sir. I don't know that there is
17 anything like that. I haven't seen anything, but I
18 have no objection.

19 THE COURT: All right. Granted.

20 Motion to require production of witnesses' prior
21 criminal records. Any problem with that?

22 MR. STONE: No, sir. I believe -- I think that
23 we've already done that, Your Honor.

24 MR. FERGUSON: That's correct, Your Honor. They
25 have given me what is a handful of rap sheets for me to

JURY SELECTION

1 look at.

2 THE COURT: Okay.

3 Motion to determine the admissibility of prior
4 convictions. Is that something we need to do now, or
5 I'll be glad to hear it. What convictions do we have?

6 MR. STONE: I don't believe we need to address
7 that right now at this point, at this juncture, Your
8 Honor.

9 THE COURT: Okay. I will defer that.

10 And is the same true of the motion to exclude prior
11 bad acts?

12 MR. STONE: Can't think of any prior bad acts that
13 we would seek to introduce under 404 B, Your Honor. I
14 might need something more specific if there's something
15 that I'm not thinking of, but ...

16 MR. FERGUSON: There is a something specific, Your
17 Honor. And it has to do with part of the investigative
18 report, which -- and I don't even think the officer,
19 the reporting officer is on their proposed witness
20 list. It's Deputy Grininger. And essentially it's the
21 result of the search of ■ Old Wild Horse Road. They
22 report that there was a stolen air conditioner
23 recovered. And, you know, obviously we would not want
24 that to come in in front of a jury, and just ask that
25 that be excluded.

JURY SELECTION

1 MR. STONE: That's correct, Your Honor. And also,
2 I would also, as far as saying on his statement, on
3 Aaron Young's statement, he makes reference to his
4 prior history, which we have also redacted as well.

5 THE COURT: Okay.

6 MR. STONE: So, yes, sir, I would agree. We're
7 not going to -- we don't plan on introducing any of
8 that.

9 THE COURT: Okay. Good.

10 The motion to quash, the motion to determine
11 admissibility of statements is a tool that takes a
12 little bit longer, but not -- I think you've got
13 everybody in place to determine the admissibility of
14 statements; is that right?

15 MR. STONE: Yes, sir.

16 THE COURT: Okay. All right. Mr. Thornton.

17 MR. STONE: Thank you, Your Honor. Your Honor, at
18 this time I believe with the agreement of Defense
19 counsel, what I'm going to do is have two videos played
20 for the Court's information. The first, Your Honor, is
21 the roadside stop. And, forgive me, Your Honor, you
22 may have actually seen some of these many, many months
23 ago.

24 But the first is a roadside stop, and this is
25 inside one of the officers' cars. And it's Officer

JURY SELECTION

1 Kaminski's car. Aaron Young, Senior has been placed,
2 they've been stopped. Aaron Young, Senior has been
3 placed in the back of the patrol car at this time, and
4 you will hear Doug Seifert and Aaron Young, Senior have
5 a short exchange, where he Mirandizes him.

6 The second -- and that's probably not more than 15
7 minutes, Judge.

8 The second is an interview inside of an interview
9 room at the -- I believe it was the Hilton Head office
10 substation, if memory serves, and that is a much longer
11 thing that I would ask the Court to watch. And then
12 upon the conclusion of those two things, I'll actually
13 bring the live witnesses up, Your Honor.

14 But before I do that, since we've now done the
15 sequestration motion, I have two witness in the back
16 that I need to excuse, if the Court will allow me one
17 minute.

18 THE COURT: All right.

19 MR. FERGUSON: And I have one potential, Your
20 Honor, that I need to do the same for.

21 THE COURT: Okay.

22 (Pause.)

23 MR. STONE: Your Honor, at this time, I believe
24 everybody's out, so we're going to go ahead and start
25 with the first video. Please let me know, Your Honor,

JURY SELECTION

1 if you can -- and, again, I will point out, Judge, at
2 the conclusion of these two videos, I will play for the
3 Court the actual portions of those that the State would
4 seek to introduce at trial in the case-in-chief, which
5 have transcription, as we normally do, underneath it.
6 These do not because that's the unedited.

7 THE COURT: Okay. Good.

8 The pick-up truck is Aaron Young, Senior's pick-up
9 truck?

10 MR. STONE: Yes, sir. That you've heard about in
11 the two previous trials. Aaron Young, Senior was
12 driving it, Ebony Campbell was in the truck, as well as
13 Aaron Young, Junior, when it was pulled over. Aaron --
14 they have now been separated, and Aaron Young, Senior,
15 the view you're seeing is actually Kaminski's car and
16 there is audio that will come on and off shortly. This
17 is about 15 to 20 minutes in, he's been seated in the
18 car. I don't think Mr. Ferguson has any -- takes any
19 issue as far as coercion, at least up until this point,
20 and this is the first doing of Miranda, Your Honor.

21 MR. THORNTON: Your Honor, the stop lasts much
22 longer than that, but that's the statement at the
23 roadside. And what the State would seek to introduce
24 is based off of what was recorded on that statement.
25 And, again, we have a transcript and copy which we will

JURY SELECTION

1 put up there at the end of this second video.

2 THE COURT: Okay. Good.

3 (Video with audio playing.)

4 MR. THORNTON: Your Honor, the next thing that we
5 are going to play. Actually, the final thing that we
6 are going to play are the clips pulled from those
7 videos that you have just seen with the included
8 transcript underneath them and again, Mr. Ferguson was
9 provided with a copy of this this morning.

10 THE COURT: Okay, thank you.

11 (Video and audio playing.)

12 MR. THORNTON: Your Honor, we can back it up and
13 play it. It is basically -- unless Mr. Ferguson takes
14 issue with that the last part that timed out. But that
15 would be the end, that is what we would seek to
16 introduce in the case-in-chief.

17 THE COURT: In the last part we lose the video and
18 still hear the audio, there's no transcript of that.

19 MR. THORNTON: Yes, sir, there is a transcript. I
20 can pull it back up and show you the transcript. But I
21 can't start it in the middle to play the end. So, what
22 we can do is go to the last four or five slides so that
23 the Judge can actually read the transcript.

24 THE COURT: Most of the time, I could follow what
25 he was saying pretty clear most of the time.

JURY SELECTION

1 MR. THORNTON: We will play the very last clip,
2 Your Honor, it shouldn't take but a couple of minutes.

3 (Playing video and audio.)

4 MR. THORNTON: That's, it. Your Honor.

5 THE COURT: Okay.

6 MR. THORNTON: At this time, the State will start
7 calling the lay witnesses -- or the live witnesses.

8 The State calls Todd Kaminski, Your Honor. He'll
9 be coming to the stand momentarily.

10 THE COURT: Okay. Mr. Kaminski, come forward,
11 please, and be sworn.

12 THE CLERK: Would you state your name for the
13 record?

14 THE WITNESS: Todd Kaminski.

15 THE CLERK: Would you spell your name.

16 THE WITNESS: K-A-M-I-N-S-K-I.

17 Thereupon,

18 TODD KAMINSKI

19 was called as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 DIRECT EXAMINATION

22 BY MR. THORNTON:

23 Q Mr. Kaminski, I see you have a code enforcement
24 shirt on. Who do you currently work for, sir?

25 A I currently work for the town of Hilton Head.

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 Q And in 2012, specifically September the 1st of
2 2012, who did you work for?

3 A I was a corporal with Beaufort County Sheriff's
4 Office.

5 Q All right. And did you have -- did you get
6 called out to any particular scene on September the 1st of
7 2012 in the late afternoon?

8 A I did. The call came out looking for a white
9 vehicle in the case that we're here for.

10 Q All right. And did you go out to, I think it's
11 278, somewhere on 278 as part of a traffic stop with, I
12 believe, Corporal Evans at that time?

13 A Yes, sir, on Gum Tree Road.

14 Q All right. And obviously you were not in here to
15 see it, but at my request, did you come to my office and
16 review a tape involving Aaron Young, Senior at the
17 roadside?

18 A I did.

19 Q All right. And was Aaron Young, Senior placed in
20 your patrol car?

21 A He was.

22 Q And is that where he was seated when he was read
23 his Miranda rights and things by Doug Seifert?

24 A Yes, sir.

25 Q While you at -- were you at that scene the entire

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 time from your arrival until Aaron Young, Senior left?

2 A Yes.

3 Q And was Aaron Young, Senior in your vehicle at
4 that time?

5 A Yes, sir.

6 Q Is that the -- your car, does it come with the
7 video and audio recording equipment?

8 A Correct.

9 Q And is that what -- and, again, I know you
10 weren't in here, but at my request, did you have one of
11 those recordings that you reviewed?

12 A Yes, sir.

13 Q Mr. Kaminski, let me ask you this. Who
14 transported Aaron Young, Senior from the scene at 278 to
15 the Hilton Head substation?

16 A I did.

17 Q And was anybody with you at the time?

18 A No, sir.

19 Q We did not play this for the Court, but during
20 that trip, was there any conversation at all or any
21 speaking done by Aaron Young, Senior?

22 A Yes.

23 Q All right. And were you attempting to question
24 him in any way?

25 A No, sir.

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 Q Did he continually try to talk to you?

2 A Yes, sir.

3 Q Did you ask him any questions?

4 A No, sir.

5 MR. THORNTON: Your Honor, for the Court's
6 information, we are at this time not seeking in the
7 State's case-in-chief to introduce any of those
8 statements made by Aaron Young, Senior.

9 THE COURT: All right.

10 BY MR. THORNTON:

11 Q Corporal, while in your presence, was there
12 anybody else in the car with you other than Aaron Young,
13 Senior?

14 A No.

15 Q Did you at any time make any threats towards him
16 to try to get him to talk?

17 A No, sir.

18 Q Did you question him at all?

19 A No.

20 Q Did you make any promises to him to try to get
21 him to talk?

22 A No, sir.

23 Q Was anyone assigned -- and "assigned" may be the
24 wrong word, but did anybody guard or stand watch over Aaron
25 Young, Senior while he was at the Hilton Head Island

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 substation?

2 A Yes, it was me. I took him to the DTF office at
3 the time.

4 Q Tell -- I'm sorry. I didn't mean to interrupt.

5 Tell me what happens when you get Aaron
6 Young, Senior back to Hilton Head to the substation?

7 A Okay. Took him out of the car and placed him in
8 the -- it was the DTF room. It's a room separate from the
9 LFC.

10 Q All right. And the -- you say DTF room, is it
11 drug task force?

12 A The drug task force.

13 Q All right. And is that like an office?

14 A It was -- it's an office, yes.

15 Q And there's no question -- and, Your Honor, the
16 Court will stipulate that Mr. Young, Senior was in custody,
17 correct? He was handcuffed at the time?

18 A He was.

19 Q Now, once you get him into the DTF room, did you
20 stay with -- when I say "him," Aaron Young, Senior, did you
21 stay with Aaron Young, Senior?

22 A I did.

23 Q And were you with him for some time?

24 A I was. I was with him.

25 Q At any time did you leave -- leave the room while

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 Aaron Young, Senior was still in it?

2 A Briefly, to use the bathroom.

3 Q All right. And who -- who, if anybody, came in
4 to stand watch?

5 A Capital Bromage.

6 Q All right. And how long were you gone?

7 A No more than two minutes.

8 Q When you came back in -- or did you at some point
9 then go back to the room after a couple of minutes?

10 A I did, yes.

11 Q And was there anybody in the room other than
12 Captain Bromage and Aaron Young, Senior?

13 A No, sir.

14 Q Was there any questioning going on that you could
15 see?

16 A No, sir.

17 Q Did you then stand watch again over Aaron Young,
18 Senior?

19 A I did.

20 Q Now, at some point, was Aaron Young, Senior
21 pulled out of the room?

22 A Yeah. About an hour or two later, maybe an hour
23 later, he came back and --

24 Q All right. He, who, came back?

25 A Oh, I'm sorry. Captain Bromage and Doug Seifert.

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 Q All right. So Captain Bromage and Doug Seifert
2 with the Sheriff's Office come back to get him, they pulled
3 him out of the room; is that right?

4 A Correct.

5 Q And while you were with Aaron Young, Senior --
6 well, let me ask you this.

7 What did you do after they pulled him out of
8 the DTF room? Did you stay there, or did you -- were you
9 relieved at that point?

10 A I was relieved.

11 Q All right. Who relieved you?

12 A Staff Sergeant Wilson.

13 Q And did you -- was there anybody else in the room
14 with you other than the brief time that Captain Bromage was
15 in there while you used the restroom?

16 A No, sir.

17 Q Obviously other than Aaron Young, Senior?

18 A Yes, yes.

19 Q At any time during your watching over Mr. Young,
20 Senior, did you question him at all?

21 A No.

22 Q Did you make any threats?

23 A Not at all.

24 Q Promise him anything, any agreement for leniency?

25 A None.

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 Q And did anyone else in your presence while you
2 were in that room?

3 A No.

4 Q And if you need to look at a report, or if that
5 would help, but do you know approximately what time you
6 would have gotten him back to the law enforcement center,
7 or what time, roughly, the stop was?

8 A I know the stop was near about five, 6:00, and
9 then it was probably an hour and a half -- hour, hour and a
10 half out on the scene until I brought him back.

11 Q All right. So somewhere around 7:00 sound right,
12 give or take a few minutes?

13 A Right.

14 Q And then he was in there, you said, for sometime
15 for an hour or two after that until Doug Seifert and Bob
16 Bromage pulled him out; is that right?

17 A Correct, yes.

18 Q Did at any time -- are you familiar with someone
19 who then worked for the Beaufort County Sheriff's Office,
20 Corporal Evans?

21 A I am.

22 Q All right. Did at any time Corporal Evans come
23 in the room, or was he in the room at all between the time
24 that you drove Aaron Young, Senior to the substation and
25 the time that Doug Seifert and Bob Bromage pull him out

DIRECT EXAMINATION OF KAMINSKI BY THORNTON

1 of -- pull Aaron Young, Senior out of the DTF room?

2 A No.

3 MR. THORNTON: Your Honor, I have nothing further
4 for this witness.

5 THE COURT: Thank you. Cross-examine.

6 MR. FERGUSON: Thank you, Your Honor.

7 CROSS EXAMINATION

8 BY MR. FERGUSON:

9 Q Corporal Kaminski, where is the DTF office
10 located in the law enforcement center?

11 A In the middle between -- it's the middle between
12 the deputies' room and the main lobby.

13 Q Okay. And then --

14 A It's kind of hard to ...

15 Q Well, sure.

16 In relation to the deputies' room, where's
17 the DTF room?

18 A If you were -- just to paint a picture, if you
19 were looking at the rear of the building, the deputies' room
20 is on the left, the middle is the DTF office, and then to
21 the right would be the main room.

22 Q And where's the interview room?

23 A The interview room, I believe, at the time again,
24 we just moved into that new facility, but it was over on the
25 main side near the investigator's offices, which is on that

CROSS EXAMINATION OF KAMINSKI BY FERGUSON

1 main lobby side.

2 Q And I think you testified that you remember the
3 stop occurring about 5:00 p.m; is that correct?

4 A Roughly.

5 Q And, you know, that you think you got to the
6 Hilton Head law enforcement center about 7:00 p.m; is that
7 correct?

8 A Roughly, yes.

9 Q Okay. What is your call sign, or what was it at
10 the time?

11 A I think Bravo 39.

12 Q Okay.

13 A I'm not a hundred percent.

14 Q Okay.

15 MR. FERGUSON: May I approach the witness, Your
16 Honor?

17 THE COURT: Yes, sir.

18 BY MR. FERGUSON:

19 Q Are you familiar with the CAD system?

20 A I am.

21 Q And how that is documented, and how the records
22 are kept?

23 A For the most part.

24 Q Okay. I want to show you a printout that was
25 provided to me in discovery, and I've highlighted a portion

CROSS EXAMINATION OF KAMINSKI BY FERGUSON

1 of it. And I believe you said you were Bravo 39; is that
2 correct?

3 A Yes.

4 Q Now, what time does that show you arriving at the
5 Hilton Head substation?

6 A 7:19.

7 Q Okay. Thank you.

8 Now, you know, an hour or two, there's a big
9 difference between one hour and two hours. Do you know
10 when you were finally relieved by Deputy Wilson from
11 watching over Aaron Young, Senior?

12 A It was actually Captain Bromage and Doug Seifert
13 that relieved me from watching him. I just checked in with
14 Staff Sergeant Wilson. I really couldn't say, it was late.
15 I know it was night.

16 I had been on duty for a long period of time
17 and all of my equipment had run out, so I would guess
18 10:00-ish, somewhere around there, I don't know.

19 Q Now, did you review the in-car video portions
20 that have been previously referred to?

21 A Yes, sir.

22 Q Do you recall, there was a short clip on the
23 third disc, on the third video, where you're in transport
24 to the Hilton Head substation. Do you recall a point where
25 Mr. Aaron Young, Senior asked you what time it was?

CROSS EXAMINATION OF KAMINSKI BY FERGUSON

1 A I do not offhand but --

2 Q Okay.

3 MR. FERGUSON: Beg the Court's indulgence one
4 moment, Your Honor.

5 THE COURT: Okay.

6 (Pause.)

7 MR. FERGUSON: No further questions, Your Honor.

8 THE COURT: All right. Thank you. Redirect, Mr.
9 Thornton?

10 MR. THORNTON: None, Your Honor. I asked that he
11 be excused.

12 THE COURT: Thank you. Mr. Kaminski, you can step
13 down.

14 THE WITNESS: Thank you.

15 MR. THORNTON: Doug Seifert, Your Honor.

16 THE COURT: Okay.

17 THE CLERK: Would you state your name for the
18 record?

19 THE WITNESS: Doug Seifert.

20 THE CLERK: And would you spell your last name,
21 please?

22 THE WITNESS: It's S-E-I-F-E-R-T.

23 Thereupon,

24 DOUG SEIFERT

25 was called as a witness, having been first duly sworn,

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 was examined and testified as follows:

2 DIRECT EXAMINATION

3 BY MR. THORNTON:

4 Q Detective Seifert, who do you work for, sir?

5 A I work for Beaufort County Sheriff's Office.

6 Q And did you work for the Beaufort County
7 Sheriff's Office on or about September the 1st of 2012?

8 A Yes, sir.

9 Q And did you respond out to any particular scene
10 on September the 1st of 2012?

11 A Yes, sir.

12 Q And did you respond out to Highway, I believe
13 it's 278, on a vehicle stop?

14 A Yes, sir.

15 Q And who was the driver of that vehicle?

16 A Of the vehicle of --

17 Q I'm sorry. I've asked you a very poorly phrased
18 question.

19 When you got out to the scene on 278, was
20 there a silver F150 Ford pick-up stopped?

21 A Yes, sir.

22 Q And who was the driver of the Ford F150 pick-up?

23 A Aaron Young, Senior.

24 Q And do you see him here in the courtroom today?

25 A I do.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q And is he -- where -- could you point him out for
2 me?

3 (Witness complies.)

4 BY MR. THORNTON:

5 Q You're pointing to the Defendant.

6 Let me ask you this. Did you at some point
7 talk to Aaron Young, Senior at the roadside, for lack of a
8 better word?

9 A Yes, sir.

10 Q Where was Aaron Young, Senior at that time?

11 A He was in the back of Corporal Kaminski's vehicle,
12 patrol vehicle.

13 Q And was he in that vehicle from the time you
14 arrived until he was -- until he, being Aaron Young,
15 Senior, was transported?

16 A Yes, sir.

17 Q Is that car equipped with audio and video?

18 A Yes, sir.

19 Q And obviously you weren't in here. At my
20 request, have you reviewed footage where you Mirandised
21 Aaron Young, Senior on the side of the road?

22 A Yes, sir.

23 Q And did you read that off of a card, did you
24 memorize it, did you use a sheet of paper? How did you do
25 that?

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 A A card.

2 Q All right. And has the videotape that you
3 reviewed at my request been altered or changed in any way,
4 or are the rights you read to him the rights that you read
5 to him off that card?

6 A Yes, sir.

7 Q Do you have the card with you?

8 A I do.

9 Q Would you please read the rights that you read on
10 that day?

11 A It's: You have the right to remain silent.

12 Anything you can and will be -- I'm sorry.

13 Anything you say can and will be used
14 against you in a court of law. You have the right to an
15 attorney. If you can't afford an attorney, one will be
16 provided for you. You understand the rights I just read to
17 you?

18 These are just our stationary Miranda cards
19 that we usually have.

20 Q And did you also tell him on the -- I believe it
21 was recorded, but did you also tell him he could exercise
22 those rights at any time?

23 A Yes, sir. That was -- yes.

24 Q And did you then have a brief conversation with
25 Aaron Young, Senior?

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 A I did.

2 Q And do you recall the general gist of what he
3 told you?

4 A Yes, sir.

5 Q All right. What did he tell you?

6 A Stated that there was a -- that Tyrone Robinson
7 was shooting at -- shooting at him and his son, is what he
8 said.

9 Q All right. And did he indicate whether or not
10 they shot back?

11 A Yes, sir.

12 Q What did he say?

13 A He stated that it was an escalation of earlier in
14 the day over at his house, what occurred in his yard area.
15 Then they went down to the Allen Road area looking for
16 Tyrone.

17 Q All right. And let me stop you, because
18 obviously the Judge saw that on videotape. But
19 specifically did you say, where's the gun that your son was
20 shooting?

21 A Yes, sir.

22 Q And did he tell you where it was, or did he say
23 he didn't know where it was?

24 A He didn't know where it was.

25 Q And did you ask him why was your son hanging out

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 the window shooting, or something to that effect?

2 A That's right.

3 Q And what did he say?

4 A As far as?

5 Q What did Aaron Young, Senior say in response,
6 when you asked him that question?

7 A About his son shooting out? Because he was
8 shooting at them.

9 Q Right. Okay. But I believe the quote was,
10 because he was shooting at us; is that right?

11 A Yes. I don't have my notes in front of me, but,
12 yes, sir.

13 Q Now, although we did not play this clip for the
14 Judge, at some point did you do a GSR, gunshot residue
15 test, on Mr. Young, Senior?

16 A I did.

17 Q Now, was he in the -- did he stay in the vehicle
18 at that time, or did you pull him out?

19 A I pulled him out.

20 Q At my request, did we review the entirety of the
21 video roadside stop, at least from Corporal Kaminski's car?

22 A Yes, sir.

23 Q And is anything that occurs outside his car
24 audible?

25 A Yes, sir.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q So is there any -- is there any recording, audio
2 recording, that clearly indicates you doing the GSR kit?

3 A No, sir.

4 Q Do you recall how many minutes that took?

5 A If I had to guess, between five and eight minutes,
6 if I had to guess.

7 Q And during that time, did you administer what's
8 called the gunshot residue test?

9 A I did.

10 Q And did you have some more discussions with Aaron
11 Young, Senior at that time?

12 A Yes, sir.

13 Q All right. Did you at any time --

14 MR. THORNTON: And Your Honor, again, as we stated
15 in chambers, the State is not seeking to introduce any
16 of those. They were not recorded. We're sticking with
17 the recorded statements that were made on the roadside
18 that Your Honor has already heard.

19 THE COURT: Okay.

20 BY MR. THORNTON:

21 Q During that exchange, did you threaten or try to
22 coerce Mr. Young, Senior in trying to give you any
23 information?

24 A No, sir.

25 Q While you were out at the roadside, did either

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 you or anybody in your presence or in your field of vision
2 threaten or try to coerce Mr. Young, Senior into talking to
3 you?

4 A No, sir.

5 Q All right. When you read him his rights, as we
6 saw on the videotape, did he seem to understand those
7 rights?

8 A Yes, sir.

9 Q And did he have any trouble communicating with
10 you?

11 A No, sir.

12 Q Did he appear to be under the influence of any
13 alcohol or any drugs at that time?

14 A No, sir.

15 Q Did he -- at one point, did you hear on the
16 videotape, again, a section we did not play, is he calling
17 your name repeatedly trying to get your attention to talk
18 to him?

19 A Yes, sir.

20 Q And is that before or after you gave him the GSR
21 test?

22 A It was before.

23 Q And at some point after that, you pulled him out
24 of the car to do the GSR; is that correct?

25 A Yes, sir.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q And I asked about, I think, threaten. But did
2 you threaten, coerce him, make him any promises of leniency
3 or anything of that nature during your roadside stop?

4 A No, sir.

5 Q Did anybody else in your presence?

6 A No, sir.

7 Q Were there any other detectives out there or
8 anyone else to question Mr. Young, Senior?

9 A No, sir.

10 *(Whereupon, Court's Exhibit No(s) 1 marked for*
11 *identification.)*

12 BY MR. THORNTON:

13 Q At some point, Detective Seifert, did you talk to
14 Mr. Aaron Young, Senior again?

15 A I did.

16 Q And was that at the Hilton Head substation?

17 A Yes, sir.

18 Q All right. And first of all, to clear something
19 up that's been -- just so we don't have any confusion for
20 the record, the Hilton Head, I keep calling it Hilton Head
21 substation; is that the correct terminology?

22 A Yes, sir.

23 Q All right. And where was Aaron Young, Senior
24 located inside the Hilton Head substation? Where was he
25 kept at when he first got there?

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 A We actually called it the DTF room at the time.

2 Q All right. Does that DTF stand for drug task
3 force?

4 A Yes, sir.

5 Q Now, were those -- in 2012, September of 2012,
6 had the sheriff's office had that open a long time?

7 A No, sir.

8 Q All right. Was it relatively new?

9 A Yes, sir.

10 Q As a matter of fact, did you have to shuffle the
11 three defendants in this case in and out of one of the
12 rooms that's recorded, the interview room that we see
13 there, when you talked to Aaron Young, Senior?

14 A Yes, sir.

15 Q All right. Now, is the DTF room at that time,
16 was it equipped with a camera or anything?

17 A No, sir.

18 Q Is it an office basically?

19 A It is.

20 Q Or at least at that time?

21 A Yes, sir.

22 Q So Aaron Young, Senior's at the DTF office. At
23 some point, do you go and retrieve Aaron Young, Senior to
24 interview?

25 A Yes, sir.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q And is that the interview -- again, you weren't
2 in here -- but is that the interview that you reviewed at
3 my request?

4 A Yes, sir.

5 Q And I believe that -- is it Albertin was with you
6 in the interview room?

7 A Yes, yes.

8 Q Okay. Did anyone go with you to retrieve Aaron
9 Young, Senior from the DTF room?

10 A Yes.

11 Q And who went?

12 A Captain Bromage.

13 Q All right. Is that Bob Bromage, seated here at
14 the table?

15 A Yes, sir.

16 Q Now, when you and Captain Bromage went, who did
17 you retrieve Aaron Young, Senior from, if anybody?

18 A Corporal Kaminski.

19 Q And is that the same Corporal Kaminski who
20 transported Aaron Young, Senior, and in whose car Aaron
21 Young, Senior was at the traffic stop?

22 A Yes, sir.

23 Q When you pulled him in on video, it would appear
24 that you actually notated the time. I'm going to ask you
25 if you can identify what's been marked for identification

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 as Court's Exhibit No. 1. Can you identify that document?

2 A Yes, sir.

3 Q What is that?

4 A It's the Beaufort County Sheriff's Office Miranda
5 warning form that we go over with an individual who we're
6 actually interviewing.

7 Q And is that Miranda form specific to any person?

8 A Yes.

9 Q And who is that particular Court's Exhibit 1
10 specific to?

11 A Aaron Scott Young, Senior.

12 Q And is that the Miranda that you used when you
13 reMirandised him, him being Aaron Young, Senior, inside the
14 interview room?

15 A Yes, sir.

16 Q And did you go through those rights with him and
17 that was what was reported on camera?

18 A Yes, sir.

19 Q And did you have him initial by each block?

20 A Yes, sir.

21 Q And did he initial?

22 A Yes.

23 Q Did you sign?

24 A I did, sir.

25 Q And I know you said it on the tape, but did you

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 write down what time it was when you started?

2 A I did, sir.

3 Q And what time is it?

4 A I put 2118, which is in military time, which is
5 9:18.

6 Q 9:18?

7 A Yes, sir.

8 Q Now, when we were reviewing the -- not the MP4
9 version, but the actual, for lack of a better word, L3
10 video, that has a time stamp on it; does it not?

11 A It does.

12 Q All right. And 9:18 does not coincide with what
13 the new camera had on it at the DTF, does it -- or, I'm
14 sorry, not DTF, but at the interview room, does it?

15 A No, sir.

16 Q Did that say something like 9:47 or 9:50?

17 A Yes, sir.

18 Q But the 9:18 time is what you checked your watch
19 and then reported at, that you started -- or as you were
20 signing the Miranda form; is that correct?

21 A That's correct, sir.

22 Q And that would be 9:18 -- 2118 is 9:18 p.m; is
23 that correct?

24 A That's correct, sir.

25 Q All right. Is that form, does it appear to be

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 altered or changed in any way, or that an accurate -- I
2 realize it's a copy, but is that an accurate copy?

3 A Accurate, sir.

4 MR. THORNTON: Your Honor, just for the purpose of
5 this hearing, obviously I would move Court's Exhibit 1
6 into evidence.

7 THE COURT: All right. For purposes of this
8 hearing, Court's Exhibit No. 1.

9 *(Whereupon, Court's Exhibit No(s). 1 received in*
10 *evidence.)*

11 BY MR. THORNTON:

12 Q Now, at any time prior to your meeting of Aaron
13 Young, Senior in the interview room, in other words, when
14 you testified you and Bob Bromage went to get him out of
15 the DTF room, did you have any conversation with Aaron
16 Young, Senior between him being transported from the
17 roadside after your GSR kit and your interview with him?

18 A No, sir.

19 Q So did you -- obviously your interview is on
20 camera. So up till the end of your interview with him,
21 which I believe lasted some 50, 53 -- 50 minutes long,
22 something like that, other than that, what's in that
23 interview, did you have other discussions with him other
24 than at the scene of the road?

25 A Yes, sir.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q And I'm sorry, that was a very long, drawn out
2 question. But my point is, at any time other than what we
3 see that's recorded, and stuff you've already testified to,
4 the GSR, did you talk to Aaron Young, Senior before that
5 interview?

6 A No, sir.

7 Q Obviously we saw it on interview, but at any time
8 did you threaten or promise Mr. Aaron Young, Senior up
9 until the end of that first interview, anything or any hope
10 of leniency?

11 A No, sir.

12 Q All right. So your discussions with him other
13 than at the GSR location, which you've already testified
14 about is on that tape?

15 A Yes, sir.

16 MR. THORNTON: The Court's indulgence, please,
17 Your Honor.

18 THE COURT: Okay.

19 BY MR. THORNTON:

20 Q Did anybody -- and, again, I realize you and I
21 have had this discussion about items post your interview,
22 but up to the end of your interview that's recorded, did
23 you see anyone else promise or threaten or intimidate Aaron
24 Young, Senior to try to get him to make a statement?

25 A No, sir.

DIRECT EXAMINATION OF SEIFERT BY THORNTON

1 Q And one thing I would say, is it fair to say that
2 what you guys kept going back to all the way through your
3 interview was that -- and even you asked him, I think it's
4 the first question you asked him, or one of the first, on
5 the roadside, is where is the gun?

6 A That's correct, sir.

7 Q And up until the end of that first interview, had
8 he told you where the gun was, or did he deny knowing where
9 it was?

10 A Denied it.

11 Q And that was at least a couple hours after the
12 roadside stop, correct?

13 A That's correct, sir.

14 MR. THORNTON: I don't have anything further, Your
15 Honor.

16 Please answer any questions Mr. Ferguson has.

17 THE COURT: Mr. Ferguson, cross-examine.

18 CROSS EXAMINATION

19 BY MR. FERGUSON:

20 Q Deputy Seifert, did you talk to Aaron Young,
21 Junior on the roadside as well?

22 A Senior, sir?

23 Q No. Did you talk to Junior as well as Senior?

24 A Yes, sir.

25 Q Now, did you do that before or after you talked

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 to Senior?

2 A I think at before.

3 Q Okay. Because at some point, you are referencing
4 that you have witnesses, and that even his son had told you
5 that there was a shootout down there by Allen Road; is that
6 correct?

7 A Yes, sir.

8 Q Okay. And, you know, it's not Aaron's words, but
9 your words, when you say, you know, that Junior had a
10 weapon; is that correct?

11 So it's his -- in other words, what did your
12 son do with the gun he was shooting? That was the
13 statement that you made to Aaron Young, Senior?

14 A Yes, sir.

15 Q And do you remember what his response was?

16 A I don't, sir.

17 Q Okay. And then do you recall asking him, why was
18 your son shooting out the window?

19 A Yes, sir.

20 Q Because he never told you that his son was
21 shooting out the window, did he?

22 A No, sir.

23 Q Okay. And did he ever tell you that his son had
24 a gun?

25 A As far as on the recorder; is that what you're

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 talking about?

2 Q Right. I'm still at the roadside.

3 A I'm sorry. No, sir.

4 Q Okay. At some point after you've talked to
5 Senior, you can be heard outside of the car talking to, I
6 guess, the other deputies. Do you recall hearing that
7 portion of the tape at all, when you reviewed it with the
8 Solicitor?

9 A Yes, sir.

10 Q Okay. And is it correct that you stated
11 something to the effect of, they got shot at by Tyrone,
12 that wasn't bullshit; do you recall that statement?

13 A I do, sir.

14 Q I backed up, went down there, he didn't, but his
15 son was shooting out of the truck window; do you recall
16 that statement?

17 A Yes, sir.

18 Q Okay. But, again, Aaron Young, Senior never said
19 that his son was shooting out of the window; is that
20 correct?

21 A On the recorder, no, sir.

22 Q Now, you did an incident report for this case;
23 did you not?

24 A I did, sir.

25 Q Okay. And in that incident report is a summary

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 of your roadside encounter with Aaron Young, Senior,
2 correct?

3 A That's correct, sir.

4 Q Okay. And you reviewed that for purposes of
5 today's hearing?

6 A I did, sir.

7 Q Would you agree with me that there are a lot of
8 statements that are attributed to Aaron Young, Senior,
9 stating at the roadside, that are not present on that
10 video?

11 A That's correct, sir.

12 Q Okay. Do you recall when you actually wrote your
13 report?

14 A I don't have the exact date. If I had my report,
15 I could tell you.

16 MR. FERGUSON: May I approach him, Your Honor?

17 THE COURT: Yes, please.

18 MR. FERGUSON: Thank you.

19 BY MR. FERGUSON:

20 Q Deputy Seifert, I'm handing you what is a copy,
21 my copy, that was given by the Defense. Does that help
22 refresh your collection as to when you wrote your report?

23 A Yes, sir.

24 Q And when was that?

25 A It was on September 12th.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Q Okay. So 11 days after the incident occurred; is
2 that correct?

3 A That is correct, sir.

4 Q Okay. Now, did you have a notepad with you on
5 the side of the road when you were speaking to Aaron Young,
6 Senior?

7 A Yes, sir.

8 Q You did?

9 A Yes, sir.

10 Q So you took notes at that point. Were those
11 collected and put into evidence?

12 A No, sir.

13 Q Okay. And I believe you stated you had talked to
14 Junior prior to talking to Senior; is that correct?

15 A That's correct.

16 Q And you also talked to Ms. Ebony Campbell?

17 A Yes, sir.

18 Q Okay. And I believe the Deputy Solicitor covered
19 this, but did you review the actual time stamps on the
20 interviews in preparation for this hearing?

21 A Yes, sir.

22 Q Okay. And your recollection is that the time
23 stamp from the computer system of the sheriff's department
24 stated 9:47?

25 A Correct, sir.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Q Okay. Or approximately 9:47 when the Miranda
2 form was executed?

3 A That's correct, sir.

4 Q Okay. They interviewed a lot of people that day;
5 is that correct? You interviewed a lot of people that day?

6 A I believe so, yes, sir.

7 Q Okay. And I think they've already covered it,
8 but there was only one interview room at the time?

9 A Yes, sir.

10 Q And so there was a lot of shuffling of suspects
11 or interviewees between locations within the Hilton Head
12 substation; that's correct?

13 A That's correct, sir?

14 Q Okay. Do you remember who you interviewed first?

15 A At the Hilton Head office?

16 Q Yes, sir.

17 A I believe it was Aaron Young, Senior. I don't
18 recall.

19 Q Okay. So it's your recollection that you
20 interviewed Aaron Young, Senior first?

21 A If I'm recalling, yes, sir.

22 Q And about what time did that happen?

23 A Around 9:17 or around 9:00 at night.

24 Q And that's according to your watch?

25 A Yes, sir.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Q Okay. What time did you arrive at the Hilton
2 Head substation?

3 A I don't know that, sir. If I had to guess, after
4 Corporal Kaminski transported Mr. Young, Senior, I believe
5 it would be within a half an hour after that, I take it. I
6 don't really recall.

7 Q Okay. But the first interview, based on your
8 recollection, was Aaron Young, Senior at about 9:18.

9 Now, what were you doing in the interim?

10 A In the where, sir?

11 Q Between when you got there at about 7:20, I think
12 you just stated, and when you interviewed Aaron Young,
13 Senior?

14 A Getting all the facts and everything. I know I
15 had the casings, things like that, I took from the pick-up
16 truck. My camera, things like that. I mean, there's
17 extensive things of what I got to bring from the roadside
18 back to the office. So I'm working on that.

19 Q Okay. And I guess, in between interviews with
20 the suspects, did you and Bob Bromage discuss the
21 statements that were taken from those individuals? Did you
22 discuss that together?

23 A No, sir.

24 Q Okay. Was he there at the whole -- during the
25 entire interview process, with each individual you

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 interviewed?

2 A That, I don't know, because I'm in a separate room
3 and I don't know who's in there and who's not in there.

4 Q Okay. Was Captain Bromage ever in the same room
5 as you when you were conducting interviews?

6 A Yes, sir.

7 Q But to your recollection, you don't recall the
8 two of y'all discussing any of the interviews, the
9 substance of the interviews, after they were taken?

10 A I mean, I could have done a synopsis of what my
11 roadside and everything like that, yes, sir.

12 Q Okay. Now, on the one portion that we watched
13 from your interview with Senior, there's a statement that
14 Aaron Young, Senior makes to you that says, like I told
15 Officer Bromage -- do you recall that statement?

16 A I do.

17 Q And essentially, would you agree with me that
18 that indicates there had been a previous conversation
19 between Aaron Young, Senior and Officer Bromage?

20 A I don't -- I don't know.

21 Q Okay. And, again -- let's see.

22 Well, I got another question for you. I'll
23 move on.

24 Did you ever interview Aaron Young, Senior
25 alongside of Deputy Florencio?

CROSS EXAMINATION OF SEIFERT BY FERGUSON

- 1 A Yes, sir.
- 2 Q Okay. And where was that?
- 3 A That would be the deputies' room.
- 4 Q Okay. So that would be the actual interview that
- 5 we've observed?
- 6 A The one that -- which one? I didn't see a video.
- 7 Q Well, there's roadside.
- 8 A Yes, sir.
- 9 Q Okay? And then there's substation.
- 10 A Yes, sir.
- 11 Q And so, are there multiple interviews with Aaron
- 12 Young, Senior at the substation?
- 13 A No, sir.
- 14 Q Okay. Well, I'm talking about the one interview
- 15 at the substation, that's the one that you conducted with
- 16 Deputy Florencio?
- 17 A Yes, sir.
- 18 Q Okay. And that was conducted in the interview
- 19 room and not the deputies' room? To the best of your
- 20 recollection, it was in the interview room?
- 21 A I don't recall that, sir, I don't.
- 22 Q You don't recall what?
- 23 A I don't recall if that was in the actual interview
- 24 room. I don't know what you're referencing to.
- 25 MR. THORNTON: May I approach, Your Honor,

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Mr. Ferguson, real quick?

2 (Off-the-record discussion held.)

3 BY MR. FERGUSON:

4 Q And were you the case officer on this case?

5 A No, sir.

6 Q Okay. But you were pretty involved in the case;
7 is that correct?

8 A Pretty much all of us were, yes, sir.

9 Q And did you review the entire incident report
10 prior to today?

11 A Not the whole entire incident, no, sir.

12 Q Okay. Do you recall ever reviewing an incident
13 report generated -- or written by Deputy Florencio?

14 A No, sir.

15 Q Okay. What's the case number in this case; do
16 you know that?

17 A I don't have my notes with me.

18 Q Okay. So essentially if there is a statement
19 that Deputy Florencio sat in on a secondary interview with
20 you, conducted on Aaron Young, Senior, which was conducted
21 in the deputies' room located at the Beaufort County Hilton
22 Head office, that's not something that you recollect?

23 A As far as writing something, no, I didn't write
24 anything.

25 Q No. If there was a secondary interview that you

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 conducted alongside the presence of Deputy Florencio?

2 A That's where I'm asking you where that took place
3 at -- I don't know what he's referring to.

4 MR. THORNTON: Your Honor, I'll try to do this if
5 I can maybe -- I know what Mr. Ferguson is referring
6 to. And this may help Detective Seifert's memory.

7 There is a, for lack of a better word, I think,
8 Florencio called it a secondary interview, it is in that
9 time frame after the first interview in the room, the
10 deputies' room or whatever it is, with Corporal Evans
11 that we refer to, and that is actually, I think,
12 partially recorded by Corporal Evans as Mike. But
13 Florencio and Seifert are in the room and in and out of
14 the room. But that would have been -- that's post this.

15 I don't believe that Mr. Seifert wrote anything
16 about that. I do agree that Florencio did, and that's
17 why, I guess, why he called it a secondary interview..
18 It would have been after the interview by Albertin and
19 Seifert. And I was confused. And I'm sorry to have
20 interrupted Mr. Ferguson, but if that helps at all, we
21 will stipulate that that did occur after the initial
22 interview.

23 THE COURT: All right. Thank you.

24 MR. FERGUSON: That does help. Thank you.

25 Now, I just beg the Court's indulgence one moment.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 THE COURT: Okay.

2 MR. FERGUSON: No further questions, Your Honor.

3 THE COURT: Okay. Redirect?

4 MR. STONE: No, sir. Thank you, Your Honor.

5 THE COURT: Okay. We'll take a brief break, we've

6 been at it about two hours. Let's take ten minutes.

7 Thank you.

8 (Whereupon, a brief recess was

9 taken.)

10 THE COURT: All right. Folks, please be seated.

11 Mr. Thornton.

12 MR. THORNTON: Thank you, Your Honor. Captain

13 Bromage.

14 THE COURT: Captain Bromage, come forward, please,

15 and be sworn.

16 THE CLERK: Would you state your name for the

17 record.

18 THE WITNESS: Bob Bromage.

19 THE CLERK: And spell your last name.

20 THE WITNESS: B-R-O-M-A-G-E.

21 Thereupon,

22 CAPTAIN BOB BROMAGE

23 was called as a witness, having been first duly sworn,

24 was examined and testified as follows:

25 DIRECT EXAMINATION

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 BY MR. THORNTON:

2 Q Captain Bromage, who do you work for, sir?

3 A Beaufort County Sheriff's Office.

4 Q And did you work for the Beaufort County
5 Sheriff's Office on or about September the 1st of 2012?

6 A I did.

7 Q And were you out at the Hilton Head Island
8 substation on that -- the night of September the 1st of
9 2012?

10 A I was.

11 Q At some point, did you have occasion to see Aaron
12 Young, Senior?

13 A I did.

14 Q And obviously, Captain, you were here and you
15 heard the testimony, did you pull Aaron Young, Senior out,
16 along with Doug Seifert, out of the DTF room to be
17 interviewed?

18 A It's now my office. Yes, I did.

19 Q All right. And prior to that, did you also
20 relieve Corporal -- then Corporal Kaminski so that he could
21 go to the restroom?

22 A Yes, sir.

23 Q And during that time, was Aaron Young, Senior
24 attempting to talk to you or give you his side of the
25 story?

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 A I knew Aaron Young, Senior, so we were having a
2 conversation.

3 Q All right, sir. And I think it's already been
4 testified to, that room at the time was not equipped with
5 its own camera or audio system; is that correct?

6 A That's correct.

7 Q At the time that Corporal Kaminski left the DTF
8 room, had Aaron Young, Senior been interviewed by Doug
9 Seifert yet?

10 A On the side of the road.

11 Q Right. But had he been interviewed in the
12 interview room yet?

13 A No.

14 Q All right. So this is prior to that; is that
15 correct?

16 A This is while we were assessing what we had.
17 Absolutely.

18 Q And did you make any promises of leniency to
19 Aaron Young, Senior during this restroom break for Corporal
20 Kaminski when you were with Aaron Young, Senior?

21 A No.

22 Q Did you threaten him in any way to try to get him
23 to tell you anything?

24 A No.

25 Q And at that time, that time being when you and

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 Aaron Young, Senior were in the DTF room -- and I didn't
2 ask this, but were you by yourselves?

3 A Aaron Young, Senior and I were alone, yes, sir.

4 Q Yes. Did -- while you were in there and while
5 you were by yourselves, had he, being Aaron Young, Senior,
6 had he indicated at that point that he knew where the gun
7 was or indicated that he knew where the gun was?

8 A No, sir.

9 Q And subsequent to you being alone with him in the
10 room, did he then get interviewed and the interview that we
11 saw that you were actually in here for with, I believe it
12 was Detective Albertin and Detective Seifert; is that
13 correct?

14 A Yes, sir.

15 Q All right. During that interview, did at any
16 time he acknowledge he knew where the gun was?

17 A No, sir.

18 Q Or provide you with a location of the gun?

19 A No, sir.

20 Q And that is also true of his statements to
21 Detective Seifert on the roadside; is that correct?

22 A That is correct.

23 Q So from the time he gets pulled over until the
24 end of this interview, which contain -- as again, Your
25 Honor, all the statements the State would wish to introduce

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 in its case-in-chief.

2 Had he ever given you, up to that point, the
3 location of the gun or even that he knew where it would be?

4 A No, sir.

5 Q Did he tell you -- well, he talked to his son,
6 and did he also intimate on the tape that his son was the
7 one who must have hidden it?

8 A He did.

9 Q And I say "intimate" that, he clearly didn't say
10 that, but I believe the statement he made was, well, we
11 went separate, I don't know where the gun is.

12 A Yes, sir.

13 Q Now, we separated when we got back to the house.

14 A Yes, sir.

15 Q And he -- that is one of the constants of his
16 story all the way from roadside to the end of that
17 interview with Seifert; is that not correct?

18 A That is correct.

19 Q Now, again, I realize that there is a different
20 argument that could be made after that interview done with
21 yourself, Seifert, and Albertin, when Corporal Evans is in
22 the room and you, I believe, are in and out of the room.

23 Mr. Ferguson has made reference to, I
24 believe, Florencio, Detective Florencio, was in and out of
25 the room. But did all that occur before he was interviewed

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 on tape that we watched or after?

2 A That was after the formal interview on tape.

3 Q All right. And when I ask these next series of
4 questions, I am speaking of -- from the time that Aaron
5 Young, Senior gets pulled over on the side of the road up
6 till the end of that first interview, that I believe Doug
7 Seifert said he was Mirandising him at 9:18 p.m. Up until
8 that point, did you promise or threaten in any way Aaron
9 Young, Senior?

10 A No, sir.

11 Q And did you threaten him in any way?

12 A No, sir.

13 Q Did you see anybody else threaten him in any way?

14 A No, sir.

15 Q Did anybody make any promises of leniency?

16 A No, sir.

17 Q As a matter of fact, specifically, you mentioned
18 something to the effect of, when he asked about charges,
19 that that would be up to the prosecutors; is that correct?

20 A That's correct.

21 Q All right. Now -- and, again, I'm speaking of up
22 till the end of that interview, not what may have happened
23 afterwards.

24 A That's correct.

25 Q Now, at some point much later, did Aaron Young,

DIRECT EXAMINATION OF BROMAGE BY THORNTON

1 Senior provide you the location of the gun?

2 A He brought me to the gun.

3 Q And was that sometime well after -- sometime
4 around midnight?

5 A It was probably around midnight. A few hours
6 after our formal interview with him.

7 MR. THORNTON: Your Honor, the Court's indulgence.

8 THE COURT: Okay.

9 MR. THORNTON: Your Honor, at this time, I have no
10 further questions for Captain Bromage. Captain, please
11 answer any questions Mr. Ferguson has.

12 THE COURT: Cross-examine, Mr. Ferguson?

13 MR. FERGUSON: Thank you, Your Honor.

14 CROSS EXAMINATION

15 BY MR. FERGUSON:

16 Q Captain Bromage, there was a point in time, I
17 believe, that you have testified to, that you were alone in
18 the DTF office with Aaron Young, Senior?

19 A Probably around two minutes so that a deputy could
20 use the bathroom, which is about three yards from that
21 office.

22 Q Gotcha. And y'all had a conversation during that
23 period of time?

24 A He was trying to talk to me, I was talking to him.
25 That's my recollection. Nothing of any real substance of

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 all.

2 Q Okay. Did y'all ever go outside to smoke?

3 A We got -- much later, before we went to get the
4 gun. I can distinctly remember giving him a cigarette at
5 one point, but it was much later in the evening, after the
6 formal interviews. I didn't want him to get -- engage him
7 without being in that interview room when it was taken.

8 Q Okay. Now, were you over at the roadside
9 incident location?

10 A Briefly, is my recollection.

11 Q Okay.

12 A I was all over the place. I had to go to Allen
13 Road, back to the -- where the vehicles were stopped, and
14 then back to the Hilton Head office at some point.

15 Q Okay. Now, you were in here when they played the
16 portion of Seifert's interview, the unredacted version; do
17 you recall that?

18 A Today?

19 Q Yeah.

20 A Yes.

21 Q And do you recall making the statement -- or that
22 Senior makes the statement, like I told Officer Bromage?

23 A Yes.

24 Q Okay. And do you agree with me that that
25 indicates that there's a previous conversation that had

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 occurred between the two of y'all?

2 A That was the conversation in the office that I'm
3 referring to.

4 Q Okay. Which your recollection is that it's of no
5 substance?

6 A Not to my recollection. He wasn't making any
7 confession, he wasn't making any additions. So we were
8 talking about Tyrone probably. That's the best I can
9 recollect.

10 Q Okay. And, you know, again, there's a portion of
11 that video where he's talking to you and he says, like I
12 told you. Which, again, indicates that there's a previous
13 conversation, and it's your belief that that is referring
14 to the two minutes where you took over for Kaminski to go
15 to the bathroom.

16 A Two minutes. I'm saying two minutes, could have
17 been three or four. I'm not exactly sure. I don't know.

18 Q And I think you and I discussed this before, but
19 there was a statement given to Senior, which says, where's
20 the gun that will exonerate that situation?

21 A Is that exactly what was said?

22 Q That's my question to you.

23 A You'd have to play that again, sir. It said
24 exonerate the situation, I specifically remember hearing
25 that today is what I'm thinking.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 Q Okay. Tell us where the gun is so you can
2 eliminate him as possibly hitting that kid. That's huge.

3 That's a statement that you made to Senior?

4 A Yes, sir.

5 Q Okay. Do you know what time Aaron Young, Senior
6 was booked in that night?

7 A I have no idea. I'd say probably between one and
8 two, perhaps.

9 Q Okay.

10 A A.M.

11 MR. FERGUSON: The Court's indulgence just one
12 moment, Your Honor.

13 THE COURT: Yes, sir.

14 (Pause.)

15 MR. FERGUSON: No further questions, Your Honor.
16 Thank you.

17 THE COURT: Okay. Redirect?

18 MR. STONE: None, Your Honor. Thank you.

19 THE COURT: Okay. You can step down, sir.

20 MR. THORNTON: Your Honor, those are all the
21 witness that we would have as to the statements we plan
22 on using in the case-in-chief.

23 THE COURT: All right. Thank you.

24 Do you wish to offer any additional evidence,
25 documentary or otherwise, concerning the voluntary -- of

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 the Young statements?

2 MR. THORNTON: Other than the tapes we played,
3 Judge, the Miranda forms, everything, that's all we
4 would introduce at this time. Thank you, Your Honor.

5 THE COURT: Thank you. Mr. Ferguson?

6 MR. FERGUSON: Your Honor, I meant to do this at
7 the beginning of our afternoon session, but I would ask
8 that the record of the previous proceedings, and those
9 being the ones from April 21st, 22nd, and 23rd of 2014,
10 be incorporated and adopted into the record of this
11 proceeding for subsequent review, Your Honor.

12 THE COURT: All right. Any objection to that,
13 gentlemen?

14 MR. THORNTON: I don't have any objection to that,
15 Your Honor.

16 THE COURT: All right. Thank you.

17 And that date again, was that the -- that's the
18 Tyrone Robinson case?

19 MR. FERGUSON: No, sir. This is when the --
20 originally there were three defendants that were going
21 to be tried, and that's when it all fell through.

22 THE COURT: That's right. That's what it should
23 have been --

24 MR. FERGUSON: This is a previous Jackson v. Denno
25 call for reversal.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 THE COURT: Okay. Very good. I'll note that.

2 When was that, April --

3 MR. FERGUSON: April the 21st, 22nd, and 23rd of
4 2014.

5 THE COURT: Okay. Thank you. Those Jackson v.
6 Denno -- the testimony and evidence offered in
7 connection to those matters will be made a part of this
8 record for appellate review. Go ahead.

9 MR. FERGUSON: Thank you, Your Honor.

10 And basically where we had left off were that we
11 had offered -- our expert, Dr. Amanda Salas, her
12 testimony, Mr. Aaron Young, Senior's testimony, and his
13 father, Benny Young's testimony.

14 THE COURT: Right.

15 MR. FERGUSON: And so, you know, I do not think
16 that we need to, you know, offer all of them again,
17 quite frankly.

18 THE COURT: Right.

19 MR. FERGUSON: However, I do think that Dr. Salas
20 has subsequently reviewed additional material and that
21 has somewhat, I think, impacted her initial findings,
22 and so I would ask that she be allowed to testify to
23 that, Your Honor.

24 THE COURT: All right. Dr. Salas, come forward,
25 please, ma'am, and be sworn.

CROSS EXAMINATION OF SEIFERT BY FERGUSON

1 And also, Mr. Ferguson if you have the transcript
2 of that earlier proceeding, I'll be glad to read it
3 overnight.

4 MR. FERGUSON: Yes, sir, I do. And I can provide
5 it to you either electronically or --

6 THE COURT: If you give me the written, my
7 computer is dead. I think my power cord has gone out.
8 It's just a wire up here, lifeless. So if you give me
9 the written, I would like to read it. Okay?

10 MR. FERGUSON: Well, I tell you, you know, I have
11 it electronically and then I have my own copy and I --

12 MR. THORNTON: I've got a copy the Court can have,
13 Judge.

14 THE COURT: Thank you.

15 Thereupon,

16 AMANDA SALAS, M.D.

17 was called as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 WITNESS: I so affirm.

20 THE CLERK: Would you please state your name for
21 the record.

22 THE WITNESS: Amanda Salas, M.D. A-M-A-N-D-A,
23 Salas, S-A-L-A-S.

24 THE COURT: Mr. Ferguson.

25 MR. FERGUSON: Thank you, Your Honor. And she's

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 previously been qualified as an expert. We can go
2 through the voir dire process again if need be, Your
3 Honor.

4 THE COURT: Okay. If you'll just remind me what I
5 qualified her for before, and I'll be glad to listen to
6 this additional argument against her qualifications.
7 I'll be glad to.

8 MR. THORNTON: There's none, Your Honor. I think
9 we just go by what you qualified her as an expert in
10 previously.

11 MR. FERGUSON: Give me two seconds and I can
12 hopefully put my hand on that.

13 MR. THORNTON: Judge, I'm looking at Page 406. I
14 think she was offered as an expert in the forensic
15 psychiatry and then there was some discussion on
16 whether or not you could then claim specialized
17 knowledge on psychological factors that influence
18 confessions. I certainly don't think we have any
19 objection. I've actually talked with Dr. Salas myself
20 in a case. I don't have any objection to her being
21 qualified as an expert in forensic psychiatry, but I
22 think it's probably cleanest to leave it there unless
23 Mr. Ferguson needs it more than that.

24 THE COURT: All right.

25 MR. FERGUSON: Tom, I do think that we did make

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1 that specification at the time. I'm looking at the
2 transcript. She states that she has previously
3 testified in South Carolina courts over ten times,
4 can't state specifically today.

5 It says, Mr. Stone, that I believe that it's still
6 in my questioning of Dr. Salas that, Your Honor, at this
7 point, I would move to have Dr. Salas qualified as an
8 expert in the field of forensic psychiatry with
9 specialized knowledge on psychological factors that
10 influence confessions.

11 THE COURT: All right. The qualification would be
12 as an expert in forensic psychiatry. If she has
13 specialized knowledge, of course, she can testify about
14 the specialized knowledge, obviously. Whether that
15 will be an opinion or fact knowledge, of course, is
16 another matter to determine, but she can testify about
17 it.

18 MR. FERGUSON: Understand, Your Honor. Thank you,
19 Your Honor.

20 DIRECT EXAMINATION

21 BY MR. FERGUSON:

22 Q All right. Dr. Salas, do you recall reviewing
23 the documents and the discs and the interviews that were
24 given to you way back when -- prior to your testimony in
25 April of 2014?

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1 A Yes.

2 Q Okay. And do you recollect what your findings
3 were at that time?

4 A I don't have a copy of the transcript in its
5 entirety.

6 Can you hear me okay?

7 Can y'all hear me okay if I speak up maybe?

8 I don't have a copy of the transcripts. I
9 don't recall what I said word for word, but I remember the
10 gist of it.

11 Q Okay. That will be just fine. If you could tell
12 or remind the Court of what your findings were prior to
13 receiving the new information.

14 A At that time, it was my professional opinion that
15 the disc that I had reviewed at that point in time showed
16 elements of coercion, when Aaron Young, Senior was being
17 interviewed at the Hilton Head substation, that influenced
18 his statements such that they were false statements, in my
19 professional opinion.

20 Q Okay. And was the same interview that we
21 observed today?

22 A One of those interviews was the same, that's
23 correct.

24 Q Okay. And I believe you examined an additional
25 interview that may have occurred like a week later?

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 A There was an additional interview that occurred on
2 September 6.

3 Q Okay. Thank you.

4 And so your findings relate to the interview
5 with Deputy Seifert that we reviewed in the courtroom
6 today?

7 A My findings from then, is that what you're asking
8 about?

9 Q Yes, yes.

10 A Yes, that's correct.

11 Q Okay. And, you know, what were the actual
12 findings? What did you observe in terms of coercive
13 behavior on the part of law enforcement that you reported?

14 A According to what I reviewed in the conversations
15 and the interview I'd had with Mr. Young, Senior is that the
16 coercion was in effect the promise of leniency, exoneration,
17 not only for himself but for himself and his son if he would
18 offer up a statement that was compatible with there being a
19 shootout and the production of a .9 millimeter gun that he
20 was needing to give to the police at that time.

21 Q And what is that called, in your field?

22 A What is --

23 Q Is it called a coercive error?

24 A Yes. Errors of coercion, and it leads to the
25 production of false statements.

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 Q And were there other errors that were observed?

2 A At that time, there were concerns that I had that
3 other errors had been made. When you look at a process of
4 determining if a statement is more or less likely to be a
5 false statement, meaning the narrative of, I did this, and
6 this is my description of what has happened, if it's more
7 truthful or if it's false, you look to three different
8 factors. One of those factors is going to be along the
9 lines of a misclassification error, which is do the police
10 go and find the person and bring them into the interrogation
11 room, and that person never should have been there in the
12 first place, but they were misclassified into being in the
13 category of a suspect. That error does not exist in this
14 case.

15 There is the error of coercion, which is,
16 are promises given, leniencies or threats or psychological
17 pressures that are put on somebody that makes it more or
18 less likely for them to -- to give a false statement. And
19 what I had reviewed at that time indicated that yes,
20 coercion was present on the reviewed records, and then
21 there's an issue of contamination error.

22 These errors are not purposeful. I guess
23 you can argue that a coercion error could be done on
24 purpose, but most of the time these are not done with the
25 intent of sabotaging a confession because I don't think

J

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 that any police officer or investigative team wants to
2 erode their investigation on purpose.

3 So the concerns that came up when I reviewed
4 the materials is that there were these elements of
5 coercion, there was concern about contamination being
6 present in the statement that was given, the narrative.
7 And what has happened since then is that new material has
8 been brought out so that what I could not review, and I
9 think I commented on it, when you may have asked me a
10 question, Judge, is that if we had those statements then it
11 would be a benefit that I could go and review them. And
12 now those statements have come back, and I have found an
13 introduction of the contamination error at the very
14 beginning of what was going on on the roadside. And I can
15 outline that for you if you would like me to do so.

16 THE COURT: Please. Thank you.

17 THE WITNESS: So there are two issues that I find
18 that kind of stand out. One is not as big of an issue
19 as I think the other issue is, but I am not somebody
20 who does transcription, so please bear with me.

21 But in the video that we saw a part of, which was
22 the roadside video today, does not include all of the
23 information that I have reviewed. But at about nine
24 minutes and 37 seconds is when I think there was some
25 traffic that came across the radio indicating that there

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1 was a shootout on Allen Road. That is the first time
2 that I could hear the word "shootout" being referred to
3 in the context of the statements that were recorded by
4 those devices recording today.

5 Just prior to that eight minutes and 52 seconds,
6 you have -- I believe that this is Corporal Evans who is
7 making this report, and the statement was made to the
8 effect of -- he was reporting having stopped the vehicle
9 and Mr. Young, Senior said to Corporal Evans, and
10 Corporal Evans is now repeating it, I was just getting
11 ready to call you, somebody came to my house and started
12 to shoot at me.

13 Now, at nine minutes and 37 seconds is when across
14 the radio comes out the phrase "shootout." From last
15 April, the first time that I heard testimony about the
16 word shootout was actually pre-dating that recording,
17 and that is when Tyrone Robinson came towards an officer
18 who was at the scene on Allen Road, and he said
19 something about a drug deal gone bad, and cocaine and a
20 shootout occurring. So this is the second time, but the
21 first time it's been recorded on the tape for today.

22 Now, at 15 minutes, 11 seconds, this is, again,
23 Corporal Evans, this time repeating it, I believe it was
24 to Detective Seifert, who had arrived on the scene. He
25 repeated the same statement that Aaron Young, Senior had

DIRECT EXAMINATION OF SALAS BY FERGUSON

1 allegedly made in the vehicle when he stopped him and he
2 says, I was just getting ready to call you, I just got
3 into a shootout at his house.

4 And so what had initially been recorded was,
5 started to shoot me, has now shifted and it has become a
6 shootout.

7 And so later on, you find -- I believe this is
8 Aaron Young, Senior's statement, again, I was just ready
9 to call you, someone just shot at me at my house.

10 And so it kind of goes back. It depends on which
11 perspective you're getting. When you get the
12 perspective out of the mouth of Aaron Young, Senior, and
13 it's been uninfluenced, the words are -- it is someone
14 shooting at me.

15 Where you get the contamination is what was
16 transmitted across the radio and what the officers who
17 have all responded to that scene start hearing a
18 shootout that's been picked up on, and they begin to
19 insert that into their line of questionings and even in
20 their conversations, to the point that at one time one
21 of the officers said -- this was away from Mr. Young --
22 his car is full of bullet holes, he's saying something
23 about a shootout on Allen Road.

24 I didn't write it on that one, but it relates to
25 that particular officer not even knowing, acknowledging,

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1 he didn't even know what was going on at that point in
2 time. If there was a shootout, that it happened on
3 Allen Road and there were several factors that sounded
4 like he was calling into question. That's appropriate,
5 it's very appropriate for a detective to hear
6 information and challenge it. But what happened as this
7 whole investigative line of questioning continued, you
8 end up with this insertion of material that now officers
9 have integrated into their -- if you want to call it
10 their subconscious, but not on purpose, and they're
11 looking to find out what the story is that best fits
12 what they have conceptualized in their brain.

13 And so now you have introduced not just the
14 contaminant, but what is called a confirmation bias,
15 which is when you look through the lens of, in this
16 case, the contaminant, and you pick up only on the
17 things that support that, and you negate the evidence or
18 the testimony that goes against that.

19 There was a lot of chaos in testimony. I have
20 really struggled to go through all of these tapes, never
21 mind you get audio from traffic and it's just awful to
22 listen to. It's very tedious. But despite how tedious
23 that is, there's been a lot of effort that I know I have
24 put into as well it appears many other people sitting in
25 here today, and these are the facts that are just

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1 present. And it is the understanding of why is it
2 happening that really needs to be something that has
3 light shed on it in terms of where do these factors come
4 into play? How do you understand them? Because what is
5 the end result?

6) The problem is, is that the farther along you move
7 with a case and the closer it gets to either being
8 charged or prosecuted or tried, et cetera, the more
9 difficult it is to go back and undo the initial thing
10 that brings you to the slippery slope.

11 And this is unfortunately a good example of a lot
12 of problems that lead to a false confession. And so the
13 new information just reiterated exactly what Mr. Young,
14 Senior had shared with me when I interviewed him, I
15 think it was on April 20th, which was these other
16 elements were present, and now there's the documentation
17 to support what he was telling me.

18 THE COURT: Okay. Focusing just on what we heard
19 a while ago, and like you, I was grateful for the
20 transcript, it helped me read what I heard.

21 THE WITNESS: I was, too.

22 THE COURT: But my recollection of Mr. Young,
23 Senior's statements were, without having them in front
24 of me, I'm sure I will in time, but was that he was
25 consistent in saying that Tyrone Robinson was trying to

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1 shoot him and his son, and that as Mr. Ferguson pointed
2 out, I believe, in cross examination, that I don't
3 believe he admitted that his son had actually fired any
4 shots until -- if he did at all. I can't remember
5 whether it -- how the questions were, but exactly what
6 "confession," in quotation marks, do you think was
7 elicited as based on these coercive errors.

8 THE WITNESS: It's my opinion that the elements of
9 coercion unfortunately came in at the time the ending
10 of the Miranda rights. Because at that point in time,
11 the word shootout comes up again.

12 THE COURT: Right.

13 THE WITNESS: And so, what you have is you have
14 Aaron Young, Senior, who has his own knowledge of what
15 the events were that day, and he is now handcuffed in
16 the back of a patrol car, trying to gather information
17 as to what's going on, why am I sitting in this
18 position.

19 THE COURT: Right.

20 THE WITNESS: And there are a lot of different
21 alternate explanations for how one might handle and
22 conduct themselves, but ultimately he's coming from a
23 position of taking information and, unfortunately, he
24 starts responding to the information that is being
25 inserted.

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1 And so from that point forward, it moves along this
2 path. It's a slippery slope and it's just that more oil
3 is added to that slide, that the case just keeps going
4 into this alleged confession that is developed into a
5 lot of support for it being false.

6 THE COURT: Okay.

7 BY MR. FERGUSON:

8 Q And, specifically, you know, how does that relate
9 in terms of voluntariness? And that's the purpose that
10 we're here for today, which is the determination of the
11 voluntariness of Aaron Young Senior's statements. And so
12 how do the coercive errors and contamination errors, how do
13 they impact voluntariness?

14 A The voluntariness for his statements, I think
15 that's a lot up for debate because what we have heard is
16 testimony provided at the roadside where contamination has
17 entered into the picture. We still don't have a recording,
18 and I don't know that there's one that even exists, of
19 whatever the conversation was that was occurring when he was
20 doing the GSR kit.

21 And depending on who you ask, you will get
22 different answers to the questions of whether there were
23 promises made, whether leniency was offered. But from the
24 get-go, the voluntariness that Aaron's perception was, is
25 that if he offers up a way for the detectives to pin a

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1 problem on Tyrone Robinson, that he and his son were not
2 going to have the same charges brought against him. And
3 it's very subtle at the beginning, and it just magnifies as
4 the process unfolds.

5 Q And, you know, are your concerns about the
6 voluntariness present during Seifert's interview that was
7 reviewed in court today?

8 A Yes. I have concerns from that because, again,
9 I've had an opportunity to interview Mr. Young, Senior a
10 year ago, and what has been consistent from the time that I
11 have interviewed him is that the information he gave me in
12 that interview was further supported by the new material
13 that came out. It's not like we had new material and then
14 it was like, oh, well, he was just blowing smoke at me and I
15 fell for it.

16 It actually offered reinforcement that here
17 is the Defendant who sits before us, with a story for which
18 new evidence comes forth, and it reinforces that what he
19 shared with me was accurate.

20 Q Now, in your professional opinion, to a degree of
21 medical certainty, were Aaron Young, Senior's statements to
22 Detective Seifert, Detective Bromage, I believe Detective
23 Albertin, were they involuntary?

24 A It's my opinion that they were involuntary. And
25 not only were they involuntary, but they were false.

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1 Q Okay. And they've not sought to introduce
2 anything that occurred during the recordings that are
3 labeled Evans. I believe it's your testimony that that
4 didn't change your analysis that had began back in April of
5 2014, but it actually reinforced it; is that correct?

6 A That's correct. I did review those tapes as well,
7 and the information that came forth on those tapes
8 reinforced the information that I had obtained from an
9 interview with Mr. Young, Senior and confirmed what he said.

10 And at that interview from me interviewing
11 him on April 20th, I think it was, 2014, he did not limit
12 his interview with me, just what happened in the tapes that
13 have come forth, but also talked to me about the pressures,
14 the promises, the leniency that began on the roadside,
15 specifically on the timing of the GSR being obtained, and
16 that's not recorded.

17 MR. FERGUSON: Gotcha.

18 Beg the Court's indulgence one moment, Your Honor.

19 THE COURT: Okay.

20 (Pause.)

21 MR. FERGUSON: No further questions. Please
22 answer any questions the State has.

23 THE COURT: Thank you. Mr. Thornton,
24 cross-examine?

25 CROSS EXAMINATION

CROSS EXAMINATION OF SALAS BY THORNTON

1 BY MR. THORNTON:

2 Q Dr. Salas, tell me first, what part of his
3 confession do you think is involuntary and what part is
4 false, based on what you saw. Because the only thing we
5 would seek to introduce in the case-in-chief, unless
6 someone opened a door to allow the rest of it, would be
7 what you saw today. So what part of his confession was
8 involuntary, and what of it was false?

9 A The errors that lead to a false confession were
10 introduced before anyone even spoke to him, and they were
11 picked up on. And so at the time when Detective Seifert --
12 I don't know if Detective is his appropriate title or not,
13 but I think that was the role he was in -- but when
14 Detective Seifert started asking questions of Mr. Aaron
15 Young, Senior in the back of the car, started the whole
16 process of introducing the contaminants that had already
17 been discussed at the nine minutes and the 15 minutes that
18 I've already referenced. And so the false confession, he
19 picked up on that.

20 Q Well, hang on a second. I don't mean to stop
21 you, but let me back you up a second.

22 A Okay.

23 Q I want to know, so you're -- if I'm not getting
24 this right, please correct me.

25 So your testimony is because the word

CROSS EXAMINATION OF SALAS BY THORNTON

1 "shootout" came out over the radio, that that renders his
2 entire -- everything that he says from the roadside on is
3 all involuntary?

4 A It's not that the word "shootout" was used, it's
5 how people pick up on it, and then they integrate it into
6 the processes that come thereafter.

7 And so even when we're interviewing someone
8 in psychiatry, and when you're asking someone questions,
9 you know the whole process of it, if you ask an open-ended
10 question, you're more likely to get a more accurate answer
11 than if you lead someone down a path.

12 And so what happened is that terminology was
13 utilized that if you get a story from Mr. Young, Senior, he
14 was not using, until it came back full circle where the
15 term was utilized, picked up on, and then brought to him,
16 and then he begins to bring it out.

17 Otherwise, if you listen to what he was
18 describing beforehand, he wasn't describing a shootout. He
19 was describing someone shooting at him. Where it even gets
20 more entangled is that you do have multiple events that
21 have happened where guns apparently have been presented
22 over the course of the day.

23 And so that component probably is speaking
24 more to the false confession nature, and not the
25 voluntariness, but the voluntariness is going to come into

CROSS EXAMINATION OF SALAS BY THORNTON

1 play at the time when he believes that he has been promised
2 leniency. And an opportunity to be a star witness, is how
3 he has described it to me, and that he would not be charged
4 with the same as Tyrone Robinson if he offered up a story
5 that included a shootout and the production of the gun.

6 And that, according to Mr. Young, Senior, is
7 starting at the roadside. And so some of these
8 psychological pressures, it's kind of like when you have
9 someone walking down the street and they're getting
10 sexually harassed, it's not as much who's initiating
11 whatever comment or harassment that's being perceived, it's
12 the perception of the person walking down the street that's
13 the recipient of that comment that is dictating whether
14 it's harassment in their mind or not.

15 And so from Mr. Young, Senior, he believes
16 that he was under the impression that if he was telling a
17 story that allowed Tyrone Robinson to be pegged for
18 something that could get Tyrone Robinson charged, that he
19 and his son would not be charged. And he believes that
20 that happened at the roadside.

21 Specifically, I know that he believes it
22 happened at the time when they were doing the GSR. But he
23 alludes to it happening even before then. But I can't tell
24 you that it truly did happen before then, because that's
25 not as present at the roadside statements that I have found

CROSS EXAMINATION OF SALAS BY THORNTON

1 except for the fact that when I interviewed him on
2 April 20th of 2014, his story has been very consistent
3 about it happens at the roadside, it happens at the time
4 when they were doing the GSR, it was happening at the
5 Hilton Head substation, and then the new material addresses
6 that except for the GSR component. So I can't review
7 material that just doesn't exist. It says a he said, she
8 said.

9 Q Right. So, in other words, you have to base that
10 opinion on what he tells it is. He, being the Defendant,
11 Aaron Young, Senior, as far as what he says occurred with
12 the GSR.

13 A I base that -- I can't tell you with one hundred
14 percent accuracy any better than anybody else in this room
15 exactly what was said word for word, as if someone could
16 produce a transcript of what went on at the time when the
17 GSR was being conducted.

18 But what I can tell you is that the
19 statements related to elements of coercion being present
20 from Mr. Young, Senior were supported by the materials that
21 came forth under new light. And when I looked back and I
22 try to figure out, okay, well, here we've got a detective,
23 he's a very reputable person, as far as I would expect, and
24 he's not someone who I know has been disciplined or I
25 imagine someone in the court would point that out.

CROSS EXAMINATION OF SALAS BY THORNTON

1 So I would expect that Detective and
2 Investigator Seifert to be a very honest, reputable
3 detective. He's still doing that job. So you would think
4 that he's a truthful individual.

5 But what I heard today is that he, just like
6 anybody else, is prone to misrepresent information, and be
7 biased towards a confirmed story bias, which is when you
8 asked him did he see Aaron Young, Senior at the roadside,
9 sitting in the back of the car from the time he got there
10 and the time he left, his initial answer was yes. But then
11 you asked him did he take him out to do the GSR kit, and
12 the answer was yes.

13 So, then, to me, where was Aaron Young,
14 Senior? Was he constantly sitting in the back of the car
15 the entire time, as the initial question indicated, or was
16 there a time when he actually took him out of the car? And
17 so it makes --

18 Q All right. Let me stop you right there.

19 So what your testimony is, is that you found
20 that to be him misrepresenting facts, because I asked him
21 was he in the back seat of the car while you were there,
22 and then followed that up with a question on, At some point
23 did you pull him out and do GSR?

24 A I that that the question, if I understood it
25 correctly was, was he in the back seat of the car the entire

CROSS EXAMINATION OF SALAS BY THORNTON

1 time?

2 Q Right. So based on those two questions, you
3 found that he would be misrepresenting facts?

4 A That and a review of his report.

5 Q Okay. I am still stuck as to when it's
6 involuntary. At what point -- not in general terms, at
7 what point do you contend that Aaron Young, Senior's
8 confession is involuntary? From the roadside on, so
9 everything we saw today would be involuntary; is that
10 right?

11 A Certainly, from the time the GSR occurs, going
12 forward.

13 Q Okay.

14 A And I believe that happened after the initial
15 statements that occurred that you showed at the roadside
16 today.

17 Q Okay.

18 A I believe that happened between minutes 40 through
19 50-something.

20 Q So GSR forward, it is your contention that it's
21 involuntary?

22 A It's my opinion that that would be involuntary.

23 Q What part is the -- what in the confession, for
24 lack of a better word, in his statements, the ones that you
25 saw -- because, again, those are the ones we would

CROSS EXAMINATION OF SALAS BY THORNTON

1 introduce -- what do you consider to be false and why?
2 Specifically. Because I don't want to get into the
3 esoteric arguments because this isn't esoteric. This is
4 about what he says. What in that do you think specifically
5 is false, and what isn't false?

6 A Aaron Young, Senior gives a -- gave to me a
7 different/scenario that did not involve a shootout. That
8 did not involve him seeing Tyrone Robinson and having
9 gunfire exchanged between the two of them. It involved --
10 he went down to Tyrone Robinson's place, where he saw
11 Tyrone's car, and his son shot up the side of the car and
12 said, had anyone come out of the house they would have not
13 been prepared to deal with that because they did not intend
14 to shoot anybody. He was trying to send a message to a
15 vehicle that he drove off afterwards --

16 Q I'm sorry. Let me stop you here for a second.

17 He was trying to send a message to a
18 vehicle? What vehicle understands a message?

19 A He was trying to send a message to Tyrone
20 Robinson --

21 Q Gotcha. Through the vehicle.

22 A Through the vehicle, yes.

23 Q All right. Go ahead.

24 A That they're not to be messed with and that they
25 have access to guns, too. Something along those lines was

CROSS EXAMINATION OF SALAS BY THORNTON

1 the message that he conveyed to me was being portrayed.

2 And in the, quote, true story -- and let me
3 just help you out with how sometimes the role of a forensic
4 psychiatrist has certain bias associated with it as well.

5 I am here because Mr. Ferguson contacted me, which means
6 when I go and interview Mr. Aaron Young, Senior, y'all
7 initially wouldn't have any idea whether I'm involved or
8 not unless Mr. Ferguson decides to name me as a witness.

9 And so there are times when I've been
10 involved in cases, and this is when I go and I say when I
11 interview a defendant, when the Defense has retained me, I
12 am here for you to talk to me as open and honestly as you
13 would with your attorney. Because nothing that I have to
14 say is going to hurt you unless you and your attorney
15 decide that what I have opinions about are helpful to your
16 case and override what might be hurtful to your case.

17 Because when I go to testify, you name me as
18 an expert, you identify me as someone who you've spoken to,
19 and at that time there is no likening to the
20 attorney-client privilege. And so I will answer questions
21 as honestly as I possibly can.

22 And I gave him the same understanding. And
23 so before they had a concept of whether any opinions that I
24 draw would bring me to where I am today, Mr. Young, Senior
25 had an understanding that some of the information that he

CROSS EXAMINATION OF SALAS BY THORNTON

1 shared with me could hurt him. But obviously I'm here to
2 talk about this issue that they believe helps his case. So
3 ...

4 Q Going back to my question, though, what part of
5 the confession is false?

6 A That there was no shootout. There was no shootout
7 in terms of one person holding a gun pointing it at another
8 person, engaging in gunfire. And Mr. Young, Senior did not
9 see Tyrone Robinson when they went and shot the car.

10 They did go and shoot the car, which means
11 just like all the investigators thought when they were
12 interviewing him and getting frustrated with him and he's
13 saying, no, we didn't do that, he did do that in
14 conjunction with the acts of his son. And he -- let me
15 look back and see because there was one other thing that I
16 want to say that he did tell me.

17 What he described to me, and it's
18 probably -- I'm not the person who's best able to answer
19 which -- all of this, more than what I've said is truly
20 false, because I wasn't there to know what the truth is any
21 more than other people. So it's hard for me to analyze
22 that.

23 So I can tell you that for me, he has
24 contended that nobody was pointing guns back and forth.
25 They did shoot the car and they never saw Tyrone at the

CROSS EXAMINATION OF SALAS BY THORNTON

1 scene, and they heard gunshots go off as they were leaving
2 the Allen Road.

3 Q Did he tell you whether or not he saw Tyrone on
4 Oak View Road?

5 A He told me that he did see Tyrone on Oak View.
6 Let me go pull those notes specifically.

7 I remember him saying something about the
8 two cars passing on Oak view, one party had a gun, one
9 party did not have a gun, or a gun jammed or something. I
10 can't remember the details of who had what and what
11 happened. But, yes, the parties did see each other on Oak
12 View.

13 Q And is it possible that what he told you was that
14 Tyrone brandished a gun, as he indicated on there, and that
15 his son would have shot but the gun jammed?

16 A Possibly, yes.

17 Q And that's on Oak View Road?

18 A On Oak View.

19 Q All right. Did he tell you how many times he
20 went out to Allen Road after seeing Tyrone on Oak View and
21 the gun jamming; did he tell you how many times they went
22 to Allen Road looking for Tyrone?

23 A My understanding, they went one time looking for
24 Tyrone's vehicle. They were -- what was told to me is that
25 they were not looking for Tyrone Robinson specifically, they

CROSS EXAMINATION OF SALAS BY THORNTON

1 just wanted Tyrone Robinson to leave them alone. And up
2 until that point, their perception was that Tyrone Robinson
3 is running around, a menace, whatever you want to call that,
4 and threatening a variety of people with guns, which was
5 their experience at their property and their home that
6 afternoon, that same afternoon. And that they wanted to
7 just send a message to Tyrone by shooting up his car that
8 they had guns, too.

9 But what was conveyed to me is that there
10 was no intent for him to actually find Tyrone and shoot at
11 Tyrone. And I imagine that if that were part of their
12 intent that that actually could have happened. But they
13 could have knocked on a door if they thought he was where
14 his car was or something, or there could have been bullet
15 holes in the side of a home, or something different.

16 But what I understand was the bullet holes
17 are limited to a vehicle, which is congruent with what he
18 has told me.

19 Q Did he indicate to you what kind of gun they
20 used?

21 A Who's the "they"?

22 Q I'm sorry, what kind of gun he and his son used?

23 A I believe it was a .9 millimeter, but then I don't
24 know that for certain.

25 Q Gotcha. Did he tell you that --

CROSS EXAMINATION OF SALAS BY THORNTON

1 A Because that may be intimidation bias on my behalf
2 by listening to all of this stuff.

3 Q Did he tell you that it looks like a sub machine
4 gun, it's got a 34-round clip in it and comes with a flash
5 suppressor?

6 A I know there's no way I would have understood what
7 that means, if someone had told that to me. But is it
8 possible that that could have been a description someone
9 utilized? Yes. I don't know and understand guns so that
10 doesn't really mean anything to me.

11 MR. THORNTON: The Court's indulgence, please,
12 Your Honor.

13 THE COURT: All right.

14 BY MR. THORNTON:

15 Q All right. You indicated he said that he only
16 went down there once. Did they talk to you about -- and
17 they, sorry -- did Aaron Young, Senior talk to you about he
18 and his son going down to Allen Road and having a
19 conversation or confrontation with the uncle of Tyrone
20 Robinson?

21 A He did not talk to me about a confrontation with
22 an uncle.

23 Q Did he talk to you at all about whether it was he
24 or his son that went and retrieved the gun from the house?

25 A I don't think that a gun was kept in a house.

CROSS EXAMINATION OF SALAS BY THORNTON

1 What Aaron Young, Senior told me is that he's a convicted
2 felon, he's not allowed to have guns around him, so he
3 didn't have a gun in the house. And I believe they had to
4 retrieve it from a vehicle.

5 Q Okay. Did he say which one of them retrieved it?

6 A I don't remember.

7 Q Did he --

8 A Hold on, let me see if I wrote anything like that
9 down though.

10 Q Sure. Thank you.

11 A Certainly.

12 My note says, Senior got the bag with gun.

13 Q Okay. Senior.

14 And let me -- and if I don't want to
15 hair-split words with you, I just want to make sure I get
16 this right.

17 Earlier I asked you about whether they had a
18 confrontation or anything, "they," being Aaron Young,
19 Senior and Junior, with Tyrone's uncle. Did he mention any
20 conversation they had with Tyrone's uncle or any meeting at
21 all with Tyrone's uncle on that day, on one of the trips to
22 Allen Road?

23 A Who is Tyrone's uncle?

24 Q Tyrone's relative. Sorry. I don't have his name
25 off the top of my head, but did they discuss any -- did he

CROSS EXAMINATION OF SALAS BY THORNTON

1 tell you, Aaron Young, Senior tell you in your interview
2 anything about having a discussion with a relative of
3 Tyrone's, letting the relative know that they were looking
4 for Tyrone?

5 A No. I don't remember anything about that. And
6 for clarification, the reason why I needed that was because
7 I believe that -- I don't remember Ebony's last name, but
8 his girlfriend has a distant relationship.

9 Q Right. Not Ebony.

10 A But -- okay.

11 But I'm not aware of him telling -- I don't
12 recall him telling me anything about an uncle and looking
13 for Tyrone.

14 Q Did Aaron Young, Senior mention to you that Jontu
15 -- whether or not Jontu Singleton, Senior rode in the truck
16 with them and was with them in the truck on Oak View?

17 A At one point, Jontu has gone from a party with
18 Tyrone Robinson, which was at the house. And if -- this got
19 very confusing for me, again -- why someone who's in a
20 vehicle that comes to your house and that party is shooting
21 at you now is stuck in your front yard, but that's kind of
22 how I understood it to happen. Because Tyrone Robinson
23 drove off and Jontu was left in the yard. And then Jontu
24 got into the truck with Aaron Young, Junior and Aaron Young,
25 Senior and rode -- and they saw this car of Tyrone

CROSS EXAMINATION OF SALAS BY THORNTON

1 Robinson's at Oak View Road. And at some point Jontu said,
2 give me the gun, when Jontu was with them, which puts it
3 some time in proximity as to when a gun was retrieved,
4 because I don't know exactly when that happened.

5 But there was a time when there was a gun
6 and Jontu was present with the party of the Youngs because
7 Jontu said, Give me the gun.

8 Q And that's according to Aaron Young, Senior,
9 correct?

10 A That's from my interview with him, yes.

11 Q And did he -- did they tell you, when, if at all,
12 Senior dropped Jontu off? Was that before or after they
13 went out to Allen Road, according to him?

14 A Went back to house, Jontu got out. I think that's
15 after Oak View and before Allen Road.

16 Q So he does tell you that they dropped Jontu off
17 at the house and then go back out to Allen Road?

18 A He told me, But if we leave to go to work, maybe
19 he'll come back in fear of safety of his family.

20 Q Gotcha.

21 Did he also tell you that his son, when all
22 this happened said, Let's just go to work, or I got to go
23 to work, and he said, No, I have to finish this, or we have
24 to finish this.

25 And maybe that's a poorly phrased question.

CROSS EXAMINATION OF SALAS BY THORNTON

1 What I'm getting at is --

2 A What I have written down is telling AJ, which in
3 my notes is Aaron, Junior, Let's get ready for work, Jontu
4 egging on for confrontation, saying, You know he's just
5 going to be unprotected, your son going to be in the house.

6 Q Okay. So now he's -- so according to what he
7 tells you, he just wants to go to work, but Jontu is egging
8 him on, according to what your notes say he told you?

9 A What my notes say is that telling AJ, Let's get
10 ready for work, Jontu egging on for confrontation. You know
11 he's just going to be unprotected -- this is where Jontu --
12 you know he's just going to be unprotected, your son going
13 to be in the house.

14 And what was explained to me from Mr. Young,
15 Senior is that there had been an event pre-dating all of
16 this a long time ago, I don't know how much remote it was
17 from the events that bring us here today, but that Tyrone
18 Robinson had come into the home of the Young family and had
19 a confrontation with, I believe it was, Aaron Young, Junior
20 at that time.

21 I don't think it had anything to do with
22 guns, I think it was a physical fight, rummaging around,
23 looking for stuff. But there was an event that he related
24 to me that made what Jontu was alleged to have said
25 register in his mind.

CROSS EXAMINATION OF SALAS BY THORNTON

1 Q And -- well, so far, what you've indicated based
2 on the videos that we watched is that there's not -- that
3 there's not a shootout, is what you think is false based on
4 the information provided to you by Mr. Young, Senior?

5 A It's not limited to the information that's
6 provided to me by Mr. Young, Senior, it's the elements of
7 coercion as well as the contaminants that are put into place
8 that bring rise to the false confession. There's nothing
9 that you go back to review that says when the defendant says
10 a different story, you believe that over something
11 different.

12 And so I reviewed all these tapes and was
13 very concerned about there being the tapes from April of
14 2014 before I ever spoke with Mr. Young, Senior.

15 Q And you spoke --

16 A And I was still concerned before I spoke with him
17 about the elements being present that lead to a false
18 confession.

19 Q And you keep saying "false confession," and
20 that's a -- I want to make sure we're very careful. You're
21 not saying that everything he confessed to is not true, are
22 you?

23 A As far as the nature --

24 Q Because so far the only thing you --

25 THE COURT: You asked a question, give her a

CROSS EXAMINATION OF SALAS BY THORNTON

1 chance to answer.

2 MR. FERGUSON: Yes, sir.

3 THE COURT: Go ahead.

4 THE WITNESS: I don't know where the truth is in
5 this.

6 THE COURT: Well, the truth is really the jury's
7 concern. Voluntariness is your concern and my concern,
8 the truth is the jury's concern.

9 THE WITNESS: Thank goodness. I feel for them.

10 MR. FERGUSON: Thank you. That's it, Judge, I
11 think that's all I need.

12 THE COURT: All right. Dr. Salas, one thing that
13 you mentioned is that Aaron Senior had mentioned to you
14 was, you would not think that they would harm Mr.
15 Robinson, they just wanted to get a message to him by
16 shooting up his car.

17 Did I not hear him say on the tape today that if
18 they were able to find him that day that he would blow
19 his brains out because Mr. Robinson was trying to shoot
20 them?

21 THE WITNESS: There was some statements something
22 like that, that I think were made. But what was
23 conveyed to me in the interview with him is that that
24 was not accurate with what he intended to do as far as
25 sending a message.

CROSS EXAMINATION OF SALAS BY THORNTON

1 THE COURT: Other than the characterization of
2 what happened as being a shootout, to the facts as you
3 understand them to be from him and from the statements
4 made, perhaps what you may know otherwise about this
5 case, that Robinson came to their house and started --
6 and pulled a gun. He testified that he had a gun on
7 his hip, and that's where his son was. And then the
8 tussle that ensued, according to him, four or five
9 shots fired and then Robinson leaves. They get in the
10 car and follow him, try tried to find him. Oak View is
11 one of these places where they go by, and you're right,
12 he testified about him brandishing -- Robinson
13 brandishing a weapon.

14 The testimony in other trials has been that they
15 had a weapon -- we know they had one because it was
16 eventually produced -- but they couldn't get it all
17 together so they couldn't shoot back.

18 Eventually they track him down to the Allen Road
19 place and shoot up his car, and then they leave. And
20 it's after that, of course, that Robinson shoots the
21 shots, one of which is the fatal shot that kills Khalil.

22 But -- and I think I heard him say that -- on the
23 screen today, he didn't know that anybody was shot.
24 They did what they did and they left.

25 Do those facts seem to be borne out by what he told

CROSS EXAMINATION OF SALAS BY THORNTON

1 you?

2 THE WITNESS: What you just described, yes.

3 THE COURT: Okay. But he kept calling that a
4 shootout, of course, is a mischaracterization because
5 it's not the gun fight at the O.K. Corral. It's, you
6 know, when he shoots at me, it ain't a shootout unless
7 I'm shooting back, essentially. I understand that.

8 Is that fatal -- excuse me. Is that
9 mischaracterization fatal to the interview process when
10 we hear the admissions of what are largely
11 uncontradicted even by him?

12 THE WITNESS: In my opinion, it is fatal to the
13 interview process because he knew he was giving a lie
14 when he was giving statements, but he was giving an
15 untruthful statement because he thought that's what he
16 was supposed to do to be exonerated and to not be
17 charged, and to pin Tyrone Robinson, then he would be
18 made a star witness at the Robinson trial.

19 THE COURT: Was it a lie that he said that
20 Robinson came to his house and they had a tussle and
21 shooting in the yard?

22 THE WITNESS: I don't think that was a lie, but,
23 again, I can tell you he told me a very similar story
24 that I have heard. And so parts of what you hear, I
25 think there's a thread of truth that goes through it,

CROSS EXAMINATION OF SALAS BY THORNTON

1 but there's a lot of deviation from someone who was
2 being interrogated, these elements of coercion, the
3 contaminants were present, the confirmatory bias is
4 present, and raises to the magnitude of being a false
5 confession. And when you're looking at the elements of
6 coercion being present, you're speaking on whether or
7 not a statement is voluntary.

8 THE COURT: Right.

9 THE WITNESS: It's really hard for me to answer
10 the prosecution's question, at what point do you deem
11 voluntary from involuntary. It's a steep slope, it's
12 very slippery. And I don't even know that I am able to
13 pinpoint exactly with precision, without the benefit of
14 more than one dimension being present, where that comes
15 from.

16 THE COURT: Okay. Thank you, ma'am.

17 Mr. Ferguson, she's your witness. I'll give you
18 the last word.

19 MR. FERGUSON: Thank you. Nothing further, Your
20 Honor.

21 THE COURT: Dr. Salas, thank you for coming. You
22 can step down and be excused for the afternoon. I'm
23 sure they'll want you back to testify. Thank you,
24 ma'am.

25 Mr. Ferguson, you can call your next witness.

CROSS EXAMINATION OF SALAS BY THORNTON

1 MR. FERGUSON: Thank you, Your Honor. I had a
2 fellow, Deputy Evans, former Deputy Evans subpoenaed
3 and was here. I told him to be here at three. And so
4 I'm not sure if he's still here or not. But he would
5 be the only other person I would offer at this point.

6 THE COURT: Okay. Let's see if you can find him.
7 Come forward, sir, and be sworn.

8 Thereupon,

9 CURTIS D. EVANS
10 was called as a witness, having been first duly sworn,
11 was examined and testified as follows:

12 THE CLERK: State your name for the record,
13 please.

14 THE WITNESS: Curtis D. Evans.

15 THE CLERK: And spell your last name.

16 THE WITNESS: E-V-A-N-S.

17 DIRECT EXAMINATION

18 BY MR. FERGUSON:

19 Q Officer Evans, who do you work for?

20 A Port Royal Police Department.

21 Q And who did you work for back on September the
22 1st of 2012?

23 A Beaufort County Sheriff's Office.

24 Q And do you recall your involvement that day into
25 the investigation and interrogation of Aaron Young, Senior?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A Oh, yes.

2 Q Okay. And do you recall what your first contact
3 with Mr. Aaron Young, Senior was?

4 A I believe it was a traffic stop.

5 Q Do you know approximately what time that was?

6 A Somewhere between five and 6:30.

7 Q Okay. Would it benefit you to see a copy of your
8 incident report?

9 A Yes, it would.

10 MR. FERGUSON: May I approach the witness, Your
11 Honor?

12 THE COURT: Yes, you may.

13 MR. FERGUSON: Thank you.

14 BY MR. FERGUSON:

15 Q Officer Evans, if you'll take a look at that and
16 see if it refreshes your recollection as to what time the
17 traffic stop was.

18 A 1658.

19 Q And what's that in normal people time?

20 A 6:58 -- I'm sorry, 4:58.

21 Q Thank you.

22 Would you like to hold onto that?

23 A If I could.

24 Q Sure. And do you recall how long you were at the
25 roadside?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A It was over an hour.

2 Q Okay. What -- do you recall what your call sign
3 was back then?

4 A I do not.

5 Q Was it B38?

6 A That's possible.

7 Q Does that sound familiar?

8 A Yes.

9 Q Okay.

10 Are you familiar with the CAD system,
11 Officer Evans?

12 A I am.

13 Q Okay. May I approach Your Honor?

14 THE COURT: Yes, sir.

15 BY MR. FERGUSON:

16 Q Officer Evans, I'm going to hand you two sheets
17 of paper that are a CAD run report, and essentially what it
18 is, is listing out the units and identifying who that unit
19 number belongs to. And I'll ask you to review that and I
20 have highlighted it for your benefit.

21 A Okay.

22 THE COURT: He's seen it.

23 BY MR. FERGUSON:

24 Q And so does that refresh your recollection as to
25 what your call sign was at the time?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A Yes, it does.

2 Q What was it?

3 A Bravo 38.

4 Q Okay. And now, what did you do after you left
5 the traffic stop?

6 A I transported -- I believe it was Ebony Campbell
7 to the sheriff's office -- the substation on Hilton Head.
8 The office on Hilton Head.

9 Q Okay. And what did you do with her once you got
10 there?

11 A I released her to someone in investigations.

12 Q Okay. And from your recollection, what did you
13 do next?

14 A I left the office for a while and then I was
15 called back to guard Mr. Young.

16 Q Okay. And do you recall what time that was?

17 A Somewhere between seven and 8:30 or 9:00.

18 Q Okay. Now, you no longer work for Beaufort
19 County Sheriff's Office, and essentially was that a result
20 of events that occurred that day?

21 A Could you repeat the question?

22 Q Sure. Now, you currently work for Port Royal
23 Police Department, and you formerly worked for the Beaufort
24 County Sheriff's Office. Is that as a result of the events
25 that occurred on September the 1st of 2012?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A Are you asking me if I was fired, basically?

2 Q I am.

3 A That is correct.

4 Q Okay. And specifically, you know, you had
5 certain recordings that were subsequently produced; is that
6 correct?

7 A That's correct.

8 Q Okay. Do you recall initiating those recordings?

9 A Initiating them?

10 Q Yes.

11 A I do.

12 Q Okay. And do you recall speaking to supervisors
13 about that initiation?

14 A I do.

15 Q Okay. And would that have commenced at the time
16 that you were directed to guard Mr. Young, Senior?

17 A Yes.

18 Q Okay. And so -- in what room of the Hilton Head
19 substation was that in?

20 A The deputies' room.

21 Q Okay. Was Mr. Young, Senior ever taken out of
22 the deputies' room during your -- while you were watching
23 him?

24 A I believe so.

25 Q Who was he taken out of there by?

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 A I don't recall.

2 Q Okay. Was anybody else brought into the
3 deputies' room while you were watching Aaron Young, Senior?

4 A There were numerous people in and out.

5 Q Mostly law enforcement?

6 A It was all law enforcement, if I recall.

7 Q Okay. Was there ever a period of time that you
8 were watching Aaron Young, Senior that you did not have
9 your body microphone activated?

10 A I don't believe so.

11 Q Okay. So it's your recollection that those
12 things occurred simultaneously?

13 A Yes.

14 Q Okay. But there was some point where you did
15 discuss it with your supervisor, and that was outside of
16 the presence of Mr. Young, Senior?

17 A That was before I started it, before I started
18 recording it.

19 Q Okay. And, again, to the best of your
20 recollection, what time was that?

21 A Somewhere between seven and 8:30, I'd say.

22 Q Okay. Thank you.

23 MR. FERGUSON: No further questions. Please
24 answer any question that the State may have. I am
25 going to get my documents back from you though.

DIRECT EXAMINATION OF EVANS BY FERGUSON

1 THE COURT: Mr. Thornton, cross-examine?

2 CROSS EXAMINATION

3 BY MR. THORNTON:

4 Q Officer Evans, you indicated earlier that one of
5 the things you did was you turned on your mic, and those
6 are the recordings that obviously we had a lot of hubbub
7 over, and got turned over, and those have time stamps on
8 them, correct?

9 A That's correct.

10 Q All right. So I know you're going by memory, but
11 if your time stamp on there shows that you started your
12 first -- the first time your mic comes on, as far as being
13 in a room with Aaron Young, Senior, was 10:00, would that
14 time stamp be accurate?

15 A Yes.

16 Q Okay. So if there is an interview where Doug
17 Seifert says, it's 9:18 p.m., and you wouldn't have been
18 with him then at 9:18 because you didn't do an interview
19 with Aaron Young, Senior and Doug Seifert in an interview
20 room, did you?

21 A No, I did not.

22 Q All right. And if you -- we know from another
23 time stamp that he was delivered, there was testimony
24 earlier, I believe it was actually elicited by Defense
25 counsel, that Mr. Young, Senior didn't even get to law

CROSS EXAMINATION OF EVANS BY THORNTON

1 enforcement with Kaminski until 7:20, who then guarded him
2 for some time until the interview and your first time is
3 10:00, then 10:00 would be more accurate than your memory,
4 if that was what was time stamped on your recording; is
5 that right?

6 A That's correct.

7 MR. THORNTON: Your Honor, Court's indulgence,
8 please.

9 THE COURT: Okay.

10 BY MR. THORNTON:

11 Q And other than that, do you have any independent
12 recollection other than what you've already talked about
13 with Mr. Ferguson?

14 A I do not.

15 MR. THORNTON: Thank you. I have nothing further,
16 Judge.

17 THE COURT: Mr. Ferguson, redirect?

18 MR. FERGUSON: No, sir, Your Honor.

19 THE COURT: Thank you.

20 Office, you can step down. Thanks for coming.

21 Mr. Ferguson, any further witnesses or evidentiary
22 issues before we get to argument?

23 MR. FERGUSON: No, sir, Your Honor.

24 THE COURT: Okay. Anything from the State in
25 reply?

CROSS EXAMINATION OF EVANS BY THORNTON

1 MR. THORNTON: Nothing, Judge, other than
2 argument.

3 THE COURT: All right. Mr. Ferguson, I'll be glad
4 to hear from you.

5 MR. FERGUSON: Thank you, Your Honor. What we
6 have essentially are periods of undocumented time with
7 Aaron Young, Senior, of which he has previously
8 testified that he was subjected to various forms of
9 coercion, promises, threats, threats of lengthy jail
10 time, both by Seifert on the roadside and once he
11 arrived at the Hilton Head substation.

12 And so we know that he spent approximately from
13 5:00 to 7:00 on the roadside. We know that according to
14 deputy -- or Detective Seifert, that there was
15 information in his report that was not contained on
16 his -- on the actual audio recordings, and we know that
17 there was a period of time where no audio is being
18 captured at the back of the patrol car.

19 Subsequent to that, you know, I find it a bit
20 telling that they want to rely on time stamps in certain
21 situations, but don't want to rely on time stamps from
22 the exact same system in other situations, because we
23 have a conflict.

24 We have Doug Seifert's interview with Aaron Young,
25 Senior commencing by time stamp at 9:44 p.m. and ending

CROSS EXAMINATION OF EVANS BY THORNTON

1 at 10:37 p.m.

2 However, you know, the Deputy Solicitor is correct.
3 Evidence time stamped at 10:00 p.m. and lasts until
4 12:01 a.m.

5 Well, we know Aaron Young, Senior cannot be in two
6 places at one time. And so, you know, it is difficult
7 to rely on discovery that has been given to the Defense
8 in determining which came first, the coercion or the
9 statement, you know, because we have an overlapping
10 period of time that nobody seems to be able to account
11 for other than Doug Seifert's wristwatch saying -- you
12 know, being reported to be 9:18.

13 You have that saying it could be anytime from seven
14 to eight. You know, if we're not going to believe the
15 time stamps from Seifert's interviews, then, you know, I
16 find it difficult that we would then be bound by the
17 time stamps on evidence reported interviews.

18 So essentially we have two hours and 44 minutes of
19 which Aaron Young, Senior is not documented by audio or
20 video. We have -- during the documented time, we have
21 statements that indicate that there were previous
22 conversations with law enforcement officers of which the
23 summary of those statements, or those statements
24 themselves have not been produced.

25 Again, Mr. Young has testified that he was promised

CROSS EXAMINATION OF EVANS BY THORNTON

1 certain things and he was threatened with certain
2 things, and we have statements that we do not know the
3 substance of.

4 They -- you know, Captain Bromage says that it's
5 two minutes. Well, you know, a lot can occur in two
6 minutes, and it's not our position that with any
7 conversation that occurred was limited to that
8 two-minute time period.

9 If that's, like I pointed out, he states, like I
10 told Officer Bromage, and that's to Detective Seifert,
11 indicates a previous conversation. Like I told you,
12 Senior to Bromage, again indicates a previous
13 conversation.

14 We have the exoneration comment, which at the time
15 that it was originally brought up that that was said to
16 Aaron Young, Senior, it wasn't as important as it is
17 after you step back and receive the additional
18 materials. You know, but it is on the tape at that
19 point that, you know, where's the gun that will
20 exonerate that situation? Exonerate. Tell us where the
21 gun is, so we can eliminate him, your son, as possibly
22 hitting that kid. That's huge.

23 We have Dr. Salas, who in a -- in terms of
24 voluntariness, testified it is her medical, you know, or
25 her expert opinion to a reasonable degree of medical

CROSS EXAMINATION OF EVANS BY THORNTON

1 certainty that Aaron Young, Senior's statements, at
2 least to Seifert, is not from the GSR administration
3 forward are involuntary. And that her initial opinion
4 wasn't changed as much as it was reinforced by the
5 additional materials that were discovered back in April
6 of 2014.

7 You know, she spent a lot of time on what Aaron
8 Young, Senior's belief system was, what he believed to
9 be, you know, required of him in exchange for this
10 exoneration and becoming a star witness against Tyrone
11 Robinson. And he, when he previously testified, he went
12 into that a good bit.

13 And also to the fact that he would be able to talk
14 to his father, be able to talk to his son, if he only
15 cooperated and gave them what they wanted.

16 We have his father corroborating that, Your Honor,
17 that essentially, when brought out there, that the
18 coercion was relayed and essentially told the father
19 that, you know, the guy is cooperating, the law should
20 go easy on him. Now, you guys, just because you're
21 cooperating, law enforcement would be easy on them for
22 cooperating.

23 And so, you know, it is unfortunately Aaron Young,
24 Senior's word versus the State of South Carolina. And
25 unfortunately, we don't have the recordings from the

CROSS EXAMINATION OF EVANS BY THORNTON

1 periods of time that Aaron Young, Senior is alleging
2 that this coercion occurred. But what we do have still
3 indicates coercion. And so, you know, when he first
4 brings the issue, you know, it was solidified and I
5 believe the State -- well, they obviously agreed because
6 they've agreed not to put in certain things, that it was
7 present.

8 And so the difficulty as Dr. Salas expressed is
9 that defining line, and where that slippery slope begins
10 and where it ends. And so, you know, our argument is
11 consistent with our experts, that it begins like Aaron
12 Young, Senior testified to, at the back of the patrol
13 car, on the side of the road, while the GSR kit was
14 being administered. It continued until he was booked in
15 at 4:00 a.m. in the morning.

16 And so, you know, we're asking that his statements
17 from that period on are suppressed, and that's what
18 we're asking for.

19 THE COURT: Thank you.

20 Mr. Thornton.

21 MR. THORNTON: Thank you, Your Honor.

22 Your Honor, I point the Court, although I know you
23 already know it, to State versus Miller, which is 375
24 South Carolina 370. And I'll pass that up to Your
25 Honor.

CROSS EXAMINATION OF EVANS BY THORNTON

1 Your Honor, coercion, without stipulating that
2 there was any coercion is simply one of the elements
3 that are supposed to be looked at. What the test is, is
4 based on the totality of the circumstances, is the
5 Defendant's will overborne.

6 I would point out the following, Judge, and I'll
7 try to be brief. Even their expert, who couldn't really
8 tell me what was and was not false said that even in her
9 opinion it didn't start until after the GSR kit.

10 Well, what does Aaron Young, Senior say on the side
11 of the road before the GSR kit? He says, when asked by
12 Seifert, Seifert says, where was the gun that your son
13 had?

14 Now, Judge, logic would indicate to you that if
15 your son didn't have a gun, the response to that is,
16 what gun, what are you talking about? That's not what
17 he said. He said, I don't know where the gun is.

18 His next question was, why was your son hanging out
19 the window, or something to that effect, shooting the
20 gun? His response wasn't, I don't know what you're
21 talking about, we never shot a gun, we shot his car, and
22 that's all we shot. What he says is, We were shooting
23 at him because he was shooting at us, which is
24 consistent with the thing that he says all throughout
25 the interview, that we took parts of it, we would

CROSS EXAMINATION OF EVANS BY THORNTON

1 introduce, which is, we were shooting at him because he
2 was shooting at us.

3 There's a couple times where he says, Well, we were
4 shooting up in the air. But then he always comes back
5 to, we were shooting at him because he was shooting at
6 us.

7 Here's the other thing, Judge, how can his will be
8 overborne if he's still not telling where the gun is?
9 And we know that he knows where the gun is, because
10 eventually he does take them to it.

11 But at this point, at the point that all these
12 statements are made we're introducing, how can his will
13 be overborne when he is, in fact, A, at some places in
14 there, trying to deny that they shot and deny that they
15 had a gun, and then admitting that they had a gun. You
16 will remember, Judge, one of the things he says in there
17 was -- and forgive me, I'm going use the quote was,,
18 yeah, that was bullshit.

19 After he had said that they didn't have a gun when
20 they left the house.

21 And, again, I keep going back to the same thing,
22 Judge. How can his will be overborne when he never
23 gives them the gun? He says the whole time, Well, my
24 son, you know, we separated. I don't know where the gun
25 is, I'm not -- and he does know where the gun is.

CROSS EXAMINATION OF EVANS BY THORNTON

1 His will is not overborne, if at all, until much
2 later, Judge, which is, as you know, you've been the
3 judge on this case now for the third time, and you were
4 the original judge. But that's the test, Your Honor.

5 The test is, was his will so overborne? You take
6 into account his age, his prior history, which we've
7 already talked about, his -- Mr. Ferguson's expert
8 talked about the fact he's a convicted felon. He
9 tells -- he calls Detective Bromage, Bob. He says, You
10 know my history, you know I'm not violent like that.

11 Clearly this is not his first encounter with law
12 enforcement. He is not a teenager, Judge. You know,
13 he's born in '76. This is somebody who knows their way
14 around, for lack of a better word.

15 And, again, he tells a consistent story, granted
16 it's a short story on the side of the road, but from the
17 side of the road, and throughout the interview, which
18 is, he's shooting at us because -- we were shooting at
19 him because he's shooting at us.

20 His will's never overborne, at least not in the
21 part we're using, because he never tells them where the
22 gun is. And that's the test, Judge.

23 Is his will overborne? Not does Dr. Salas think
24 there was a coercive element used? You know, anytime
25 you try to get somebody to tell you something they don't

CROSS EXAMINATION OF EVANS BY THORNTON

1 want to tell you, there can be an allegation of
2 coercion. But that's not the test.

3 Was his will overborne? The State's position is
4 it's really an impossibility because he never gives them
5 the gun, at least not during that portion.

6 Thank you, Your Honor.

7 THE COURT: Thank you, Mr. Thornton.

8 Mr. Ferguson, you have the last word.

9 MR. FERGUSON: Thank you, Your Honor.

10 And essentially he is correct, and it's not the
11 only element, but it's defined in State V Miller as the
12 crucial element of police coercion.

13 Again, the length of interrogation, his
14 interrogation started at 5:00 p.m. and ended with him
15 being booked in at 4:00 a.m. in the morning. That's his
16 custodial period of time, where this was occurring. His
17 location is in the Hilton Head substation on the side of
18 the road. He's shirtless, he is handcuffed, he is
19 uncomfortable. It's continuity. Again, the time period
20 that passes.

21 His maturity, his education, physical condition,
22 and mental health. It's not just that we are alleging
23 that his will was overborne when he gave the gun. His
24 will was overborne when he had this -- you know, these
25 promises made to him of exoneration. That overborne his

CROSS EXAMINATION OF EVANS BY THORNTON

1 will.

2 And so that's why we are alleging that the
3 statements are involuntary. Not only -- the only thing
4 that comes out of the coercion is not just the
5 production of the gun, it's also the giving of the
6 statements in general that we're arguing for.

7 THE COURT: I'll give you the last word.

8 MR. THORNTON: I apologize, Judge. I just want to
9 correct something I think is factually inaccurate, and
10 I don't want that to be the record.

11 Doug Seifert says it's 9:18. I understand Mr.
12 Ferguson takes some -- but it's clearly, you know, even
13 by his estimation, even if the other time stamp was
14 right, it would be 9:40.

15 He didn't even get to the substation until 7:20.
16 This is an interrogation where we're trying to introduce
17 things at 4:00 in the morning. This is a much tighter
18 time frame than that.

19 And I just -- you know, I don't want that to be the
20 record that I'm trying to put in statements he makes at
21 3:45, because I'm not.

22 THE COURT: All right. Mr. Ferguson, you do have
23 the last word.

24 MR. FERGUSON: Thank you, Your Honor.

25 You know, it's admitted to being present; however,

CROSS EXAMINATION OF EVANS BY THORNTON

1 you know, they want to compartmentalize it. I think
2 that's the difficulty.

3 You know, first, it was, there's none of that
4 present. Then, oh, wait, we've discovered evidence, it
5 is present.

6 But we're not worried about that because we're just
7 going to compartmentalize that. And we think the rest
8 is clean. We just won't introduce that part, and then
9 the jury won't hear about the, you know, improper
10 conduct of law enforcement, the improper conduct, you
11 know, of investigators and actual roadside officers.
12 And so, you know, I think in the totality of the
13 circumstances, you know, that it must be considered.

14 What we have actual proof of, you know, and what
15 we're alleging, you know, that they are is the same
16 here, and if we had the recordings, we don't know, you
17 know, what would be present on those. And, you know, we
18 have what Mr. Aaron Young, Senior has testified to.

19 THE COURT: All right. Thank you.

20 Folks, I think I understand the facts as well as I
21 can understand them. I don't have the transcripts of
22 the statements that were made here. I don't think that
23 I necessarily need them for my purposes.

24 I did ask for the transcript of the earlier record.
25 And since I asked for it, I guess I'm going to have to

CROSS EXAMINATION OF EVANS BY THORNTON

1 read it. And so I'm going to take this home. I will be
2 back here tomorrow between 8:45 and 9:00 tomorrow. And
3 I will let you all know at that point in time how I'm
4 going to rule on the issue of voluntariness.

5 We still have a motion to quash issue. I'm not
6 inclined to start that at this time of day.

7 How long will it take to argue that, Mr. Ferguson?

8 MR. FERGUSON: Very briefly, Your Honor.

9 THE COURT: Oh, okay. All right.

10 We'll be able to handle both of those in the
11 morning. I'll probably take the Bench around 9:15, I'll
12 let you know when I get here. Off the record, so that
13 nobody can figure out how to tail your opening
14 statements, and then we'll put it on the record around
15 -- or at 9:15 tomorrow. I'll take the Bench and put the
16 results of my nighttime reading on the record.

17 Okay.

18 MR. FERGUSON: Thank you, Your Honor.

19 THE COURT: Anything further before we break, from
20 the State, now?

21 MR. STONE: No, sir, not from the State.

22 THE COURT: Mr. Ferguson.

23 MR. FERGUSON: No, sir, Your Honor.

24 THE COURT: All right. I'll see you all, we'll
25 resume at 9:15 tomorrow morning for purposes of

CROSS EXAMINATION OF EVANS BY THORNTON

1 memorializing these rules.

2 (Whereupon, the Court recessed for the day.)

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CROSS EXAMINATION OF EVANS BY THORNTON

1 AUGUST 11, 2015 PROCEEDINGS

2 THE COURT: The motion before the Court that was
3 argued yesterday as to admissibility or lack of
4 admissibility to the statements made by Mr. Aaron Young
5 Senior, which were played on the record yesterday,
6 which the State intends to offer, I believe, as proof
7 in this case. The State has cited a similar case of
8 State versus Miller, which is a compilation of the law,
9 generally, of admissibility and voluntariness, Judge
10 Anderson's opinion.

11 Good thing about Judge Anderson's opinions, if you
12 read one of them, you don't have to do any research
13 because he includes all the research in his opinions and
14 so it is a full continuum, as it were, to use his words,
15 of the law in that regard.

16 The Miller case was -- had certain parallels with
17 this case but not many. Mr. Miller was involved in
18 methamphetamine, conspiracies and trafficking, and he
19 made three statements over a period. And he alleged
20 that all those statements were made in the face of the
21 promises of a plea deal. One testimony said it was
22 15 years, another testimony, including the testimony of
23 his lawyer at the hearing, said that he was promised a
24 plea agreement of 8 to 12 years. He cooperated, he
25 said, in the face of the 8 to 12-year promise, and then

COLLOQUY

1 the testimony was that there was no such agreement in
2 the first place. The statements were admitted into
3 evidence as being voluntary.

4 The Miller court made the distinction, which had
5 been made in cases before and since, that there is a
6 difference between law enforcement extending hope to a
7 defendant and promise to a defendant. Now, here we know
8 that subsequent to the testimony offered on the screen
9 yesterday, promises were made. Not exoneration, as I
10 understand exoneration to be. My recollection of those
11 statements from prior proceedings was that you might be
12 charged with something but certainly not with murder if
13 you'll give up the gun. He gave up the gun; he's
14 charged with murder.

15 From that point on, obviously, from the time of
16 that promise on, then everything is inadmissible. It's
17 the fruit of the poisonous tree. It's not unlike
18 officers who engage in a search under a warrant or,
19 perhaps, they have a right to be in a place and they
20 collect evidence in accordance with a warrant or within
21 plain view, and that's fine.

22 But if they go beyond the warrant or if they go
23 beyond what is in plain view without reason to do so,
24 then from that point on it is not okay. But the fact
25 that they might go beyond the warrant at some point or

COLLOQUY

1 go beyond the plain view, does not exclude those things
2 that were lawfully obtained beforehand.

3 And that's the situation that we have here.
4 Clearly he was Mirandised. Clearly he was in custody.
5 And so the question is whether or not he was promised or
6 coerced into making certain statements which Dr. Salas
7 said were false.

8 As I read the transcript from the prior proceeding,
9 I -- it was over a year ago and, frankly, I'd forgotten
10 the questions that I asked at that point in time -- but
11 they were not unlike the questions that I asked
12 yesterday. And exactly what statements were false. If
13 he made false statements, what statements were false.
14 And she gave pretty much the same answers as before.
15 She, obviously, is a credible witness and certainly is
16 well-versed in what she's talking about and --

17 But she talks about the error of coercion. And she
18 said to some folks that might -- something might happen
19 that somebody might be coerced and others might not be.
20 She used the sexual harassment analogy as a comparison
21 in that regard. And I suppose we all are aware of the
22 fact that some folks look at the same thing and see
23 different things. And that's inherent in our human
24 psyche and our human perceptions, we see things through
25 our own eyes, and we say things from our own experience.

COLLOQUY

1 And that's true of the word "shootout." That's a
2 word that seemed to come back again and again as having
3 been a suggestion and coercion, an error of coercion, if
4 you will, that suggested that the shootout was going.
5 And so Mr. Young then felt compelled to go along with
6 that story and add to it. For the most part, Mr. Young
7 was persistent. He said, you know, he shot at us. But
8 we know that the shooting was going back in the other
9 direction, because when he testified at the original
10 trial back in April of '14, he had testified that his
11 son had shot at the car. And there never was any doubt
12 about that, I don't think really, once things got on the
13 ground and fully developed.

14 What we know happened is that Mr. Robinson came to
15 their yard and started some -- or somebody started a
16 fight, and Mr. Robinson shot a gun. We know that. And
17 that we know that, and that Mr. Robinson left and that
18 the Youngs got in their car with a bag that contained
19 the parts of a weapon and they followed him.

20 And they passed on the road, somewhat being like
21 two knights, which is not a real good analogy to use,
22 but charging toward each other like two steeds going at
23 each other. Mr. Young said that Robinson was
24 brandishing his gun. And we know that Young, Jr. was
25 trying to put the gun together so he could shoot hanging

COLLOQUY

1 out the windows, as testified, but couldn't get all the
2 pieces together.

3 Now, at some other point in time, apparently,
4 according to prior testimony, the clear suggestion was
5 that Robinson's car was shot before the Allen Road Swiss
6 cheese incident. The expert testimony in the last trial
7 was that the elements of -- or the trajectory of some of
8 those bullets indicated that they came from a different
9 angle and that would -- which would have been consistent
10 with shooting at the home into the unoccupied car.
11 Whether that's true or not we don't know. But we do
12 know that eventually they've located the car and they
13 shot up the car. I say "they," Aaron Young, Jr. shot it
14 up.

15 Now, out West that might not be much of a shootout,
16 but on Hilton Head Island that's a shootout. I mean,
17 that's -- it's a -- it's an imperfect description,
18 obviously, it goes far beyond that. Shootouts, I
19 suppose, more correctly are defined as the O.K. Corral,
20 you know, you meet in the street and everybody pulls out
21 a gun and starts shooting at each other. That didn't
22 happen in this case. But the parties were shooting in
23 the general direction of each other or the direction of
24 the cars of each other, although not necessarily at the
25 same time.

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1 So far as the real testimony is concerned,
2 apparently, the only time that anybody actually shot at
3 somebody else, with the possible exception of Robinson's
4 car down the road somewhere, was when Robinson shot at
5 their fleeing car and missed and hit Khalil S.

6 Now, does that mean that the rest of this shooting
7 was just shooting up in the air, just trying to make
8 statements, I don't know what it means. But I know that
9 the fact that it's been characterized as a shootout,
10 although, maybe not specifically and maybe not
11 completely accurate if you define a shootout as a mutual
12 combat where everybody is shooting at each other at the
13 same time, it certainly is not so inaccurate, so
14 coercive as to render statements that were made in the
15 face of that characterization as involuntary.

16 And as Dr. Salas said, sometimes these coercive
17 elements they're not intended to be there. The officers
18 don't intend them to be there. The person doesn't
19 intend for it to be there. But to the person who's
20 hearing it perceives it as such. That's the testimony
21 in this particular case, that that's how he perceived
22 it, and as a result of that he made false statements.

23 Once, again, I'm not satisfied that the statements
24 which are sought to be admitted in this case are false.
25 They seem to be supported by other evidence in the case,

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1 and independent evidence, some forensic evidence, some
2 ballistics and things of that nature.

3 The State has wisely chosen not to admit those
4 statements which are questionable. And they have pared
5 these that we've heard down to those that it would
6 infringe. Of course, the Defense is entitled to
7 admissibility of all of these things if it chooses to
8 bear on the issue of voluntariness. The State has the
9 burden of proving involuntariness to a jury beyond
10 reasonable doubt. At this juncture it's probably
11 preponderance of the evidence. And, certainly, if the
12 totality of the circumstances would be such as to create
13 an different inference for the jury, Mr. Young is
14 entitled to submit that evidence.

15 The length of the questioning and things of that
16 nature, those are obvious the sorts of things that would
17 be taken into account. But the questions which were
18 asked and answered in this particular setting, of
19 course, were done within a reasonable time frame. The
20 longer time frame of 4:00 in the morning a jury might
21 determine to be unreasonable. I don't know.

22 The fact that there were one, two or three officers
23 in the room sometimes questioning him and sometimes
24 asking questions themselves one right after the other,
25 while it certainly doesn't clarify the evidence in the

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1 case from the standpoint of having it presented, most of
2 the time -- sometimes the same officer will answer --
3 will ask a question, before it can be answered they ask
4 another question. And while he's trying to answer that
5 one somebody else will ask another question. Doesn't
6 have anything to do with that.

7 And, frankly, it's frustrating for those of us who
8 are trying to hear the answers, who are trying to hear
9 the answers, to have those answers interrupted. It
10 might be a good technique. It might be the way that
11 through the years police have determined that they can
12 get at the truth. But it is difficult for us to try to
13 hear those answers and find them interrupted from time
14 to time to be able to separate the question from the
15 answers themselves.

16 All of that being said, I do not find that the
17 conduct of the police in this regard, the questions of
18 the police, the statements made by the police, were so
19 coercive, or if they were coercive at all, certainly do
20 not render his statement involuntary. So the motion to
21 the suppress the statements which I heard yesterday are
22 respectfully denied.

23 There is still a motion to quash the indictment.
24 And, of course, that has been ruled on in prior cases
25 before, but every one of these cases has to stand on its

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1 own. And so, Mr. Ferguson, I'll be glad to hear from
2 you in that regard.

3 MR. FERGUSON: Thank you, Your Honor.

4 And that is correct. I do understand your previous
5 rulings, you know, essentially this motion is made on
6 behalf Aaron Young, Sr. as well as Aaron Young, Jr.
7 And, essentially, it challenges the language of the
8 indictment, and, specifically, that it admits what is
9 statutorily required which is that defendant actually
10 feloniously, willfully and is with his malice and
11 forethought killed and murdered the deceased.

12 Here the indictment states that defendant willfully
13 and unlawfully and with malice and forethought engaged
14 in mutual combat with Tyrone Robinson and did thereby
15 cause the victim to be shot and killed. Victim dying as
16 a proximate result thereof. What's lacking in the
17 indictment is the physical act.

18 You know, they're not alleging what acts constitute
19 mutual combat or outlining the elements of mutual combat
20 as determined by the common law. In the felony murder
21 doctrine malice is inferred by the inherently dangerous
22 felony. But there's still the requirement of a physical
23 act of commission of a felony. And so, you know,
24 drawing an inference from that, you know, I guess malice
25 can be inferred from mutual combat. But there's still

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1 the physical act of engaging in mutual combat and what
2 those physical actions are. And that's absent from this
3 indictment.

4 Other than that, Your Honor, there is an issue that
5 I'd like to bring to the court. I don't know whether
6 it's proper within the bounds of the motion to quash the
7 indictment or whether it's another issue, but it relates
8 to positions taken by the State in subsequent
9 proceedings versus what I anticipate their position
10 being in this proceeding.

11 THE COURT: All right.

12 MR. FERGUSON: And whether or not those two things
13 are different. And whether or not, you know, they
14 should be bound by previous factual statements that
15 they have adopted and given to juries as their own.

16 And so, you know, I will yield to Your Honor's
17 discretion as to how best address that issue. I just
18 wanted to bring it up that I do have that issue.

19 THE COURT: Right. Thank you.

20 And in the words of the Apostle right this minute
21 I'm looking through a glass dimly. I'm not exactly
22 sure, specifically, what you are talking about. But,
23 certainly, in a normal setting when the one side takes a
24 position on controversy and one part of that
25 controversy, that position should be consistent

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1 throughout the entire controversy.

2 The fact that, as in this case, a particular
3 defendant does not change the facts of what happened.
4 And so I would suggest that when that's -- when that
5 becomes an issue, if you'll let me know, I'll be glad to
6 deal with it and we'll flush it out entirely. All
7 right. I would not inspect either side in this case to
8 have said in a prior proceeding, it's a cat and then
9 today to say that it's a dog. And I trust that we won't
10 run into that situation.

11 You have something specific in mind, I know, and
12 I'll be glad for you to flush it out. But if at the
13 same time you wish -- if you choose to wish to object
14 when it's actually brought up, I'll deal with it then.

15 MR. FERGUSON:- Thank you, Your Honor.

16 THE COURT: All right. Anything further before we
17 bring the jury in, folks?

18 MR. STONE: Other than the indictment motion, we
19 are -- the State's ready.

20 THE COURT: Okay. The motion to quash the
21 indictment is respectfully denied. The reading of
22 the -- of the indictment -- the wording of the
23 indictment and the normal language that goes into an
24 indictment does not talk about what happens in the
25 case, for example, transferred intent. And,

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1 certainly -- and especially in the context of mutual
2 combat. Mutual combat is alleged in the indictment.

3 And we know that the law is, or at least I think
4 that the law is, that in the context of mutual combat
5 the cases indicate that whoever is shot on either side,
6 all who are involved can be guilty of the crime of
7 murder if the person who is shot dies.

8 And we dealt last time with the case of Aaron
9 Young, Jr. with whether or not that transferred intent
10 that would go from one combatant to another combatant in
11 mutual combat also transfers to an innocent victim.
12 That matter is yet to be decided by an appellate court.
13 It's on appeal now. But it is that particular factual
14 distinction, I think, or that factual anomaly in this
15 case that does not render the indictment invalid,
16 because the facts in this case indicate that there was
17 mutual combat. Suggested there was mutual combat, and
18 that an innocent person was killed in the course of
19 that.

20 I'm not sure how you say that other than the way
21 that it was said. I suppose you could lay out a more
22 complete factual description of what was going on. But
23 it's clear from the indictment as noticed. Mr. Young,
24 Sr. is on notice of what he's charged with and as to who
25 the victim is and as to the date and time of the

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1 occurrence, so that he can specifically mount, as he has
2 in the past and which he's intending to do, a Defense to
3 these charges. The motion to quash is denied.

4 MR. FERGUSON: Thank you, Your Honor.

5 The only remaining issue that I have intended to
6 address before the jury is present are objections to one
7 of the 9-1-1 calls that I believe they intend to
8 introduce. Specifically, it is the fifth call in a list
9 of calls. And, essentially, we object to it because
10 it's unidentifiable. It's not identified who is
11 speaking. It seems as if someone is reciting what is
12 being told to them in a calm manner. It is not apparent
13 from the tape it is a present sense of impression or
14 that it's an excited utterance.

15 Additionally, there's a second speaker in that
16 9-1-1 call that then comes -- that then gets on the
17 line. And that person, you know, makes statements about
18 Lexus was part of the shootout. There's no -- well, and
19 then the first speaker says, a gray truck and is
20 green -- and gray Lexus, two vehicles were shooting at
21 each other.

22 Well, I know of no female witness that observed two
23 cars shooting at one another. And so, you know, I have
24 a difficulty believing that this was observed rather
25 what they were told. And so we object to it on the

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1 grounds of hearsay.

2 THE COURT: All right. Let me hear from the State
3 in that regard, my memory be refreshed.

4 MR. STONE: Well, mine had too as well. I went
5 back and looked at that. I know Defense had made a
6 motion or discussed this with me earlier, and I went
7 back and listened to it. And what you have is you have
8 a 9-1-1 operator speaking to someone or getting
9 information from someone who is speaking in a very calm
10 voice.

11 She is on the phone or you hear another voice in
12 the background that is without a doubt hysterical. The
13 excitement clearly is going on at the event. The person
14 that is -- they're screaming, they're yelling. In fact,
15 the operator has numerous times to say, I need you to
16 calm down, I can't understand what you're saying. I
17 think that from the standpoint of a person who is
18 obviously in hysterics, that is clearly 803, an
19 exception under the excited utterance.

20 The question, though, is who the calm person is.
21 And when I went back and listened it to yesterday, I was
22 concerned about that, because they clearly are not under
23 that excitement. I talked to Melanie Smith, she is
24 going to be our first witness today. She is the
25 9-1-1 -- she's in charge of the 9-1-1 system and has

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1 testified before you twice. That is another 9-1-1
2 operator. So what you're hearing are two 9-1-1
3 operators, and then you have the excited utterance on
4 the other lines.

5 So what I was concerned about was that there was
6 somebody else at the scene that seemed to be calm,
7 that's not the case. It's just all -- every voice you
8 hear that is calm are the 9-1-1 operators getting
9 information from this person who is obviously excited.
10 So from that standpoint, I was concerned about that as
11 well. I went back and listened to it yesterday and then
12 I talked to Melanie Smith, she will testify that that
13 is -- what happens is you get calls into the -- the
14 Hilton Head Island as well as Beaufort County, and these
15 operators are constantly patching with information going
16 back and forth in the ordinary course of their business.
17 But the excited utterance is coming from the person who
18 is on the scene, and that is very obvious from the
19 recording itself.

20 THE COURT: In the face of that foundation which
21 she will lay, then, before the testimony is offered, I
22 will allow it. Given that explanation.

23 MR. STONE: All right. Thank you.

24 THE COURT: Okay. Are we ready for the jury now?

25 MR. STONE: We will be momentarily, Judge. I need

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1 one minute to speak with Mr. Ferguson to try to head
2 something off.

3 THE COURT: Okay. I understand that the witnesses
4 have to be downstairs today because of the other.

5 MR. STONE: Yes, sir.

6 THE COURT: So if you'll go ahead and call your
7 first witness in and up here, get her ready, so she
8 won't have to be sent downstairs and brought up.

9 MR. STONE: Okay. Thank you, sir.

10 ())))Jury is brought in)

11 BAILIFF: The jury is entering the courtroom, Your
12 Honor.

13 THE COURT: Good morning, ladies and gentlemen.
14 Thank you for your prompt return. We appreciate the
15 fact that the jury service is more than an
16 inconvenience to some of you. We're mindful of the
17 demands that we make on you, and we appreciate so much
18 the fact that you're willing to bear up under those
19 demands and to offer yourself to jury service. We're
20 going to begin the trial of this case momentarily. I
21 had some housekeeping matters to do.

22 First of all, Mr. Polk is it?

23 JUROR: Yes.

24 THE COURT: Mr. Polk, you're seated in that chair
25 fortuitously, I had your name circled in any event. I

OPENING REMARKS BY THE COURT

1 But the short of it is, right at this minute you're
2 allowed to take notes if you wish to, but you don't have
3 to. You can rely on your memory, if you have a good
4 memory. You can rely on notes. But the collective
5 memory of all of you will control in the jury room. And
6 so if one person says, my notes say this and everybody
7 else says, my mind remembers this, and you go with the
8 collective memory and not any one person's notes. Thank
9 you.

10 Now, you're going to listen throughout the trial of
11 this case and when all is said and done, you're going to
12 go back into your jury room and talk about this case
13 among yourselves. And when all that is said and done,
14 you're going to write a verdict, and the verdict will
15 say, we find the defendant guilty if the State has met
16 its burden of proof, or we find the defendant not guilty
17 if the State has failed in its burden of proof. That's
18 your task.

19 Thank you ladies and gentlemen. Now listen to the
20 lawyers as they make their opening statements.

21 Mr. Stone?

22 OPENING STATEMENT BY THE STATE

23 MR. STONE: May it please the Court, Your Honor.

24 Khalil S. on September the 1st, 2012 died in
25 a shootout. Wasn't a shootout that he was a part of.

OPENING STATEMENT BY THE STATE

1 He didn't have a gun. He didn't, for any evidence that
2 we know, even knew the people involved. He didn't
3 harbor any ill will towards anybody. He wasn't angry at
4 anyone. And he, certainly, didn't have a gun and didn't
5 want to kill anybody, because Khalil S. was
6 8-years-old. Khalil S. was on a Labor Day
7 Saturday playing in his front yard on the trampoline
8 with some friends.

9 The shootout, however, involved two groups of
10 people, Tyrone Robinson and the Youngs. This man over
11 here (indicating), Aaron Young, Sr. and his son, Aaron
12 Young, Jr. They didn't like each other very much. They
13 had had a long going feud and on that Labor Day Saturday
14 Tyrone Robinson had gone over to the Young's house and
15 they argued and they fought.

16 Robinson brought out a gun. Young knocked it out
17 of his hand. The gun went off. There was shooting, and
18 then Tyrone Robinson fled. Aaron Young, Sr. goes into
19 his house and gets a 9-millimeter handgun. He and his
20 son then go after Robinson who had already left. They
21 chase him over Highway 278 on Hilton Head. They chase
22 him down Spanish Wells Road. They chase him through
23 Oakview, a road going off of Spanish Wells.

24 At some point they even go back home, turn around,
25 and go back out looking for Robinson. They chase him

OPENING STATEMENT BY THE STATE

1 down Marshland Road. They go looking for him and
2 finally find him at Allen Road. And Allen Road is not
3 the Young's neighborhood, it's Khalil S. 's
4 neighborhood.

5 There is shooting. The Youngs are armed with a
6 9-millimeter. Robinson's armed with a .38. And as
7 Robinson goes to shoot back at the Youngs, Robinson hits
8 Khalil S. . The bullet goes through the little
9 boy, severs his heart and he dies right where he was
10 playing.

11 The facts of this case are pretty simple. Tyrone
12 Robinson shot Khalil S. , or at least he fired the
13 bullet that killed him. But the law in this case is
14 simple too. Tyrone Robinson didn't mean to kill Khalil
15 S. . Tyrone Robinson meant to kill the Youngs,
16 just like when the Youngs got their guns and went after
17 Tyrone Robinson, they meant to kill him. Nobody meant
18 for a child to die. But a child died nonetheless.

19 And that brings us to law in South Carolina and why
20 you're here -- the facts are simple. That's the
21 evidence that you'll hear. Those are the facts that
22 you'll hear. But the law in South Carolina is this,
23 everyone, everyone involved in a mutual combat in which
24 guns are used is responsible when someone dies.
25 Everyone. Not just the person who fired the fatal

OPENING STATEMENT BY THE STATE

1 bullet, but everyone who knows there's guns involved and
2 is engaged in it. Even if they themselves are not
3 armed.

4 So what does that mean? Every witness that you're
5 going to hear over the next day or so is going to take
6 this witness stand. They're going to put their hand on
7 the Bible and they're going to raise their other hand,
8 and they're going to say the following. I promise to
9 tell you the truth, the whole truth and nothing but the
10 truth. That's what I'm going to ask you to do.

11 I will come back here after you hear all of the
12 evidence that you heard, and I'm going to ask you for a
13 verdict that says exactly what it's supposed to say, the
14 truth. The truth is Tyrone Robinson fired a bullet that
15 killed Khalil S. But that's not the whole
16 truth, that's just part of it. The rest of it is he's
17 not the only one responsible. Under South Carolina law
18 and under what we know is right, the whole truth
19 includes the Youngs as well. Thank you.

20 THE COURT: Thank you, Mr. Stone.

21 Mr. Ferguson?

22 MR. FERGUSON: Thank you, Your Honor. May it
23 please the Court.

24 THE COURT: Yes, sir.

25 OPENING STATEMENT BY THE Defense

OPENING STATEMENT BY THE Defense

1 MR. FERGUSON: Ladies and gentlemen, Aaron Young,
2 Sr. is not guilty of murder. Aaron Young, Sr. is not
3 guilty of attempted murder. Aaron Young, Sr. did not
4 kill Khalil S. Tyrone Robinson killed Khalil
5 S. Aaron Young, Sr. never fired a gun. No,
6 Khalil S. was killed while the Youngs were
7 driving down Marshland Road.

8 There was nobody shooting back at Tyrone when
9 Khalil S. was killed. There was no shootout when
10 Tyrone Robinson killed Khalil S. There was no
11 crossfire when Tyrone Robinson killed Khalil S.
12 There was no mutual combat when Tyrone Robinson killed
13 Khalil S. No, there was just Tyrone Robinson
14 and his .38.

15 The same .38 that Tyrone Robinson had used to try
16 and kill Aaron Young, Sr. earlier that day when Tyrone
17 Robinson came to the Young's house uninvited,
18 unprovoked, started a fight, ended up firing at least
19 three times with his .38 revolver at Aaron Young, Sr.
20 and his family. There was nobody shooting back at Wild
21 Horse Road at Tyrone Robinson. There was no shootout at
22 Wild Horse Road. There was no crossfire at Wild Horse
23 Road. There was no mutual combat on Wild Horse Road.

24 Now, Aaron Young, Sr. was upset after Tyrone
25 Robinson had tried to kill him at his own house, and he

OPENING STATEMENT BY THE Defense

1 should have called the police. He should have called
2 the police. But he didn't. Instead they went looking
3 for Tyrone Robinson. And they may have wanted to kill
4 him, after all, he just tried to kill them. But wanting
5 to kill somebody is not murder. Wanting to kill
6 somebody is not attempted murder.

7 Now, they did cross paths on Oakview Road. And,
8 again, Tyrone Robinson takes that .38 and fires at Aaron
9 Young, Sr. and Aaron Young, Jr. in their truck. There's
10 nobody shooting back at Tyrone Robinson. There's no
11 shootout on Oakview Road. There's no crossfire on
12 Oakview. There's no mutual combat on Oakview Road. No,
13 there's just Tyrone Robinson and his .38.

14 Now, after that they did go to Allen Road. But
15 they didn't find Tyrone Robinson. They found his car,
16 and Aaron Young, Jr. shot up Tyrone Robinson's car to
17 send a message. But shooting an empty car is not
18 attempted murder. Shooting an empty car is not murder.
19 Aaron Young, Sr. and Aaron Young, Jr. were stopped
20 shortly thereafter. They left. They left on Marshland
21 Road. They heard gunshots as they were driving away.
22 They didn't see who fired them. They didn't know if
23 anybody was hit.

24 It was about 5:00 p.m. when traffic stops started.
25 Aaron Young, Sr. was, ultimately, booked in at 5:00 a.m.

OPENING STATEMENT BY THE Defense

1 the next day. During that 12-hour period he made
2 certain statements. Certain statements that he made
3 that he thought would keep his son from being charged
4 for murder. Because on the side of the road Aaron
5 Young, Sr., number one, didn't know anybody had been
6 shot. Because he didn't shoot anybody. Aaron Young,
7 Jr. didn't shoot anybody, they shot a car.

8 So the police officer tells them, somebody got
9 shot. And Aaron Young, Sr. starts thinking, I wonder if
10 somebody got shot in that house behind the car that we
11 shot up. I wonder if one of those bullets that was for
12 the car went in the house and hit somebody. So once he
13 started thinking that, he started giving them a
14 statement that denied them shooting up that car, because
15 he didn't know that Khalil S. had been killed in
16 the front of a house farther down Marshland Road. They
17 weren't telling him that detail. They just told him
18 that someone got shot.

19 So under the mistaken belief that his son could
20 have possibly shot somebody in that house on Allen Road
21 behind of which the car was shot up, he made statements
22 denying shooting up the car. But that's not what
23 happened. That's not what the evidence is going to show
24 happened. That's not what the witnesses are going to
25 say they observed.

OPENING STATEMENT BY THE Defense

1 No, Aaron Young, Sr. was driving down Marshland
2 Road when Tyrone Robinson shot and killed Khalil
3 S. . Nobody was shooting back from the Youngs'
4 truck at Tyrone Robinson. There was no shootout when
5 Tyrone Robinson killed Khalil S. . There was no
6 crossfire when Tyrone Robinson killed Khalil S. .
7 There was no mutual combat when Tyrone Robinson killed
8 Khalil S. . There was just Tyrone Robinson and
9 his .38.

10 Now, let me be very clear that there, ultimately,
11 are no witnesses in this case, because Khalil S.
12 is dead. But he did not deserve to be murdered by
13 Tyrone Robinson. He was a little boy playing on a
14 trampoline.

15 But the State wants to win. They want you to
16 convict Aaron Young, Sr. of a murder that Tyrone
17 Robinson committed. They want you to convict Aaron
18 Young, Sr. of attempted murder for wanting to kill
19 somebody. Now, they've worked hard on this case,
20 they've tried this case twice. They have teams of
21 attorneys. They have teams of investigators. They have
22 all of the resources of the Beaufort County Sheriff's
23 Office. They have all of the resources of the South
24 Carolina Law Enforcement Division. They even have the
25 FBI making demonstrative exhibits in this case.

OPENING STATEMENT BY THE Defense

1 What does Aaron Young, Sr. have. Well, he has me.
2 He has the presumption of innocence, and he has the fact
3 that he didn't kill anybody. Aaron Young, Sr. did not
4 kill Khalil S. . Tyrone Robinson killed Khalil
5 S. . Aaron Young, Sr. is not guilty of murder.
6 Aaron Young, Sr. is not guilty of attempted murder.
7 Thank you.

8 THE COURT: Thank you, Mr. Ferguson.

9. Solicitor, you can call your first witness.

10 MR. STONE: The State calls Melanie Smith to the
11 stand.

12 THE COURT: Come forward, please, Ms. Smith, and
13 be sworn.

14 Thereupon,

15 MELANIE SMITH

16 was called as a witness, having been first duly sworn,
17 was examined and testified as follows.

18 DIRECT EXAMINATION

19 BY MR. STONE:

20 Q Ms. Smith, what do you do, ma'am?

21 A Currently I'm the training officer for 9-1-1. But
22 I was the records custodian for 9-1-1, Beaufort County.

23 Q All right. And as a record custodian for 9-1-1,
24 what does that the mean, exactly?

25 A I respond to the request for recordings or CAD

DIRECT EXAMINATION SMITH BY STONE

1 reports, which is computer aided dispatch which is a
2 computer report, from the public or agencies that we work
3 with.

4 Q Tell me how the 9-1-1 systems works. When
5 someone calls in to 9-1-1 from Hilton Head or somewhere in
6 Beaufort County, how does that work?

7 A It's gone -- the calls come in the electronic
8 recording system first, so they're recorded as soon as we
9 pick up. All incoming/outgoing calls are recorded. When we
10 receive a call, the dispatcher would take that information
11 and put it in the CAD, which is a computer aided dispatch
12 program. And that's, basically, our recordkeeping program.

13 Q Yeah. And all of this --

14 A And documented.

15 Q I apologize, didn't mean to interrupt you.

16 And all of that is documented, which is what
17 you were about to say?

18 A Right.

19 Q All of that is documented and kept in the
20 ordinary course of the business in the 9-1-1 control
21 center?

22 A Yes, sir.

23 Q And that's done contemporaneous. In other words,
24 as that call is coming in it's all being recorded?

25 A Yes, sir.

DIRECT EXAMINATION SMITH BY STONE

1 Q Okay. Now, you've been doing this and you've
2 been actually with the, I guess, sheriff's office for how
3 long now?

4 A Eighteen years.

5 Q All right. So not only are you familiar with the
6 9-1-1, I'm assuming you're familiar with Beaufort County
7 and the neighborhoods and various things like that as well?

8 A Yes, sir.

9 Q All right. Would that be part of, actually, your
10 job in knowing where you're sending these people and
11 various things like that?

12 A Yes, sir.

13 Q All right. Let me first, if I could -- if I
14 could, have you step down.

15 MR. STONE: Your Honor, we've got a microphone and
16 if I know how to turn it on.

17 THE COURT: Okay.

18 BY MR. STONE:

19 Q Let me hand you that. So that everybody on the
20 jury can see. The first thing I'm going to show you is
21 State's Exhibit 1, which we are going to use as an exhibit.

22 And can you identify that?

23 A Yes.

24 Q Tell me what that is?

25 A That's the north end of Hilton Head.

DIRECT EXAMINATION SMITH BY STONE

1 MR. STONE: And, Your Honor, again, we're not
2 going to introduce this to evidence, but we would like
3 to use it as an exhibit at this point.

4 BY MR. STONE:

5 Q If you could come around here and show the jury.

6 THE COURT: Ms. Smith, don't be afraid to hold
7 that microphone close to your mouth.

8 BY MR. STONE:

9 Q All right. Now, this is overview of what section
10 of Hilton Head?

11 A The north end of Hilton Head, 278 and coming on to
12 the Cross Island toll plaza.

13 Q Okay. So this up here on the very top of this --

14 A That's 278 or William Hilton Parkway.

15 Q Okay. Now, what is this where it says No.1?

16 What is this right here (indicating)?

17 A This is Old Wild Horse Road.

18 Q All right. And then this cross -- this road
19 crosses over. What is this road here (indicating), which
20 is -- the only thing I can say for the record is it's
21 crossing 278 here.

22 A Yeah, this is 278. This is -- I'm sorry, this is
23 Spanish Wells Road and this is also Sol Blatt, Jr., which is
24 also known as 278, running parallel.

25 Q All right. That's what a lot of people know as