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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Marion County

Honorable D. Craig Brown, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHAD NELSON STRICKLAND,

APPELLANT

APPELLATE CASE NO 2015-001192

RECORD ON APPEAL

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1 A From the victim, we had a set of prints taken from
2 Joseph Blake Dozier and a GSR kit from Joseph Blake
3 Dozier.

4 Q All right. When you say prints, what are you talking
5 about fingerprints?

6 A Yes, sir.

7 Q And how do you take those?

8 A If the person is deceased, we get what they call
9 post-mortem prints. The purpose in getting post-mortem
10 prints is to -- well, actually two-fold. One is to
11 positively identify in the absence of anybody saying,
12 yeah, that's so and so. So we get prints that we can run
13 through AFIS, which is the automated fingerprint system
14 that the FBI controls. Then they -- we also get them
15 to -- if they been involved in other crimes and these
16 prints -- someone said so and so, we were told so and so
17 committed this crime, this armed robbery and we got
18 prints. It's like, yeah, his prints were there, so that's
19 another reason why we get post-mortem prints. And another
20 one is because once the person is taken care of by the
21 family, you don't get a chance to get those prints again.
22 And so we keep them on file so that if anything comes up
23 we'll have at least their fingerprints which would -- with
24 post-mortem prints, we get the entire hand, the sides,
25 every part that anything can touch, any part of the hand

1 that can touch something we get prints of that, so that
2 because, you know, sometimes you go to a convenience store
3 and you put your hand on the counter, you made us put that
4 part on the counter. So we get that part of the print,
5 very seldom do someone just keep on doing this and leaving
6 prints all over the place.

7 Q And these prints they were only used for
8 identification?

9 A Actually, I don't know if they were used to identify
10 the victim since he was already identified, but they were
11 probably stored on file just to have.

12 Q As part of your procedure?

13 A Part of procedure.

14 Q Now, you say you got a GSR kit?

15 A Yes, sir.

16 Q And that stands for gunshot residue?

17 A Yes, sir.

18 Q Can you please tell this jury what that is for and
19 why you do it and please also tell us if the SLED lab
20 still analyzes GSR from victims and why or why not?

21 A As far as the last part, I can't answer the question
22 as far as what trace does now. I don't know what their
23 protocols are since I left crime scene because arson
24 counter terrorism we don't really do a lot of gunshot any
25 more. The purpose in gunshot residue is to see if the

1 trace evidence from the discharge of a bullet from a gun
2 from blow back is on the person's hands. With that, you
3 going to have certain types of -- I can't really say
4 chemicals, but you'll have like certain elements that are
5 still present and up to, I think, six hours unless the
6 person is deceased and then there is no time frame and or
7 if the person had their hands washed or washed their
8 hands, then it's not really good to do. But the purpose
9 in like I said already was just to make sure that the
10 person fire or did not fire a gun. It can tell us either
11 way.

12 Q Because it tell you if someone's in close proximity
13 to a gun being fired like if a victim been shot at close
14 range, would you expect to have gunshot residue on their
15 hands?

16 A It depends on the last few seconds. The victim
17 himself should not. The only scenario that I could think
18 that may change that was in a high wind if up close and
19 like right at point blank range and they got their hand on
20 the gun trying to get away when the gun discharges that
21 could be an indicator, but normally if I was standing from
22 you and I pulled the trigger, you shouldn't have any GSR
23 on you.

24 Q What if you hold your hands up like that and
25 somebody's this close to you, could you get gunshot

1 residue on your clothes or on your hands or anything this
2 close?

3 A It's possible.

4 Q Now, what other than what you collected from Mr.
5 Dozier out there on the scene, how many items did you
6 recover and collect?

7 A From the scene from Mr. Dozier?

8 Q Not from Mr. Dozier, but at the scene not -- like
9 from him personally?

10 A Oh, okay. We recovered a cell phone that was given
11 to Marion County sheriff's office. They kept custody of
12 that along with a silver necklace. I collected two swabs
13 from a cartridge case. Then I collected one .45 caliber
14 cartridge case which on the head stamp had the word Blazer
15 with .45 auto. I collected one bullet.

16 Q Okay. And that was it?

17 A Yes, sir.

18 Q All right. And you say you took a lot of
19 photographs; is that correct?

20 A I believe in that one -- at that scene I ended up
21 taking 162 photographs.

22 Q Okay. Now, I'm going to show you quite a number less
23 than that?

24 A Okay.

25 Q And I want to know yes or no whether you recognize

1 this first question and number two where and when this
2 photograph was taken State's Exhibit 19?

3 A I did take this photograph and that's actually one of
4 my markers that I used and that was taken at the address.

5 Q Okay. State's Exhibit 20 same questions?

6 A Same answer. I took it at that same location.

7 Q State's Exhibit 21 same questions?

8 A Yes, sir, in fact, this is one of the mid range
9 photos that I mentioned earlier from the other one.

10 Q State's Exhibit 22 same questions?

11 A Yes, sir, I took that one as well the same location,
12 incident location.

13 Q State's Exhibit 24?

14 A Yes, sir, I took that photo as well and too was
15 taken at that location.

16 Q State's Exhibit 25?

17 A Yes, sir, I took that photo same location.

18 Q State's Exhibit 26 same question?

19 A Yes, sir, this is actually photograph of the area, so
20 I took that.

21 Q State's Exhibit 27 same question?

22 A Yes, sir, I took that one.

23 Q State's Exhibit 28 same questions?

24 A I took that one as well.

25 Q State's Exhibit 18?

1 A Yes, sir, I took that one.

2 Q And State's Exhibit 29?

3 A Yes, sir, I took that photograph as well.

4 MR. CLEMENTS: Your Honor, we at this time we
5 move State's Exhibit 18 through 29 minus 23. So State's
6 number 18 through 22 and State's Exhibit 24 through 29 we
7 will move into evidence at this time.

8 THE COURT: Any objection?

9 MR. BROOKER: No objection, Your Honor.

10 THE COURT: Without objection so admitted.

11 (WHEREUPON, State's Exhibits Nos. 18, 19, 20,
12 21, 22, 24, 25, 26, 27, 28 and 29 were admitted into
13 evidence.)

14 MR. CLEMENTS: All right. At this time, Your
15 Honor, we would like to publish these photos through the
16 television set to the jury and I like to ask if Mr. Hardee
17 can he step down.

18 THE COURT: Yes, sir.

19 BY MR. CLEMENTS:

20 Q Mr. Hardee, I'm going to ask you to stand over here
21 and keep your voice up, so you do not prevent the court
22 reporter from hearing you. I'm going to hand you photos
23 and ask you once they're pulled up a few questions. First
24 one will be State's Exhibit Number 18?

25 A This is the photograph of the incident location on

1 Ard. The location is actually if you're facing the road I
2 will be close to the right front corner of the trailer in
3 the yard and I'm actually just kind of showing a wide
4 angle of the car and the victim.

5 Q And what is that there in white?

6 A This would be the victim that was covered.

7 Q Okay. And what is that right there?

8 A That's the victim's shoe, boot.

9 Q Okay. So his head was where?

10 A His head was right here. It would have been going
11 from foot to head.

12 Q Okay. Now, and this was a dirt area right here; is
13 that correct?

14 A Yes, sir.

15 Q What, if any, signs of struggle or movement were
16 there, if any?

17 A Nothing that jumped out at me. I saw footprints
18 on -- just shoes impressions in the loose sand, but I
19 didn't see a lot of the servents (sic) or anything like
20 that if that's what you're asking.

21 Q All right. Now, what is this area right here?

22 A That would be the front steps leading up into the
23 mobile home.

24 Q Okay. And is this on the boarder -- is that boarder
25 in the yard? Is that a fence and trees?

1 A Yes, sir, this is the fence that separated this
2 residence from -- there's another one on the side and
3 these are just trees.

4 Q Still have foliage on them?

5 A Yes, sir.

6 Q And how about grass what condition was the grass in?

7 A It was still green.

8 Q No killing frost yet?

9 A No, sir, not that I observed.

10 Q All right. I'm going to pass you State's Exhibit
11 Number 19. Can you please tell this jury what this is?

12 A That's a cartridge case that I observed at the scene
13 and had already been marked by Marion County prior to me
14 arriving.

15 Q When you say marked, what do you mean?

16 A They put something there so they wouldn't lose it.

17 Q Stuck something into the ground?

18 A Yeah, like a flag and that's when I came back and
19 used one of my evidence markers to mark where it was.

20 Q And that's exactly where it lay?

21 A Yes, sir.

22 Q Do you recall or do you know about how far the shell
23 casing was from the car?

24 A Can I approach my notes?

25 Q Certainly.

1 A I didn't take a measurement from the distance, but it
2 was not too far. In fact from this location, the vehicle
3 would have been this way.

4 Q Okay. All right. And did you collect that shell
5 casing?

6 A Yes, sir, I did.

7 Q Okay. All right. Next, I show you State's Exhibit
8 20. Can you explain to this jury what that is and where
9 it was and the marking?

10 A That is a fired bullet that was shot out. The
11 cartridge casing is in one location and this bullet was
12 actually located behind the vehicle, the victim's vehicle.

13 Q Okay. All right. And how about this yellow?

14 A It was my marker that I used to identify it.

15 Q All right. Did you collect that as well?

16 A Yes, sir, I did.

17 Q Okay. So you only had out there A and B and one was
18 the shell casing, the other one was the spent bullet?

19 A Yes, sir.

20 Q Okay. I'm going show you State's Exhibit 21. Can
21 you tell us what that is and explain the location and
22 share that with us?

23 A Yes, sir. This is another photo different angles
24 showing the same piece of evidence that you saw in the
25 last photo, that's the bullet along with my marker B. And

1 it just kind of shows where in relation it is from the
2 vehicle and that was the back of the vehicle where the
3 victim would have been over on this side.

4 Q All right. Keith, will you reduce it down to the
5 original size. And so where would the victim have been?

6 A The victim would have been up in this area.

7 Q Okay. All right. Thank you. State's Exhibit 22
8 what is that?

9 A That's the bullet. As I stated earlier, generally
10 I'll take a photo before any markers depicting the scene
11 as it is before I introduce anything into the scene of the
12 photograph and that's where the bullet was prior to me
13 putting an evidence marker around it.

14 Q Okay. Thank you. State's Exhibit 24?

15 A That's the cartridge case that we located at the
16 scene where it has Blazer and .45 auto.

17 Q And what does .45 auto mean?

18 A .45 is the caliber and Blazer is the manufacturer.

19 Q Okay. So Blazer's like Remington or Wind Chester?

20 A Yes, sir.

21 Q Okay. State's Exhibit 25?

22 A That's another photo of the cartridge case on the
23 ground prior to collecting it with an evidence marker and
24 just taken at a different angle.

25 Q All right. State's Exhibit 26?

1 A That's a photograph of the top of the vehicle and a
2 camouflage ball cap on top of that vehicle.

3 Q Okay. Do you know who that ball cap belong to?

4 A I wasn't told who it belong to, but it was in
5 proximity to the victim and to the vehicle the victim
6 drove.

7 Q All right. Now, you see right here what is that
8 across there? That line is that crime scene tape?

9 A Yes, sir, that appears to be crime scene tape.

10 Q Is that an edge of the yard?

11 A Yes, sir.

12 Q Is that part of when you took the 360 view?

13 A Yes, sir.

14 Q Okay. Now, all this you see all up in here what is
15 all that?

16 A It appears to be trees and tall bushes.

17 Q All right. Shrubs and trees?

18 A Yes, sir.

19 Q All right. Is that just on the outside of that fence
20 or right outside that crime scene tape?

21 A Yes, sir.

22 Q Okay. All right. That foliage that same as on the
23 trees on the side as well?

24 A Yes, sir.

25 Q Okay. All right. State's Exhibit 27 explain to us

1 the perspective of that?

2 A It's stated directly behind the vehicle where the
3 secondary perimeter that was marked off with sheriff's
4 office do not cross showing the rear of the vehicle with
5 the victim right there and the ball cap.

6 Q Ball cap right here?

7 A Yes, sir.

8 Q All right. And where would the headlights pointed
9 out at on this vehicle?

10 A Point that way like going to the left side.

11 Q Off to pass the end of the trailer?

12 A Yes, sir.

13 Q And that's the front porch right there?

14 A Yes, sir.

15 Q Okay. All right. State's Exhibit 28 that is just a
16 view from a different angle?

17 A Yes, sir.

18 Q Working your way around the yard?

19 A Yes, sir.

20 Q That's the feet of the victim?

21 A Yes, sir.

22 Q Is that correct?

23 A Yes, sir.

24 Q All right. Was the car kind of under this tree sort
25 of?

1 A It appears that there was overhang, so, yeah, I would
2 say that.

3 Q All right. State's Exhibit 29. A little yellow flag
4 what is that right there what is that?

5 A That would have been the marker that Marion County
6 used to identify the cartridge case.

7 Q And that's where the cartridge case was is where that
8 point of that flag is?

9 A Yes, sir.

10 Q Is it in the ground?

11 A Yes, sir.

12 Q Okay. All right. All right. And this is a
13 different angle coming up on the vehicle where the victim
14 is?

15 A Yes, sir.

16 Q And there's that flag again?

17 A Yes, sir, that's where the cartridge case was in
18 relation to the vehicle and the victim?

19 Q Okay. And the bullet was found -- spent bullet was
20 found over here?

21 A Yes, sir.

22 Q All right. And again where were the headlights if
23 they were on, where would they be aimed?

24 A It still appears that they were aimed -- the
25 vehicle's positioned that way.

1 Q So pass the end of the trailer?

2 A Yes, sir.

3 Q And not at the trailer or on the trailer?

4 A It doesn't appear so, no, sir.

5 Q Okay. All right. And if you would please go back to
6 the very first one number 18. And State's Exhibit 18 is
7 that accurately relayed the distance from the porch to the
8 car door?

9 A Yes, sir.

10 Q And do you have a measurement or know how far that
11 actually is other than by eyeballing it?

12 A I would more wager guess on I say less than 50 feet.
13 I couldn't give you around ball park.

14 Q Is that law enforcement vehicle behind it there?

15 A Yes, sir.

16 Q Okay. All right. Thank you. You can take the
17 stand. Agent Hardee, one more thing I meant to ask you
18 and I forgot. I apologize to you and the Court and ask
19 you to step down one more time. Now, what, if anything,
20 did you notice about his feet, his boots when you took the
21 picture and examine him like that?

22 A It's main thing I noticed when I was examining the
23 victim and photographing, that's why I photograph the
24 boots was just to show the condition of the boots in
25 relation to everything else trying to be accurate. And

1 the thing that I noticed was that it was dust from the
2 sand here and here. There was nothing right there and I
3 didn't see any dust or anything on the pants legs.

4 Q So it wasn't like he had walked around, moved around?

5 A No, sir, not appear to me.

6 Q And as I asked you earlier, did you see any scenes of
7 struggle or disturbed areas?

8 A No, sir.

9 Q Okay. All right. Thank you. I apologize for having
10 you step down a second time. Agent Hardee, to be fair to
11 say you and your partner were very thorough on the outside
12 areas there?

13 A Yes, sir.

14 Q Did y'all look around in the grass or anywhere on the
15 ground for anything else you can possibly find?

16 A Yes, sir, within the area of the house and stuff.

17 We -- like I stated previously, we try to look for
18 everything. I mean, I can't say that I find everything at
19 every scene. I mean things are well hidden and also I'm
20 human, but we do everything we can. And like I said the
21 reason why we try to work in teams to get every bit of
22 evidence that we can.

23 Q Did you use flashlights?

24 A Yes, sir.

25 Q And that area wasn't like grass or wasn't grown up.

1 It was just dirt, plain dirt?

2 A Yes, sir.

3 Q And can you tell this jury what -- you use flash
4 lights and what kind of flash or what kind of light do you
5 have with your camera that make nice bright pictures?

6 A That camera is actually a Nikon digital camera. I
7 think it was a Nikon D300, which at the time that was a
8 pretty good camera that Nikon put out. Along with that
9 camera, we got the flashes. They were called the SD900
10 and they really pop in low light conditions where you can
11 see the photographs how they came out. They can really
12 light up the scene and that's one of the reasons we get
13 them because a lot of our crime scenes happens at night.

14 Q Now, can you please tell this jury excluding your
15 flashlights and excluding the flash on your camera, how
16 would you describe the lighting out there at that scene
17 that night?

18 A It was out in the country, so you going to have
19 sparse lighting. In fact most of our lighting came from
20 other vehicles, the police vehicles, the fire truck stuff
21 like that. I think there was a light on at the trailer
22 and that's really ---

23 Q Porch light?

24 A Yeah, like a porch light.

25 Q Would that give out much light or not?

1 A Sixty watt bulb probably, 100 watt max, so, no, not a
2 lot. Enough to see who was at the door at night if they
3 came up.

4 Q At the door but not out in the yard?

5 A Right.

6 Q Okay. All right. And you spent about how long out
7 there processing?

8 A From my notes, I said we arrived at 2:46
9 approximately. It says we departed that scene on the same
10 date at 4:23 a.m., so just a couple of hours, a few hours.

11 Q All right. Did you have to go to any kind of
12 secondary scene?

13 A From my notes, it shows that we left and went to the
14 -- let me make sure. /I don't want to tell you wrong. At
15 4:38 approximately agents responded to the Marion County
16 sheriff's office where evidence collected by Detective
17 Watson and MCSO James Lee were transferred into SA special
18 agent -- I was special agent at the time. I'm senior
19 agent and Warley's custody.

20 Q And what was that?

21 A The -- that probably would have been the GSR kit. I
22 believe the GSR kits were done prior to me arriving.

23 Q Okay. All right. No GSR kit was done on the alleged
24 shooter?

25 A No, sir, not by me, no, sir.

1 Q And to your knowledge not by anyone else?

2 A No, sir.

3 Q Now, you said you collected the spent bullet and the
4 Blazer .45 auto shell casing; is that correct?

5 A Yes, sir.

6 Q Can you tell me when you collected it, what do you do
7 with them?

8 A As I said earlier, if we photograph them, after we
9 collect them, we secure them inside something to protect
10 them whether it's a bag, a box, a can something that will
11 protect the integrity of that evidence.

12 Q And then what do you do with it?

13 A Then it's transferred to -- in this case, it was
14 transferred to Agent Warley because she lived in the
15 Columbia area and she transported it back to SLED
16 headquarters and secured it inside one of our labs to be
17 processed and logged in at a later date.

18 Q All right. I'm going to show you what's been marked
19 as State's Exhibit Number 11. Do you know that and tell
20 me what that is?

21 A Yes, sir, it's my handwriting on the box and it is a
22 cartridge case.

23 Q Is that cartridge case look familiar?

24 A Oh, yes, sir, it's the one from the photographs.

25 Q It's the one from the photographs?

1 A Yes, sir.

2 Q All right. I want to show you State's Exhibit Number
3 12. You can tell me if you recognize that?

4 A This is actually written by Agent Warley and it's the
5 fired bullet collected from the ground near the vehicle
6 and that is the bullet that we photographed at the scene
7 and collected.

8 Q Okay. Were these then transferred for ballistics lab
9 testing?

10 A Yes, sir, they would have been sent to firearms.

11 Q Other than State's Exhibit 11 and State's Exhibit 12
12 for ID, you didn't collect anything out on the dirt or on
13 the ground at the crime scene?

14 A No, sir.

15 Q Okay.

16 MR. CLEMENTS: Beg the Court's indulgence one
17 moment.

18 THE COURT: Yes, sir.

19 (WHEREUPON, a pause in the proceedings.)

20 BY MR. CLEMENTS:

21 Q After going to the law enforcement center and
22 collecting items that you think were the GSR kits for law
23 enforcement -- local law enforcement, did you do anything
24 else on that crime scene?

25 A The -- on that crime scene on that night, no. It

1 said we cleared the Marion County sheriff's office at
2 5:39 and Agent Warley transported that evidence to SLED.

3 Q All right. Did you ever have an opportunity at all
4 to handle the weapon?

5 A Yes, sir, according to my notes on Monday
6 November 5th 2012, I met with a Marion County sheriff's
7 office Captain Judith Barker to take custody of the
8 following items. The first item that I identified was a
9 one black High Point .45 caliber handgun with serial
10 number 4198141 Eight Blazer .45 auto cartridges and one
11 Uncle Mike's size five holster.

12 Q All right. I'm going to show you what's been marked
13 as State's Exhibit Number 13 for identification. I'm
14 going to show you what's been marked as State's Exhibit 13
15 do you identify that?

16 A Yes, sir, this is the item that I collected from
17 Captain Barker.

18 Q Okay. And what are again are those items in that
19 box?

20 A They are High Point, which is the brand .45 caliber
21 handgun, eight cartridges .45 caliber. All appear similar
22 Blazer brand. The actual magazine that goes in the gun
23 that holds the cartridges and then the holster right here.

24 Q Okay. Do you have any knowledge of holsters?

25 A Just fundamental from being a law enforcement

1 officer.

2 Q Can you tell me what type of holster that is, how
3 it's made to be used?

4 A This one is inside the pants holster, made of a soft
5 material. You can stick it like inside the pants and then
6 the gun would fit inside the pants.

7 Q And not out on your hip or out in open view?

8 A You technically you could, but it's not designed for
9 that because as you can see it's meant to catch on to a
10 belt. And so it's going to catch on to the belt, but I
11 mean if you did do it that way, it would reverse the hand
12 from right hand to left hand.

13 Q Okay. All right. So that's more made for concealing
14 the weapon?

15 A Yes, sir.

16 Q Okay. All right.

17 MR. CLEMENTS: Your Honor, we move State's
18 Exhibit Number 13 into evidence.

19 THE COURT: Any objection?

20 MR. BROOKER: No objection, Your Honor.

21 THE COURT: Without objection State's Exhibit 13
22 admitted.

23 (WHEREUPON, State's Exhibit No. 13 was admitted
24 into evidence.)

25 MR. CLEMENTS: Your Honor, I'd ask permission to

1 show this -- not giving it up out my hand but to show it
2 to the jury.

3 THE COURT: All right. You need to put a lock
4 -- you all have a lock to put on that firearm.
5 Regardless, it's going to have a lock on it before it goes
6 back in the jury room.

7 MR. CLEMENTS: Yes, sir. Agent Hardee, thank
8 you. Please answer any questions Mr. Brooker has.

9 THE COURT: Can the lawyers approach for just a
10 second?

11 (WHEREUPON, a bench conference was held in the
12 presence of the jury, but out of the hearing of the
13 jury.)

14 THE COURT: Ladies and gentlemen, before we
15 begin cross-examination, I'm going to ask that you step to
16 the jury room for just a minute. Do not discuss the case.
17 Do not discuss the case at all. I'll get you back out
18 here.

19 Ms. Bethea, if you'll remain seated, I need to
20 speak with you just a minute, okay.

21 (WHEREUPON, the jury retire to the jury room
22 except for Juror Number 8 Ms. Bethea.)

23 THE COURT: Mr. Hardee, you can step down for
24 just a minute, but do not discuss your testimony.

25 Lawyers approach a minute.

1 (WHEREUPON, a bench conference was held.)

2 THE COURT: I received a note that the forelady
3 her child is home sick and I've allowed her with
4 permission of the attorneys to step out and make a
5 telephone call to her residence to see what exactly is
6 going on and she can report back to me after she's spoken
7 with whomever is taking care of her son right now. So
8 we'll stand down for just a minute while she does that.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Hold on just a second while she's
11 coming back here, come on up here Ms. Bethea.

12 JUROR: They took my son to the emergency room.

13 THE COURT: I'm going to let you go, okay.
14 That's more important than being up here unless you tell
15 me you want to be here, but I think you need to be with
16 your child. You tell me?

17 JUROR: Yes, sir.

18 THE COURT: Any objection to me allowing her to
19 go?

20 MR. CLEMENTS: No, Your Honor, we'll be praying
21 for her son.

22 MR. BROOKER: No objection.

23 THE COURT: What do you want to do? I'm going
24 to let you go. I'm sorry that happened today. I know
25 that these lawyers appreciate you being here. Thank you

1 for being here. Take care. Thank you. Ms. Bethea, do
2 you mind me telling the jury that you have a sick child.

3 JUROR: No, sir.

4 THE COURT: Thank you.

5 (WHEREUPON, juror number 8 Miracle M. Bethea
6 excused by the Court.)

7 (WHEREUPON, a pause in the proceedings.)

8 THE COURT: All right. The remaining jurors
9 alternate number 67 Mr. Jermaine Gillard as well as
10 Mr. Jimmy Hicks juror number 89 under the statute in a
11 criminal case when one is excused for whatever reason, the
12 first alternate or the alternate plugged into a regular
13 jury is not by order, that's not the way it goes. They
14 are suppose to be put in a hat statute says that, I
15 believe. Anyway I've written two jurors names on a piece
16 of paper, on two separate pieces of paper. Any objection
17 to me putting them in a cup?

18 MR. CLEMENTS: No objection, Your Honor.

19 MR. BROOKER: I don't have any objection, Your
20 Honor.

21 THE COURT: All right. Mrs. Sherry, you the
22 clerk pick the alternate. The individual plugged in will
23 be juror number 67 Mr. Jermaine Gillard. All right. And
24 I'll give this to the court reporter. Now, before I bring
25 the jury back out, we'll stand down for just a minute,

1 okay.

2 MR. CLEMENTS: Your Honor, you want to go ahead
3 and instruct them to pick another foreperson?

4 THE COURT: We'll have plenty of time to do
5 that. When we bring them back out here, I'm going to
6 explain to them what's happened. And when we take another
7 break, they can do that.

8 MR. CLEMENTS: Yes, sir.

9 (WHEREUPON, a break was taken.)

10 THE COURT: Juror 161 excuse me -- 161 was
11 excused yesterday. He was transferred to a civil term of
12 court. I am going to give my clerk excuse me -- my court
13 reporter and give the clerk back the juror information
14 sheet. I'm going to give these two letters to my court
15 reporter to make it court's exhibit as to why he was
16 transferred to another term of court.

17 (WHEREUPON, Court's Exhibits Nos. 3, 4 and 5
18 were marked for the record.)

19 MR. CLEMENTS: Your Honor, before we get
20 started, will we ---

21 THE COURT: Yes, sir. Yes, sir.

22 (WHEREUPON, a break was taken.)

23 MR. CLEMENTS: Your Honor, who do you want to
24 maintain custody of the key the clerk or the court
25 reporter?

1 THE COURT: You all can maintain custody of it.
2 Any objection?

3 MR. BROOKER: I have no objection.

4 THE COURT: Give it to Investigator Bell. You
5 all ready for the jury.

6 MR. BROOKER: Ready, Your Honor.

7 THE COURT: All right. Bring me the jury
8 please, sir.

9 (WHEREUPON, the jury came into open court.)

10 THE COURT: Mr. Gillard, did I pronounce that
11 correct?

12 JUROR: Yes, sir.

13 THE COURT: I'm going to ask that you have a
14 seat over here. You are no longer an alternate. You are
15 now on this jury, get up please, sir, and have a seat over
16 here in this seat. Ladies and gentlemen, Ms. Bethea
17 authorized me to tell you all I got a message she had a
18 sick child that had been taken to the emergency room.
19 This is why we select alternates for these very reasons,
20 okay, for family emergencies that may come up in
21 situations that arise such as these. She wanted to remain
22 with you all, but it was obvious the priority of making
23 sure that her child was okay. And like I said, she had a
24 two year old that had been taken to the emergency room.
25 And she was initially brought out I wanted her to make a

1 phone call to find out exactly what was going on there.
2 She did so and was informed by her family that her child
3 had been taken to the emergency room. So I allowed her to
4 leave and asked law enforcement or whoever to make sure
5 she got where she needed to be to make sure she was there
6 for her child, that is why again we have alternates. So
7 at this time we are going to continue with the trial of
8 this case. I believe you had concluded your direct
9 examination.

10 Mr. Brooker, you're so recognized for
11 cross-examination.

12 MR. BROOKER: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. BROOKER:

15 Q Agent Hardee.

16 A Yes, sir.

17 Q Just for my purposes again could you at least on
18 November 4 of 2012, what was your position again at that
19 time with SLED?

20 A I was a special agent assign to the crime scene unit.

21 Q And in that capacity as a special agent assign to the
22 crime scene unit, what was your responsibilities and
23 duties?

24 A Primary responsibility was to respond to any crime
25 scene that we were requested to respond to either by a

1 local agency or by the governor or the attorney general.
2 They can call us out and that's pretty much we respond to
3 the crime scene, process a crime scene for physical
4 evidence. And then we bring it back to SLED for further
5 analysis or we turn it over to the local agency. It's
6 whatever they're requesting since they're the primary
7 investigation on this -- for that investigation.

8 Q Okay. You just correct me if I'm wrong, so what you
9 just explain to me is is that your primary function is to
10 collect the evidence and not analyze it?

11 A Yes, sir.

12 Q You make sure that the evidence is properly collected
13 so that the evidence can be turned over to analysts who
14 are trained to analyze the evidence if such evidence need
15 to be analyze?

16 A Yes, sir, that's correct.

17 Q Okay. All right. Now, when did -- and I think you
18 testified to the fact that when you arrived to the scene
19 who was on the scene at that time?

20 A Memory serves we -- and based on my notes I had
21 Detective Charlie Watson. Then based on the crime scene
22 entry log by Marion County you had several other people
23 that were on scene as well.

24 Q Now, were you briefed on whether or not the scene or
25 whether or not the scene had been disturb in anyway prior

1 to the time of the actual shooting and to the time in
2 which you arrived to collect evidence?

3 A No, sir, the way -- usually when we are informed of
4 the scene obviously the local agency has already arrived
5 on scene to access, to determine whether they need to call
6 SLED out to assist with the investigation. And in that
7 case when we arrive, law enforcement is already securing
8 the scene, but I can't testify as to how the scene was
9 prior to my arrival.

10 Q Okay. So you don't know what was disturbed or you
11 cannot testify to whether or not the scene was in its
12 original condition immediately following the shooting on
13 excuse me -- let me rephrase that. You can't testify that
14 at the time in which you arrived on the scene that that
15 scene was in its original condition immediately following
16 the shooting?

17 A Yes, sir, I can't testify to that.

18 Q All right. Now, you testified that you took some
19 photos and I think those photos were published to the
20 jury?

21 A Yes, sir.

22 Q And these are the photos I believe. I think that
23 they are identified as State's Exhibit 18. They're out of
24 order. We'll just look at them one at a time. What was
25 the purpose of taking the photographs?

1 A The purpose of taking the photographs is to document
2 the scene as it is when I arrive on scene. The condition
3 it was in.

4 Q Okay. So in the photographs that has been entered
5 into evidence and then, of course, let me go ahead and
6 give these numbers for purposes of the record. They are
7 State's Exhibit 24, 22, 21, 20, 19, 26, 27, 29, 28, 18 and
8 25. These are accurate representation of what you
9 observed?

10 A Yes, sir.

11 Q From those photographs?

12 A Yes, sir.

13 Q Those exhibits have been entered into evidence. Now,
14 you testified I think and I think it was specifically in
15 reference to exhibit number -- I think it was 18 indulge
16 me for just a second until I get to number 18. It was 18
17 or either 28. You were asked a question in reference to
18 the boots and the condition of Mr. Dozier's boots?

19 A Yes, sir.

20 Q Okay. Do you remember being asked that question?

21 A Yes, sir.

22 Q And if my memory serves me correctly, your testimony
23 was is is that they didn't appear to be much dust on the
24 boots or either on the pants?

25 A Right. My observation I didn't see a lot of dust on

1 the pants and I didn't see -- the only place I saw dust
2 would have been on the front of the boot and on the hill
3 of the boot.

4 Q Okay.

5 A Those are just my observations from the photographs
6 and from what I observed at the scene.

7 Q Okay. And that gets me to my next question. Is that
8 a scientific observation?

9 A No.

10 Q It is not a scientific observation; is that correct?

11 A No, it's just an observation from being at the scene.

12 Q Do you have any idea how much movement it would take
13 in order to generate enough dust or do you know what the
14 accumulation -- how much movement is necessary to
15 accumulate a certain percentage of dust on your shoe or
16 either on your pants leg?

17 A No, sir.

18 Q So you have no idea how much you have to move ---

19 A No, sir.

20 Q --- in order to generate dust on there?

21 A No, sir.

22 Q You haven't been trained to make that determination?

23 A No, sir.

24 Q Okay. So when you were telling the jury that you
25 didn't notice that there wasn't much dust on his shoes or

1 either on his pants leg, that is just a layperson's
2 observation but has absolutely no scientific or either
3 forensic value?

4 A No, just my observation of the scene.

5 Q Now, you were also asked a question in reference to
6 the dirt if you can remember and I think Mr. Clements
7 asked you whether or not the dirt in the area in which
8 Mr. Dozier was standing specifically around the door of
9 the car whether or not it was -- whether or not that area
10 was disturbed much?

11 A Right.

12 Q And my understanding you correct me if I'm wrong, I
13 believe your testimony was that you notice some
14 footprints, but you didn't believe that the evidence was
15 that much disturbed?

16 A Right. I notice footprints in the sand or in the
17 dirt and that was my observation.

18 Q Okay. Do you know what type and kind of movement is
19 necessary in order to, you know, ruffle or disturb the
20 texture of the dirt that existed on the ground at Stacy's
21 house that day?

22 A It would just be for my own life-long observations of
23 walking in dirt and stuff, but nothing scientific.

24 Q Okay. And that was my next question when you said in
25 response to that question that I didn't know much

1 disturbance ---

2 A Right.

3 Q --- is it that you were not making a scientific
4 forensic evaluation, you know, of the dirt on the around
5 Mr. Dozier and around his car at that time?

6 A Right. It was not scientific. It was again
7 observations from my own experiences.

8 Q And you're not qualified to make such a scientific
9 determination are you?

10 A No, sir.

11 Q So that decision that you made, that observation that
12 you made would you agree with me that that observation
13 because it is not -- it was not a scientific, you know,
14 observation that was created, you know, that was generated
15 or either originated as a result, you know, of some sort
16 of training that that observation is no more than -- no
17 more valuable than any other lay opinion that someone
18 might possess?

19 A Oh, absolutely. I mean, it's a lay opinion no
20 scientific basis just from my own observations.

21 Q Just wanted to clear that up. Now, did you take any
22 specific pictures of the ground where Mr. Dozier was
23 standing, did you focus specifically on that area?

24 A Just the photos that I took was everything in those
25 areas, but, I mean -- yeah, like that these photos. And

1 then, of course, I took some as I've stated in my last
2 testimony that we take far away, mid range and close up.
3 And in some of the photos that aren't published there were
4 some close-up photos that are in proximity to the victim.

5 Q And I understand that and I'll rephrase my question
6 just to make sure you understand it. Did you take any
7 photographs specifically concentrating on the footprints
8 and the disheveled dirt that was around the door of the
9 vehicle?

10 A No, no, sir.

11 Q That was not something that you concentrated on?

12 A No, sir, that would have been just involved in the
13 generals.

14 Q Okay. So when as a crime unit specialist as you
15 testified designed to collect evidence at the crime scene
16 is is that when you're doing that is it your job to
17 determine what evidence is of value and what evidence --
18 or what would be photographed or do you have an
19 investigator that says this is of value, this is of value,
20 this is of value, this is what we want you to photograph,
21 you know, and be appropriated?

22 A Actually, it's a collaboration. From my experience
23 of working crime scenes, I'm going to look obviously for
24 the bullet, the gun, cartridge case. But you're going to
25 have investigators that may be privy to information that

1 I'm not working the scene that they may have just gotten
2 some more information. And then they'll bring that to me
3 and say, okay, we just found out that so and so was over
4 here. Then we'll go over there and photograph concentrate
5 look for evidence over there. So it's a collaboration of
6 of the investigator and the crime scene investigator and
7 witnesses actually help a lot too.

8 Q Yes, sir, so my understanding is is that, you correct
9 me if I'm wrong, is that there is certain items of
10 evidence that is obvious?

11 A Yes, sir.

12 Q And then, of course, is is that if it's something
13 that is beyond the obvious like you said a spent shell
14 casing, you know, a bullet fragment, if it's something
15 beyond that or something that may not be obvious, you rely
16 on your investigators to identify what should be
17 photographed?

18 A It helps because going along with your example, you
19 find a pipe cleaner that may not have any bearing on the
20 investigation at all. And you're like, okay, it's a pipe
21 cleaner could have been left by anybody at the scene,
22 could have been left months ago. The investigator if he
23 learned that so and so like to collect pipe cleaners and
24 that changes the bearing of that evidence because it could
25 have been left by that person who collected pipe cleaners,

1 who could be a suspect and that's just an example being
2 used. So, obviously, a person shot, you're going to look
3 for the gun. You going to look for the cartridge cases.
4 You're going to look for the spent bullets, might not be
5 looking for a cigarette butt until you know that the
6 person that shot the person smoked.

7 Q Okay. And I think what you're saying is is that
8 sometimes a stick on the ground is just a stick on the
9 ground and sometimes a stick on the ground might be
10 evidence?

11 A Exactly.

12 Q It just depends on whether or not it has any sort of
13 interest or any sort bearing in the case that's being
14 investigated?

15 A Yes, sir.

16 Q Did anyone instruct you to photograph the -- and
17 specifically photographing and concentrating on the ground
18 area, you know, next to the door -- the open door of the
19 vehicle?

20 A No, sir.

21 Q Did anyone specifically tell you to concentrate on
22 photographing the surrounding scenery from both sides of
23 the trailer?

24 A No, sir.

25 Q Okay. So I think that the jury was shown some of

1 these exhibits and specifically you indulge me for just a
2 second. I'm trying to identify the exhibit. I think the
3 jury was shown a -- an electronic assisted view of this
4 particular photograph on this screen; is that correct?

5 THE COURT: What exhibit is that?

6 MR. BROOKER: This is State's Exhibit 26?

7 THE COURT: Thank you.

8 A Yes, sir.

9 Q Okay. Now, just from looking at the photograph
10 alone, what is visible at least in this particular area
11 back here from that photograph alone?

12 A May I look at it?

13 Q Yes, sir, you may.

14 A You have some -- a white object on the left-hand
15 side. You have a line going across that goes back behind
16 the mobile home. You have a ball cap that's camouflage
17 and you have the roof and back window of a car that you
18 can tell is open. And you also have the actual mobile
19 home and something light, a little white speck in the very
20 back.

21 Q Can you identify specifically the density of the
22 foliage or the trees or the shrubs from this photograph
23 from your camera?

24 A No, sir, not from that photograph no.

25 Q Okay. But you could when it was magnified on the

1 screen?

2 A Yes, sir.

3 Q Okay. This may be a question that's beyond your
4 expertise, but I'm going to ask it because I don't know.
5 And obviously is is that you explain -- could you tell me
6 again what camera you used to take these photographs?

7 A That was if memory serves that's when I was issued a
8 Nikon D300S and that was one of the last cameras or
9 actually that was the last camera I was issued before
10 going to counter terrorism and it's a digital camera.

11 Q Okay. Okay. Now, does photographs that that -- and
12 you tell me if you know this. You may not know this. If
13 the photographs that are taken from that particular
14 camera, are those photographs equivalent to what a human
15 being would visually see from the human eye, what's the
16 comparison?

17 A I can't provide you with that information. I don't
18 know. I'm trying to think back to literature that I've
19 read. I had nothing that I could say, I mean to answer
20 that question to help you out.

21 Q And like I said I just wanted to know because I
22 didn't know whether or not if you did. So when you're
23 taking these photographs, you're not telling the jury that
24 these photographs are the equivalent of viewing these
25 items with the naked eye, that there's no difference

1 between the image that is portrayed on this paper that was
2 taken by this camera, that there's no difference between
3 that image and the image that someone would capture if
4 they're looking at it with an naked eye?

5 A Right. Because I mean you have different cameras
6 that one is actually a really good camera, but you also if
7 you're trying to compare it to a person visually looking
8 at the scene that would also depend on their visual. I
9 mean like me I have to wear glasses. You have some people
10 that can see a fly a mile away, exaggeration. But we have
11 some people like me you get me out in the dark without
12 glasses, I won't be able to see you.

13 Q I got you. So it all -- it's based upon the -- I
14 guess is is that quality of the vision of the person who's
15 actually looking at something?

16 A Yes, sir.

17 Q Okay. So you're not in the position where you can
18 determine whether or not and I'm asking this and you tell
19 me whether I'm right or wrong. You're not in the position
20 where you can actually look at something with your naked
21 eye and then make a determination as to whether or not
22 someone else would be able to view it better or either
23 worse than you're able to?

24 A Right. And that's why we use cameras to give a
25 accurate depiction of the scene. And what you're seeing

1 there is what the camera took the photo of. And no
2 alteration or anything like that, it's just what we saw.

3 Q But this is based upon the ability of the camera?

4 A Yes, sir.

5 Q Okay. And you cannot testify that it is an exact
6 equivalent to the vision of the human eye?

7 A I can't testify to that, no.

8 MR. BROOKER: If you could indulge me for just a
9 second, Your Honor.

10 THE COURT: Yes, sir.

11 (WHEREUPON, a pause in the proceedings.)

12 BY MR. BROOKER:

13 Q Now, you were asked about measurements as well too
14 and I think you was specifically asked about the distance
15 between -- the distance between I think the shell casing,
16 the location of the shell casing and the location of
17 Blake Dozier where he was lying?

18 A Yes, sir.

19 Q And I think it's your testimony was is is that you
20 didn't take any measurements?

21 A No, sir.

22 Q Okay. And again was the reason why you didn't take
23 any measurements is is that that's not apart of your job
24 as a crime scene investigator who collects evidence?

25 A Primarily no. Our job is again to document the

1 scene, collect the evidence, preserve the evidence so that
2 it can be -- the integrity is not changed, so they can be
3 taken to the lab and further tested. The measurements I
4 mean sometimes you'll get to a scene and you can't take a
5 measurement because of where the scene is. And in that
6 case I didn't take measurements from the location of the
7 bullet to the location of the victim.

8 Q Again I'm going to -- you were also asked questions
9 on direct examination in reference to evidence that you
10 collected and I think you said that you collected a number
11 of items I think including if I'm not mistaken, did you
12 collect three or four gunshot residue kits?

13 A I didn't collect them myself. They were collected by
14 the local agency in this case Marion County and provided
15 to me at a later date -- on that same date but at a later
16 time.

17 Q I apologize, I misspoke. I didn't mean to say that
18 you actually physically collected them, but you took
19 possession of them?

20 A Yes, sir.

21 Q Is that correct?

22 A Yes, sir.

23 Q And did you take those items -- what did you do with
24 those items when you took possession of them?

25 A Based on my chain of custody, the GSR kit from a

1 Stacy Lynn Fowler and from Matthew Keith Lane was
2 transferred from James Lee to me at 5:09 a.m. on
3 November 4th. And then a GSR kit from Logan Michelle
4 Ratley was transferred from Watson to me. And then from
5 me to Mindy Warley at 5:30. And also the same thing I
6 transferred custody to Melinda Warley so that she could
7 transport it to SLED because she lived in that area.

8 Q Okay. And do you know whether or not SLED ever
9 tested those gunshot residue samples that were taken of
10 those particular individuals?

11 A No, sir, once it leaves my custody, it goes to the
12 various departments, I'm not advised what they do with the
13 evidence.

14 Q Okay. Now, you were also asked a question
15 specifically in reference to gunshots discharge or gun
16 powder discharge when a firearm is discharged?

17 A Right.

18 Q Okay. Is that apart of your expertise?

19 A No, sir, again that's experience from shooting
20 thousands of rounds without getting stuff on me, but again
21 that's a layperson, no empirical or no scientific
22 training.

23 Q Now, it's my understanding that SLED does have
24 experts, you know, that are trained in that particular
25 area and that can give actual scientific, you know, at

1 least information in reference to the travel of gun powder
2 splatter upon the discharge of a firearm?

3 A Yes, sir.

4 Q Okay. So when Mr. Clements ask you about
5 discharge -- ask you questions in reference to how the gun
6 powder from a gun who is fired, how that gun powder
7 residue would be splattered is that you're not qualified
8 to testify to that forensically?

9 A No, sir, not forensically no.

10 Q Okay. And because you're not qualified to testify to
11 that, you are simply giving a lay opinion no different
12 than any other lay opinion that would be given by someone
13 in this courtroom who may have fired guns?

14 A Yes, sir.

15 Q Okay. And I'll ask you this question and I'm very
16 close to finish because I want to make sure.

17 A Okay.

18 Q You also testified to the distance -- and, of course,
19 we talked about gun powder residue splatter I think on
20 direct examination. You talked about that from two
21 angles. You talk about the gun powder residue discharge
22 from an individual who is discharging the gun versus gun
23 powder residue splatter collecting on the person who is on
24 the opposite side of the gun?

25 A Yes, sir.

1 Q And my understanding was is is that Mr. Clements says
2 to you or ask you a question and, of course, he was
3 standing about the distance that I am which is roughly
4 four feet or five feet?

5 A Yes, sir.

6 Q Can we agree on that roughly?

7 A I agree.

8 Q And I think he positioned his arm up directly and ask
9 you the question that if someone fired a gun at that
10 distance with their arm reached out is that whether or not
11 gun powder residue would splatter on the person who is
12 being shot?

13 A Yes, sir.

14 Q And your answer was it's possible?

15 A Yes, sir.

16 Q Okay. Again when you gave that opinion that was not
17 based upon any science?

18 A No, sir.

19 Q Was it not?

20 A No, sir.

21 Q You're not qualified to give that opinion, are you
22 not?

23 A No, sir.

24 Q Okay. And you were giving that opinion as a lay
25 person?

1 A Yes, sir.

2 Q Okay. And then, of course, were you giving that
3 opinion -- did you gave these opinions -- I think you
4 testified that you knew, that you knew that the opinions
5 in which you gave, that those opinions were reserved for
6 someone with forensic expertise you testified to that?

7 A Right.

8 Q So when you gave these opinions, did you give those
9 opinions specifically for trial to assist the prosecution
10 in proving its case even though you knew that you were not
11 qualified to testify to those forensically?

12 A No, sir. I was giving the opinions based on my own
13 observations and my own experiences not to assist the
14 defense or the prosecution.

15 Q But on direct examination you would agree with me
16 that you fail to disclose to this jury your lack of
17 training, experience to give an opinion on direct
18 examination?

19 A On direct examination, when Solicitor Clements ask my
20 experiences, I said crime scene. So they would have been
21 able to infer whether or not I was an expert in firearm
22 analysis or trace analysis. I didn't pass myself off as
23 being an expert in firearms. In fact, I mean I never said
24 I was an expert in firearms or anything like that.

25 Q Yes, sir, I understand, but you didn't fully disclose

1 to them that did not have the forensic expertise in those
2 particular areas on direct examination?

3 A No.

4 MR. BROOKER: You can indulge me for just a
5 second, Your Honor.

6 THE COURT: Yes, sir.

7 (WHEREUPON, a pause in the proceedings.)

8 MR. BROOKER: No further questions, Your Honor.

9 THE COURT: Any redirect?

10 MR. CLEMENTS: A little bit.

11 REDIRECT EXAMINATION

12 BY MR. CLEMENTS:

13 Q Officer Hardee, you recall what question did I ask
14 you that I asked for a scientific opinion?

15 A No, sir, I can't recall that and I was never declared
16 an expert witness by the Court.

17 Q And I never asked you if you were an expert did I?

18 A No, sir.

19 Q Just so I know what you were thinking, how would you
20 characterize what I was asking you for a scientific
21 opinion, an insane opinion or common sense opinion, how
22 would classify that?

23 A Well, the way you asked it was just based on my
24 observation and my opinion as a person from my ---

25 Q Lay person common sense?

- 1 A Yes, sir.
- 2 Q Didn't ask you anything scientific?
- 3 A No, sir.
- 4 Q Let me back up to some things he was asking you
- 5 about. Could you tell if it was dark or light?
- 6 A It was dark.
- 7 Q And taking pictures could you tell if there was an
- 8 obstruction there or not an obstruction there?
- 9 A Yes, sir.
- 10 Q All right.
- 11 A I could tell -- are you talking about on the size of
- 12 the trailers?
- 13 Q Yeah. What obstructions were there?
- 14 A Shrubs and trees.
- 15 Q Okay. And these pictures there they're digital
- 16 pictures, right?
- 17 A Yes, sir.
- 18 Q Okay. And this comes off on a printer?
- 19 A Yes, sir.
- 20 Q And that is a digital device, is it not?
- 21 A Yes, sir.
- 22 Q And it's hook to a screen?
- 23 A Yes, sir.
- 24 Q Okay. So did that accurately reflect what you saw
- 25 when you were taking pictures?

1 A Yes, sir.

2 MR. CLEMENTS: Thank you. No further questions.

3 MR. BROOKER: No further questions, Your Honor.

4 THE COURT: Sir, you may step down. Thank you.

5 (WHEREUPON, the witness leaves the witness
6 stand.)

7 MR. CLEMENTS: Your Honor, may he be released
8 from his subpoena? May I approach?

9 MR. BROOKER: Without objection, Your Honor.

10 THE COURT: Sir, you are free to go. You have
11 no further responsibility under your subpoena. Have a
12 nice day.

13 (WHEREUPON, a bench conference was held in the
14 presence of the jury, but out of the hearing of the
15 jury.)

16 THE COURT: Ladies and gentlemen, we're going to
17 take a break real quickly. I'm going to let you step to
18 your jury room. You all had previously elected a
19 foreperson. You got to go through those hoops again, all
20 right. If you'll do that while you're back there, put it
21 in writing for me. And again this gentleman right here
22 the first one up, he can't be your foreperson, all right.
23 Write it down, get it to me when you come back out. I'll
24 get it to my clerk -- my court reporter. Thank you. Do
25 not discuss the case.

1 (WHEREUPON, the jury retire to the jury room.)

2 (WHEREUPON, a break was taken.)

3 (WHEREUPON, State's Exhibit 30-54 Nos. were
4 marked for identification only.)

5 THE COURT: All right. Anything before I bring
6 the jury out from the State?

7 MR. CLEMENTS: Your Honor, we're getting ready
8 to put up a witness that came out and took measurements
9 and photographs pursuant to a search warrant January of
10 this year and I'm sure that Mr. Brooker may have some
11 objections. And it might be that you wish us to proffer
12 the testimony first, so you'll have a better understanding
13 of what we're trying to present. But I just wanted to
14 make the Court aware of that however you wish to handle
15 it, Your Honor.

16 THE COURT: Mr. Brooker, have you talk with the
17 witness?

18 MR. BROOKER: The witness I have not talk with
19 him.

20 THE COURT: You have any objections?

21 MR. BROOKER: We definitely have objections to
22 the photographs, Your Honor.

23 THE COURT: Can I see the photographs?

24 MR. BROOKER: Certainly.

25 THE COURT: Can you ask them to hold it down in

1 there please.

2 MR. CLEMENTS: And, Your Honor, for your
3 explanation, you will see some that gone look like
4 probably to you to be duplicates, but they're not and he's
5 going to explain why in his testimony.

6 (WHEREUPON, a pause in the proceedings.)

7 THE COURT: Put him on the stand and I'll see
8 what he got to say.

9 MR. CLEMENTS: Your Honor, we call Chris Owens
10 to the stand.

11 THE CLERK: Sir, if you'll come around, let me
12 swear you in please, sir. Place your left hand on the
13 Bible and raise your right hand. Do you solemnly swear or
14 affirm the evidence you're about to give in the trial of
15 this case shall be the truth, the whole truth and nothing
16 but the truth so help you God?

17 THE WITNESS: I do.

18 THE CLERK: Thank you.

19 WHEREUPON,

20 Christopher Owens,
21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION IN-CAMERA

23 BY MR. CLEMENTS:

24 Q Please state your name and your place of employment
25 for the record?

1 A Christopher Allen Owens Florence County sheriff's
2 office.

3 Q And in what capacity do you work for the Florence
4 County sheriff's office?

5 A I work for the crime scene division.

6 Q All right. In forensics?

7 A Yes, sir.

8 Q And is part of those duties you are a photographer?

9 A Yes, sir.

10 Q Okay. I'm going to show what's been marked for ID
11 State's Exhibits 30 through 54. If you would look at all
12 of them and collectively tell me if you can identify all
13 those and know where they came from?

14 A Yes, sir, I can identify them. I took those
15 photographs.

16 Q On what date?

17 A The date was January the 30th of this year.

18 Q And can you tell me was this pursuant to a search
19 warrant?

20 A It was pursuant to a search warrant at [REDACTED] Ard Drive
21 in Mullins.

22 Q And was there another residence involved?

23 A Yes, sir. There was another residence located next
24 door [REDACTED] Ard Drive.

25 THE COURT: Hold on a minute. Ask them to

1 please -- tell them we're conducting a hearing out here,
2 ask them to hold it down in there please. Is there two
3 doors.

4 BAILIFF: Yes, sir.

5 THE COURT: Did you ---

6 BAILIFF: I told them to close both of them.

7 THE COURT: Thank you very much.

8 Okay. Mr. Clements, you may continue.

9 MR. CLEMENTS: Thank you, Your Honor.

10 BY MR. CLEMENTS:

11 Q And who got that search warrant yourself or someone
12 else?

13 A No, sir, it was Investigator Martin Bell.

14 Q Marion County sheriff's office?

15 A Marion County sheriff's office.

16 Q And you were assisting Marion County?

17 A Yes, sir.

18 Q Okay. Now, can you tell me what the purpose was for
19 going and taking these photographs and what else did you
20 do in addition to taking photographs?

21 A Yes, sir, the purpose of the photographs was to take
22 measurements from the front porch of Vickie Hernandez's
23 residence, which is located at [REDACTED] Ard Drive, taken
24 measurements toward where we had vehicles parked in the
25 driveway of Stacy Fowler's residence at [REDACTED]. And all I

1 did was take photographs.

2 Q Was Ms. Fowler out there?

3 A Yes.

4 Q Did she assist you in any way?

5 A She did not assist me.

6 Q All right. Did she give any direction for who was
7 with you as far as parking cars or anything like that?

8 A Yes, she gave statements to Gary Streett works for
9 the Solicitor's office.

10 Q Okay. And who else was out there with you in
11 addition to Mr. Streett and Martin Bell anyone?

12 A I think Kathleen Streett was also out there.

13 Q She your boss?

14 A Yes, that is my boss. And there was also a gentleman
15 by the name of Matt Lane who was only there for
16 approximately ten, 15 minutes.

17 Q Okay. Do you know what his purpose for being there
18 was?

19 A He was also an eyewitness that gave statements to
20 Gary Streett about the positioning of the vehicles.

21 Q Okay. All right. Can you tell briefly to the Court
22 how you proceeded and exactly what you did and what
23 measurements you took and then I want to go through the
24 photos as expeditiously as possible?

25 A Sure. What we did first when I arrived on scene is I

1 briefly spoke with Gary Streett, Investigator Bell mainly
2 about general idea about why I was there, about the
3 incident that had occurred and what they wanted me to do
4 while I was there which basically consisted of taking
5 photographs. When I first got there and after speaking
6 with them, the first photographs I took were just general
7 overall photos. It's just something I have a habit of
8 doing whenever I go on a scene. So I took some general
9 photos of Stacy Fowler's residence what it look like from
10 the outside standing in her front yard, took some
11 photographs looking back toward Vickie Hernandez's
12 residence. We proceeded over to the front porch of Vickie
13 Hernandez's residence where photographs were taken. We
14 took three measurements from the front porch of her
15 residence in a straight line path to where we had vehicles
16 position to recreate the vehicle as they were the night of
17 the incident.

18 Q Okay. And what were those measurements -- can you
19 tell us at what different points you took a measurement
20 and what the measurements were?

21 A Yes, the first measurement was 140 feet and one inch.
22 The second one was ---

23 Q And before you tell me what the second one was, that
24 was from where to where?

25 A This was from the front porch of Vickie Hernandez's

1 residence to her property line. There's a overgrown lot
2 that separates Stacy Fowler's residence from Vickie
3 Hernandez's. We took the first measurement from the front
4 porch to the property line of that grown up residence or
5 lot.

6 Q Okay. And then the second measurement was from where
7 to where?

8 A The second measurement was from the front porch to
9 Stacy Fowler's property line that same lot.

10 Q And how far was that?

11 A That was approximately 284 feet.

12 Q All right. You say approximately what do y'all use
13 to measure?

14 A We used a measuring wheel you can roll on the ground
15 and always give distances and approximate.

16 Q You think that's pretty accurate?

17 A Yes, sir.

18 Q Okay. And what was the third measurement from where
19 to where?

20 A The third measurement also in a straight line path
21 was from the front porch to where the -- it was actually
22 Gary Streett's vehicle was, which was intended to recreate
23 where the victim's vehicle had been that day. And it was
24 to the apex of the door.

25 Q And how far was that?

1 A 357 feet and one half inch.

2 Q Okay. All right. And did you then take pictures of
3 those distance spans?

4 A Yes, we took photographs during the daytime at those
5 measured points and also at time night.

6 Q Okay. And this was in January?

7 A Yes.

8 Q Was there much foliage on the trees at all?

9 A Little.

10 Q Okay. Now, I want to show you State's Exhibit 30 if
11 you can tell us what that is and I would like to probably
12 hand it to the judge so he can look at it. Do you need it
13 to explain it?

14 A No, sir, that was the first photograph I took when I
15 was on scene. It is standing in front of Stacy Fowler's
16 residence looking down the road away from I think that
17 Scotch Community Road.

18 Q And how many photos did you take of each particular
19 item you photographed?

20 A Some were single photographs others I had made
21 duplicates.

22 Q And why did you make duplicates?

23 A Just in case something was out of focus.

24 Q All right. State's Exhibit 31?

25 A That's another overall shot. My truck is actually

1 parked in the corner of her front yard.

2 Q And that was depicting a cross the way?

3 A We're just now showing in this one. You can actually
4 see some of her residence here, but where in the previous
5 photo it was of the highway and now we're just kind of
6 starting to go ---

7 Q As the clock hand turns?

8 A Yes, exactly. It wouldn't have been a 360 degree.
9 It was more or less 180 just because I didn't show the
10 opposite side of the highway.

11 Q Okay. State's Exhibit 32 same questions?

12 A Okay. Now, we're getting a little further in this
13 one. You can see I'm assuming that's a dog house or pump
14 house. It's also in Stacy Fowler's front yard. You can
15 see the fence line. And also you can see the adjacent lot
16 that separates Stacy Fowler's residence from Vickie
17 Hernandez's residence.

18 Q State's Exhibit 33?

19 A It's another shot of the -- I'm going to call it the
20 dog house. It's another shot of the dog house and also
21 you're starting to see some of Stacy Fowler's the front of
22 her residence.

23 Q Okay. State's Exhibit 34 and they have the exhibit
24 sticker is on it and I'm going to refer to them as that
25 number, but they have another number on them, which is the

1 number on your report?

2 A Yes, sir.

3 Q Okay. State's Exhibit 34?

4 A State's Exhibit 34 is the front of Stacy Fowler's
5 residence and you can also see one of the vehicles that
6 was parked on scene.

7 Q State's Exhibit 35?

8 A Another shot of the front of her residence Stacy
9 Fowler and I believe that's Gary Streett's vehicle in this
10 photograph as well.

11 Q State's Exhibit 36?

12 A Another shot of the front of Stacy Fowler's residence
13 with two vehicles parked in the driveway.

14 Q State's Exhibit 37?

15 A This is of the other side of her yard where the play
16 pen was, the fenced area that separates her residence from
17 the next one over and also of the two vehicles that were
18 used.

19 Q And 38 the same thing?

20 A Yes, just another shot of the front of the house just
21 an overall general photo.

22 Q And 39?

23 A Again another shot a little closer up than the
24 previous photos.

25 Q And are all those shots taken just so you can get a

1 general view?

2 A Just general overall photos.

3 Q Okay. Now, we're getting to State's Exhibit 40 which
4 is what?

5 A This again is an overall photo. It's showing the
6 position of the first vehicle where according to witness
7 testimony we accurately -- as accurately as we would
8 placed it as it would have been at the time of the
9 incident.

10 Q Any foliage on those trees?

11 A No, sir.

12 Q State's Exhibit 41?

13 A Another shot of the vehicles. Now, you can see the
14 second vehicle that was present at the time of the
15 incident, just another shot of the vehicle.

16 Q Second vehicle or a vehicle in the approximate place?

17 A Yes, sir.

18 Q Okay. State's Exhibit 42?

19 A This is a shot from Stacy Fowler's front yard or
20 Stacy Fowler's residence. It's in the front yard and it's
21 a view that's looking back toward Vickie Hernandez's
22 residence.

23 Q Okay. And State's Exhibit 43?

24 A This is another shot looking back toward the --
25 looking back toward Vickie Hernandez's residence from

1 Stacy Fowler's residence. And this is with the pump house
2 or dog house it's centered in this photo.

3 Q And State's Exhibit 44?

4 A I'm in the front yard to the left of the pump house
5 and this is again another shot from Stacy Fowler's
6 residence looking back toward Vickie Hernandez's
7 residence.

8 Q Okay. And those are the last photos looking in that
9 direction were they not?

10 A Yes, sir.

11 THE COURT: Mr. Clements, I understand he's
12 identifying all of these photographs. I mean, you not at
13 this point -- and maybe you are and I'm just missing it up
14 here, but him simply identifying photographs which speak
15 for themselves, I assume you getting to the point as to
16 the necessity and benefit of it.

17 MR. CLEMENTS: Yes, sir, right now is where we
18 begin.

19 THE COURT: Okay.

20 MR. CLEMENTS: I just wanted to put before the
21 Court all his thoroughness.

22 BY MR. CLEMENTS:

23 Q State's Exhibit 45?

24 A This is one of the photographs that I took from the
25 front porch of Vickie Hernandez's residence. It's looking

1 back toward Stacy Fowler's residence. This is during
2 daylight hours prior to any measurements being taken.

3 Q All right. And can you see the vehicles in that
4 picture you can, can't you?

5 A Your Honor, may I see it one more time. I'm sorry.

6 THE COURT: 45.

7 A I can see the vehicles in this photograph.

8 Q All right. State's Exhibit 46?

9 A It's another shot from the front porch looking back
10 toward Stacy Fowler's residence where the vehicles can be
11 seen daylight hours prior to any measurements.

12 Q All right. And State's Exhibit Number 47 and who is
13 that in that and where are they?

14 A This is Investigator Martin Bell. This was the first
15 photograph taken from Vickie Hernandez's front porch. It
16 was taken during daylight hours and it shows him standing
17 at the recorded distance of 140 feet and one inch.

18 Q Thank you. State's Exhibit 48 and why did you take
19 that picture?

20 A I took this photograph just to show the phase of the
21 moon at the time that I began documenting the scene.

22 Q Is that at dusk or dark?

23 A This was at dusk. It was after the sun had set
24 behind the trees but prior to it being completely dark.

25 Q State's Exhibit 49 and what is the measurements

1 there?

2 A This is a photograph that was taken from the front
3 porch of Vickie Hernandez's residence. This shows
4 Investigator Martin Bell standing at the apex of the
5 driver's side door of Gary Streett's vehicle.

6 Q And that would be the dark-colored vehicle?

7 A Yes, that's the dark-colored vehicle.

8 Q Okay. And that's during daylight?

9 A During daylight.

10 Q All right. I'm going to skip and stay on daylight
11 pictures State's Exhibit 52?

12 A This is a photograph that was taken at the recorded
13 measurement of 357 feet and one half inch during daylight
14 hours.

15 Q And is Investigator Martin Bell in that photo?

16 A Yes, he is. He is standing here beside I can see the
17 measuring device that he was using.

18 Q And how can you see that measuring device because the
19 orange dot?

20 A It's an orange color, yes, and I recognize that as
21 the measuring device.

22 Q Okay. State's Exhibit 54 can you explain that
23 picture to me and what it depicts and why you took it?

24 A This is the recorded distance taken from Vickie
25 Hernandez's porch during daylight hours to the -- to Stacy

1 Fowler's property line of the lot that separates the two.
2 This was the recorded distance of 284 feet as during the
3 daylight hours.

4 Q Okay. Could you see Martin Bell in that picture?

5 A Your Honor, may I have it one more time. I'm sorry.
6 I can't identify where he's standing.

7 Q But you were communicating verbally?

8 A Yes, we were verbally communicating.

9 Q And you could hear back and forth pretty well?

10 A Yes, as long as you spoke loud enough, you could hear
11 everything that was said.

12 Q All right. But seeing was another story?

13 A Yes, sir.

14 Q State's Exhibit 50 when was that taken and what is
15 that picture depict?

16 A This was the first recorded measurement of 140 feet
17 and one inch. This was the first photograph that was
18 taken using the measurements during the night. It shows
19 Investigator Bell standing at the edge of Vickie
20 Hernandez's property line from the same front porch
21 looking back toward Stacy Fowler's residence.

22 Q All right. State's Exhibit 51?

23 A This was a nighttime photo. Martin Bell standing by
24 the recorded distance of 284 feet. This is also a
25 nighttime photograph.

1 Q All right. And State's Exhibit 53?

2 A This was the last recorded measurement at 357 feet
3 and one half inch taken during the nighttime hours from
4 the front porch of Vickie Hernandez's residence facing
5 Stacy Fowler's residence.

6 Q And those vehicles still there?

7 A Yes, those vehicles are still there.

8 Q Did they have their headlights on?

9 A Yes, they do.

10 THE COURT: Anything else?

11 MR. CLEMENTS: Those we would like to present
12 into evidence at this time, Your Honor, when we get
13 testifying before the jury.

14 THE COURT: All right. Mr. Brooker.

15 CROSS-EXAMINATION IN-CAMERA

16 BY MR. BROOKER:

17 Q Mr. Owens, what's your title? I want to make sure I
18 give you respect.

19 A I'm a corporal with the Florence County sheriff's
20 office.

21 Q Call you Corporal Owens?

22 A Yes, sir.

23 Q Just very briefly, could you tell me exactly what do
24 you do again for the Florence County sheriff's office?

25 A I work in the crime scene slash forensics division.

1 Q Okay. And obviously is is that you have any special
2 training in photography?

3 A Yes, sir.

4 Q Okay. What sort of special training do you have in
5 photography?

6 A I was -- have a certificate that I received from a
7 training class where I was instructed how specifically to
8 use my particular camera to take crime scene photographs.

9 Q Okay. And when was that training class and how long
10 was it?

11 A You're asking me to go off memory. I think the class
12 was several days. It's been about a year and half to two
13 year ago maybe.

14 Q Okay.

15 A I'm sorry. I don't have the certificate with me.

16 Q That's all right, that's all right. I'm just asking
17 you to the best of your recollection is is that have you
18 had any further training since then?

19 A No, sir.

20 Q And was that your only training with respect to crime
21 scene photography?

22 A With respect to crime scene photography, that is the
23 only class that I have had.

24 Q Okay. Now, let me ask you with respect to crime
25 scene recreations, do you have any training with respect

1 to crime scene recreations?

2 A Not specifically crime scene recreations. We are ask
3 to recreate crime scenes in the course of my duties.

4 Q Okay.

5 A For every major case that we have.

6 Q Okay. Okay. So you've done that, but you have no
7 training in it. You have not attended classes or at least
8 study the science of how to, you know, recreate or, you
9 know, or create a facsimile of a previous scene?

10 A No specific or what you may refer to as advanced
11 training, but I think it's been covered under some of the
12 other classes that I have attended.

13 Q Okay. And specifically and, of course, I already
14 know the answer, so I want dwell on this. Is is that do
15 you have any training or either in creating outdoor crime
16 scene recreations or recreating outdoor crime scenes.
17 There is a difference between a controlled environment and
18 an uncontrolled environment is there not?

19 A Of course.

20 Q And outdoors is an uncontrol environment because you
21 can't control the elements. You can't control the wind.
22 You can't control uncertain environment of factors; is
23 that correct?

24 A That's correct.

25 Q Okay. Do you have any experience in recreating

1 outdoor crime scenes?

2 A Not specific course experience.

3 Q Okay. How many outdoor crime scenes have you
4 recreated do you know?

5 A No, I would hate to even venture or guess.

6 Q Okay.

7 A Quite a few. I work in Florence County, so we get
8 plenty of practice.

9 Q Okay. All right. Now, what do you know about the
10 crime scene? These photographs do you know anything about
11 at least the crime scene and when it took place?

12 A I think recalling from memory I'm not sure of the
13 specific year. I think it was November.

14 Q Okay. All right. And I'll tell you at least just
15 for the record is November 4 -- on November 4 of 2012. Do
16 you know anything about the environment or factors on that
17 particular day?

18 A Not specifically.

19 Q Okay. Do you know what time the shooting took place?

20 A No, sir, only that it occurred sometime during the
21 night or early morning hours.

22 Q Okay. Do you know specifically what the nighttime
23 conditions were?

24 A No, sir.

25 Q Do you have any at least extensive knowledge with

1 respect to -- I think there is a field that separates
2 these two houses between Stacy and Stacy Fowler and the
3 house between the Hernandez's. Do you have extensive
4 knowledge with respect to what the landscape was of that
5 field or that lot of that particular period of time?

6 A No.

7 Q Do you know whether or not any trees or any shrubs
8 had been removed or either added since November 12th
9 excuse me -- November 4, 2012, date in which you take
10 these photographs?

11 A No, sir.

12 Q This was well over two years between those two
13 periods of time; is that correct?

14 A That's correct.

15 Q And although I know that you said that you don't have
16 any training or education with respect to recreation of
17 outdoor scenes, but I'm assuming it's common knowledge
18 that the outdoor scenery or environment constantly
19 changes; is that correct?

20 A That is correct.

21 Q It can change from day-to-day; is that correct?

22 A That is correct.

23 Q Okay. And week to week. Now, did you have anyone to
24 follow you around so that you can try and recreate the
25 conditions as they existed as close as possible to what

1 they existed on the day in which -- November 4th of 2012
2 somewhere between the hours of, you know, 12 and 12:30 at
3 night? Did you have someone take you around and to
4 specifically describe to you every element that existed so
5 that you can try to recreate it?

6 A Not every element, no.

7 Q Okay. What elements did you try to recreate or
8 facsimile?

9 A We tried to recreate the lighting conditions as far
10 as the artificial light. The photograph of the moon in
11 its phase was to show the amount of ambient light, natural
12 ambient light that was present. The main purpose was to
13 record those distances during daylight and at nighttime.

14 Q And I understand the distances and I understand the
15 relevancy with respect to distances. I understand that.
16 Now, I think you said that Matt Lane was out there?

17 A Yes, sir.

18 Q What time was he out there?

19 A I arrived if you'll let me look at notes real quick.
20 I didn't record the time that I arrived at Stacy Fowler's
21 residence. I did record the time of when I arrived at the
22 Marion County sheriff's office, so that they could escort
23 me to Ard Drive in Mullins.

24 Q What time was that?

25 A I met there four o'clock p.m.

1 Q And about how long did you stay out there taking
2 these photographs?

3 A I left the scene at 7:45 p.m. from the residence
4 where all these photographs were taken.

5 Q Okay.

6 A So roughly -- of course, this is just -- I would
7 roughly say that I probably started taking photographs
8 somewhere around five o'clock. He was only out there for
9 maybe ten or 15 minutes.

10 Q So he was out there during daylight?

11 A Yes, he was out there during daylight.

12 Q So he didn't help you at least through his memory
13 recreate, you know, at least a facsimile of what the scene
14 was? And I'm not talking about the position of the cars.
15 I'm talking about everything, the foliage, the leaves
16 everything?

17 A No, sir.

18 Q The way it was?

19 A No, sir.

20 Q Okay. You did it based upon -- you took those
21 photographs based upon what existed on the date that you
22 were out there and this was January of 2015?

23 A Yes.

24 Q What date?

25 A January 30th 2015.

1 Q Now, let me ask you just one more question.

2 A Yes, sir.

3 Q These photographs and, of course, this is exhibit 30
4 through 54. These are exhibits 30 through, is it 53?
5 These State's Exhibits 30 through 53 I believe. I'm sorry
6 54. These exhibits and these photographs -- were these
7 photographs meant to be an exact replica or, you know, of
8 the way the conditions existed on November 4, 2012 at
9 roughly 12, 12:30 in the morning?

10 A The conditions?

11 Q Yes, the exact conditions.

12 A No, sir.

13 Q Did you attempt to duplicate the exact conditions?

14 A No, sir.

15 Q Were you asked to try to replicate the exact
16 conditions and or scenery?

17 A In regards to the conditions, I guess maybe we need
18 to define it a little bit more because to me you're
19 talking about lighting conditions, weather conditions. Is
20 there anything else specifically that ---

21 Q Yes, sir. And I understand exactly what you're
22 saying and that's why I added in there conditions and
23 scenery?

24 A I was asked to try to replicate it as closely as I
25 was able to understanding that I'm bound by nature under

1 certain situations that I kind of got what I got to work
2 with. So it was more or less not exactly weather
3 conditions but more daytime versus nighttime in relation
4 to the distance, that's what I was there to recreate along
5 with the positioning of the vehicles.

6 Q And I am just about finished.

7 A That's fine.

8 Q When Matt Lane was there, did you ask Matt Lane for
9 assistance in recreating the scenery?

10 A He spoke with Gary Streett as well as Stacy Fowler.
11 They both communicated with him. I receive my information
12 from him and also Investigator Bell as far as the vehicle
13 positioning and so forth because I was not present the
14 night of.

15 Q So your instructions would primarily be -- was
16 primarily related to vehicle positions?

17 A Yes.

18 Q Okay. But not with respect to scenery, foliage and
19 that sort of thing?

20 A Foliage, no.

21 Q Okay.

22 MR. BROOKER: No further questions, Your Honor.

23 THE COURT: Mr. Clements, anything else?

24 REDIRECT EXAMINATION IN-CAMERA

25 BY MR. CLEMENTS:

1 Q Agent Owens, you were going to -- well, first let me
2 ask you this Mr. Brooker kept asking you about recreating
3 crime scene.

4 A Yes.

5 Q Were you there to recreate the crime scene or just
6 take measurements and lighting?

7 A Measurements and lighting. As a matter of fact, the
8 measurements under both light conditions.

9 Q Okay. Daylight and dark?

10 A Yes.

11 Q All right. And so you had darkness which it was dark
12 the time the event took place, right?

13 A Yes.

14 Q And you had the distances they don't change, do they?

15 A No, sir.

16 Q Okay. And Mr. Brooker ask you about making it more
17 accurate, would you have had to put a lot more foliage on
18 the bushes and trees to make it more accurate?

19 A Yes, from the time where I took the photographs, it
20 was at the end of January.

21 Q Okay.

22 A So I would have had to ---

23 Q So it been a lot of foliage in November of 2012?

24 A Yes, sir.

25 Q Okay. All right. And are those measurements

1 accurate?

2 A Yes.

3 Q And as far as the setting of your camera, did you set
4 it out like a human eye?

5 A It was placed on a tripod to make sure that we didn't
6 have any interference in that manner and it was the -- it
7 was on manual and no automatic settings. There were no
8 flash. It was meant to recreate or replicate what I saw
9 with my eye as closely as possible. So what you see is
10 what I was able to see standing behind the camera.

11 Q So you would look and then you see through the
12 camera?

13 A Yeah, I would make adjustments until what I saw
14 matched what I was taking photographs of.

15 Q And you weren't there to recreate the crime scene?

16 A No, sir, I was not there to recreate the crime scene.

17 Q All right.

18 MR. CLEMENTS: Thank you.

19 THE COURT: Mr. Brooker, anything further?

20 MR. BROOKER: Just one question, Your Honor.

21 RECROSS-EXAMINATION IN-CAMERA

22 BY MR. BROOKER:

23 Q You just testified that you believe that there was
24 foliage there, you know -- there would have been green
25 foliage there two and a half years -- over two years ago

1 when this incident happened in November 4, 2012, then what
2 it was on the day in which you took the photographs. Have
3 you ever visited that site before in your life?

4 A No.

5 Q Okay. And so if you never visited that site before
6 in your life, you cannot make a direct statement with
7 respect to, you know, the comparison foliage or comparison
8 of the natural conditions as they existed between those
9 two dates?

10 A Yes and no. I cannot specifically tell you what it
11 look like the night that this occurred, but having grown
12 up here my entire life, I could see the trees that were
13 there and can tell you they had not been recently planted.
14 They would have been there the night of the incident. And
15 it's my experience that there would have been some leaves
16 on those trees greater than what I see at the end of
17 January.

18 Q This is your -- you giving a layman opinion or you
19 giving opinion as a botanist or something?

20 A No, it's a layman's opinion. I'm not a botanist.

21 MR. BROOKER: Thank you, sir.

22 THE COURT: All right. Anything by way of
23 argument, Mr. Clements?

24 MR. CLEMENTS: Your Honor, I hadn't heard
25 Mr. Brooker's objection to his grounds yet to respond to

1 him, but I'll go ahead and shoot first if you want me to.

2 THE COURT: No, he's the one objecting, you're
3 right.

4 Let me hear from you, Mr. Brooker.

5 MR. BROOKER: Okay. Your Honor, we make these
6 objections on those photographs because obviously is is
7 that there is a tremendous possibility of prejudice here.
8 And where that prejudice comes from is is that those
9 photographs will be presented to that jury and that jury
10 will be asked to take photographs that was taken in
11 January of 2015 and use those photographs to make a
12 determination with respect to the -- with respect to the
13 atmospheric conditions and most importantly the scenic and
14 environmental conditions as they existed at that
15 particular period of time, so that they can determine what
16 was the visibility of witnesses who claim that they saw
17 and specifically this relates to the Hernandezs because
18 the Hernandezs' testimony where is is that they stood at
19 their home and they were able to look over and see the
20 events that unfolded during this particular shooting.

21 Now, no one at the sheriff's department or that
22 was involved in this investigation thought that it might
23 be a good idea to take photographs so that we can have at
24 least some idea with respect to what it is. And I don't
25 think in good conscious and in fairness to the defendant,

1 that this jury can be asked to take a look -- to take
2 photographs that were generated so long ago and was just
3 absolutely no way in which this particular individual who
4 testified, that he has no training, you know, with
5 recreations, you know, of outdoor sceneries, so that this
6 jury could have a good, honest at least understanding of
7 what the visibility would have been between those two
8 properties.

9 It is asking the jury to speculate and guess.
10 This is a murder trial. I think it is absolutely
11 prejudice to him and I do not think it should be allowed.
12 I don't think that they can come back, you know, two years
13 ago and say, oh, we made a boo boo. Let's try and correct
14 it. And let's go out there and pretend and tell the jury
15 this is what the Hernandez was able to see, you know, from
16 photographs that was taken over a year -- over two years
17 after the event, taken at different times -- it's just.
18 You know, I can't understand it.

19 So we strongly object to it because we think it
20 is extremely prejudicial. These are not being offered for
21 demonstrative purposes. They're being offered, you know,
22 so that this jury can use these photographs to make a
23 determination with respect to what the visibility would
24 have been on that particular night. And they cannot be
25 appropriately used for that purpose because I have not

1 heard anything that suggest, you know, that there has been
2 a recreation of the conditions that existed the scenery,
3 the environment that existed. I mean, it's just wildly
4 prejudice.

5 THE COURT: Thank you. Mr. Clements.

6 MR. CLEMENTS: Your Honor, there's one small
7 part that I agree with Mr. Brooker about. These photos
8 we're discussing are prejudicial. We wouldn't be trying
9 to put them in if they weren't. After we had the stand
10 your ground hearing and saw what we determined to be
11 tremendous credibility issue on the Hernandezs, then we
12 went and made these measurements and took these pictures.
13 And Mr. Brooker's talking about we didn't recreate this
14 and recreate that.

15 Well, there's one thing that matters there or
16 two things, the measurements how far they look and the
17 lighting how dark it was. It was dark that night. It was
18 dark when they took the pictures. They made the
19 measurements and took daylight pictures as well, which
20 were in much more favorable conditions for visibility then
21 in November 4th 2012, because as you can see in these
22 photographs there's almost no foliage whatsoever on those
23 trees. And they're way high enough that you can't say
24 they grew up past that and that time period. Because if
25 you cut them almost down, there's still a little

1 obstruction.

2 We already have into evidence, Your Honor,
3 State's Exhibit 17, which shows the foliage a couple of
4 tenths of a mile, three tenths or so of a mile from where
5 this took place and it shows the foliage of that exact
6 same day. And we got testimony that's the way the foliage
7 was. So that foliage will be very similar to the evening
8 that the Hernandezs said they were viewing what happened.
9 And I don't doubt that they saw something, but the
10 question is credibility if they had the ability to see
11 what they claim they saw.

12 Also, Your Honor, and this was just kind of
13 serendipitous Agent Scott Hardee was taking his pictures
14 around doing the general photographs of the area on that
15 evening that night hours after the shooting occurred and
16 he takes a picture looking toward the Hernandez's house
17 and you can see that there's an obstruction there. You
18 can see the different lines of how this bush might be
19 here, this shrub here and you see that. You see that
20 obstruction and you see the only light in that direction
21 is a light poll that did not change. These pictures are a
22 lot better for Mr. Brooker in that regard then they are
23 for us. And I think his entire argument goes to the
24 weight of the evidence, Your Honor, not the admissibility
25 of it.

1 Certainly people that live around here they know
2 the difference between November 1st and the January 30th
3 as far as foliage. There's just a straight line shot with
4 measurements at three points. It's very important and
5 completely relevant what the distance was. And the
6 distance is the same in the daytime as it is in the
7 darkness. And there are pictures made both daytime and
8 dark. And they can see how well they can see in the
9 daytime and then they can see how well they see in the
10 dark. So I think that it's completely relevant and
11 admissible evidence. And, yes, it's prejudicial, but it
12 is probative as all get out. And all the argument that
13 can be made as far as the weight can be made on
14 cross-examination and argument to the jury.

15 THE COURT: What photo ID was it of Agent
16 Hardee's that showed the foliage?

17 MR. CLEMENTS: I'm sorry.

18 THE COURT: What photo State's Exhibit what was
19 the photograph of Agent Hardee's picture that showed the
20 foliage in the background?

21 MR. CLEMENTS: And you can see we pointed it out
22 on the screen and might need to pull it up on the screen
23 because that's a lot clearer.

24 THE COURT: And the Court is looking at State's
25 Exhibit 26.

1 MR. BROOKER: Sure, Your Honor.

2 MR. CLEMENTS: You can see it's strictly an
3 enlarged photograph. The yellow crime scene tape and then
4 the shading -- the shadowing above it where all the bushes
5 and shrubs are, that's looking directly back toward the
6 Hernandezs' house.

7 THE COURT: Let me see those exhibits right
8 there.

9 Mr. Brooker, anything further?

10 MR. BROOKER: No, Your Honor. I think there's
11 absolutely nothing further. I could respond to at least
12 some of the arguments that he made.

13 THE COURT: Well, I want to hear from you with
14 regards to the foliage issue then versus the foliage issue
15 now in these photographs of 30 through whatever it may be
16 -- in particular 47 -- 30 through 47 excluding 48, 49, 52,
17 54...

18 MR. BROOKER: And what was your question, Your
19 Honor, so that I may respond to it correctly?

20 THE COURT: His argument -- what your argument
21 was and what I understood it to be revolved around that
22 the photographs did not adequately or accurately depict
23 the environment, the conditions et cetra on the night that
24 this shooting took place and went to the ability or
25 inability of the Hernandez to see what went on over there.

1 Mr. Clements' argument is, Judge, and I don't know --
2 State's Exhibit 26, which has already been introduced into
3 evidence it was put on that video screen as well as
4 State's Exhibit Number 17. All be it as where the gun was
5 located is an indication of the clearly green foliage in
6 this exhibit was more so based upon what's already been
7 entered into evidence, then what they're trying to
8 introduce which you hold in your hand right there. And
9 why does that not go to the weight as oppose to the
10 admissibility?

11 MR. BROOKER: The reason why, Your Honor, is is
12 that we're not just -- and I apologize if I just basically
13 create the impression that hang up is on the foliage.
14 It's not just on foliage. It's the full environment.

15 THE COURT: We talking about -- and I'll give
16 you a chance to fully respond.

17 MR. BROOKER: Certainly, sir.

18 THE COURT: We're talking about distances here,
19 okay. Elaborate when you say full environment elaborate
20 on that for me.

21 MR. BROOKER: What we're talking about is --
22 when I mean full environment, we're not just talking about
23 the existence and nonexistence of foliage. And then, of
24 course, is that taking a look at least what's been
25 identified -- I think State's Exhibit 17, which is from a

1 completely different area that is far more grown up then
2 what we're talking about between this pretty much vacant
3 lot, you know. There is no comparison that you can make
4 between a wooded area, you know, and the grown up lot.

5 THE COURT: What I'm looking at that for
6 purposes of seeing is not the -- how grown up it is, but
7 certainly seeing the greenery and how things are still not
8 dead because of dew et cetra. Those photographs that you
9 hold in your hand and what the State has argued, at least
10 the impression I got, it goes to weight not the
11 admissibility because you still had greenery et cetra back
12 then versus what you see in those photographs that were
13 taken in January of this year.

14 MR. OWENS: It was January 30th.

15 THE COURT: Please go ahead.

16 MR. BROOKER: And I understand, Your Honor, if
17 you also look at is is that there is brush that is grown
18 up. And then, of course, is is that is that can someone
19 tell me at least can tell me the height of the brush, you
20 know, between those two distances. That's something that
21 changes on a monthly basis as oppose to three years.
22 There are also environmental natural factors to consider
23 and also nonnatural factors to consider. You look at what
24 they introduced in State's Exhibit 3 and State's Exhibit
25 4, you know, where this was taken sometime after. This

1 was taken sometime after, you know, this particular
2 incident. And I'm still not quite sure what date, but in
3 this one, it clearly shows that that field has been cut.
4 You know, so what I'm saying is that we're going to be
5 asking the jury to speculate and this is too important of
6 an issue.

7 Specifically, I could understand if the only
8 issue was here is that they were trying to find a way to
9 say to the jury, you know, here's the distances between
10 those two houses, but that is not what they're trying to
11 say to the jury. They're trying to say to the jury this
12 is what the conditions look like. This is what the
13 visibility of the Hernandez was on that particular night
14 from these photos that was taken in an uncontrol
15 environment.

16 You know, it's just impossible and juries going
17 to have to speculate what if they're wrong, what if the
18 conditions on that particular night, the scenery, the
19 foliage, what are the conditions of that lot, the position
20 of a tree or branch, you know, that have grown out. And
21 on that particular night was shorter than what it is now
22 and now creates a greater obstruction the height of the
23 tree. You know, what are the differences now. The jury
24 is going to have to speculate about that and his life is
25 on the line based upon speculation. They can make their

1 arguments through the testimony of juries with respect to
2 what they think, you know, the visibility was, but I think
3 to do it this way and to say that here is what the
4 Hernandez was looking through, here is what their
5 visibility was. You know, it's absolutely legal fiction
6 and it's going to cause for them to speculate about what
7 Hernandezs' visibilty was. And other than that, I don't
8 have anything else to say. I'll rest on that, Your Honor.

9 THE COURT: All right. I'm going to step down
10 and I'm going to look at all these photographs.

11 MR. CLEMENTS: Your Honor, may I make two
12 comments?

13 THE COURT: Yes.

14 MR. CLEMENTS: Number one is State's Exhibit 28
15 shows the tree on the other side of the lot and it
16 shows -- it is absolutely full of foliage and that would
17 be more indication. And the distance Mr. Brooker I would
18 submit would have you think it was fine for the jury to
19 have to speculate on the distance if we told them 300 and
20 something feet, they gone have to speculate in their mind
21 what that actually looks like. These pictures show them
22 the distance.

23 THE COURT: All right. I'll look at all of
24 them.

25 (WHEREUPON, a break was taken.)

1 THE COURT: All right. Testimony and arguments
2 of counsel and that's more specifically to the State is
3 that their intention and purpose of introducing these
4 exhibits is to show distance; is that correct, Mr.
5 Clements?

6 MR. CLEMENTS: Distance and lighting, Your
7 Honor.

8 THE COURT: Well, there was testimony from this
9 young man as to three separate measurements and I believe
10 the first one -- and you look back at your notes correct
11 me young man if I'm wrong was from Victor -- from the
12 Hernandez to the property line?

13 MR. OWENS: Yes.

14 THE COURT: Which was 140 feet one inch?

15 MR. OWENS: Yes.

16 THE COURT: The second measurement was from the
17 front porch to Officer Streett's vehicle?

18 MR. OWENS: No, sir, it was from the front porch
19 to Stacy Fowler's property line of that abandoned lot and
20 that was 284 feet. That's the second measurement.

21 THE COURT: I'm sorry Stacy Fowler's residence
22 to the property line.

23 MR. OWENS: Yes, sir.

24 THE COURT: And then the third was a front porch
25 and I assume of the Hernandez house?

1 MR. OWENS: Yes, all photographs were taken from
2 the front porch of the Hernandez's residence.

3 THE COURT: All 25 of them at least that's what
4 I'm holding thereabout.

5 MR. OWENS: I do. If it involve the
6 measurements that were all taken from Vickie Hernandez's
7 front porch, the only ones that weren't were the photo of
8 the moon and general overall shots from the first around.

9
10 THE COURT: Well, with regards to 50, 51 and 53,
11 I'm not going to allow them. I will allow the State to
12 select three photographs depicting those particular
13 measurements that you took, three photographs, three
14 depicting those measurements.

15 MR. CLEMENTS: Your Honor, may I have Officer
16 Owens assistance in picking those three?

17 THE COURT: Yes, sir. Yes, sir.

18 MR. CLEMENTS: Thank you, Your Honor.

19 THE COURT: With regards -- I do believe that
20 that portion goes to the weight and not the admissibility
21 which can certainly be cleared up at any visibility issues
22 on cross-examination by defense counsel.

23 MR. BROOKER: And yes, Your Honor, and I
24 understand is is that in at least with respect to that
25 ruling, Your Honor, I would simply make a motion in limine

1 of that when Mr. Owens testified in reference to these
2 three photographs going to be limited -- that his
3 testimony is going to be limited for purposes of distance
4 and that he not be allowed to make an argument or either
5 make a statement to the jury. Those photographs
6 represents, you know, a facsimile or depict what the
7 environmental conditions were at that particular period of
8 time. I can understand the distance.

9 THE COURT: He cannot -- I mean to say what --
10 and you kind of cleared this up to some extent on
11 cross-examination of Agent Hardee about visibility,
12 ability to see. For him to get on the stand and speculate
13 as to what the Hernandez could or could not see, would be
14 purely speculation, so... But he can certainly ask him
15 could you see. He can ask him that question. And you can
16 clear it up on cross-examination.

17 MR. BROOKER: Thank you, Your Honor.

18 THE COURT: Do we need any further
19 questioning -- what numbers are you can just tell me?

20 MR. CLEMENTS: Forty-seven, 52 and 54. Your
21 Honor, the only further questioning I would like to make
22 would be in front of the jury.

23 THE COURT: All right. Subject to -- well, you
24 can introduce them at that point when the jury in.

25 I need you to step off the stand. You will be

1 re-sworn again since the jury was out when you were sworn
2 the first time.

3 Bring us the jury please, sir.

4 (WHEREUPON, the jury came into open court.)

5 THE COURT: All right. Ms. Jonnie Johnson, you
6 are our new forelady and you are seated in the appropriate
7 seat.

8 I apologize that you all have been back there as
9 long as you were, but we were out here dealing with
10 something that I had to deal with outside of your
11 presence. I appreciate your patience while we dealt with
12 that. At this time I'm going to recognize the State.

13 Call your next witness please.

14 MR. CLEMENTS: Thank you, Your Honor. If it
15 please the Court, we call Deputy Chris Owens.

16 THE CLERK: Place your left hand on the Bible
17 and raise your right hand. Do you solemnly swear or
18 affirm that the evidence you're about to give in the trial
19 of this case shall be the truth, the whole truth, and
20 nothing but the truth so help you God?

21 THE WITNESS: I do.

22 THE CLERK: Thank you.

23 WHEREUPON,

24 Christopher Owens,
25 after first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. CLEMENTS:

Q Good afternoon.

A Good afternoon.

Q Can you please introduce yourself to our jurors here and tell them where you work and what you do?

A Corporal Chris Owens Florence County sheriff's office. I work with the forensics and the crime scene division.

Q And what do you do in the forensics and crime scene division?

A I'm in charge of going out on scenes collecting evidence and also analyzing in some cases.

Q Are you a photographer?

A I am.

Q All right. Do you -- as Florence County sheriff's office being one of the larger law enforcement agencies in this area, do they sometimes assist other agencies?

A Yes, we do.

Q All right. Did you have the opportunity to assist Martin Bell on an investigation here in Marion?

A Yes, sir, on January 30th of this year.

Q January 30th of this year?

A Yes, sir.

Q Okay. And what exactly were you assisting Martin

1 Bell with?

2 A He had a search warrant for the property at [REDACTED] Ard
3 Drive in Mullins.

4 Q Do you know whose address that was?

5 A Vickie Hernandez.

6 Q Vickie Hernandez?

7 A Yes.

8 Q Okay. All right. And did you participate in
9 exercise -- in executing that search warrant?

10 A Yes, sir, I assisted Investigator Bell.

11 Q Was there another residence and another address
12 involved in your search warrant in what you're doing that
13 day?

14 A Yes, sir, Stacy Fowler's residence that was [REDACTED] Ard
15 Drive. It's right next door.

16 Q Okay. And was your purpose to come out and make
17 measurements and photograph those measurements?

18 A Yes, sir.

19 Q Okay. Did you do that?

20 A Yes, sir.

21 Q And who assisted you in doing that?

22 A Investigator Bell with the Marion County sheriff's
23 office, Gary Streett with the solicitor's office.

24 Q All right. And how about his boss and your boss was
25 she out there too?

1 A My boss was Kathleen Streett, she was there as well.

2 Q Okay. And did anyone else a layperson -- anyone else
3 give you any assistance or direction at all or give the
4 group any assistance or direction at all?

5 A Stacy Fowler and a gentleman by the name of Matt
6 Lane.

7 Q What was their purpose for orientation or what?

8 A Yeah, for -- they had given statements to Gary
9 Streett who relayed them to me in order that we could make
10 the measurements that we needed to make in relationship to
11 vehicles.

12 Q Okay. All right. And did they both did that?

13 A Yes.

14 Q How long did Matt Lane stay there?

15 A 15 minutes.

16 Q Okay. And he came there during the daylight?

17 A Yes.

18 Q And you took these photos in the daylight?

19 A Yes.

20 Q How long did Stacy Fowler stay there?

21 A She was there the entire time we were at her
22 residence.

23 Q Okay. All right. And how many measurements did you
24 take?

25 A I took three.

1 Q You took three. What is the first measurement from
2 where and where and how do you take that measurement and
3 with whom?

4 A The first measurement -- well, I should tell you how
5 we took the measurement. Investigator Bell had a
6 measuring wheel. It's a distance measuring wheel.

7 Q One of those wheels you roll along?

8 A It consists of a poll with a large wheel and it ticks
9 off the measurement in feet and inches. Starting at Ms.
10 Hernandez's front porch, he took a mark in a straight line
11 path. The first measurement was recorded at the edge of
12 Vickie Hernandez's property line. There's a lot that
13 separates Vickie Hernandez's lot and Stacy Fowler's. And
14 we went to the Hernandez's side of that lot.

15 Q Okay. So you familiar enough with this area to show
16 you an aerial photo. You think you can discern anything
17 from there?

18 A Yes, sir, I think I could.

19 Q I want to show you State's Exhibit Number 4. And if
20 you can tell me where the Hernandez's residence is and
21 where Ms. Fowler's residence is on Ard Drive?

22 A To me, this appears to be Stacy Fowler's residence
23 and this is the Hernandez residence a lot is in between.

24 Q So y'all took a straight line ---

25 A Yes.

1 Q --- on those measurements?

2 A We're here. And I'm not sure where the boundary is,
3 but I think it's here, so from here to here. The second
4 measurement was taken from here to the edge of the
5 property line here on to Stacy Fowler's side. And third
6 one was to a vehicle that was parked in the driveway here.

7 Q Okay. And you made the photographs?

8 A Yes.

9 Q I'm going to show you State's Exhibits 47, 52 and 54.
10 Can you tell me yes or no if you can identify those three?

11 A Yes, I can.

12 Q Who took those photos?

13 A I took these photos.

14 Q And when did you take those photos?

15 A I took these photos during the daylight hours on
16 January 30th 2015.

17 Q Okay. All right.

18 MR. CLEMENTS: Your Honor, at this time we move
19 State's Exhibit 47, 52 and 54 into evidence.

20 THE COURT: Any objection?

21 MR. BROOKER: No objections just ask the Court
22 to recognize previous issues.

23 THE COURT: So noted over the objection.

24 MR. BROOKER: Thank you.

25

1 (WHEREUPON, State's Exhibits Nos. 47, 52 and 54
2 were admitted into evidence.)

3 BY MR. CLEMENTS:

4 Q I want to show you State's Exhibit 47. You've
5 identified that as a picture you took. Can you please
6 explain to this jury why you took that photo and what it
7 represents?

8 A This is the first recorded measurement taken from the
9 front porch belonging to Vickie Hernandez. This
10 particular point in the measurement goes to the edge of
11 her property line in relationship to the adjacent lot, the
12 abandon lot. And the recorded distance is 140 feet and
13 one inch. And standing in this photograph is Investigator
14 Bell holding the measuring device.

15 Q Okay. So that's him in that black coat and hat?

16 A Yes.

17 Q Okay. I want to show you State's Exhibit 52. And
18 can you tell me what that depicts and why you took that
19 photograph and what the measurements were?

20 A Okay. This particular photograph was again taken
21 from the front porch of Vickie Hernandez's residence. In
22 this particular photograph, it is taken from the front
23 porch in a straight line path to a vehicle that we had
24 placed in the driveway of Stacy Fowler's residence,
25 intended to be as closely as possible in the proximate

1 distance as her residence as the car was the night of the
2 incident. This is a straight line measurement to that
3 vehicle and the recorded measurement is 357 feet and one
4 half inch.

5 Q 357 feet and one half inch?

6 A Yes.

7 Q All right. Show you State's Exhibit 54. Can you
8 explain to me what that picture represents and the
9 measurement and why you took that?

10 A This is the second recorded measurement from Vickie
11 Hernandez's front porch to the point of -- where the
12 property line for Stacy Fowler butts up to the adjacent
13 lot property. Investigator Bell is standing at that point
14 and the recorded distance there was approximately
15 284 feet.

16 Q When you say approximately, how approximately or how
17 accurately?

18 A It's very accurate. We just used approximate just
19 because we don't have anything other than inches. It's
20 not recorded in tenths or whatever.

21 MR. CLEMENTS: And now if I could have the
22 Court's permission, I would like to ask you to step down?

23 THE COURT: Yes, sir.

24 BY MR. CLEMENTS:

25 Q And if you'll stand right there on this side here

1 where the television set, keep your voice up so that the
2 court reporter can hear you. First, I like to look at
3 State's Exhibit 47, which is number 22 on our list. There
4 it is and who is that right there?

5 A That's Investigator Bell.

6 Q And where is the measuring stick?

7 A It's here in the right hand see the color. It's
8 right on that.

9 Q Back it up to the original size. Can you explain to
10 us again how you were set up and what you did and how you
11 took the pictures?

12 A Yes, sir. Her front porch would be about right here.
13 It would be standing looking that way. I set a tripod up
14 to make sure that there was no human error, as little
15 human error as possible. And set my camera on the tripod
16 and began taking photographs as he walked three or four
17 distances trying to recreate exactly what my eye was
18 seeing. There's no flash. It's shot manual mode so that

19 ---

20 Q What do you mean manual mode?

21 A Where most cameras are point to shot, they're
22 automatics and so you hold the button and it focuses on
23 something and takes a photo. This one was all done
24 manually. Everything from how close something appears to
25 what you can to change the light.

1 Q Did you do anything to change the light?

2 A No, sir.

3 Q And did you look with your eye and look through the
4 view finder?

5 A Yes, sir.

6 Q Is that the way it works?

7 A Yes, sir.

8 Q Okay. Until you thought you seen the exact same
9 thing?

10 A Yes, sir.

11 Q All right. And you took that picture?

12 A Yes.

13 Q All right. If we could go next to State's Exhibit
14 54, which will be our number 22. Now, tell us about this?

15 A Okay. This again is the second photograph that we
16 took. The property line you can kind of see the edge of
17 the brush here. So it's pretty much a path and this was a
18 recorded measurement where it was taken somewhere right
19 here of 284 feet.

20 Q And that would be where Martin Bell was standing?

21 A Yes.

22 Q Okay. Can you point out the car there to us?

23 A Yes, this is Gary Streett's vehicle a Crown Vic. And
24 this is my boss Kathleen Streett's Dodge Charger.

25 Q Okay. All right. Back it all the way back up so we

1 got a clear distance all the way. Okay. All right. And
2 did you see Martin there, can you point him out?

3 A No, sir, I can't.

4 Q Okay. All right. Let's go to State's Exhibit 52,
5 which be number 24 on our list and put it back to normal.
6 Explain this picture to us, what you were doing and what
7 you were trying to record and what the measurement was?

8 A This was the last recorded distance. It is to the
9 edge of Gary Streëtt's vehicle here by the driver's side
10 door. It is the recorded measurement of 357 feet and one
11 half inch.

12 Q 357 feet and one half?

13 A Yes.

14 Q Okay. All right. You see Martin Bell there?

15 A I can see the measuring device.

16 Q All right. How do you see the measuring device?

17 A Because of the color.

18 Q Orange?

19 A Yes. You can see here the rim of the Crown Vic is
20 blocked.

21 Q Now, it's 357 feet and a half inch?

22 A 357 feet and one half inch.

23 Q Okay. All right.

24 THE COURT: Let me see the lawyers over here for
25 just a minute please.

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

4 MR. CLEMENTS: Beg the Court's indulgence a
5 moment.

6 THE COURT: Yes, sir.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MR. CLEMENTS:

9 Q Just a little bit more for you, Chris. I'm going to
10 show you State's Exhibit 53 for ID. Can you tell me if
11 you recognize that and know what that is?

12 A Yes, sir.

13 Q Who took that picture?

14 A I took this photograph.

15 Q And when did you take that photograph?

16 A On the same day as the daytime photos were taken.
17 This is a nighttime photograph. It's depicting the
18 measurement of 357 feet and a half inch.

19 Q From?

20 A From the front porch of Vickie Hernandez's residence.

21 Q To the?

22 A To Gary Streett's vehicle.

23 Q Okay. All right.

24 MR. CLEMENTS: Your Honor, I would move to have
25 State's Exhibit 53 entered into evidence at this time.

1 THE COURT: Subject to Mr. Brooker's objection
2 -- subject to your object it's admitted.

3 MR. BROOKER: Thank you, Your Honor.

4 (WHEREUPON, State's Exhibit No. 53 was admitted
5 into evidence.)

6 BY MR. CLEMENTS:

7 Q Sorry about this, but I'm going to ask you to step
8 down one more time. Chris, what time was this that you
9 took this photograph on State's Exhibit 53?

10 A It was during the nighttime. I don't have the
11 proximate time, but shortly after taking this photograph,
12 I did leave the scene. And I left the scene at
13 approximately at 7:45 p.m.

14 Q Was it completely dark?

15 A Yes. Yes, it was.

16 Q All right. You can take that pointer please and if
17 you would -- got that on the normal original -- point that
18 out for us please. What you were depicting and where the
19 measurements were from?

20 A This measurement is from the front porch again of
21 Vickie Hernandez's residence. It's a straight line path
22 as were the daylight photos. This is simply a nighttime
23 photo of one of the same measurements that we took during
24 the daytime. In this particular instance, it happens to
25 be the third measurement that we took 357 and a half inch

1 or 357 feet and half inches. Martin Bell, Investigator
2 Martin Bell standing by Gary Streett's vehicle.

3 Q Okay. And headlights are on the vehicle?

4 A Headlights are on. There's some street lamps that
5 are also on and the front porch light of Stacy Fowler's
6 residence was on.

7 Q Can you please tell us again where Investigator Bell
8 was standing when you took that picture?

9 A He was standing approximately right here.

10 Q That's the headlights, he was at the door?

11 A This is his vehicle, the headlights of his vehicle.
12 This is an open door that he was standing on the outside
13 of. And this is my boss' vehicle the white Charger that
14 you saw in one or two of the other photographs.

15 Q All right. And is that what you saw?

16 A Yes, that is what I saw with the naked eye.

17 Q Okay. And look through the view finder and made it
18 the same thing?

19 A Yes.

20 Q All right. Thank you. Please have a seat. Deputy
21 Owens, is that what you did to assist Marion County?

22 A That is what I did to assist Marion County.

23 Q And you done nothing else on that case from that
24 point forward January 30th of 2015?

25 A That's correct.

1 Q And that's the only day you worked with them?

2 A That is correct.

3 MR. CLEMENTS: Please answer any questions,
4 Mr. Brooker may have.

5 THE COURT: Cross-examination.

6 MR. BROOKER: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MR. BROOKER:

9 Q Corporal Owens, do you know when the shooting took
10 place?

11 A November of 2012 if I'm correct.

12 Q Okay. Would it surprise you that it's November 4,
13 2012, does that sound accurate?

14 A That sounds correct.

15 Q Now, the photographs that were just entered into
16 evidence and, I believe, that is State's Exhibit 52, 54,
17 47?

18 THE COURT: 52, 50 and 47, I believe, is that
19 right, Keshia?

20 COURT REPORTER: It's 47, 52, 53 and 54.

21 THE COURT: Okay, I'm sorry.

22 BY MR. BROOKER:

23 Q We've established that this shooting happened on
24 November 4, 2012; is that correct?

25 A Yes.

1 Q Okay. Were you on the scene on November -- were you
2 at the crime scene on November 4, 2012?

3 A No.

4 Q Okay. So you were not involved in at all that
5 particular -- the day of the shooting?

6 A No, sir.

7 Q Okay. Were you there the next day?

8 A No, sir.

9 Q Were you there the day after?

10 A No, sir.

11 Q Were you there the week after?

12 A No, sir.

13 Q What about the month after?

14 A No, sir.

15 Q What about year after?

16 A No, sir.

17 Q What about exactly two years after?

18 A No, sir.

19 Q Okay. So these photographs that you're showing this
20 jury, these photographs were not taken and, you correct me
21 if I'm wrong, these photographs were not taken a week
22 later or not taken a day later. They weren't even taken a
23 month later or even a year later. They were taken well
24 over two years and let me give an estimate roughly two
25 years two months?

1 A That's a fair estimate, yes, sir.

2 Q Roughly two years and two months later. Okay. Now,
3 were you out there to witness the conditions, the
4 environmental conditions as they existed on November 12th
5 excuse me -- on November 4, 2012, the night of the
6 shooting?

7 A No, sir.

8 Q So when you took these photographs, were you
9 attempting to represent the environmental conditions that
10 existed on that particular day?

11 A No, sir.

12 Q Every branch, every tree, every grass blade, its
13 height, you were not trying to replicate this?

14 A No, sir.

15 Q And you're not trying to tell this jury that this is
16 a replication of the environment as it exist on that
17 particular night?

18 A No, sir.

19 Q Now, let me at least just get into that. Are you
20 trained as a forensic crime scene reconstructionist?

21 A No, sir, this wasn't a reconstruction.

22 Q And I know it isn't, but I just wanted to make sure.
23 You've not been trained as a forensic crime scene
24 reconstructionist?

25 A No, sir.

1 Q Okay. And specifically you're not trained or have no
2 specific training or education in reconstructing, you
3 know, outdoor crime scenes?

4 A No, sir.

5 Q Okay. And would you agree with me that outdoor crime
6 scenes are uncontrolled environments?

7 A Yes, sir.

8 Q Okay. So there multiple variables that change from
9 day-to-day from week to week from month to month and
10 definitely from year to year?

11 A Yes, sir.

12 Q Now, also it was enter into evidence was State's
13 Exhibit 53?

14 A Yes, sir.

15 Q Now, State's Exhibit 53 is this a shot that was taken
16 from the residence of Mr. and Mrs. Hernandez looking back
17 towards the residence of Stacy Fowler?

18 A It was.

19 Q Okay. And do you know what time the shooting took
20 place on November 4, 2012?

21 A I do not.

22 Q Do you know what time was the photograph that you
23 produce two years and two months later?

24 A Like I testified previously, I know that that was
25 the -- that was one of the last photographs I took. And

1 the reason I say -- I may see the picture one more time?

2 Q Certainly.

3 A This was the second to last photograph that I took.
4 The last photograph basically being a duplicate of that
5 one.

6 Q And roughly what time did you take that photograph?

7 A I departed from the residence at 7:45 p.m., which
8 means I left there after taking all my photographs. Since
9 that was the last photograph, I would say it would be fair
10 to say 7:20, 7:30 p.m. would be a rough estimate.

11 Q Rough estimate of when you took that photograph?

12 A Yes.

13 Q Okay. Now, do you know what the conditions were on
14 the night of -- let me ask you this is is that on the
15 night of November 4, 2012, do you know whether or not the
16 shooting took place at approximately the same time 7:20,
17 7:30 p.m.?

18 A I don't know what time it took place.

19 Q Okay. So you don't know what time it took place?

20 A No, sir.

21 Q Did -- and just at least from my understanding is did
22 you go back -- I think you testified that you took this
23 photograph on November 30th of 2015?

24 A January 30th of 2015. -

25 Q I apologize you did say January 30th 2015?

1 A Yes, sir.

2 Q How did you pick January 30th 2015 that particular
3 day?

4 A That was the day of the search warrant.

5 Q That was the day of the search warrant?

6 A Yes, sir.

7 Q Now, are you familiar with the Farmers' Almanac?

8 A Yes.

9 Q And you correct me if I'm wrong because I could be.
10 It is my understanding that the technology out there and
11 at least the information out there existed where we can go
12 back and look at specific dates and see what was --
13 whether it was a full moon, whether it was a half moon,
14 quarter moon, you know, how the moon was shining and all
15 of that sort of stuff. Were you aware of that?

16 A Yes.

17 Q Okay. So did you go back and consult at least these
18 data basis and I think there's a number of sources where
19 you can do this. Did you go back and consult these data
20 basis to look and see exactly what the conditions were,
21 the lunar conditions were on that particular -- on
22 November 4, 2012?

23 A No, sir.

24 Q To try to determine whether or not -- I apologize.
25 To try to determine whether or not there is any sort of

1 facsimile between the date in which you were going to take
2 the pictures on January 30th 2015 and that particular day?

3 A No, I did not.

4 Q Okay. So you're not trying to tell this jury and you
5 cannot tell this jury that this picture is an accurate
6 representation of the visibility on November 4, 2012, at
7 the exact time of the shooting?

8 A No, sir.

9 Q Okay. Just wanted to make that clear. Now, so
10 primarily, and you correct me if I'm wrong, that the
11 primary value of these photographs is is to show distance?

12 A Yes.

13 Q The distance between Stacy Fowler's residence and the
14 residence of Mr. and Mrs. Hernandez?

15 A Yes.

16 Q Okay.

17 MR. BROOKER: You can indulge me, Your Honor,
18 make sure I don't have any further questions.

19 THE COURT: Yes, sir.

20 (WHEREUPON, a pause in the proceedings.)

21 MR. BROOKER: No further questions, Your Honor.

22 THE COURT: Mr. Clements.

23 REDIRECT EXAMINATION

24 BY MR. CLEMENTS:

25 Q Deputy, you know, you don't know about the moon on

1 November, did you take a picture of the moon on that day?

2 A I did.

3 Q You take a picture of the moon that day?

4 A I did take a picture of the moon that day.

5 Q About what time?

6 A It was after the sun had set before it became
7 completely dark, so it's at dusk.

8 Q Okay. I'm going to show you what's been marked
9 State's Exhibit 48. Can you identify this for me?

10 A Yes, sir, that's a picture of the moon in its current
11 phase on that date.

12 Q All right. And that's almost full moon that day,
13 right?

14 A Yes, it's very close.

15 MR. CLEMENTS: Your Honor, I ask permission to
16 publish this to the jury.

17 THE COURT: Any objection?

18 MR. BROOKER: Yes, Your Honor, the previous ones
19 that we had before.

20 THE COURT: Over defense counsel's objection so
21 admitted -- so allowed.

22 (WHEREUPON, State's Exhibit No. 48 was admitted
23 into evidence.)

24 BY MR. CLEMENTS:

25 Q And you don't know what the phase of the moon was on

1 November 4th of 2012, do you?

2 A No, sir, I do not.

3 Q But those records are kept, are they not?

4 A Yes, they are. If I may also point out, that
5 particular photograph appears to be blurry. The reason
6 being is because when you try to photograph the moon, it's
7 such -- it doesn't look bright to the human eye, but it's
8 such a bright light to that camera. That in order to get
9 any details from the moon, you would have to set -- adjust
10 the settings of that camera to completely -- for instance
11 the sky in that photograph had I captured the details of
12 the moon would have been completely black. At that time
13 of that photograph that would not have been an accurate
14 representation, so I had to lose detail in the moon in
15 order to give an accurate representation as I saw it.

16 Q Thank you.

17 MR. CLEMENTS: Your Honor, we have a quick issue
18 of law we need to take up outside the presence of the
19 jury.

20 THE COURT: Ladies and gentlemen, I like to ask
21 you to step into the jury room for just a minute. Do not
22 discuss the case, get you back out here in just a minute.

23 (WHEREUPON, the jury retire to the jury room.)

24 THE COURT: Yes, sir.

25 MR. CLEMENTS: Your Honor, I would like to show

1 you something and ask the Court to take judicial notice,
2 here is the phase of the moon on November 4th 2012.

3 THE COURT: Let me see it again.

4 MR. CLEMENTS: Here is the phase of the moon of
5 January 30th 2012 and there's more moon on January 30th --
6 I mean 2015. There's more moon on January 30th 2015 than
7 there is on November 4, 2012.

8 THE COURT: Mr. Brooker.

9 MR. BROOKER: Can I at least take one more look
10 at least the source?

11 THE COURT: Yes.

12 (WHEREUPON, a pause in the proceedings.)

13 MR. BROOKER: Your Honor, I would say that's
14 quite clever of them.

15 THE COURT: Technology.

16 MR. BROOKER: Technology, yes, but, of course,
17 is is that I hope Your Honor will take judicial notice of
18 something. And this is pretty clear is is that it has to
19 be from a source widely recognized as being a reliable
20 source that is beyond question. I think this is
21 stardate.org. I don't know -- I have never heard of it
22 and...

23 THE COURT: Well, it's not necessary. If I do
24 take judicial notice of it, it's not necessary that I do
25 so with this witness on the stand. I mean, that can be

1 done later. The rule requires under Rule 201 says it's
2 mandatory if a question by a party and supplied with
3 necessary information. I'll give you an opportunity to
4 gather further information and make that request in the
5 morning. All right.

6 MR. CLEMENTS: All right.

7 THE COURT: Rule 201. I mean, you can take
8 judicial notice of whatever it may be. It doesn't have to
9 be through a witness. And I can simply say if I in fact
10 do so and I'm taking judicial notice of fill in the blank
11 so to speak and go from there instructing the jury as such
12 as required by the rule subsection G.

13 MR. CLEMENTS: Your Honor, and I wasn't going to
14 try to do this through this witness. I was just doing it
15 now to give Mr. Brooker the benefit of the doubt before he
16 attempted recross.

17 THE COURT: Anything else before I bring the
18 jury back?

19 MR. BROOKER: Nothing else, Your Honor.

20 THE COURT: Bring me the jury please.

21 (WHEREUPON, the jury came into open court.)

22 THE COURT: All right. Mr. Clements.

23 MR. CLEMENTS: Thank you, Your Honor. Corporal,
24 I appreciate you assisting Marion County. Please answer
25 any remaining questions Mr. Brooker may have.

1 THE COURT: Mr. Brooker.

2 MR. BROOKER: Thank you, Your Honor.

3 RE CROSS-EXAMINATION

4 BY MR. BROOKER:

5 Q Just a couple of questions. And, of course, one is
6 involving something that you mentioned about the taking of
7 the moon picture. And, of course, this is what's been
8 identified as State's Exhibit 4 pictures of the moon.
9 And, of course, is it that you at least made an
10 indication -- I think you said that there was at least
11 some difference between the visual or the visual acuity
12 from the naked eye versus that of digital camera?

13 A As it relates to the moon, yes.

14 Q As it relates to the moon. And they're not perfectly
15 the same, so they're not equal. The human eye looking at
16 a moon versus that of a digital camera is not completely
17 the same?

18 A No, sir.

19 Q Would you have to -- did you have to adjust the
20 digital camera to get whatever focus you need to take a
21 look at?

22 A I would have had to adjust it to focus in on the moon
23 in that particular instance. For the other ones, it was
24 completely different.

25 Q Okay. And what were the adjustments that was made --

1 what were the adjustment settings that were made to take
2 this particular photograph?

3 A That information was on that disk if you right click
4 on it, pull up properties. It will show you every setting
5 that I had on the camera that day. I don't have it wrote
6 down because of that.

7 Q Okay. And just very quickly and I don't know what
8 those settings are. But, of course, is is that -- and
9 like I said this may be something that might be medical,
10 that might be beyond both of our knowledge is is that can
11 you tell me the difference between the vision of the naked
12 eye versus that of this whatever the digital camera used?

13 A Medically, no. The only thing that I can tell you is
14 in that particular shot the camera would have been -- had
15 to focus on that single point being the moon. The camera
16 works because it allows light into the lens by focusing
17 everything on that central object being the moon and
18 because it illuminates light, it would have been
19 impossible to do both. I can't provide the accuracy of
20 the nighttime sky and keep the detail of the moon because
21 I choose to focus on the moon.

22 Q So a camera sees differently than the human eye?

23 A In some respects, yes.

24 Q Okay. Okay. Cause obviously it's a machine and it's
25 artificial?

1 A Yes.

2 Q Or it sees differently than the human eye. Now, what
3 was the distance between the earth and the moon?

4 A Would you like an proximate?

5 Q Yeah, on this night. I'm sorry. Do you know on this
6 particular night when you took this what was the distance?

7 A No, I do not.

8 Q I don't know whether or not and I don't know whether
9 or not this is the area of astrology. But do you know
10 anything about the distances between the earth and the
11 moon and whether or not there is a change in it at
12 different times and what causes those changes?

13 A A change in being.

14 Q Is there sometimes -- are there sometimes in which
15 the moon appears to be closer to the earth. And I'll ask
16 you this at least as a layman. Have you ever looked out
17 and saw just what appears to be this large huge round
18 moon?

19 A Yes.

20 Q Okay. And have you ever looked and versus have you
21 ever looked out and see a moon that appears to be far far
22 away?

23 A Yes.

24 Q Okay. Do you know what determines that, what
25 determines or what, you know, determines or the cause of

1 sometimes the moon appears to be huge and close up versus
2 the moon far far away?

3 A No, I think we're getting outside my realm.

4 Q Okay. All right. So do you know what the distances
5 were between the moons on -- and I don't know whether or
6 not you have that evidence. The distances between the
7 earth and the moon on the date of November 12th 2015 and
8 that of January 30th 2015?

9 A No, sir, I do not.

10 MR. BROOKER: No further questions, Your Honor.

11 THE COURT: Sir, you may step down. Thank you.

12 MR. CLEMENTS: Your Honor, that's all we have
13 for the afternoon unless you want to stay here a long
14 time.

15 THE COURT: No, sir. Sir, you may step down.

16 (WHEREUPON, the witness leaves the witness
17 stand.)

18 MR. CLEMENTS: And, Your Honor, I take it he is
19 released from his subpoena.

20 THE COURT: If you're requesting it?

21 MR. BROOKER: Without objection, Your Honor.

22 THE COURT: And without objection, yes, sir.

23 All right. Ladies and gentlemen, we're going to stop at
24 this stage for the day. It's been a long day. I know you
25 feel the same way. All right. I appreciate your

1 attentiveness throughout the day. I'm going to release
2 you for the balance of the evening. I'm going to ask you
3 to be back here tomorrow morning at nine o'clock, be back
4 here tomorrow at nine o'clock in your jury room. During
5 your overnight break, don't discuss the case. Don't do
6 any independent investigation. You're to decide this case
7 based solely on the testimony and evidence presented in
8 this courtroom nowhere else. Thank you all, have a great
9 evening. I'll see you in the morning. Everybody else
10 remain seated.

11 (WHEREUPON, the jury is excuse for the day.)

12 THE COURT: All right. With regards -- when
13 Corporal Owens was on the stand, I previously ruled with
14 regards to the admission of various photographs and I had
15 indicated the State could put in three photographs
16 pertaining to the three distances that they measured --
17 that he measured. After the Corporal Owens was on the
18 stand, I made a decision to allow one of the nighttime
19 photographs to come in simply for purposes of him
20 testifying as to what he saw that night, what he saw that
21 night and indicated to Mr. Clements and Mr. Brooker at
22 side bar that I was going to allow that to take place,
23 which I did. And further instructed Mr. Brooker that I
24 would allow him to clean up or on cross-examination
25 address any issues pertaining to lighting et cetera, which

1 he did. In having said that, I also told Mr. Brooker that
2 if he wanted to address or further put any objection on
3 the record, that I would allow him to do so outside the
4 presence of the jury. And at this time if you so desire,
5 Mr. Brooker, that's what I wanted you to do, okay.

6 MR. BROOKER: Your Honor, and in like I said, I
7 don't think we need to go into drawn out detail
8 explanation of the objection because I think the
9 objections that we made I think at the time in which these
10 photographs were proper -- were proffered I think in
11 evidence, that those objections applied to technically the
12 two pictures. I think also the one of the moon which is
13 State's Exhibit 48 and obviously is is that our objections
14 that we made during the proffer of these photos along with
15 the other ones, I think are still applicable, so the same
16 arguments. I won't beat a dead animal any further.

17 THE COURT: Well, I just wanted to make sure
18 that because we did talk at side bar to give you an
19 opportunity to further either put any further argument on
20 the record pertaining to that issue or if misstated
21 anything to give you an opportunity to clarify.

22 MR. BROOKER: You did, sir, and I appreciate
23 that tremendously. Thank you.

24 THE COURT: All right. Are there any issues --
25 I mean, we had this jury sitting back there what an hour,

1 an hour and a half while we dealt with this today. I
2 don't know what other issues there maybe out there other
3 than some photographs that you all talk with me about
4 prior to jury selection yesterday. I think there were
5 four photographs of the decedent's body beside the
6 automobile that were taken that night. There were some
7 objections as to those photographs coming in, told you
8 that I would make a ruling on it depending upon testimony
9 elicited from this stand at that time, correct?

10 MR. BROOKER: Yes, sir.

11 THE COURT: All right. Other than those
12 photographs, are there any other issues that we need to
13 try to deal with separate. I'm not -- one of my pet
14 peeves so to speak is make a jury sit -- understanding
15 that things come up during a trial I understand that, but
16 this is something that we dealt with today that could have
17 been dealt with pretrial, okay. And it's nonsense and
18 inefficient use of time to make them sit back there while
19 we proffer testimony. And again I understand that those
20 kind of things happen, but my question to you all is there
21 anything else that you all foresee other than those four
22 photographs that you all talk with me about yesterday?

23 MR. CLEMENTS: Your Honor, not that I know of
24 and I think those four photographs -- I have to go back
25 and check, but I think I decided not to push that issue.

1 THE COURT: Well, I mean, I'll make a ruling on
2 it. I'll be happy to.

3 MR. CLEMENTS: You already heard from us, Your
4 Honor.

5 THE COURT: On the four photographs of the
6 decedents body?

7 MR. CLEMENTS: Yes, sir.

8 THE COURT: I heard from you in chambers, didn't
9 I? I didn't hear from you out here.

10 MR. CLEMENTS: No, sir. I would just say for
11 the record that I think that those photographs, Your
12 Honor, are much much tamer than what people can see on TV
13 seven days, seven nights a week as far as ---

14 THE COURT: Before you go any further and I'll
15 let you put whatever -- what I'm getting at is there going
16 to be a point in time when you intend to try to introduce
17 those photographs through a witness?

18 MR. CLEMENTS: No, sir, I think I elected not
19 to.

20 THE COURT: Okay. Well, if you were, I would
21 say let's wait until that moment because I know what I'm
22 going to do on them. You know, I know what I'm going to
23 do on them. But if you're electing not ---

24 MR. CLEMENTS: If I know what you're going to
25 do, it might make me decide whether I'm going to call an

1 expert witness or not. I'm just trying to speed things
2 along, Your Honor.

3 THE COURT: Well, I have seen much more gruesome
4 photographs admitted and Mr. Brooker has I'm sure as well.
5 The test for or the admission of such is pretty clear.
6 It's wide discretion of the Court, wide discretion of the
7 Court. And the test is not whether or not a photograph is
8 gruesome or -- that's not the test under the law. It's
9 certainly a probative 403 argument and I do not -- there
10 were a couple of those photographs -- and I don't know
11 what the numbers were. Do you have them?

12 MR. CLEMENTS: Your Honor, I don't think I even
13 have them numbered by the court reporter.

14 THE COURT: Well, I mean certainly implying to
15 let in a couple of them.

16 MR. CLEMENTS: Yes, sir.

17 THE COURT: Didn't think see the necessity of
18 necessarily introducing a couple into evidence.

19 MR. CLEMENTS: Yes, sir.

20 THE COURT: You all can speculate as to which
21 ones -- may not be since you don't have them here for me
22 to look at or have them marked for me to make a decision
23 on. But if you so will address that issue if it comes up.

24 MR. CLEMENTS: Yes, sir.

25 MR. BROOKER: Thank you, Your Honor.

1 THE COURT: Thank you, nine o'clock in the
2 morning.

3 (WHEREUPON, the proceedings were concluded for
4 the day to be reconvened on May 20, 2015.)

5 THE COURT: Anything from defense counsel before
6 I bring the jury out?

7 MR. BROOKER: Nothing from us, Your Honor.
8 Thank you.

9 THE COURT: Anything from the State before I
10 bring the jury out?

11 MR. CLEMENTS: We ready, Your Honor. Your
12 Honor, I don't see Mr. Godbolt, but I think I can move
13 this out the way if you just excuse me a second.

14 (WHEREUPON, a pause in the proceedings.)

15 THE COURT: Let's address this before the jury
16 comes out. This issue pertaining to -- we stop with
17 yesterday as far as the moon phase that was given to me
18 back in chambers by Mr. Clements and was advised in the
19 presence of Mr. Brooker that a copy of such was also given
20 to him as well. Is that correct, Mr. Brooker?

21 MR. BROOKER: Yes, Your Honor, it was.

22 THE COURT: Pursuant to Rule 201, the Court will
23 take judicial notice of the facts as outlined or set forth
24 on this sun and moon data and just simply instruct the
25 jury as required by the rule that they are to accept this

1 conclusive data provided in this document as to sun and
2 moon data for the day of November 4, 2012. All right.
3 Any objection, Mr. Brooker?

4 MR. BROOKER: Of course, I just want to put a
5 brief objection on the record.

6 THE COURT: Yes, sir.

7 MR. BROOKER: Your Honor, we would at least make
8 an objection and, of course, is is that we were provided a
9 copy of this this morning. And obviously this is an issue
10 that we discussed yesterday. And, of course, we were
11 provided with this. And, of course, I have looked at, I
12 think, a copy of what is described as the U.S. Naval
13 Observatory astronomical applications department. And, of
14 course, is is that it depicts I think a moon image for
15 January 30th 2015. I think it has a certain data that
16 says moon set is 3:42 a.m. Moon rise is at 2:40 --
17 2:20 p.m. Moon crest is at 9:27 p.m. And, of course, is
18 is that another image recorded for November 4, 2012. And,
19 of course, moon rise has it at 10:05 p.m. D.T. on the
20 proceeding day. Moon transit at 4:14 a.m. S.T. Moon sun
21 set at 10:20 a.m. Moon rise at ten p.m. S.T. And my
22 objection would be as we provide this -- we're going to
23 provide the juror at least with this particular
24 information and ask the jury to take judicial notice of
25 this. This is obviously an area of science, you know,

1 that probably is going to require some explanation. And
2 if I can't explain it to the jury, I think neither can
3 Mr. Clements explain it to the jury, you know, about moon
4 crest, moon rise and specifically what information
5 that's contained within these -- within at least that
6 first sheet provides. And unless we could at least have
7 someone that can explain exactly what this is because what
8 we're concerned with at least in our argument is that at
9 the time of the shooting, you know, which was roughly
10 around 12:00 o'clock on early morning hours or thereafter,
11 you know, on November 4, 2012, is exactly what was the
12 moon conditions or either lunar conditions at that
13 particular period of time versus data which the photos
14 were taken. I think at around 7:27, 30 is what Chris
15 Owens testified to.

16 Now, if Your Honor is incline to at least put
17 the photos of the moon in, I would at least request Your
18 Honor that the first page be removed, unless we could have
19 an expert to explain exactly what it means because this is
20 scientific data. This is something that is beyond the
21 knowledge of the average person. I think normally in
22 trials if we're talking about something that's beyond the
23 knowledge of the average person, that is science and have
24 to have someone here to explain it the same way in any
25 sort of civil case is is that lawyers can't put in medical

1 records unless they have -- unless they agreed upon. They
2 have a doctor or either someone trained to explain at
3 least technology or explain at least what those terms and
4 what it all means because otherwise if we put this
5 scientific information to them, we don't have anybody
6 explain to them what it is. Then, of course, they go back
7 and speculate specifically what it is and what it means.
8 That's the extent of my objection, Your Honor.

9 THE COURT: All right. Mr. Clements.

10 MR. CLEMENTS: Well, Your Honor, I think I'm the
11 normal average person and this is not beyond my knowledge
12 when it says moon rises at 10:05, that means the moon came
13 up at 10:05.

14 THE COURT: Well, I mean, I think he's talking
15 about and correct me if I'm wrong, you got -- I think what
16 is common knowledge that on here being sun rise, sun set,
17 moon rise, moon set and moon rise. I think those are
18 things that certainly within common knowledge, but what
19 he's concerned about sun transit, begins civil twilight,
20 end civil twilight without those terms being defined.

21 MR. CLEMENTS: Well, we're not talking about the
22 sun at all. We're talking about the moon. And he said
23 something about the moon crest, I don't see that on my
24 sheet here.

25 THE COURT: Well, what about moon transit?

1 MR. CLEMENTS: Moon transit I don't know, but I
2 know what moon rise and moon set is.

3 THE COURT: Let me ask this, Mr. Brooker,
4 suppose I require that they redact those portions out and
5 take judicial notice of sun rise, sun set, moon rise, moon
6 set because I think that is within common knowledge?

7 MR. CLEMENTS: Your Honor, and like I said, and
8 I understand your position on that. We still have the
9 same position, but I definitely understand your reasoning.

10 THE COURT: What I will do is I will take
11 judicial notice of sun rise and sun set and ask that you
12 redact those other -- without more explanation unless you
13 got somebody that can explain that.

14 MR. CLEMENTS: Well, Your Honor, what we're
15 concerned with is moon rise and moon set, not sun rise and
16 sun set. And I think down at the bottom where it says the
17 phase of the moon, you got 72 percent of the moon is
18 visible disk illuminated. I think that's normal every day
19 person knows what that is and waning and waxing means that
20 it's either getting bigger or getting larger, that's
21 common knowledge. And then on the 30th it's 83 percent of
22 the moon is visible disk illuminating.

23 THE COURT: I didn't say I was redacting that.
24 What I said I would order it to be redacted.

25 MR. BROOKER: And, Your Honor, is is that and

1 that's what I was actually standing for is is that to ask
2 you whether or not that part is going to be redacted as
3 well too. Obviously, I will be quick, Your Honor. I know
4 you wanted to get started and I like to get started with
5 this jury too. But it says phase of the moon on November
6 4, 2012, waning -- waning gibbous, waning gibbous with
7 72 percent of the moon's -- visibility dusk illuminate.
8 And honestly I have absolutely no idea what waning gibbous
9 with 70 percent of the moon's visible disk illuminate.
10 Specifically, the waning gibbous part. I don't know what
11 it means. And I can't even try to explain it to the jury.
12 And I think if you're asking the jury to at least make a
13 common knowledge determination, then, of course, is there
14 photographs of the moon. You show the moon and let them
15 make up what they will, but without getting into the
16 science because we can't explain the science.

17 MR. CLEMENTS: Your Honor, I think simple waning
18 means that it's getting smaller. Waxing means it's
19 getting bigger. And I will be fine if everything is
20 redacted except for the day. And if you redacted
21 everything except where it says phase of the moon on
22 November 4th 2012, 72 percent of the moon visible disk
23 illuminate. And if you redacted everything on the other
24 ones except for the date and where it says phase of the
25 moon on January 30th 2015, 83 percent of the moon is

1 visible disk illuminating. You can redact everything but
2 that part and I am fine with that.

3 THE COURT: Well, redacting I'll take a look at
4 it and I'll make a decision from there.

5 MR. BROOKER: Thank you, Your Honor.

6 THE COURT: Bring me the jury please, sir.

7 (WHEREUPON, the jury came into open court.)

8 THE COURT: Madam forelady, ladies and gentlemen
9 of the jury, hope you all had a nice, restful evening last
10 night and are ready to proceed here today. I appreciate
11 you all being back here when I asked you this morning. At
12 this time we are going to continue the trial of the case.

13 Mr. Clements, you're so recognized call your
14 next witness please.

15 MR. CLEMENTS: Thank you, Your Honor. Please
16 the Court, we would call Ms. Logan Ratley.

17 THE CLERK: Do you solemnly swear or affirm that
18 the evidence you're about to give in this case shall be
19 the truth, the whole truth, and nothing but the truth so
20 help you God?

21 THE WITNESS: Yes, ma'am.

22 WHEREUPON,

23 Logan Ratley,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. CLEMENTS:

2 Q Can you please introduce yourself to the jury and
3 tell them where you live?

4 A I'm Logan Ratley and I live in Mullins, South
5 Carolina.

6 Q You're kind of soft spoken. I'm going to ask if you
7 would if you kind of scoot up in that chair close to that
8 microphone so that everybody can hear you and so the court
9 reporter can get every word you say taken down, okay.

10 A My name's Logan Ratley and live Mullins, South
11 Carolina.

12 Q How long have you lived in Mullins, Logan?

13 A My whole life, but whenever I was ten I moved to
14 North Carolina and I stayed there for four years and I
15 came back.

16 Q So pretty much a life-long Marion County residence?

17 A Yes, sir.

18 Q Please speak up, okay. You nervous?

19 A Yes, sir.

20 Q Want a cup water will that help?

21 A Yes, sir.

22 Q Just keep your voice up, okay. Logan, do you know
23 Chad Strickland?

24 A Yes, sir.

25 Q How long had you known Chad Strickland and how did

1 you know him?

2 A How long do I know him now or how long had I known
3 him when it happened?

4 Q When it happened, how long had you known him and how
5 did you know him?

6 A At the most three weeks. I'm thinking like two weeks
7 and I know him through Stacy because that was Kayle's
8 father.

9 Q Okay. And when you say Stacy, you talking about
10 Stacy Fowler?

11 A Yes, sir.

12 Q How long had you known Stacy and how good of friends
13 were y'all?

14 A I had known her from the previous summer. I met her
15 then and we were pretty close.

16 Q Okay. You over at her home a lot?

17 A Yes, sir.

18 Q And where she live?

19 A In Scotch Community on Ard Drive.

20 Q Okay. Now, did you know Matthew Lane?

21 A Yes, sir.

22 Q How did you know Matt?

23 A Me and him went to Pee Dee Academy together.

24 Q All right. So y'all been in school together?

25 A Yes, sir.

1 Q About how many years have you known him?

2 A Around 15 maybe.

3 Q All right. At the time of this incident, had you
4 seen Matt regularly or had seen him at all close to the
5 time of this murder?

6 A I saw him earlier that night for the first time in
7 months and that was the first time I seen him.

8 Q Okay. And -- but y'all had known each other for a
9 long time?

10 A Yes, sir.

11 Q Okay. When you saw him earlier, was it that day or
12 that night?

13 A It was that night, but it wasn't dark yet. It was
14 like getting dark.

15 Q Early evening?

16 A Yes, sir.

17 Q All right. And who were you with when you saw him?

18 A Stacy.

19 Q Okay. All right. Did you know Blake Dozier?

20 A Yes, sir.

21 Q How did you know Blake?

22 A I know Blake through the Geraldts. It's a group of
23 friends and -- but me and Blake never really talked until
24 I started hanging out with Stacy and Blake was dating
25 Stacy.

1 Q And started out hanging out with Stacy Fowler when?

2 A September Maybe of that year 2012.

3 Q All right. But you had known her and met her the
4 summer before?

5 A Uh-huh.

6 Q When you met her the summer before, was she dating
7 Blake then?

8 A Yes, sir.

9 Q Had she been dating Blake the whole time?

10 A Yes, sir.

11 Q Okay. So you knew of Blake, but you weren't close to
12 him is that ---

13 A Yes, sir.

14 Q Not trying to put words in your mouth just trying to
15 understand.

16 A That's right.

17 Q All right. But when you started hanging around with
18 Stacy, did you see Blake then?

19 A Yes, sir, on a daily basis.

20 Q Okay. All right. Can you recall what you were doing
21 on November 3rd that day?

22 A November 3rd I was at my friend Mandy's house and we
23 went to the park in Nichols and took her son. And then I
24 went to Stacy's house.

25 Q Then you went to Stacy's?

1 A Yes, sir.

2 Q And you went to Stacy's at about what time of day?

3 A Around 5:30 when I got there.

4 Q And who was there when you got there?

5 A Stacy, Kayle and Chad.

6 Q And Kayle is?

7 A Their daughter.

8 Q Stacy and Chad's daughter?

9 A Yes, sir.

10 Q All right. When you got there, what did y'all do?
11 Did y'all have plans to do anything and what did you do?

12 A I think Chad called his father because they were
13 supposed to be going to a turkey shoot or something. And
14 me and Stacy planned to go to the mud bog.

15 Q Okay. All right. And did Chad leave?

16 A Yes, sir.

17 Q How did he leave if you know?

18 A If I remember correctly, his parents came and picked
19 him up.

20 Q All right. And then what did you and Stacy and Kayle
21 do?

22 A We got ready to go to the mud bog, took a shower and
23 everything.

24 Q All right. And what time did you leave to go to the
25 mud bog?

1 A Around seven or eight.

2 Q And where is the mud bog and how far is that from
3 Mullins?

4 A I think it's Plain View and it's maybe 30 to 45
5 minutes away. I'm not exactly sure.

6 Q Is it in North Carolina or South Carolina?

7 A It's in South Carolina.

8 Q In South Carolina. All right. And about what time
9 did y'all leave to go there?

10 A Between seven and eight, but we took Kayle to Stacy's
11 grandma's house first. And then time we pulled up at the
12 mud bog, her grandma called wanting us to go back and get
13 Kayle because Kayle wanted her mommy, so we went back and
14 got her and then went back to the mud bog again.

15 Q Okay. Y'all got back to the mud bog, did you hang
16 out right there with her or did y'all kind of separate?

17 A We separated.

18 Q Okay. And you were at the mud bog about how long
19 before you left?

20 A Maybe two hours.

21 Q All right. And what caused you to leave?

22 A Stacy said that -- well, I saw my car go by and it
23 was Stacy driving and she was looking for me. And she
24 said we had to go because she found out that Chad and
25 Blake were arguing or something. And there was a status

1 on Facebook and we had to go pick up Chad from the Game
2 Changer.

3 Q Okay. All right. And did you go where?

4 A We went to the Game Changer.

5 Q When you got to the Game Changer, did you go inside?

6 A No, sir.

7 Q When you got to the Game Changer, was Chad outside or
8 inside?

9 A He was outside.

10 Q He was outside?

11 A Yes, sir.

12 Q Okay. So then what happened when y'all met him at
13 the Game Changer, did you ever see Blake there?

14 A No, sir.

15 Q Okay.

16 A I was in the passenger seat because Stacy was driving
17 and he made Stacy get in the backseat, so he could drive.

18 Q Okay. And where did y'all go from there?

19 A He went to his house.

20 Q All right. And do you know what for?

21 A He said he was getting his coat and some money.

22 Q Okay. All right. Did y'all go in the house with
23 him?

24 A No, sir.

25 Q How long was he in his house?

- 1 A Less than two or three minutes. He just ran in and
2 ran out.
- 3 Q Okay. Well, did he have anything with him when he
4 came out?
- 5 A I'm thinking he did have like a hoodie or something.
- 6 Q All right. And other than that you don't know?
- 7 A No, sir.
- 8 Q And let ask me ask you this, did you know at that
9 time whether or not he had a weapon concealed on him?
- 10 A No, sir.
- 11 Q Or carrying a gun at all?
- 12 A No, sir.
- 13 Q Had no idea about that?
- 14 A No, sir.
- 15 Q Okay. And didn't go in the house with him?
- 16 A No, sir.
- 17 Q All right. So when he got back to the car who drove?
- 18 A He drove.
- 19 Q All right. And where were y'all going and tell us
20 what happened as y'all drove?
- 21 A Well, that's when the arguments between Blake and
22 Chad started happening on the phone. We just rode around
23 Nichols and they were arguing about a place they could
24 meet and fight.
- 25 Q All right. Now, who was driving your car at this

1 time?

2 A Chad.

3 Q And where were you sitting?

4 A In the backseat.

5 Q In the backseat or the front seat?

6 A In the front seat.

7 Q In the front seat. You sure about that?

8 A No, I'm not sure. I don't want to tell you a lie.

9 Q Okay. All right. Who was in the backseat other than

10 you?

11 A If I was in the backseat Kayle -- because Kayle was

12 in the car the whole time.

13 Q Okay. And y'all had her in the backseat?

14 A Yes, sir.

15 Q All right. So who else was either in the front seat

16 or in the backseat but Kayle if it wasn't you?

17 A Stacy.

18 Q You can't ---

19 A I was in the front seat. Stacy was in the back with

20 Kayle.

21 Q You sure about that?

22 A Yes, sir.

23 Q Okay. All right. Now, y'all said you begin to ride

24 around and there was fusing going back and forth?

25 A Yes, sir.

1 Q How was that going back and forth?

2 A Through my phone. And I don't know if Chad used his
3 phone, Stacy's phone a little bit. But I think hers went
4 dead, so mainly mine.

5 Q All right. And how do you know there was fusing back
6 and forth?

7 A Because I heard Chad yelling and then you can hear
8 mumbling on the other end like someone yelling, but you
9 couldn't make it out.

10 Q Did you ever talk on the phone yourself with anyone
11 while all this was going?

12 A I think I talk to Matt.

13 Q Okay. And were the text messages going back and
14 forth?

15 A Yes, sir.

16 Q Okay. And what, if anything, did you hear or see on
17 the text messages where Blake said anything about fighting
18 or kicking somebody's behind or anything like that, did
19 you hear anything like that?

20 A I don't ---

21 Q Or see anything like that?

22 A I don't remember.

23 Q Okay. Did you ever hear Chad say anything about
24 fighting anybody or beating anybody's behind or anything
25 of that nature?

1 A Yes, sir.

2 Q What did you hear?

3 A I heard him say that he would show him what a real
4 man was if he'd meet him.

5 Q That Chad ---

6 A Would show Blake.

7 Q Okay. All right. Did you hear any talk or anything
8 about a location to meet or anything like that?

9 A Sunny Mart in Nichols.

10 Q Sunny Mart in Nichols. Okay. All right. Anywhere
11 else?

12 A Matt Lane's house.

13 Q Matt Lane's house?

14 A Yes, sir.

15 Q And who said anything about the Sunny Mart, if you
16 know?

17 A Chad.

18 Q What did he say?

19 A He said that he wasn't going to go to another man's
20 house to fight, so Blake could meet him at Sunny Mart.

21 Q Okay. All right. And did you hear him talk about
22 anywhere else?

23 A Not that I recall.

24 Q All right. You remember giving a written statement?

25 A Yes, sir.

1 Q And you gave that statement when?

2 A The night that it happened.

3 Q Okay. And let me ask you how did you give a
4 statement you write it down?

5 A Yes, sir.

6 Q All right. And how complete in detail is that
7 statement?

8 A That statement was pretty much just a summary. I
9 didn't really get into detail about everything because I
10 was kind of shook up about everything. So I mean it
11 summarized what happened. I didn't put every single word
12 they had said to each other on there.

13 Q Okay. All right.

14 MR. CLEMENTS: Now, I like to have this marked
15 as an ID exhibit please.

16 (WHEREUPON, State's Exhibit No. 55 was marked
17 for identification only.)

18 BY MR. CLEMENTS:

19 Q I want to show you this just to refresh your
20 recollection.

21 A Yes, sir.

22 Q First do you recognize this?

23 A Yes, sir.

24 Q This is State's Exhibit 55 for identification. All
25 right. And what is this?

1 A My statement I wrote.

2 Q Okay. All right. If you would please read that to
3 yourself right there. Now, what, if anything, was said
4 about meeting anywhere else to fight or settle things
5 or...

6 A Well, Chad said he could come to Stacy's, so it be
7 settled nobody would call the law.

8 Q Chad said for them to come to Stacy's?

9 A Yes, sir.

10 Q To settle everything?

11 A Yes, sir.

12 Q Okay. All right. And did you hear anything else,
13 hear any threats that you heard yourself?

14 A Just that he would beat his ass.

15 Q Who would beat whose ass?

16 A Chad would beat Blake's. I couldn't hear what Blake
17 was saying on the other end of the phone.

18 Q So Blake could have been threatening Chad too?

19 A It's a possibility. I mean, they were both fired up.
20 You could tell by, you know, by how he was yelling. And
21 then you could hear somebody else on the other line and
22 Chad also argued with Matt Lane on the phone, I think.

23 Q Okay. All right. But Chad said what to Blake -- he
24 would do what to Blake?

25 A He would beat his ass.

1 Q Okay. And show him who ---

2 A He show him what a real man was.

3 Q Okay. All right. Now, y'all were riding around and
4 you went to Nichols?

5 A Yes, sir.

6 Q Where in Nichols did you go?

7 A Just to Sunny Mart and right past Sunny Mart on
8 number nine. And then we stopped and we turned around and
9 Chad wanted to get in the backseat and wanted Stacy to
10 drive.

11 Q Now, you went how far if you know mileage wise how
12 far past Sunny Mart on 9?

13 A Maybe two miles.

14 Q Okay. Why, if you know, did y'all stop and turn
15 around?

16 A To come back toward Mullins.

17 Q To go back toward Mullins?

18 A Yes, sir.

19 Q Okay. And when you turned around and Stacy got in
20 the driver's seat, where were you sitting?

21 A In the passenger seat.

22 Q Passenger seat. And where was Chad?

23 A He got in the backseat with Kayle.

24 Q All right. Was there any fusing or carrying on at
25 that time when you guys stopped?

1 A I don't remember.

2 Q Okay. All right. So Stacy got in behind the wheel,
3 you turn around where did you go?

4 A We went back through Mullins and then we went to
5 Stacy's house.

6 Q Okay. And you rode through Mullins. Was that the
7 direct route to Stacy's house or was that just kind of
8 riding around a little bit?

9 A I think we went straight back to Stacy's house.

10 Q Okay. All right. And when you pulled into the yard
11 was anyone there at Stacy's house?

12 A No, sir.

13 Q Let me ask you this, what kind of car did you have --
14 what was the make, model and what color was it?

15 A It was a black Ford Explorer.

16 Q You still have the same car?

17 A No, sir.

18 Q And there was how many doors, two doors, four doors?

19 A Four door.

20 Q Four door, black Ford Explorer?

21 A Yes, sir.

22 Q All right. So Stacy pulled into her yard?

23 A Yes, sir.

24 Q No one was there?

25 A No, sir.

1 Q What did y'all do?

2 A We all went inside and apparently there was still
3 arguing going on through the phone because at some point
4 in time Blake called me a bitch.

5 Q All right. Did you ever see -- did Chad use your
6 phone?

7 A Yes, sir.

8 Q Use it to talk on?

9 A Yes, sir.

10 Q Did he use it to do anything else on?

11 A Text.

12 Q Text. Did you see any text that he sent?

13 A After the fact.

14 Q After the fact?

15 A Yes, sir.

16 Q What text?

17 A That he was gone from Stacy's.

18 Q He was gone explain what you mean?

19 A He had left Stacy's. He told ---

20 Q He texted?

21 A Matt Lane's phone and said that he had left Stacy's
22 and they could come over.

23 Q All right. From your phone?

24 A Yes, sir.

25 Q All right. Did he text -- was the text he left or

1 was the text Chad's gone?

2 A I think it said he left.

3 Q Using his name or saying I left?

4 A I don't recall. I think it said that he's gone.

5 Q Okay. Not I?

6 A I'm not sure.

7 Q Okay. Now, you saw that on your phone when you were
8 at Stacy's or when you left?

9 A When I left.

10 Q Did you go in Stacy's house?

11 A Yes, sir.

12 Q And what did you do when you went in the house?

13 A I think I went and used the bathroom and then I stood
14 there for a minute and talk to him. And I called Matt to
15 see if it was okay if I went to his house to talk to
16 Blake.

17 Q To talk to Blake?

18 A Yes, sir.

19 Q And why were you going to talk to Blake?

20 A Because he called me a bitch and I wanted to know
21 why.

22 Q Okay. How long did you stay at Stacy's house?

23 A Maybe five or ten minutes.

24 Q And what did you do?

25 A I left and went to Matt Lane's.

1 Q When you left, who was there at Stacy's house?

2 A Chad, Stacy, and Kayle.

3 Q All right. And where did you leave him in the house?

4 A Living room.

5 Q At that time did you know that Chad had a .45
6 automatic pistol on him?

7 A No, sir.

8 Q All right. That ever come up in conversation at all?

9 A No, sir.

10 Q All right. When you went to Matt Lane's house about
11 how long did it take you to get to Matt's and where
12 exactly did Matt live?

13 A It took me maybe five minutes to get to Matt's from
14 Stacy's, in between five and ten minutes and he live right
15 near the river on, I think, it's Tressel Court.

16 Q Near the river?

17 A Yes, sir.

18 Q Okay. And you not sure about the exact time five to
19 ten minutes?

20 A Yes, sir.

21 Q Okay. When you got to Matt's house, do you know who
22 Matt's neighbors are and who else lives there in that
23 neighborhood on the river?

24 A I just know his neighbor Fletcher. I don't know him
25 personally, but I know that's always been Matt's neighbor.

1 Q As his next door neighbor?

2 A Yes, sir.

3 Q All right. When you got to Matt's house, what did
4 you find, what did you do, where did you go, who did you
5 talk to?

6 A I don't even know if I talk to Matt. I don't know if
7 Matt was outside or not, but I walked over to Matt's car
8 and Blake was sitting in the passenger seat. And I know
9 that if Matt was there he had walked away because it was
10 just me and Blake we were talking and I just talk to
11 Blake.

12 Q All right. Did you yell at him or fuss at him a
13 little bit?

14 A We were both yelling a little bit.

15 Q Okay. And why did he call you a bitch?

16 A Because I was single and he didn't like Stacy -- the
17 way Stacy acted around me. He thought that she thought
18 she was single when she was around me. And I had like one
19 of her status' on Facebook that he didn't like.

20 Q Okay. So did you and Blake other than this night,
21 did y'all get along at all?

22 A Occasionally. If they got along, we got along. If
23 Stacy and Blake were getting along, we got along. But if
24 they were fusing, he didn't like me.

25 Q So Stacy and Blake when everything was fine with

1 them, everything was fine with you and Blake?

2 A Yes, sir.

3 Q If they were fusing, he kind of blamed you?

4 A Yes, sir.

5 Q Okay. And that night and around that period, were
6 they getting along very well?

7 A No, sir.

8 Q All right. Do you have any knowledge of anything
9 particularly that Blake was going through at that
10 particular time?

11 A I know he was upset that him and Stacy were arguing.

12 Q Okay. Do you know if he had any kind of injuries or
13 anything of that type?

14 A His eye. He had just injured his eye I believe.

15 Q Okay. And was he drinking when you were talking to
16 him?

17 A Yes, sir. Well, I don't know if he was drinking
18 then, but I know he had been drinking.

19 Q How could you tell that?

20 A Because you could smell it and the way he was acting.

21 Q Okay. Was he buzzed or drunk or really drunk or how
22 would you describe it a little more detail?

23 A Like a strong buzz. I don't think he was drunk. I
24 just think he was like strongly buzzed.

25 Q Okay. You familiar with being around people drinking

1 beer?

2 A Yes, sir.

3 Q You drink beer yourself?

4 A Yes, sir.

5 Q Okay. So he wasn't falling down or slobbering or
6 slurring or anything like that?

7 A No, sir.

8 Q Okay. All right. You talked to him and y'all were
9 fusing back and forth a little bit. What did you tell
10 him, if anything, about Stacy or Chad or Matt or anybody?

11 A Well, after he had told me that he didn't like the
12 status I liked of hers on Facebook, I said, well, she's my
13 friend. Of course, I'm going to like her stuff, you know.
14 And he said where she at. I said she's at home. He said
15 with who. I said Kayle and Chad. And then he kept saying
16 I need to talk to Stacy. I need to talk to Stacy.

17 Q All right. Did he say then he was gone beat Chad's
18 butt?

19 A No, not that I recall.

20 Q Not that you recall. He could have said that again?

21 A It could have been a possibility, but mainly he
22 wanted to talk to Stacy.

23 Q Okay. So were you in the car with him or were you
24 standing outside the car?

25 A I was standing outside the car.

- 1 Q Where was he sitting in Matt's car?
- 2 A In the passenger seat, passenger front seat.
- 3 Q And what kind of car is that Matt had?
- 4 A I believe it was a Grand Prix or Grand Am Pontiac.
- 5 Q What color was it?
- 6 A Like a grayish bluish color I think. I don't know,
- 7 it was dark.
- 8 Q I don't know if this was close enough, but can you
- 9 identify State's Exhibit 18 can you identify that?
- 10 A Yes, sir.
- 11 Q What is that, what is that depict?
- 12 A Where Blake was killed.
- 13 Q And whose car is that?
- 14 A Matt's.
- 15 Q That's Matt's car.
- 16 A Uh-huh.
- 17 Q Okay. Now, you were stand outside Matt's car on the
- 18 passenger side or the driver's side?
- 19 A The passenger side where he was.
- 20 Q And Blake was sitting in the passenger seat?
- 21 A Yes, sir.
- 22 Q Okay. All right. After you told him that Stacy was
- 23 home with Chad and Kayle, what happened next after him
- 24 saying I got to talk to Stacy, I got to talk to Stacy?
- 25 A Matt had came around at some point and we were trying

1 to find someone to drive.

2 Q Find someone to drive?

3 A Blake to Stacy's.

4 Q So he wouldn't drive while he been drinking?

5 A Uh-huh. Yes, sir.

6 Q All right. Had Matt been drinking some too?

7 A Yes, sir.

8 Q Okay. So did Matt or did you go find somebody to
9 drive?

10 A I think Matt went and asked Ethan if he would take
11 him.

12 Q Okay. And what happened next?

13 A From what I thought, I thought Ethan was gone take
14 him. It was just gone be a few minutes and then all of a
15 sudden -- because I walked back to my car and I was
16 sitting in my car. And then I saw Matt's car leaving out.

17 Q And who was driving?

18 A I thought Ethan was, but it was Blake.

19 Q It was Blake?

20 A Yes, sir.

21 Q And you found that out later?

22 A Yes, sir.

23 Q When you saw Matt's car drive by and it was just a
24 big wide area or just kind of a closed area?

25 A It's kind of a close area.

1 Q All right. Matt's car went past you in which
2 direction?

3 A Towards the end of the dirt road that they live on
4 and he was going out towards the main road.

5 Q Okay. And what did you do then, did you communicate
6 with anybody?

7 A Matt.

8 Q All right. Did you communicate with anybody else?

9 A I called Stacy on the way after I had left Matt's
10 house.

11 Q Okay. So you got to Matt or he came to you?

12 A I'm not sure. I think he came to me and told me to
13 follow him or I told him to get in and I'm not sure.

14 Q But y'all went and followed him?

15 A Yes, sir.

16 Q After Matt got in, did you know Ethan wasn't driving
17 then?

18 A No, I still didn't know Ethan wasn't driving until we
19 pulled up in the yard.

20 Q Okay. So how fast was Matt's car going when it went
21 by you?

22 A Very fast -- well, not very fast there because
23 there's a turn, but once we got on the road, I couldn't
24 keep up with him.

25 Q All right. Did you try?

1 A I tried.

2 Q Okay. All right. About how much of a head start did
3 he have if you know time wise, if you don't know?

4 A Maybe ten to 15 seconds.

5 Q Could have been longer?

6 A Could have been longer or, yeah, it could have been
7 longer. It couldn't have been no less than that.

8 Q Okay. All right. Were you keeping track of time
9 then?

10 A No, sir.

11 Q All right. But you tried to catch up with him?

12 A Yes, sir.

13 Q All right. So was he in sight when you were trying
14 to follow him. You took what route?

15 A Where the armory in Mullins is, we turned right
16 there, went straight down I think it's Front Street. And
17 you can turn -- you know where the church is on Woodlawn I
18 think?

19 Q Yes.

20 A You turn on that road and then you turn into Scotch
21 that way.

22 Q And then you turn off Scotch's Road?

23 A Onto Ard.

24 Q All right. I want to ask you if you will please if
25 you don't mind stepping down a moment. I'm going to ask

1 you, Logan, if you will come stand right here so these
2 jurors can hear you well and the court reporter can hear
3 you well. This is State's Exhibit 3 if you would please
4 you want to use the pointer or a laser pointer?

5 A Either way.

6 Q Okay. If you can please take that pointer and is
7 this recognizable to you?

8 A Yes, sir.

9 Q All right. If you would, you can show these jurors
10 what direction y'all came from or where y'all turned?

11 A We came from over here and we turn up in here.

12 Q Okay. Now, when you were on this road and turning,
13 could you still see the vehicle Blake was in in Matt's car
14 or not?

15 A I couldn't.

16 Q You couldn't. So he was that much ahead of y'all?

17 A Yes, sir.

18 Q That you couldn't see him?

19 A Yes, sir.

20 Q Okay. Thank you. At any time while in you're en
21 route from Matt's house to Stacy's, Matt was in the car
22 with you did y'all have any conversation about who was at
23 Stacy's home or not?

24 A I don't recall. I know I called Stacy and I told her
25 that Blake was on the way. I'm not really sure, I think

1 -- I don't think we did.

2 Q Okay. So Matt didn't ask you anything about that
3 that you recall?

4 A No, but he asked me why I was driving like that, so I
5 mean I think he realized something was wrong.

6 Q All right. Now, who else was in the car with you and
7 Matt?

8 A It was just me and Matt.

9 Q Just you and Matt?

10 A Yes, sir.

11 Q No one else?

12 A No one else.

13 Q Okay. Now, you showed the jury on the aerial photos
14 where you turned in and where you turned off on Scotch
15 Community onto Ard and Ard's what kind of road?

16 A It's like a -- well, I think it's gravel, like gravel
17 dirt road.

18 Q Gravel dirt road?

19 A Yes, sir.

20 Q Okay. And then you turn into Stacy's yard. When you
21 turn off Ard into Stacy's yard, what direction did you
22 have to turn?

23 A Right.

24 Q Okay. And you pulled in the driveway what did you
25 see as you were pulling in?

1 A I saw Blake getting out the car. He stood up right
2 there in the door and Stacy was sitting there talking to
3 him and Chad was on the porch.

4 Q So Stacy was sitting there or standing?

5 A Standing there talking to him.

6 Q Okay. And Chad was on the porch?

7 A Yes, sir.

8 Q And you could see that?

9 A Yes, sir.

10 Q How close was Matt's car that Blake was driving? How
11 close was that to the house itself if you know?

12 A Maybe 20, 25 feet I'm not sure.

13 Q Now, I'm going to show you State's Exhibit 28. You
14 recognize that?

15 A Yes, sir.

16 Q And whose car is that?

17 A Matt Lane's.

18 Q Okay. I'm going to show you State's Exhibit 27 whose
19 car is that?

20 A Matt Lane's.

21 Q And from whereabout where this picture was taken will
22 you say that y'all were parked closer or further away from
23 that?

24 A That me and Matt?

25 Q Yeah, you and Matt. When y'all pulled in, were y'all

1 about close as that picture or further away?

2 A We were closer to his car than what that's showing.

3 Q Now, were you pulled in here or pulled in here or
4 pulled in right directly behind him?

5 A Right directly behind him.

6 Q Okay. And previously I had shown you State's Exhibit
7 Number 18. Does that accurately depict the distance
8 between the porch and the car?

9 A Yes, sir.

10 Q Was the car pulled up towards the porch or away to
11 the side of the porch?

12 A Towards the side of the house away from the porch.

13 Q Okay. All right. And you say about it was about 20,
14 25 feet?

15 A I'm assuming -- guessing because I'm not sure.

16 Q This accurately depicts the distance?

17 A Yes, sir.

18 Q Exhibit 18. Now, you opened your door; is that
19 correct?

20 A I think I did. Honestly, I'm not sure, but I never
21 got out of my car. If I got out, I stood on my running
22 board.

23 Q And kind of looked over?

24 A Looked over the door because Stacy yelled at me to
25 get Matt out the yard.

1 Q Okay. She just wanted you to get Matt out the yard?

2 A Yeah, before trouble got started between Matt and
3 Chad.

4 Q Okay. All right. And did Matt get out the car?

5 A Matt never even opened his door.

6 Q Okay. And when you open your car door, did you have
7 a dome light in your car that comes on when you open the
8 door?

9 A I do, but I turn it off, I think. I mean I use to.
10 I'm not sure if it was off that night or not.

11 Q Okay. Did you hear Blake saying anything?

12 A I could hear Stacy and Blake talking, but I'm not
13 sure what they were saying. I couldn't make it out.

14 Q All right. Why?

15 A Because I think I had my radio on and they had radio
16 on in Matt's car.

17 Q The radio in Matt's car was on?

18 A I believe so.

19 Q Was it loud or soft?

20 A I mean it was loud enough where we couldn't like
21 clearly hear them.

22 Q Okay. Did you ever hear Chad say anything while you
23 were there?

24 A I didn't hear Chad say anything.

25 Q All right. When Stacy said get Matt out of here what

1 did you do?

2 A I got in my car and put it in reverse and started
3 backing out the driveway.

4 Q And what happened next?

5 A I heard a gunshot.

6 Q All right. And when you heard the gunshot, what did
7 you do.

8 A I turned around and I look to see what happened and I
9 saw Blake falling.

10 Q Saw him falling. So as soon as you heard, were you
11 turn around this way or turned around this way backing out
12 if you know?

13 A I was turn around towards my right.

14 Q Turn around towards your right backing out the
15 driveway?

16 A Yes, sir.

17 Q And you heard bam and you did this?

18 A Yes, sir.

19 Q All right. Now, ask you to help me a little bit, if
20 you will step right here. Now, this is the car door and
21 this is the car?

22 A Yes, sir.

23 Q Okay. Now, of course, the door will be bigger. Can
24 you tell me from here, can you demonstrate for this jury
25 where you saw Blake standing?

1 A Right here at the doorway of the car.

2 Q All right. Now, tell me if you can, can you tell me
3 where Stacy was? Was she over here, over here, this
4 close, little further back?

5 A From what I remember, she was little bit closer.

6 Q A little bit closer. All right. Was she on the
7 inside of the door or outside the door?

8 A She was on inside of the door, she was just standing
9 right there.

10 Q At the end of door?

11 A Yes, sir.

12 Q Okay. All right. And when you heard bam, the
13 gunshot, and you looked where -- was Stacy still standing
14 right here?

15 A No, she had turn around.

16 Q Turn around this way?

17 A Yes.

18 Q And Blake fell down?

19 A Uh-huh.

20 Q And where was Chad?

21 A Standing behind Stacy.

22 Q Like about right here or right here, where?

23 A About this distance. I'm not exactly -- what angle
24 he was, but it was about that far.

25 Q About this far?

- 1 A Yes, sir.
- 2 Q And Stacy turned around to what?
- 3 A She started hollering at him asking him what he had
- 4 done and she pushed him.
- 5 Q Okay. You can sit back down. When you were backing
- 6 up and you heard the gunshot and you whipped your head
- 7 around and looked, did you stop the car?
- 8 A For a second.
- 9 Q For a second. And then you saw what you saw?
- 10 A And then I just left.
- 11 Q You left. How fast?
- 12 A Very fast.
- 13 Q What was Matt doing during this time?
- 14 A Matt was freaking out.
- 15 Q Okay. And where did you go?
- 16 A I took Matt home.
- 17 Q And how fast did you drive to get there?
- 18 A At least 80 or 85 at least.
- 19 Q All right. When you got there to Matt's house, what
- 20 happened?
- 21 A I told Matt to get out.
- 22 Q Did he ask you to stay?
- 23 A Not that I recall.
- 24 Q You told him to get out and where were you headed?
- 25 A Back to Stacy's.

1 Q All right. Even though there been a gunshot, you
2 were going back to Stacy's?

3 A I didn't want him to get shoot too. I didn't know
4 and I wanted to make sure she was okay.

5 Q All right. So you headed back to Stacy's. Did you
6 get to Stacy's?

7 A No, sir.

8 Q Why not?

9 A Because I saw blue lights and then I got scared.

10 Q Okay. And where did you go?

11 A I went to my friend Mandy Huggins' house.

12 Q And when you got there did you get out your car
13 there?

14 A Uh-huh, yes, sir.

15 Q Have some conversations? Don't tell me what you
16 said. Did you have some conversations?

17 A Yeah, I was crying. I was very upset and she asked
18 what was wrong.

19 Q Okay. And then how long did you stay there?

20 A Maybe ten minutes because I talked to Stacy's mother
21 and she told me I needed to go back ---

22 MR. BROOKER: Objection.

23 THE COURT: Hold on, hold on, hold on state your
24 objection and grounds.

25 MR. BROOKER: It's hearsay.

1 THE COURT: Objection sustain. Go ahead, Mr.
2 Clements.

3 BY MR. CLEMENTS:

4 Q Don't tell me what anybody said. But you can tell me
5 who you talk to. Who did you talk to?

6 A Michelle.

7 Q And who is Michelle?

8 A Stacy's momma.

9 Q And after you talk to Michelle, what did you do?

10 A I went back to Stacy's.

11 Q Okay. When you got back to Stacy's, what did you
12 find?

13 A The road was taped off or blocked off. And I talked
14 to somebody and I told them that I saw it happen and I
15 needed to tell them what I saw.

16 Q Okay. And do you recall exactly who you talk to or
17 not?

18 A I don't, but the guy Gregg Walker, I'm guessing it
19 was him because there was only one that I did talk to and
20 he told me what to do on my statement.

21 MR. BROOKER: Objection.

22 THE COURT: Objection overrule. You can --
23 continue answering your question right now.

24 A He's the one who told me what to do.

25 Q He gave you a form?

- 1 A Yes, sir.
- 2 Q Okay. And what did you do with that form?
- 3 A I sat in a patrol car and wrote a statement.
- 4 Q Okay. And was that -- were you able to put every
- 5 detail on there or not?
- 6 A No, sir.
- 7 Q Okay. And what's been marked State's Exhibit 55 for
- 8 ID that's what you wrote?
- 9 A Yes, sir.
- 10 Q And it's how many pages?
- 11 A It was one and a half.
- 12 Q Did you have occasion to talk to law enforcement
- 13 again about this?
- 14 A That night?
- 15 Q Any time?
- 16 A Afterwards, I think, it was maybe the seventh or the
- 17 ninth, I had to meet Charlie Watson and Martin Bell.
- 18 Q All right. And you know who Charlie Watson is?
- 19 A Yes, sir.
- 20 Q Is he in the courtroom?
- 21 A Yes, sir.
- 22 Q Where is he?
- 23 A Right there.
- 24 Q This tiny fellow?
- 25 A The little one.

1 Q All right. And did you talk to him in detail?

2 A Yes, sir.

3 Q Did he record that in writing as you talk?

4 A Yes, sir.

5 Q He wrote down notes?

6 A Yes, sir.

7 Q All right. And did you go into little more detail
8 then?

9 A Yes, sir.

10 Q Okay. Is that the same detail you been giving today?

11 A Yes, sir.

12 MR. CLEMENTS: All right. Beg the Court's
13 indulgence.

14 BY MR. CLEMENTS:

15 Q Now, during this time like from the Game Changer,
16 riding out to Nichols, going back to Stacy's house,
17 leaving going to Matt's and coming back to Stacy's house,
18 about how long a period of time of the day was that?

19 A It was at least an hour, but I couldn't tell you
20 exactly how long it was, but I know it had to be at least
21 an hour.

22 Q At least an hour?

23 A Yes, sir.

24 Q Could it have been longer than two hours you think?

25 A I mean it could have been, it's very possible. I

1 just don't remember.

2 Q Wasn't much longer than that, was it or not?

3 A I mean, it was no longer than two hours. It was two
4 hours at the most.

5 Q So this wasn't an all day and all night thing, was
6 it?

7 A No, sir.

8 Q Okay. And when y'all were riding around in the car
9 and all the yang, yang, yang was going back and forth over
10 cell phones and texting, about how long a period was that
11 when he was just riding around during that period.

12 A That was about 45 minutes to an hour. I mean, the
13 whole time we were riding around, they were arguing.

14 Q Okay. What, if anything, did you hear regarding any
15 kind of sexual relations?

16 A Can I say exactly what I heard?

17 Q I want you to be accurate. I know sometimes words we
18 don't want to say in public have to be said, just use the
19 exact words as you recall them.

20 A Chad told Blake that he fucked his old lady -- he
21 said I fucked your old lady today. I'll fuck her tonight
22 and I'll fuck her tomorrow. But I mean -- I don't know
23 that's just what he told Blake.

24 Q And you were sitting in the car hearing and you heard
25 that?

1 A Yes, sir.

2 Q Okay. All right.

3 MR. CLEMENTS: Beg the Court's indulgence.

4 (WHEREUPON, a pause in the proceedings.)

5 BY MR. CLEMENTS:

6 Q What, if anything, was discussed in that car in front
7 of you about Stacy being pregnant?

8 A Nothing that I recall.

9 Q Nothing that you recall?

10 A No, sir.

11 Q Did you know that Stacy was pregnant?

12 A Yes, sir.

13 Q Okay. Did Chad know Stacy was pregnant to your
14 knowledge?

15 A Not to my knowledge.

16 Q Okay. All right. Let me ask you this were you trying
17 to stir up anything yourself?

18 A No, but I wanted them -- because they were talking so
19 much crap to each other, if they were going to fight I
20 wanted it to be over with.

21 Q Just go ahead and quit talking get it over with?

22 A Yes, sir.

23 Q All right. But you weren't trying to set them up and
24 push them to fight, were you?

25 A No, sir.

1 Q All right. What, if anything, did you tell Stacy
2 about if they did fight?

3 A I told her I would take Kayle away so Kayle wouldn't
4 have to see it.

5 Q Okay. And -- but you weren't trying to instigate
6 anything?

7 A No, sir.

8 Q You sure about that?

9 A Yes, sir.

10 Q All right. Could somebody else thought you might
11 have been -- that would be call for speculation I withdraw
12 that question. From the time you pulled into the yard
13 there at Stacy's with Matt, how long could Blake had
14 actually been there prior to y'all pulling into that yard?

15 A Maybe 20 seconds because I mean he was just getting
16 out of his car or just getting out of Matt's car.

17 Q And y'all were racing behind him trying to keep up
18 to him?

19 A Yes, sir.

20 Q All right. From the time y'all pulled into Stacy's
21 yard, til the time you backed out back out -- and let me
22 ask you this, did you back out into the road and turn and
23 go out or did you back up and then turn around and go out?

24 A I backed up into the road.

25 Q Into the road and turn which way?

1 A Back toward Scotch Community Road.

2 Q All right. So you were backing out and you turn this
3 way?

4 A Yes, sir.

5 Q Okay. From the time you pulled into Stacy's yard
6 with Matt to the time that you backed up and headed back
7 toward Matt's house, about what's the longest that time
8 period could have been?

9 A Maybe 30 to 45 seconds.

10 Q Not long?

11 A Not long at all.

12 Q Okay. From the time you left Stacy's house with Matt
13 to the time you came back to Stacy's house, I mean, the
14 police were there about how long a period was that, if you
15 know?

16 A Maybe 30 minutes, 30 or 45 minutes.

17 Q Okay. And your car was a black SUV; is it not?

18 A Yes, sir.

19 Q Did you while you were riding to Stacy's house or
20 while you were backing up or while you were leaving to go
21 back to Matt's house and on the road back to Matt's house,
22 did you at any point in time at any place in the roadway
23 on Ard or on Scotch Community Road or anywhere else, did
24 you see a white SUV?

25 A No, sir.

1 Q Coming or going?

2 A No, sir.

3 Q Was there anybody else that was at Matt's residence
4 to your knowledge or Fletcher's residence to your
5 knowledge followed you as you followed Blake to Stacy's?

6 A No, sir.

7 Q When you dropped Matt off, you left immediately,
8 right?

9 A Yes, sir.

10 Q Do you have any knowledge whatsoever firsthand of
11 your own knowledge of anybody at that time leaving Matt's
12 house and going to Stacy's?

13 A There was nobody behind me all the way to the end of
14 their dirt road, so to my knowledge, no, nobody left.

15 Q So if anybody left, it had to have been later?

16 A A few minutes later.

17 Q Because there's only one way in and out.

18 A Yes, sir.

19 Q Okay.

20 MR. CLEMENTS: All right. Logan, if you would
21 please answer any questions Mr. Brooker has.

22 THE COURT: Cross-examination.

23 MR. BROOKER: Thank you, Your Honor.

24 CROSS-EXAMINATION

25

1 BY MR. BROOKER:

2 Q Ms. Ratley, how long have you known Stacy Fowler?

3 A Now or at the time it happened?

4 Q At that time that it happen?

5 A Since the previous summer, since around June, so
6 around five or six months.

7 Q About five or six months. How long have you known
8 Blake?

9 A Maybe three years before then.

10 Q And how did you know Blake, when did you first met
11 him?

12 A I met him at the -- they all had a group of friends
13 called the Gerald's. I met him there and he was friends
14 with one of my ex-boyfriends.

15 Q Was he friends with you?

16 A I mean we would talk. We weren't personal friends.

17 Q What do you mean by talk?

18 A We say, hey, how you doing, what you been up to.

19 Q Have you socialize with him any time prior to -- did
20 you socialize with him any time prior to the night of the
21 shooting, parties that sort of thing?

22 A Maybe at the Gerald's' house. Him and Cody Cribb were
23 there one night, I saw him there, but we didn't really
24 talk much.

25 Q Now, I notice throughout the course of this hearing

1 you were sitting with Blake's family. So I'm assuming
2 that you're here not as a neutral party, but you're here
3 to support Blake and his family?

4 A Yes, sir.

5 Q Okay. Now, how long have you known Matt?

6 A Around 15 years. I've known him since I was at Pee
7 Dee Academy.

8 Q Now, you and Matt certainly were friends?

9 A We were, but we hadn't -- socialized been since
10 graduation 2010 maybe.

11 Q In fact, when you talked with Charlie Watson, do you
12 remember talking with Charlie Watson? Did you tell
13 Charlie Watson that you and Matt were buddies?

14 A Yes, sir.

15 Q How often did you hang around Matt?

16 A None recently like within three years I know before
17 what happened that night, but when we were in high school,
18 we hung out a good bit and we talked a lot.

19 Q So you're saying that you hadn't seen Matt in roughly
20 three years before that night?

21 A Three or four years.

22 Q Three or four years before that time?

23 A Yes, sir.

24 Q And at that time were you living in Mullins?

25 A Yes, sir, I was staying with Stacy.

1 Q You were staying with Stacy?

2 A I been staying there for about two weeks.

3 Q Okay. And why were you staying with Stacy?

4 A Just because was my friend and she told me I could.

5 Q Who was living in the house with Stacy at that time
6 you were living there?

7 A Her daughter and Blake Dozier.

8 Q Had Blake and Stacy broke up?

9 A No, they were arguing, but that was normal. They
10 argued a lot, but they be fine in five or ten minutes.

11 Q And I'll ask it more specifically had they been
12 broken up for about two weeks prior to the shooting?

13 A No, sir.

14 Q Now, let's talk about November 3rd that would have
15 been that Saturday, November 3rd 2012. When was the first
16 time that you met with Stacy or seen Stacy that day?

17 A When I went to her house around 5:30.

18 Q And I think you said that when you went to her house
19 around 5:30 that -- who was there when you came to her
20 house?

21 A Chad and Kayle and Stacy.

22 Q And what happened after that?

23 A Chad left and then me and Stacy got ready for the mud
24 bog.

25 Q How did Chad leave?

1 A If I remember correctly, his momma and daddy came and
2 got him.

3 Q So it wasn't that you and Stacy didn't take him home?

4 A Not that I recall.

5 Q Now, you said that when Chad left, y'all got ready
6 and went to the mud bog?

7 A We went to Stacy's grandma's house first.

8 Q Okay. And what did y'all went there to do?

9 A To drop Kayle off to spend the night there.

10 Q Okay. And then y'all went to the mud bog?

11 A Yes, sir.

12 Q About how long was it before Chad left that y'all
13 then got dressed, took Kayle -- and just for
14 clarification, Kayle is Stacy and Chad's three-year-old
15 daughter at that time?

16 A Yes, sir.

17 Q Okay. So y'all -- Chad left. Y'all got dressed and
18 then you all took Kayle to her grandmother's house and
19 y'all went to the mud bog?

20 A Yes, sir.

21 Q Y'all did anything else between that period of time?

22 A I think we met with Stacy's sister.

23 Q Okay.

24 A Right there before you get to the mud bog.

25 Q What time did y'all left Stacy's house to go to the

1 mud bog?

2 A In between 7:30 and eight.

3 Q Why did y'all leave the mud bog, did Logan excuse me
4 -- did Blake and Matt come by?

5 A Yes, sir.

6 Q Now, are you just remembering that because when you
7 were asked about it on direct examination, you didn't
8 mention it?

9 A Well, he didn't ask if Matt and Blake came by.

10 Q What time did they come by?

11 A I'm not exactly sure.

12 Q Was it light or dark?

13 A I think it was dark.

14 Q And what happened when they came by?

15 A Matt realized who I was, so me and Matt just started
16 talking. And Stacy and Blake were talking. And she was
17 upset that he had been drinking.

18 Q Now, they were doing more than talking. They had
19 actually argued and fussed, wasn't they?

20 A They weren't arguing, like arguing. She was mad that
21 he had been drinking.

22 Q At that time what did you thought the relationship
23 was between Stacy and Blake?

24 MR. CLEMENTS: Object to speculation.

25 THE COURT: Restate your question.

1 BY MR. BROOKER:

2 Q And I'm asking you at least from your knowledge. Do
3 you have any knowledge what their relationship was?

4 A From my knowledge, I mean they were together. They
5 were just arguing and needed a break.

6 Q And what do you mean by they just needed a break?

7 A They had been around each other too much and Stacy
8 needed a night away from him and he needed night away from
9 her.

10 Q So you're saying is is that they were just going to
11 spend the night a part?

12 A I don't know. I don't know if Blake was planning on
13 going back or not, but I know like she wanted to go to the
14 mud bog and spend time with her momma and sister. And he
15 was hanging out with his friends.

16 Q Now, had you spend the night at Chad's -- and I think
17 you said you were living at the time, had you spent the
18 night -- this was on November 3rd, the morning of November
19 3rd, so did you spend the night there, you know, at
20 Stacy's house?

21 A November 2nd that night I didn't stay. I stayed
22 there until like eight or nine and Blake was there. Blake
23 spent the night there from what I recall.

24 Q You stayed until about eight or nine?

25 A At night.

1 Q At night?

2 A And then I went to Mandy's house.

3 Q Okay. And you went to Mandy's house. Now, did --
4 and I'm asking you your knowledge. Did Stacy ever had any
5 plans to abort the pregnancy?

6 A She never said that to me.

7 Q Now, you said also how long did Blake and excuse me
8 -- how long did Blake and Matt stay?

9 A Maybe ten minutes.

10 Q Were they drinking?

11 A I'm not sure. I'm sure they were because Stacy was
12 fusing at him about drinking, but I didn't see any
13 alcohol.

14 Q Do you remember telling Charlie Watson when he
15 interviewed you that they were drinking all day?

16 A Yeah, because that's what they said. They had told
17 us they had been drinking all day.

18 Q So you do have knowledge that they were drinking and
19 what you just said is not actually true you were aware
20 that they had been drinking?

21 A I said ---

22 MR. CLEMENTS: Objection, Your Honor.

23 THE COURT: Answer the question. Ma'am, you
24 answer the question of your own knowledge.

25 What's your objection?

1 MR. CLEMENTS: Your Honor, he asked her for her

2 ---

3 THE COURT: What's the grounds ---

4 MR. CLEMENTS: --- knowledge and she answered
5 it. And now he's going back and badgering her.

6 THE COURT: Ask the question and answer it.
7 Objection overruled at this point.

8 MR. BROOKER: Thank you, Your Honor.

9 A What was your question again?

10 Q Well, I'm asking you is is that -- and I'll ask this
11 question and I'll ask move on whatever your answer is. Is
12 that when I ask you previously as to whether or not they
13 were drinking, you told me you didn't know?

14 A I said I didn't know, but I didn't see any alcohol.
15 But apparently they were because Stacy was fusing because
16 Blake was drunk or drinking. And she didn't want him
17 drinking riding around.

18 Q And I guess my question would have been is if you
19 didn't know whether or not they were drinking, why did you
20 advise Charlie Watson when you interviewed with him that
21 they been drinking all day?

22 A Because that's what Matt later on told me.

23 Q Now, they left, I think, is what you're saying that
24 they left Blake and Matt; is that correct?

25 A Yes, sir.

1 Q And then y'all went dropped Kayle off and went to the
2 mud bog; is that correct?

3 A Yes, sir.

4 Q All right. Now, how long was it -- about what time
5 did you get to the mud bog?

6 A I don't recall, but I know time we got there we had
7 to turn around and go back to Mullins and get Kayle
8 because she wanted to come be with her momma. And then we
9 went back to the mud bog and it was probably around 9:30
10 or ten maybe.

11 Q About 9:30 or ten after you came back from picking up
12 Kayle?

13 A Uh-huh, yes, sir.

14 Q Then, of course, how long did you stay at the mud bog
15 then before you had to leave?

16 A Hour and a half, two hours.

17 Q Okay. Now, you testified on direct examination that
18 Stacy approached you at some point in time and said y'all
19 had to leave to pick up Chad because Blake wanted to fight
20 him at the Game Changer?

21 A Well, that there had been a status on Facebook saying
22 that Blake was going to handle some business at the Game
23 Changer.

24 Q Now, when you wrote your statement, do you remember
25 writing -- do you remember the statement that you gave of

1 the night on November 4th 2012?

2 A Yes, sir.

3 Q Did you describe it differently in that statement
4 than what you just explain?

5 A No, I might not have went into detail, but I mean I
6 wrote the same thing I'm saying now.

7 Q Okay. Do you remember writing in your statement
8 Blake said that he was going to fight Chad at the Game
9 Changer?

10 A I don't remember writing that. I remember the status
11 and that was all I remember.

12 Q Would you like to take a look at it to refresh your
13 memory to see whether or not you actually wrote that?

14 A If I you're saying I wrote it, I believe it.

15 Q So you don't doubt that you wrote that in that
16 statement?

17 A Not if you're saying I wrote it.

18 Q Now, once Stacy told you that, hey, Blake's gone to
19 the Game Changer and he's going there to fight Chad. What
20 did you and Stacy do at that time?

21 A Well, when I got in the car with Stacy, we went to
22 the Game Changer and she filled me in on the way because I
23 had no idea what was going on.

24 Q Did Stacy ever receive -- did Stacy ever like after
25 y'all left the mud bog to go to the Game Changer, did

1 Stacy ever call -- and don't tell me what anybody is
2 saying. I'm telling you what you observed. Did Stacy
3 ever call Blake or received a call from Blake by phone?

4 A I believe so. I'm not sure.

5 Q And do you remember not whether or not she had
6 received a call by Blake or whether or not she called him?

7 A I think she did talk to Blake.

8 Q Did she talk to Chad?

9 A Yeah, she told Chad we were on the way to get him.

10 Q Okay. She told Chad that we're coming to the Game
11 Changer to pick you up?

12 A Yes, sir.

13 Q Did she also tell Chad what Blake had said?

14 A I don't know.

15 Q Were you there in the car?

16 A I was, but I don't remember if she said that.

17 Q You don't remember. All right. Now, how long did it
18 take you to get to the mud bog to the Game Changer?

19 A Maybe 45 minutes.

20 Q Okay. And then what happened once you arrived at the
21 Game Changer?

22 A Chad was outside. Chad told Stacy to get in the back
23 so he could drive and we left.

24 Q Now, when he got in the car -- as when he get in the
25 car, did he say anything else to Stacy or say anything

1 else to you?

2 A I don't remember. I'm sure he did, but I don't
3 remember what was said.

4 Q Did he threaten you?

5 A No, sir.

6 Q Did he threaten Stacy?

7 A No, sir.

8 Q Did he threaten anybody in that car?

9 A Nobody in the car, no, sir.

10 Q Did he demand that y'all take him some place?

11 A No, he was driving. He said I'm going by my house.

12 Q So this was not a situation where he forced his way
13 into the car and forced y'all to go wherever he wanted to
14 go?

15 A He didn't force nobody. I mean, he said Stacy get in
16 the back, but he didn't force her.

17 Q Now, at some point in time, I think you testified
18 that there was fusing that's going back and forth phone
19 calls started?

20 A Uh-huh, yes, sir.

21 Q Okay. And whose phone was being used?

22 A Mine. I'm not sure if Chad's was used and Stacy's
23 maybe for a few minutes because I know her phone died. I
24 don't know if any -- well, I know she had talked to Blake
25 once or twice on her phone before it died. She talked to.

1 him not Chad.

2 Q Stacy talked to Blake on her phone?

3 A Uh-huh.

4 Q And then her phone went dead?

5 A Yes, sir.

6 Q Okay. And then they were using y'all phone?

7 A Yes, sir.

8 Q Did you talk to Blake?

9 A When we -- well, yeah, a few times whenever he say
10 put Chad on the phone or put Stacy on the phone, but that
11 was about it.

12 Q And these calls was coming in through your phone at
13 that particular period of time?

14 A Yes, sir.

15 Q Okay. Now, did you also talk to Matt?

16 A Yes, sir. Me and Matt had been texting all night.

17 Q Did you ever call Matt and to suggest to Matt to try
18 to arrange a meeting location so that Chad and so that
19 Blake could fight?

20 A I don't if I'm the one who did it, I may have said
21 that Chad said for them to meet at Sunny Mart.

22 Q In fact, wasn't it true that Stacy got upset at you
23 because you were attempting to orchestrate a fight that
24 entire night between those two?

25 A I'm not sure. She got mad whenever Matt was with me

1 when we pulled up in her yard.

2 Q And that is when -- in your attempt to try to
3 orchestrate this fight, isn't it true that this when you
4 say, well, hey, I even be willing to walk away ---

5 A I didn't attempt to orchestrate the fight.

6 Q Let me finish my question and certainly you can
7 answer. That's the point or that's the reason why isn't
8 it true, you know, that you offered to take their three-
9 year-old daughter and say I would walk her away while
10 they're fighting?

11 A I didn't attempt to orchestrate a fight. And like I
12 told Solicitor Clements that if they were gone fight, I
13 wanted them to fight and go ahead and get it over with, so
14 they quit running their mouths. And if I was trying to
15 get them to fight, why would I offer to take their
16 daughter, Stacy and Chad's daughter, away from the fight
17 where, I mean, I couldn't even see it. If I wanted them
18 to fight that bad, I would want to watch it.

19 Q Is that a question to me?

20 A That was just a statement.

21 Q Okay. Now, you said here -- and let me ask you that
22 at some point in time, did Blake tell you on the phone
23 that he was going to beat Stacy's ass excuse me -- that he
24 was gone beat Chad's ass?

25 A Yeah, after Chad had been saying he was gone beat his

1 ass. It was back and forth all night. They had both been
2 saying they were gone fight each other. They were gone
3 beat each others asses. They were gone fight.

4 Q So previously when you testified on direct
5 examination that you don't recall whether or not Blake had
6 ever threatened to fight Chad or to beat Chad's ass that
7 wasn't true?

8 A I don't remember saying that. I don't remember.

9 Q But just for clarification, you are now admitting
10 that he did say that that Blake said that I'm going to
11 beat Chad's ass?

12 A They both said that.

13 Q I think isn't it true that you wrote in your
14 statement or you said that Blake kept saying that he was
15 going to beat Chad's ass?

16 A They both kept saying it. They were back and forth
17 on the phone for over an hour almost.

18 Q Now, did -- at some point in time did Blake instead
19 of just calling and talking to you, did he call and
20 directly ask you that he wanted to speak with Chad?

21 A I'm sure he did, I don't recall.

22 Q And that at some point in time -- let me ask you this
23 question to be absolutely certain. Did they ever arrange
24 to go to Stacy's house and fight at Stacy's house?

25 A Chad said he could come to Stacy's and the law won't

1 be called.

2 Q And you tell me whether you know or not and I'm
3 asking of your own personal knowledge, do you know whether
4 or not Stacy agreed ---

5 A Stacy Fowler didn't agree.

6 THE COURT: Let him finish his question please.

7 BY MR. BROOKER:

8 Q Do you know whether or not Stacy agreed for them to
9 come to Chad's house to fight?

10 A She didn't agree.

11 Q She didn't agree?

12 A Because of Kayle.

13 Q Because of Kayle. Do you remember talking to Charlie
14 Watson on November 7, 2012 during that interview?

15 A Yes, sir.

16 Q Did you ever tell Charlie Watson that Stacy said that
17 this is fine -- this is fine for them fighting at her
18 house, she knows they're going to fight?

19 A I don't recall saying that, but if it's there, I said
20 it.

21 MR. BROOKER: Indulge me for just a second, Your
22 Honor.

23 THE COURT: Yes, sir.

24 BY MR. BROOKER:

25 Q You also testified to the fact that at some point in

1 time that y'all went to I think when y'all first picked up
2 Chad that y'all left and went to Chad's house?

3 A Yes, sir.

4 Q Okay. And I think your testimony was he went there
5 to pick up a coat ---

6 A And money.

7 Q And some money. Okay. Did you ever tell Charlie
8 Watson that you didn't know why he went to his house?

9 A I thought I had told Charlie Watson that he went to
10 get his coat and his money.

11 Q But if you did tell Charlie Watson that, you didn't
12 know why that would not have been the truth, would it?

13 A No, because he told us he was getting his coat and
14 his money.

15 Q So you did know why?

16 A Yes, sir.

17 Q Okay. Now, at some point in time y'all ended up at
18 Stacy's house?

19 A Yes, sir.

20 Q Is that correct. And the car that y'all were riding
21 in that was your SUV; is that correct?

22 A Yes, sir.

23 Q And at that time who was driving y'all end up?

24 A Stacy was driving when we got to her house.

25 Q Okay. And what happened then?

- 1 A We all went inside.
- 2 Q Okay. And how long did you stay?
- 3 A Five or ten minutes, wasn't long.
- 4 Q Okay. And did you leave?
- 5 A Yes, sir.
- 6 Q Why did you leave?
- 7 A To go talk to Blake.
- 8 Q So you never told Stacy that I'm feeling sick or I'm
- 9 not feeling well and I'm leaving just to go Mandy's house?
- 10 A I don't recall that.
- 11 Q But in fact you were not leaving to go to Mandy's
- 12 house, you were leaving to go see Blake at Matt Lane's
- 13 house?
- 14 A Yes, sir.
- 15 Q So had you told Stacy that that would not have been
- 16 the truth; is that correct?
- 17 A If I told her that, but I don't remember telling her
- 18 that.
- 19 Q Now, when y'all got to Stacy's house, did Blake ever
- 20 call you?
- 21 A Yes, sir.
- 22 Q At Stacy's house?
- 23 A Well, he had called right before we got there or
- 24 while we were there.
- 25 Q Did he call you?

1 A He called my phone, yes, sir.

2 Q Okay. Did he talk with you?

3 A Yes, sir.

4 Q And what did he say to you?

5 A He -- I don't really remember. I just remember him
6 calling me a bitch. I don't know what lead up to that or
7 what was said afterwards or anything, but I know he hung
8 up the phone and I called him back several times. And he
9 didn't answer, so I called Matt to see if it was okay I
10 went down there by myself.

11 Q And is that -- were y'all at Stacy's house or were
12 y'all en route to Stacy's house?

13 A I might have been in the car already I'm not sure.

14 Q To go to Stacy's house excuse me -- to go to Matt's
15 house?

16 A Yeah.

17 Q Okay. Now, when you were at Matt's house, when you
18 were at Stacy's house, at any point in time did Blake call
19 Stacy while you were at Stacy's house?

20 A I don't know because her phone was dead.

21 Q Okay. Her phone was dead. Does she have a landline
22 phone in her house?

23 A She might now, she didn't then.

24 Q Okay. She didn't have a landline phone. And let me
25 ask you this question, you may or may not know the answer,

1 but I don't know. Did Blake -- did you know whether or
2 not Chad had a cell phone?

3 A Yeah, he had a phone I think. Yeah, he had a phone.

4 Q And I'm specifically talking about that night. Do
5 you know whether or not he had his phone that night?

6 A Yeah, yes, sir.

7 Q Do you know whether or not Blake -- and I'm asking
8 you of your own personal knowledge. Do you know whether
9 or not Blake had his phone number?

10 A I don't because he ask me Blake's number, so he could
11 call Blake off of his phone because Blake wouldn't answer
12 from my phone.

13 Q Now, you left -- now, you also testified to the fact
14 that when you got to Blake's house excuse me -- you got
15 to, I think, Matt or Fletcher's house?

16 A It was right there in the driveway in front of
17 Fletcher -- in between Fletcher and Matt's house.

18 Q Okay. They live next to each other; is that correct?

19 A Yes, sir.

20 Q Okay. When you got there, did you talk to Blake?

21 A Yes, sir.

22 Q Now, was Matt under the impression that Blake -- that
23 Chad was not at Stacy's house. He wasn't under that
24 impression, was he not, when you arrived?

25 A Yes, sir, from that text message that was sent to his

1 phone.

2 Q And the reason why he was under that impression was
3 is is that you had sent him a text message ---

4 A I didn't -- sorry ---

5 Q You can refute it, but let me at least finish asking
6 you. You were under that -- he was under that impression
7 because you had sent him a text message falsely telling
8 him that Chad was not at Stacy's house in order to induce
9 them to come over; is that true?

10 A No, that's not true, I didn't send that text.

11 Q Now, you testified that Chad some how took your phone
12 and text Matthew to tell Matthew that, you know, hey, I'm
13 not at Stacy's house?

14 A He didn't say I'm not at Stacy's house.

15 Q What did the text say?

16 A Either Chad's gone or he's gone now. Y'all can come
17 over.

18 Q And he sent that -- you're saying that he sent that
19 to Matt's phone?

20 A Yes, sir.

21 Q Okay. Now, can you at least tell me whether or not
22 you have any rationale for this?

23 A He was using my phone on that.

24 Q Okay. Now, do you believe -- and I'm asking you for
25 your belief. Do you believe that that was to induce Blake

1 to come over to fight?

2 MR. CLEMENTS: Objection speculation.

3 MR. BROOKER: I'm asking her for her belief, so
4 I'm asking for her state of mind.

5 THE COURT: Rephrase your question.

6 MR. BROOKER: Okay.

7 BY MR. BROOKER:

8 Q And I'm asking you your state of mind. I don't want
9 to know nobody else's state of mind. I'm asking your
10 state of mind and what your belief is.

11 THE COURT: What you're asking her is what
12 state of mind is to what his state of mind was or whoever
13 state of mind it was sending the text, are you not?

14 MR. BROOKER: No, I'm not.

15 THE COURT: Restate your question again.

16 MR. BROOKER: I'm asking her what her belief
17 was.

18 THE COURT: Restate your question.

19 MR. BROOKER: Yes, sir.

20 BY MR. BROOKER:

21 Q I'm asking her do you believe that this was a ploy to
22 get Blake over?

23 MR. CLEMENTS: And I object because I think that
24 question calls for her to speculate.

25 THE COURT: Sustain. Do you know whether or not

1 it was for the purpose of getting Blake to come over?

2 Answer the question.

3 A I mean, he told him come to over because he was gone
4 so whether Blake was gone come or not I don't know.

5 Q Well, now you had testified, you had testified that
6 Chad was given Blake's number?

7 A Uh-huh, but this was on Matt's phone that they were
8 talking, mine and Matt because me and Matt had been
9 texting all night long.

10 Q Okay. So why would he text Matt if he wanted to get
11 Blake over or had Blake's number?

12 A Him and Matt been arguing too.

13 MR. CLEMENTS: Again that calls for speculation,
14 Your Honor.

15 THE COURT: Objection sustained.

16 BY MR. BROOKER:

17 Q Okay. Now, you also testified that when you got
18 there that you and Matt -- no, you and Blake got into an
19 argument excuse me -- you and Blake were arguing?

20 A Yes, sir.

21 Q And then you testified that you went over there
22 because he had called you a bitch earlier?

23 A Yes, sir.

24 Q What were y'all arguing about?

25 A Why he called me a bitch and he told me it was

1 because that he didn't like the way Stacy acted when she
2 was around me. She thought she was single and that there
3 was a Facebook status of hers that I like and he got mad
4 about it.

5 Q He got mad because you liked a Facebook status that
6 something that Stacy had posted?

7 A Yes, sir.

8 Q Do you know what Stacy had posted that you liked?

9 A I don't recall.

10 Q Now, how long were you over there at Matt's --
11 between Matt and Fletcher's house talking with Blake?

12 A Maybe ten, 15 minutes I'm not sure.

13 Q About ten, 15 minutes?

14 A Yes, sir.

15 Q Now, at that particular period of time did you ever
16 suggested to Blake that, hey, he should go over to
17 Stacy's?

18 A No. He ask me where Stacy was and I told him Stacy
19 was at home. He said who's there. And I said Stacy,
20 Chad and Kayle.

21 Q Do you remember telling Charlie Watson when you
22 interviewed with Charlie Watson that you said he needed to
23 go talk with Stacy? I'm sorry rephrase the question let
24 me make sure I'm reading this right.

25 MR. BROOKER: Indulge me for just a second, Your

1 Honor, withdraw that question make sure I got it right
2 before I ask it.

3 THE COURT: Yes, sir.

4 BY MR. BROOKER:

5 Q Now, you saying that he said that he needed to go to
6 Stacy's house?

7 A He needed to talk to Stacy, that's all he kept
8 saying.

9 Q And I'm asking you of your own personal knowledge.
10 Did you have any idea how he know that or whether he knew
11 that Stacy -- whether Chad was at Stacy's house?

12 A My own personal knowledge is I told him when he ask
13 me who was there it was Stacy, Chad and Kayle.

14 Q And how did he respond to that?

15 A That's whenever he started saying he needed to talk
16 to Stacy.

17 Q He did not tell you that he was going over to Stacy's
18 house to beat Chad's ass?

19 A Not that I recall.

20 Q Do you remember the statement that you gave on
21 November 4, 2012?

22 A Yes, sir.

23 Q And I'm going to let you take a look at that
24 statement and ask you to read it. This part right here
25 everything in green. What does that say?

1 A You want me to read it out loud?

2 Q Yes.

3 A Blake got in a fuss and he told me he was going to
4 Stacy's to beat Chad's ass. Blake got in Matt's car and
5 left.

6 Q Okay. Okay. So you wrote on that statement that he
7 did tell you that he was going over to Chad's house excuse
8 me -- going over to Stacy's house to beat Chad ass; that
9 is true right?

10 A Well, he told me he had to talk to Stacy. I was ---

11 Q So what you wrote in the statement on November 4, is
12 not true, that he didn't use those words?

13 A Not at that time.

14 Q Okay. And I just want a yes or no because I'm a
15 little bit confused. So when you wrote in your statement
16 that he said that he was going over to Stacy's house to
17 beat Chad's ass, is that true or false that's contained in
18 this statement?

19 A That is false.

20 Q That's false?

21 A Yes, sir.

22 Q So you're saying that you wrote something in this
23 statement that was a lie?

24 A After I had just seen somebody get shot, then, yeah,
25 I was kind of shook up. I didn't really know what to say.

1 Q So how much -- if that was false and that was due to
2 your being shook up, how much of the other stuff that you
3 wrote in this statement is false and could be inaccurate
4 due to your being shook up after seeing the shooting?

5 A Can I read it?

6 Q If you need to. Indulgence I'm looking for the copy
7 that was marked for identification purposes.

8 A The part where it says -- where I said Blake said he
9 was going to the Game Changer to fight Chad. I didn't
10 know if he was going there to fight Chad or not. I know
11 he said he was gone handle some business and I know Stacy
12 said that we needed to go get him because they were
13 arguing.

14 Q So you're saying that when you put that in that
15 statement that that was false?

16 A He said he had to handle business.

17 Q So what you saying is that what you wrote in that
18 statement that he was going in to kick Chad's ass...

19 A I'm not saying it's false, I'm saying that it might
20 not be completely in detail as to what was said.

21 Q It might not be accurate?

22 A Yes, sir.

23 Q Anything else in that statement that's not accurate?

24 A No, sir.

25 Q I'm sorry.

1 A No, sir.

2 Q Everything else is accurate?

3 A Yes, sir.

4 Q Just all the places where you -- and I want to get
5 this correct and I'm going to move on. So what you're
6 telling me all the places in that statement where you said
7 Blake said he's going to beat Chad's ass that all of that
8 -- only those statements are the only ones that are
9 inaccurate?

10 A Well, I mean, they both did say it. I just didn't
11 put in the statement that Chad said he was gone beat
12 Blake's ass.

13 Q That's not contained in your statement. You never
14 said ---

15 A I know I just said I didn't put it in my statement.

16 Q You didn't put in this statement that Chad said he
17 was going to beat Blake's ass, that's not in this
18 statement, is it not?

19 A Uh-uh, no, sir.

20 Q Okay. Now, you gave this statement on November 4,
21 2012; is that correct?

22 A Yes, sir.

23 Q And I'm assuming and correct me if I'm wrong from
24 just -- I guess from common knowledge usually people's
25 memory deteriorates over a period of time and not get

1 better; is that correct?

2 A That is correct, but right after you see something
3 that's traumatizing, you don't really remember much.

4 Q So when -- now, I think you also testified -- we're
5 back at Blake's -- at Matt's house. You testified that
6 the plan was -- that some plan had developed that Blake
7 was going to go over there, somebody was going to drive
8 him and that you and Matt were gone go over there in your
9 vehicle; is that correct?

10 A Yes, sir.

11 Q But that plan never materialize did it not?

12 A No, sir.

13 Q And didn't material because Blake suddenly left?

14 A Yes, sir.

15 Q And I'm not asking you -- I'm asking you of your own
16 personal knowledge. Did you know why he then canceled the
17 plan and just took off?

18 A Because he got tired of waiting because we waited
19 maybe five minutes.

20 Q Now, I think you testified that the fact that y'all
21 -- you and Matt then got in your car and you went after
22 him?

23 A Yes, sir.

24 Q And that he was traveling so fast that you could not
25 keep up with him?

1 A No, sir.

2 Q How fast were you driving?

3 A At that time 80 miles an hour maybe.

4 Q So he was really booking?

5 A Well, that and he kind of had a head start too. It
6 wasn't much of one, but it was one.

7 Q Now, when you get to Stacy's house or even prior to
8 getting to Stacy's house, you called Stacy; is that
9 correct?

10 A Yes, sir.

11 Q And you called her and warned her ---

12 A I said Blake's about to be there.

13 Q Okay. Why were you calling her to warn her that
14 Blake was coming over?

15 A Because I didn't want it just to be a big surprise
16 because that wasn't the plan. I was going to talk to
17 Blake to find out why he had a problem with me didn't
18 expect him to go back to Stacy's.

19 Q Is it possible that -- and you tell me, but isn't it
20 true that the reason why you were calling Stacy is is that
21 you knew that Chad was there and you knew that Blake was
22 going over there to jump Chad?

23 A No.

24 Q Now, isn't it true that that would be a logical
25 explanation as to why you put in your statement that

1 before Blake left Blake said he was going to beat Chad's
2 ass?

3 A I don't know why I put that in the statement.

4 Q Is it possible that you put it in the statement
5 because it's true?

6 A No.

7 Q Now, when y'all got to the house and this is the
8 house and obviously is Blake's already there; is that
9 correct?

10 A Yes, sir.

11 Q Okay. And I think you testified on direct
12 examination when y'all got there that Blake was standing
13 near his door?

14 A Not near it, he had just got out the car. He was
15 behind the door.

16 Q He just got out the car and he was behind the door.
17 Was he standing up right? Was he on his feet?

18 A Yes, sir.

19 Q And was he standing upright?

20 A Yes, sir.

21 Q And I think you testified is is that Stacy wasn't
22 standing in the doorway, but she was standing kind of
23 stand by it and that they were talking?

24 A Yes, sir.

25 Q And I think your testimony was is that when you

1 pulled up that chad was on the porch?

2 A Yes, sir, from what I remember because I remember her
3 screaming this about the only thing I heard stay on the
4 porch.

5 Q Now, I'm just asking you if you could indulge me for
6 just a second. Is it -- now, when you wrote your
7 statement, do you remember writing that statement again
8 and I'm going to refresh your memory on November 4, 2012.
9 And this would have been after immediately after the
10 shooting and I think you just testified that when you
11 pulled up that Blake was standing upright in the doorway
12 of his car, that Stacy was standing not in the doorway but
13 right next to the doorway and that they were talking and
14 that Chad was on the porch. Now, did you write in your
15 statement something completely different than that?

16 A Not that I recall.

17 Q Let me at least look at your statement I'm going to
18 allow you to take a look at your statement and I'm going
19 to ask you a question. And I'm going to refer you to
20 right where it is and I'm going to read this as you're
21 watching it. And you tell me whether or not I'm reading
22 this truly or falsely? And this is your statement Logan
23 Ratley ---

24 MR. CLEMENTS: Your Honor ---

25 THE COURT: Hold on let him finish what he's

1 getting at and if you got an objection, then you can
2 object.

3 MR. CLEMENTS: What I think is the proper way
4 for him to do this is ask a question and then let her read
5 her statement what it said instead of him reading it.

6 THE COURT: Can you all approach at side bar
7 please.

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but out of the hearing of the
10 jury.)

11 BY MR. BROOKER:

12 Q I'm going to speed the process up and do it a
13 different way. Isn't it true in your statement that you
14 said -- your statement given on November 4, 2012, when we
15 pulled up Blake and Chad was fusing and that Stacy told me
16 I need to get him out of her yard and, of course, you have
17 in quotations Matt Lane. So you testified at least in
18 your statement that when you pulled up in the yard ---

19 A They were fusing.

20 Q That they were fusing and that Stacy told you that
21 you need to get Matt Lane out of the car?

22 A They weren't face to face fusing. I never said
23 anything about that. They can fuss from a distance.

24 Q So now it's your testimony they were fusing from a
25 distance?

1 A He was on the porch.

2 Q But your testimony previously was is that he was not
3 fusing with Chad, but that your testimony on direct
4 examination was that when you pulled up that Stacy and
5 Blake were talking?

6 A They were and Chad was on the porch saying something
7 that's what I couldn't make out and then Blake said
8 something back to him. And then Stacy would talk to
9 Blake.

10 Q But would you agree with me that what you testified
11 here today is not contained within your statement, is it?

12 A No, sir.

13 Q That you testified differently; is that correct?

14 A I didn't write down every single detail in my
15 statement right after the murder happened.

16 Q Now, you told Charlie Watson that when you pulled up
17 they were arguing. Do you remember telling Charlie Watson
18 that?

19 A They were. I mean, they were on the porch and he was
20 saying something. Then Blake said something back. I
21 mean, it's not like they were face to face arguing. They
22 never got close enough to each other to like hurt each
23 other until he pulled a gun out.

24 Q Now, at that point in time I think your testimony was
25 is is that when Stacy told you to -- something to the

1 effect get him the hell out of my yard?

2 A Uh-huh.

3 THE COURT: Is that a yes?

4 A Yes, sir.

5 THE COURT: Thank you.

6 BY MR. BROOKER:

7 Q Okay. And I think specifically is that you tell -- I
8 think specifically did you not tell Charlie Watson that
9 she specifically said, you know, get this M.F.
10 motherfucker out of here before he gets hurt?

11 A That may have been what she said, that's what I said.

12 Q Now, how long did you stay in the yard sitting in
13 your vehicle?

14 A Not long at all.

15 Q And I think you testified, I think, on
16 cross-examination that you never got out of your vehicle?

17 A I said if I did get out of my vehicle I stepped on
18 the running board, but I never touched the ground.

19 Q Okay. Okay. But you stepped on the running board
20 but never got out?

21 A But I don't even know for sure if I did that. I
22 don't know if I did.

23 Q Did anyone else get out?

24 A No, sir.

25 Q Is it your testimony that the only two people in your

1 car was yourself and Matt Lane?

2 A Yes, sir.

3 Q And that there was not another boy or man in that car
4 with you?

5 A There was nobody else in my vehicle.

6 Q Now, I want to make this clear because this is very
7 important. How long did they argue before you then
8 decided to put your car in reverse and back out and leave?
9 How long did you watch this from the time you pull up
10 until the time you decided to put your car in reverse?

11 A The time I pulled up Stacy told me to get Matt out
12 the yard, so it was ten seconds and then I was leaving.

13 Q Okay. And you said you put your car in reverse and
14 then you said that that when you were backing up and you
15 heard a gunshot and you turned around and you saw Blake
16 fell?

17 A Yes, sir.

18 Q Okay. And I think your testimony was that at some
19 point in time, I think, you testified that Blake was
20 standing and obviously standing up in his doorway, that
21 Stacy was standing right next to the door as it was open
22 and that Chad was standing behind Stacy?

23 A Yes, sir.

24 Q Okay.

25 A After I look back and saw what had happened, it

1 was -- Chad was probably from me to you. And then I was
2 -- Stacy was turn this way and Blake was on the ground.
3 And then she turn around and jumped on Chad pretty much.

4 Q Now, so you didn't actually see the gun went off?

5 A No, sir.

6 Q So what you're saying is that everything that
7 transpired immediately before the gun go off -- the
8 seconds before the gun off, you didn't see it?

9 A I didn't see none of it, but when I look back, Chad
10 had a gun like in his hand.

11 Q And that's what you wrote in your statement; is that
12 correct?

13 A That I didn't see the gun.

14 Q That the gun went off as you were turning around and
15 backing up?

16 A Yes, sir.

17 Q And I think that is also what you told Charlie
18 Watson?

19 A Yes, sir.

20 Q Okay. So do you know whether or not Blake swung on
21 Chad before Chad pulled his gun and discharged it?

22 A Well, from the distance they were in, if Blake did
23 swing on him, he had to have like 20-foot-long arms. But,
24 no, because Stacy was in between them there's no way he
25 could have hit Chad.

1 Q You tell me what distance do you think they were at?

2 A When I looked back, they were -- Blake was back here
3 and Stacy -- it might have been a little bit further back,
4 I'm not sure.

5 Q So now it's your testimony that he was standing ---

6 A I said it may have been, I'm not sure.

7 Q May have been. Are you sure about anything? You
8 saying you're not sure. Do you know or you don't know?

9 A Don't know how far he was?

10 Q What the distance was, yes?

11 A I don't know.

12 Q Okay.

13 A But I know it was not close enough for somebody to
14 get hit.

15 Q You left; is that correct?

16 A Yes, sir.

17 Q And when you left, I think, you took Matt home; is
18 that correct?

19 A Yes, sir.

20 Q Did y'all go straight to Matt's house?

21 A Yes, sir.

22 Q Okay. And I think you testified on direct
23 examination when you were asked that you don't remember
24 Matt asking you to stay with him?

25 A I don't remember that. He may have, I'm not sure.

1 MR. BROOKER: If you can indulge me for a
2 second, Your Honor, I'm almost finish I believe. I just
3 need to be certain.

4 THE COURT: Yes, sir.

5 (WHEREUPON, a pause in the proceedings.)

6 BY MR. BROOKER:

7 Q When Stacy told you get the M.F. out of the yard and
8 that you said at that particular period of time you put
9 the car in reverse and start backing up and then you heard
10 a gunshot. How far had you backed up before you heard
11 that gun shot?

12 A Maybe five feet.

13 Q Maybe five feet?

14 A Yes, sir.

15 Q Okay.

16 A I wasn't even -- I'm not sure if I was in the road
17 yet.

18 Q And when you pulled up in the yard, did you have your
19 lights on?

20 A Yes, sir.

21 Q But you never turned your car off, did you?

22 A No, sir.

23 Q Blake have his lights on in his vehicle?

24 A Yes, sir.

25 Q It was also a porch light on at that house, was it

1 not?

2 A Yes, sir.

3 MR. BROOKER: If you can indulge me for just a
4 second, Your Honor, make sure I have nothing else that I
5 need to ask before I sit down.

6 THE COURT: Yes, sir.

7 (WHEREUPON, a pause in the proceedings.)

8 MR. BROOKER: No further questions, Your Honor.

9 THE COURT: Any redirect?

10 MR. CLEMENTS: Just as quick as I can, Your
11 Honor.

12 REDIRECT EXAMINATION

13 BY MR. CLEMENTS:

14 Q I want to be sure we understand this. Mr. Brooker
15 ask you about what was in your statement when Blake left
16 Matt's house in the car. Did he ever say during that
17 night multiple times that he was gone beat Chad's ass?

18 A They both said it to each other, yes, sir.

19 Q Multiple times?

20 A Yes, sir.

21 Q He has said it whether he said it at that exact
22 moment or not he has said that?

23 A Yes, sir.

24 Q That's what you put in your statement?

25 A Yes, sir.

1 Q And you put in your statement and Mr. Brooker ask you
2 about going to the Game Changer because they were gone
3 fight. Is that what you thought?

4 A That is what I thought by the status.

5 Q And what was the status on Facebook?

6 A He was going to the Game Changer to take care of some
7 business.

8 Q And you interpreted that as he's going to fight?

9 A If I knew they were arguing, then, yeah, that was how
10 I took it, yes, sir.

11 Q And he ask you about giving your interview to
12 Investigator Watson. Did you or did you not tell
13 Investigator Watson that Stacy said that Chad wanted us to
14 pick him up. He was mad and ready to leave and he was
15 wanting to fight Blake?

16 A That is what -- I don't know about word for word, but
17 I know Stacy told me that once we were in the car on the
18 way to the Game Changer.

19 Q And that Chad was wanting to fight Blake and he was
20 mad?

21 A He was mad because he had heard that Blake went up
22 there to try to fight him or something, I'm not sure.

23 Q All right. And did you tell Investigator Watson
24 when y'all got back to Stacy's house that Blake called and
25 asked for Chad and Chad told Blake to come to Stacy's

1 house?

2 A I'm sure it did happen because I do remember saying
3 -- at one point in time Chad saying that he could come to
4 Stacy's.

5 Q Okay. Now, Mr. Brooker asked you about things you
6 were sure of and there's lots you're not exactly sure of
7 and it's been a while, right?

8 A It's been over two and a half years.

9 Q Are you sure or not that you were driving a black
10 car?

11 A I know for a fact that I was driving a black car.

12 Q Are you sure or not that you and Matt were the only
13 two people in that car?

14 A I know that for a fact also.

15 Q Are you sure or not that you never saw Blake attack
16 Chad?

17 A I never saw that that's a fact. I never saw Blake
18 even -- I don't know how he could have attacked Chad if he
19 was still behind the door.

20 Q And are you sure or not that there were no other boys
21 there?

22 A I'm positive, yes, sir.

23 Q And are you sure or not that Chad came off that porch
24 and shot Blake?

25 A Yes, sir.

1 MR. CLEMENTS: Thank you.

2 THE COURT: Mr. Brooker.

3 MR. BROOKER: Just very one quick follow up.

4 RECROSS-EXAMINATION

5 BY MR. BROOKER:

6 Q You said you learned this -- in your statement that
7 Mr. Clements just asked you on redirect the statement that
8 Blake said that he was going to the Game changer to fight
9 Chad. You said that you saw that from Chad's excuse me --
10 from Blake's Facebook posting and you just made an
11 interpretation?

12 A Well, I didn't put in quotes that that's what was
13 said. I put what I thought had happen that night.

14 Q And I understand that, but you just told
15 Mr. Clements, you know that you gain that information from
16 ---

17 A From a status saying he was going to take care of
18 business. I figured that's what it was.

19 Q Well, isn't it true at least in your statements that
20 you saying that you obtained that information -- you
21 saying that you obtained that information from Stacy and
22 that Stacy had said that she had received a call from
23 Blake?

24 A Me and Stacy talked about it on the way to the Game
25 Changer and then I got on Facebook to look and see if the

1 status was still there.

2 Q And you also told Charlie Watson the same thing is
3 that Stacy told you that she had received a call from
4 Blake and Blake said he was going to the Game Changer to
5 kick his ass or to fight him or whatever it was?

6 A I don't know what he told her, but I know she said
7 that Blake said he was going to the Game Changer.

8 Q So the status -- the source of your information was
9 not from the Facebook, but actually from ---

10 A Well, I check Facebook myself after I got in my car
11 on way to the Game Changer.

12 Q But is that in your statement?

13 A No, I didn't say I checked it. I didn't say I got on
14 Facebook and looked at it.

15 Q It's not; is that correct?

16 A That's correct.

17 MR. BROOKER: Thank you.

18 THE COURT: Ma'am, you may step down. Thank
19 you.

20 (WHEREUPON, the witness leaves the witness
21 stand.)

22 THE COURT: All right. Ladies and gentlemen,
23 I'm going to let you take a break at this point, go to the
24 jury room, do not discuss the case. I'll get you back out
25 here as quickly as possible.

1 (WHEREUPON, the jury retire to the jury room.)

2 THE COURT: Let's stand down for a few minutes.

3 (WHEREUPON, a break was taken.)

4 THE COURT: Anything from the State before I
5 bring the jury?

6 MR. CLEMENTS: No, Your Honor, we ready to go.

7 THE COURT: Defense counsel?

8 MR. BROOKER: No, sir.

9 THE COURT: Bring the jury please, sir.

10 (WHEREUPON, the jury came into open court.)

11 THE COURT: Ladies and gentlemen, we're going to
12 continue the trial of this case at this time.

13 At this time, Mr. Solicitor, you're so
14 recognized call your next witness.

15 MR. CLEMENTS: Thank you, Your Honor. If it
16 please the Court, we call Dr. Cynthia Schandle.

17 THE CLERK: Ma'am, you come around let me swear
18 you in please, ma'am. Place your left hand on the Bible
19 and raise your right hand. Do you solemnly swear or
20 affirm the evidence you're about to give in the trial of
21 this case shall be the truth, the whole truth and nothing
22 but the truth so help you God?

23 THE WITNESS: Yes, I do.

24 THE CLERK: Thank you.

25 WHEREUPON,

1 Dr. Cynthia Schandle,
2 after first having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. CLEMENTS:

5 Q Good morning.

6 A Good morning.

7 Q Would you please introduce yourself to this jury and
8 tell them what you do for a living and where you work?

9 A Yes, sir. My name is Cynthia Ona Schandle
10 S-C-H-A-N-D-L-E. I'm employed at the Medical University
11 of South Carolina in Charleston, South Carolina in the
12 department of pathology and laboratory medicine. I'm a
13 doctor there. And my specialty is clinical anatomic and
14 clinical pathology and my subspecialty is forensic
15 pathology.

16 Q Would you please, Doctor, explain to these jurors
17 what a field of pathology is in particular forensic
18 pathology?

19 A Yes, sir. Pathology when you break down the words
20 simply means the study of disease. So the field of
21 pathology is very broad. We look at tissues. So if you
22 have a tumor taken off like a skin tumor or something, we
23 would look at that. If you need a blood test to see how
24 your sugar is or how high your iron is, we would look at
25 it. So it's a very very broad field of studying disease.

1 When you subspecialize in forensic pathology, now we're
2 talking about a much more narrow field of the study of
3 disease. And this is a disease where we relate to
4 injuries primarily. So in forensic pathology, what I'm
5 doing is looking usually through the work of the autopsy
6 looking at somebody after they died to see what has caused
7 their death. And we can look at many different
8 circumstances, but usually with forensic pathology, we're
9 looking at those circumstances where the law might be
10 involved in this particular death. So if there was a
11 homicide or possibly an accident even a suicide and even
12 those cases that we end up calling as natural deaths where
13 there was no history of disease in that person and yet
14 they died unexpectedly, we might end up also with that
15 sort of a case just to show that, yes, this was a natural
16 death and that there isn't any reason to involve the law.
17 So the field of forensic pathology is sort of where
18 medicine and the law intersect.

19 Q Thank you for that explanation. Now, Dr. Schandle,
20 could you please tell us about your educational background
21 and your work background?

22 A Yes, sir. So I completed my bachelor's degree in
23 1990 at the California State University in San Bernardino
24 in California. And then I moved to Charleston, South
25 Carolina and went to the Medical University of South

1 Carolina. I completed the medical school there medical
2 degree. And also during that time, I was in a combined
3 program, so I also completed my PH.D. degree, so a
4 doctoral degree at the same time. And I graduated from
5 those two programs in 1999. Following that as then a
6 physician and licensed to practice medicine in the State
7 of South Carolina, I continued my program training still
8 at the Medical University of South Carolina in the
9 department of pathology in a four-year residency program
10 in anatomic and clinical pathology. And also during that
11 time, an additional year I spent specifically devoted to a
12 fellowship in forensic pathology. And following those
13 trainings, there are board examinations from the American
14 Board of Pathology, which is a national organization that
15 certifies pathologist. And I am board certified in those
16 fields of anatomic pathology, clinical pathology and
17 forensic pathology. And I have been working as a forensic
18 pathologist along with my other academic duties at the
19 medical university since 2004.

20 Q Are you also a professor there at the medical
21 university?

22 A I'm currently at the rank of what is called associate
23 professor, so, yes, there's also a teaching role.

24 Q Okay. Now, have you ever been called on to testify
25 in state or federal court?

1 A Yes, sir, both.

2 Q And have you been qualified as an expert in the field
3 of forensic pathology in state or federal court?

4 A Yes, sir.

5 Q Approximately how many times?

6 A More than 100.

7 MR. CLEMENTS: Your Honor, we would offer Dr.
8 Schandle as an expert in the field of forensic pathology.

9 THE COURT: Mr. Brooker.

10 MR. BROOKER: I have no objections, Your Honor.

11 THE COURT: Ladies and gentlemen, before we go
12 any further let me give you a charge here or some
13 instruction. Normally, a person cannot give opinion
14 testimony. Normally, when a person testifies, they must
15 testify as to what they either saw, heard or sense by
16 smell or something of that nature. However, there is an
17 exception when someone is qualified because of education
18 or experience. They are permitted, they are permitted to
19 give their opinion in certain areas if the Court qualifies
20 them that way. This particular witness is being qualified
21 or will be qualified in the area of forensic pathology to
22 give opinion testimony in that area. Does not mean,
23 ladies and gentlemen, that you must accept the opinion,
24 but it is evidence for you to use in any way that you see
25 fit and give it the weight and credibility that you

1 believe is appropriate.

2 Mr. Clements.

3 MR. CLEMENTS: Thank you, Your Honor. Please
4 the Court.

5 BY MR. CLEMENTS:

6 Q Dr. Schandle, did you have an opportunity to be
7 called from Marion County Coroner Richardson's office and
8 requested to do an autopsy on a Blake Dozier?

9 A Yes. I have his name as Joseph B. Dozier, yes, sir.

10 Q Okay. And this was what date?

11 A We performed the autopsy on the 5th of November in
12 2012.

13 Q Okay. And do you have an opinion based on a
14 reasonable degree of certainty in your field as to the
15 cause of death of Mr. Joseph Blake Dozier?

16 A Yes, sir, I do.

17 Q What is that opinion?

18 A I'll read from my report as it is written. The cause
19 of death is a single perforating gunshot wound to the
20 head.

21 Q Now, perforating gunshot wound for us lay people does
22 that mean basically a through and through shot?

23 A It does mean through and through as oppose to the
24 other word we use is penetrating that means it went in and
25 didn't come out, so perforating means it went through and

1 through and in this case it's perforating through and
2 through.

3 Q And the gunshot wound was to what area of the head?

4 A There was an entrance wound to his jaw area here on
5 the right and there was an exist wound. It went in here
6 and it came out in the back of his head. A little bit
7 going from his front to back and his right to left and
8 slightly up, so from here and I'll turn side ways to about
9 here.

10 Q And that also track that bullet in relation to the
11 body would be subject to whether his head was turned in a
12 particular direction as well; wouldn't it?

13 A Absolutely. So the only idea that I can have about
14 where the bullet was is those -- that very small period of
15 time when it was in his body where I can follow the track.
16 So I only know that it was here and ended up here. As far
17 as what the direction was that he was shot from or where
18 he was shot from because we can move and probably would be
19 moving in such a circumstance, I can't tell you where the
20 other person was in space.

21 Q Dr. Schandle, do you have an opinion to a reasonable
22 degree of certainty in your field of the manner of death?

23 A Yes, sir. The manner of death in this case is
24 homicide. And we just have a few choices in this state as
25 to what we can call the manner of death. So homicide is

1 one and that's how this case is assigned. There's also
2 suicide, accident, natural and undetermined. And in my
3 case work what homicide means is quite simply that one
4 person died by the actions of another person or by their
5 inactions.

6 Q Now, I'm going to ask you if you can, Dr.
7 Schandle, to describe for us about what the proximity of
8 the wound was as far as it being closed or distant or
9 contact if you can define those areas for us and tell us
10 what type of wound this was?

11 A Yes, sir, so we can look at the skin around the
12 entrance wound and sometimes we can get an idea of how far
13 away the muzzle or the end of the gun, the business end of
14 the gun was from the target in this case Mr. Dozier's jaw.
15 Now, what we look for is either soot on the skin. Soot is
16 fine powdery material that's coming out of the muzzle or
17 end of the gun. And if the muzzle of the gun is right up
18 against a surface, you'll see soot right around the
19 entrance wound. As you back up particulate matter,
20 little pieces of stuff, junk coming out of the muzzle or
21 the end of the gun also fly out with that explosion. So
22 you have the bullet coming into the center of the entrance
23 wound. And then you have these other little pieces of
24 dirt basically coming and striking the skin around it
25 causing scrapes or abrasions. We call that stippling. So

1 those are the two things we can see. We can see soot. We
2 can see stippling or we can see nothing. So nothing may
3 mean distance. So from anywhere from three feet to across
4 the street, close usually means somewhere closer than two
5 or three feet where you see the stippling. And as you go
6 out, that stippling gets wider and wider, as the particles
7 have more and more time to spread to get to the skin. And
8 then if you're right up against, you'll see the soot. In
9 this case, we saw stippling around this wound. So that
10 puts it into the close category where you're not across
11 the street and you're not more than three feet away, so at
12 least three feet or closer. There was also a little bit
13 of soot very near the wound, so that suggest to me that
14 you're quite a bit closer. So in my opinion by the spread
15 of the stippling and the finding of some soot near the
16 wound, the muzzle or business end of the gun was probably
17 a couple inches to no more than a couple of feet away from
18 his jaw. Now, the best way to know as far as how the
19 muzzle is from the target is take that particular weapon
20 or the gun that was used and the ammunition, the specific
21 ammunition that was used, and test fire it at different
22 distances from a specific target. So like a piece of
23 white paper, you start right close up and then you back up
24 that pattern is going to spread. So we measure how --
25 what the vertical extent of the stippling pattern is and

1 the horizontal extent in case that that sort of analysis
2 will be done, but what I can tell you that it's close
3 because of the stippling and probably quite close within a
4 couple inches and probably no more than a couple of feet
5 because of the soot.

6 Q Now, Dr. Schandle, does the -- as far as the amount
7 of stippling along with the distance would the caliber of
8 the weapon have some bearing on that as well?

9 A Yes, so you need to take into account the specific
10 ammunition used. And again test firing is the best way,
11 the most accurate way to give you a distance that would be
12 right, would be accurate.

13 Q Will a .45 caliber have a lot of that gunshot residue
14 comes out as stippling?

15 A It may, it may. Again, it be very dependent upon the
16 specific weapon how often it's cleaned, many different
17 factors as to what's going to be coming out of the barrel
18 the muzzle excuse me -- the muzzle on the barrel of the
19 gun.

20 Q There was stippling, so it's within a couple inches
21 to a couple feet?

22 A Yes, sir.

23 Q Okay. Now, did you notice any other wounds or
24 anything on Mr. Dozier's body?

25 A There was a scrape on his knee, on his right knee a

1 very small 0.2 inch right between my fingers 0.2 scrape
2 on his left knee, but otherwise, no, no other injury.

3 Q Did you ever notice any surgical marks or stitched
4 areas?

5 A Again referring to the report that was generated in
6 this case, he had a number of tattoos. As far as scars, I
7 don't see anything that I noted. No, I don't recall any.

8 Q Nothing to the eye?

9 A To the eye, no, sir.

10 Q All right. Now, did you -- as part of your autopsy,
11 did you take body fluids and examine them for any
12 contents?

13 A Yes, so part of the autopsy when we're doing a
14 forensic autopsy examination is to take tissues to look at
15 under the microscope for disease or for proof of trauma,
16 so bleeding those sorts of things. And one of the other
17 things that we do is we take body fluids such as urine and
18 blood and look for other substances if it's indicated. We
19 always test for toxicology and preferably in blood if we
20 can on these cases. So, yes, sir, we did in this case.

21 Q And did you find any drugs in his system?

22 A Yes, there was alcohol in his system.

23 Q And that was it?

24 A Caffeine as well.

25 Q Now, what was the blood alcohol level?

1 A The blood alcohol level was 0.123 percent and the
2 only way I can explain what that means is to refer you to
3 the legal driving limit, which is 0.08 and this is 0.12,
4 so it's a little bit higher than the legal driving alcohol
5 limit.

6 MR. CLEMENTS: Beg the Court's indulgence one
7 minute.

8 THE COURT: Yes, sir.

9 (WHEREUPON, a pause in the proceedings.)

10 MR. CLEMENTS: Dr. Schandle, thank you so much,
11 would you please answer any questions that Mr. Brooker
12 has.

13 THE COURT: Cross-examination.

14 MR. BROOKER: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. BROOKER:

17 Q Dr. Schandle, and least just for the benefit of the
18 jury and also for my benefit is is that when you
19 obviously -- when you conduct an autopsy examination as
20 you did in this particular situation, do you examine the
21 entire body or is there just a certain area of the body
22 that you simply concentrate on?

23 A No, we -- so the protocol of our autopsy is we start
24 by photographing the individual how they come to us. So
25 again they're referred to different county coroners --

1 from different county coroners to our facility at MUSC.
2 The coroner or their agent will bring the body to MUSC.
3 So the first that I will see of the body is when they come
4 up into the autopsy room. So at that point we'll take a
5 set of photographs whether they're clothed or unclothed to
6 document how they come to us. At that point, we'll turn
7 our attention to the clothing that the person has on.
8 Sometimes there might be defects if they were shot through
9 clothing. So we'll look at the clothing separately, take
10 the clothing off, examine the clothing, often we'll take
11 pictures of the clothing. Next, we'll turn our attention
12 to the body looking for whatever will be identifying
13 features eye color, height, weight, tattoos. Those sorts
14 of things as well as any trauma to the body that we see on
15 the external surface. And we're taking pictures as we go
16 and also making diagrams and notes as we go through the
17 process. In a case where we have a history of a gunshot
18 wound or a wound that looks like a gunshot wound, another
19 thing that we do routinely is take a series of x-rays.
20 And the reason that we do that is to look for any
21 projectiles and bullets or pieces of bullets or pieces of
22 jacket or whatever. This is the bullet that might be in
23 the body, so in this case as well we took a series of
24 x-rays of where the gunshot wound was. And then after
25 those were workings, we'll turn our attention to looking

1 at the inside of the body. So that's what people often
2 think of as the autopsy begins. We do the Y incision.
3 We're going to look at each and every organ for trauma and
4 disease, findings of disease. I routinely take some
5 sections and look under the microscope as I mentioned.
6 And, yes, we look at every single organ in the body. And
7 then look at the head and look at the brain, so it's a
8 comprehensive medical and surgical exam.

9 Q So after you remove clothing and this is obviously
10 for my knowledge and also for the jury is prior to you
11 entering the body, do you do a visual at least inspection
12 of at least the outer area of the body the entire surface
13 or the skin surface?

14 A Yes, so again after we've removed the clothing, we
15 turn our attention to the -- what we call the external
16 examination portion of the autopsy and again taking series
17 of photographs of the body's surface and look at
18 everything on body surfaces. And if there are injuries,
19 I'll document those again both by photographing and
20 drawing them on a diagram.

21 Q Other than the obvious injury and, of course, that is
22 a head injury, did you notice any other injuries of the
23 surface of the body?

24 A Aside from that small scrape to his knee, no.

25 Q Okay. Now, when you remove the clothes from his

1 body, what do you do with the clothes?

2 A So if we going to take photographs of the clothing,
3 what we'll do is we'll strike them out on a plastic sheet
4 and take photographs of the front sides and the backsides.
5 And then we will write down a list or inventory of each
6 piece of clothing. And then at that point, we'll package
7 the clothing as evidence to transfer to a law enforcement
8 body that's going to take those clothes somewhere else.

9 Q Did you turn that inventory at least over to SLED?

10 A The clothing was signed to Detective Harry C. Watson
11 of the Marion County sheriff's office.

12 Q And if you can just give me a just simple list of
13 what you turned over to him?

14 A Yes, a black T-shirt, a brown belt with confederate
15 flag Buckle, blue jeans, blue plaid boxers, white socks
16 two, one green lighter, one case pocket knife, cash from
17 the right front pocket, which included two \$20 bills, one
18 \$10 bill, four \$5 bills, seven \$1 bills, two dimes, four
19 nickels, and eight pennies, right fingernail clippings,
20 left fingernail clippings, pulled scalp hair, hair shaved
21 from the gunshot wound, a blood spot, CD with images from
22 the autopsy and brown boots two.

23 Q Okay. Now, I think you testified on direct
24 examination that the entry wound was I think -- your
25 testimony was, you correct me if I say anything that's

1 inaccurate with respect to your prior testimony, that the
2 entry wound was in the chin and kind of in the chin area
3 at the side and was it on the right side or the left side?

4 A It was on the right side of the jaw and went through
5 the jaw, the mandible.

6 Q Okay. And I think your testimony was is also is that
7 the exit wound was to the back of skull, the base of the
8 skull and it was kind of on an upward angle?

9 A Yes, slightly upward angle and, yes, the back of the
10 head.

11 Q Now, did you use any sort of instruments to try to
12 determine exactly the angle, how upward the angle was?

13 A So the way that we determine that is, yes, we'll use
14 a probe, which is basically just a metal stick. And what
15 you try to do is connect the dots and try to connect the
16 entry wound to the exit wound with the person lying
17 basically flat on the table. And then make an estimation
18 of which way the bullet is going.

19 Q Okay. Did you at least provide a measurement or at
20 least provide a calculation with respect to what was the
21 angle from the entry wound to the exit wound, was it at a
22 15 degree angle, 23 degree angle? Is there any sort of
23 calculation with respect to determining exactly what that
24 angle was?

25 A Now, we do not do calculations to determine the

1 angle. These are based on our observations. So if you
2 have somebody lying flat and a stick is going like that,
3 I'm going to be saying it's going back if he's laying
4 flat, right. And if this is his head up here, I'm going
5 to be saying he's going up and is going that way. So I'm
6 looking at it and I'm making an estimation of the
7 direction of the bullet through the pathway.

8 Q Okay. So my understanding is is that you know it was
9 going in an upward angle, but you didn't calculate
10 exactly, you know, how steep the angle was?

11 A No, we do not calculate angles for trajectory because
12 it can be very misleading.

13 Q Okay. All right. Now, you also identify the fact
14 that, of course, I think you explain in reference to soot.
15 And I think you indicated is is that if it's a closed
16 shot, it's a very very close shot. Then, of course, is
17 that typically you can find soot that is contained or at
18 least on the skin because the soot comes from the barrel
19 of the gun?

20 A Yes, so again if you have a contact gunshot wound,
21 typically we basically -- I divide them into three
22 categories contact, close and distant or undetermined, so
23 contact I see soot. Close I see stippling, the scraping
24 around the entrance wound and distant or undetermined I
25 see nothing.

1 Q There was soot in this particular case and then also
2 stippling; is that correct?

3 A That is correct.

4 Q Okay. The fact that there was soot what does that
5 tell you with respect to what the distance was, at least a
6 range? I know you can't say exactly, but could you give
7 us a range specifically what the distance would normally
8 be?

9 A Yes, so the complication with that is that we have
10 two different findings. We have some soot, which is just
11 on the very edges of the wound and then we have stippling.
12 Stippling is my dominate feature in this gunshot wound and
13 that tells me that it's close range. And just if you take
14 100 weapons and shoot them and find out how far you can
15 get before stippling disappears, that's between two and
16 three feet. Now, the reason that I'm bringing it a little
17 bit closer to him is because the stippling pattern is
18 quite compact around it. So it hasn't had a chance to
19 spread yet. So I think it's closer than those three to
20 two feet probably closer to a few inches to a foot or two,
21 couple inches to a couple feet. But again I can't be more
22 specific without information about the specific weapon,
23 the specific ammunition and that test firing to get the
24 range.

25 Q And my understanding because I want to make sure that

1 I understand at least in layman's terms is is that you're
2 saying because the patterning of the stippling, the
3 circumference of the stippling was very compact or tight,
4 then that suggest that the barrel of the gun was close
5 probably you said within three feet or less or either
6 within inches of, you know, Mr. Dozier when he was shot?

7 A Yes, I'm looking at that stippling pattern the
8 scraping of the skin around the entrance wound.

9 Q Okay. Now, and I -- not a silly -- don't want to ask
10 a silly question, but I need to ask this for the benefit
11 of myself and for the benefit of the jury. Now, let's say
12 for instance is that the distance -- if the distance were
13 between you and myself, which I'm going to estimate it
14 around five or so feet. If the distance between the
15 discharging object and the person that's shot, if there's
16 there's five to six feet difference, you know, between
17 those two particular objects, the type of soot and the
18 type of stippling that you identified in your pathology
19 report, would you see that at that particular distance?

20 A No, that would be highly unlikely.

21 Q Okay.

22 A You would see nothing that would be your distance
23 undetermined.

24 Q And the reason why you would see nothing is is that
25 particular distance, you know, any soot that comes out of

1 the barrel, you correct me if I'm wrong, any soot that
2 comes out of that barrel would spread out and dissipate?

3 A Yes, you wouldn't see it deposited on the skin.

4 Q And any stippling that might come out would also
5 spread and dissipate before it reaches the individual?

6 A Yes, it wouldn't get close enough to scrape the skin.

7 Q So it have to be very close; is that correct?

8 A Yes, sir.

9 Q Just -- and I'm almost finish but just very quickly.
10 I'm looking at at least your report. I think you cited
11 from or read from. And this, of course, on page number
12 four -- indulge me for just a minute.

13 MR. BROOKER: If you can indulge me for just a
14 minute, Your Honor, let me make sure I don't have any
15 additional questions.

16 THE COURT: Yes, sir.

17 (WHEREUPON, a pause in the proceedings.)

18 BY MR. BROOKER:

19 Q Now, how tall -- do you weigh the body and measure
20 the length or height of the body?

21 A We do. We weigh the body on the way in. And I do
22 measure the body on the table and I have him weighing
23 about 176 and being about 5'6 and a half, five feet six
24 and half inches.

25 Q So five foot six and a half inches is what been his

1 height and roughly 176 pounds?

2 A Correct.

3 Q Okay.

4 MR. BROOKER: You can indulge me for just a
5 second, Your Honor.

6 (WHEREUPON, a pause in the proceedings.)

7 MR. BROOKER: I have no further questions for
8 this witness, Your Honor.

9 THE COURT: Any redirect examination?

10 MR. CLEMENTS: No, Your Honor. We ask that Dr.
11 Schandle be released from her subpoena.

12 THE COURT: Any objection?

13 MR. BROOKER: No objection.

14 THE COURT: Without objection, ma'am, you may
15 step down. You are released from your subpoena. You're
16 free to go have a nice day. Thank you for being here.

17 (WHEREUPON, the witness leaves the witness
18 stand.)

19 MR. CLEMENTS: Your Honor, we call Kenneth
20 Whitler to the stand.

21 THE COURT: All right.

22 THE CLERK: Do you solemnly swear or affirm to
23 tell the truth, the whole truth, and nothing but the truth
24 so help you God?

25 THE WITNESS: I do.

1 WHEREUPON,

2 Kenneth Whitler,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. CLEMENTS:

6 Q Good afternoon.

7 A Good afternoon.

8 Q Can you please introduce yourself to the jury and
9 tell them what you use to do I guess now?

10 A My name is Kenneth H. Whitler last name is spelled
11 W-H-I-T-L-E-R. I am retired from the State Law
12 Enforcement Division, which is also known as SLED. When I
13 was employed at SLED, I worked in firearms department as a
14 firearms examiner.

15 Q Now, can you tell this jury how long you worked for
16 SLED and where you worked before you worked for SLED?

17 A Before I worked with SLED, I worked for the FBI and I
18 retired in 1997 from the FBI laboratory where I was also a
19 firearms examiner. I came to work for SLED in 1997. And
20 then retired full-time retirement in 2012 but continued to
21 work for two years three days a week in a part-time
22 capacity. And then last April of 2014 I retired fully.

23 Q And can you tell this jury what a firearm examiner
24 does?

25 A Firearms examiner is what we do is called firearms

1 identification. And what we do in the lab is try to
2 determine if it's merely the study of firearms components
3 such as bullets and cartridge cases to determine if these
4 bullets or cartridge cases were fired from a particular
5 firearm. If no firearm is involved or not submitted, then
6 you try to determine if the bullets and cartridge cases
7 were fired by the same firearms or by different firearms.

8 Q What type of education and training does it take to
9 become a firearms examiner and tell us about your
10 educational training?

11 A Well, I've got undergraduate and graduate degrees
12 from the University of South Carolina. There is no
13 university course in firearms identification. You have to
14 learn this by training with other qualified examiners.
15 When I was in the FBI laboratory, I underwent their
16 training program, which takes approximately two years and
17 under which you work with all the qualified examiners in
18 that unit. During that period, you do a lot of reading.
19 You do a lot of test firing of firearms and looking at
20 bullets and cartridge cases. And you also work on real
21 cases with the qualified examiners. And as you progress
22 during your training, you do more and more -- instead of
23 you looking and watching the examiner do the work, you do
24 more of the work and he does more of the looking.
25 Finally, toward the end of the training period when all

1 the examiners in the unit think that you have reached a
2 certain level of competence, they give you a series of
3 three tests. And if you successfully complete all three
4 tests, then you are qualified to conduct firearms
5 examination for the FBI laboratory. I successfully
6 completed all those tests and the training program. And
7 in 1991, I was certified by the FBI lab to be a firearms
8 identification examiner. I did that until 1997 when I
9 came to SLED and I do basically the same job here
10 examining bullets and cartridge casings.

11 Q Can you tell us if you've ever been qualified as an
12 expert in firearms examination in state or federal court
13 and testified and if so how many times?

14 A I have testified as an expert approximately 300 times
15 in various state, federal and territorial courts.

16 MR. CLEMENT: Your Honor, I'd ask that you
17 declare Mr. Whitler an expert in the field of firearms
18 examination.

19 THE COURT: Mr. Brooker.

20 MR. BROOKER: I have no objection, Your Honor.

21 THE COURT: Ladies and gentlemen, the previous
22 charge that I gave to you with regards to expert
23 witnesses, that same charge applies to this individual as
24 well who is being qualified by the Court as an expert in
25 firearms examination. Again, does not mean that you must

1 accept his opinion but is evidence for you to use any way
2 that you see fit to give it the weight and credibility
3 that you deem as appropriate.

4 Mr. Clements.

5 MR. CLEMENTS: Thank you, Your Honor.

6 BY MR. CLEMENTS:

7 Q Did you have occasion to do an examination of any
8 items of evidence regarding the murder of Joseph Blake
9 Dozier?

10 A Yes, sir.

11 Q I want to show you what's been marked as State's
12 Exhibit 13 is already in evidence and I'm going to ask you
13 if you can identify this for us and tell us if you examine
14 this gun?

15 A Yes, I did.

16 Q Is this the gun you examine pursuant to this case?

17 A That's correct.

18 Q I'm going to show you what's been marked for
19 identification as State's Exhibit 11 and tell me if you
20 have any knowledge of that and examine that?

21 A Yes, this is a fired cartridge case that I previously
22 examined.

23 Q Pursuant to this case?

24 A Yes, sir.

25 MR. CLEMENTS: Your Honor, we move to have

1 State's Exhibit Number 11 admitted into evidence.

2 THE COURT: Any objection?

3 MR. BROOKER: No objection, Your Honor.

4 THE COURT: Without objection so admitted.

5 (WHEREUPON, State's Exhibit No. 11 was admitted
6 into evidence.)

7 BY MR. CLEMENTS:

8 Q I'm going to show you State's Exhibit Number 12 for
9 ID and tell me the answers to those same questions?

10 A Yes, sir, this State's Exhibit 12 is a fired bullet
11 that I previously examined.

12 Q Pursuant to this case?

13 A Yes, sir.

14 MR. CLEMENTS: Your Honor, we move State's
15 Exhibit Number 12 into evidence at this time.

16 THE COURT: Any objection?

17 MR. BROOKER: No objection, Your Honor.

18 THE COURT: Without objection so admitted.

19 (WHEREUPON, State's Exhibit No. 12 was admitted
20 into evidence.)

21 BY MR. CLEMENTS:

22 Q I'm so use to calling you agent, I guess you're still
23 agent even though you're retired?

24 A Yeah.

25 Q Agent Whitler, can you tell this jury what you did to

1 examine State's Exhibit Number 13?

2 A State's Exhibit 13 when the evidence comes in the
3 first thing we do is we examine it to determine if it's
4 functioning. And we also while we're doing that test fire
5 it by shooting it into a water tank that way have a
6 nonstandard of a fired bullet and a fired cartridge case
7 from the submitted firearm. And we do that, so that when
8 we compare it against any other submitted bullets or
9 cartridge cases, I can say without a doubt I know where
10 the bullet that I'm using to compare against those objects
11 came from.

12 Q So that's what it mean by being a known...

13 A That way I know when I'm comparing the test bullet
14 against a submitted bullet, I know where the bullet came
15 from.

16 Q Okay. Now, when you get a shell casing and a bullet
17 after you've test fired the gun and the weapon, then do
18 you then compare them to items like State's Exhibit 11 and
19 State's Exhibit 12?

20 A That is correct.

21 Q Can you tell please this jury how you compare them,
22 what you look for and what instrumentation you use?

23 A The way we compare it is simply a -- it's called a
24 comparison microscope. And it's a microscope that has two
25 what we call stages which are really what holds the bullet

1 or the cartridge case. And you look at it optically and
2 it looks like they're side by side where actually there
3 may be -- they're several inches apart that optically when
4 you look at them you can actually work them and have them
5 look like they're right side by side. And what you're
6 looking for are the manufacturing marks that are carrying
7 on to the bullet or the cartridge case from the firearm
8 when it's fired. You look for the marks on the test
9 bullet and can see if those marks are reproduced on the
10 bullet that has been submitted. If you find sufficient
11 agreement of the marks, then you're able to say the bullet
12 was fired by the gun. If you can't find sufficient
13 agreement, then you have to drop back to see if it has the
14 same class characteristics meaning it's the same
15 character, has the same riffling characteristics and
16 dimensions, then you're able to say that bullet could have
17 been fired by that gun. And if it's completely class
18 wrong for example if it's .45 caliber bullet in a .40 gun
19 or the wrong riffling specifications, then you can say
20 this bullet was definitely not fired by that gun. Same
21 way with a cartridge case, if you find enough agreement of
22 the marks, you're able to say the cartridge case was fired
23 by the gun. If there's some but not enough, then you can
24 say if everything else is equal, then you're able to say
25 it could have been fired from it. And, of course, if

1 there's marks that are completely different, then you're
2 able to say it was negative or not fired by it.

3 Q Is it correct to say that a shell cartridge when it
4 is shot by a particular gun and then ejected by a
5 particular gun, it has tool marks?

6 A Yes, what happens when the firearm is manufactured,
7 the barrel and breach faced area, the tooling that makes
8 those parts leave marks in them because the tool is very
9 hard. The gun is made out of metal, that's a hard parts
10 too. The bullet or the cartridge case on the other hand
11 is made out of lead or cooper jacket lead or brass. This
12 is softer than the metal of the gun and so any marks
13 that's in that firearm are in the metal of the firearm
14 when the bullet or cartridge case comes in contact with
15 them in many cases those marks are transferred to that
16 particular bullet or cartridge case and that's what we're
17 looking for is in the firing process, did the bullet --
18 did the firearm put marks on the bullet that are
19 reproducible.

20 Q Okay. And if you have enough marks, then you can
21 make an identification?

22 A That's correct.

23 Q Okay. If you have some marks but not enough marks,
24 you can tell it was fired by the same caliber or same type
25 of weapon?

1 A That is correct.

2 Q In this case, State's Exhibit 13 you compared State's
3 Exhibit 12 and 11 to bullets and shell casings that you
4 fired out of this weapon; is that correct?

5 A That's correct.

6 Q And firing it makes a mark, but also when the bullet
7 is fired, it's ejected, the cartridge is ejected from the
8 gun; is that correct?

9 A That's correct.

10 Q And on this particular gun where does this bullet get
11 ejected out this way?

12 A They generally come out and to the right, but that's
13 not a guarantee. Some guns are very consistent they'll
14 throw in one direction. Some spray them all over the
15 place. I've known of cases where the gun ejects and
16 corridors on the right and the cartridge case comes back
17 and hits the shooter in the forehead.

18 Q Usually, you expect them to go to the right, the port
19 is on right and to the left?

20 A Of course, then that also depends on how the shooter
21 holds it. If he holds it sideways like some of these TV
22 heros do, it'll make the cartridge case go into completely
23 different directions.

24 Q But as it comes out of that ejection port, it can get
25 marks for identification there as well?

1 A Well, it gets them off the breach face. It may get
2 something off of the extractor, but extractors don't
3 necessarily mean firing. You can get an extractor mark
4 from extracting unfired cartridges. When we are looking
5 at breached face and firing pin impressions, those only
6 occur when the firearm is fired. So that's what we're
7 interested in at that point.

8 Q Okay. Now, these bullets that are in here with this
9 weapon can you tell me where those bullets came from?

10 A These are unfired cartridges that were submitted with
11 the firearm.

12 Q In the magazine?

13 A They were ---

14 Q Are in the box?

15 A They were submitted with the gun. I don't have
16 whether they were removed from the cartridge magazine or
17 not.

18 Q Okay. Are these bullets the same type of casings as
19 State's Exhibit Number 11 and the same brand?

20 A Yes, sir, they are the same caliber and they got the
21 same head stamp on them.

22 Q Okay. And what brand is it?

23 A It's called Blazer. It's made by CCI Corporation.

24 Q Okay. Are these bullets the same caliber or same
25 type as State's Exhibit 12?

1 A Yes, sir, they are.

2 Q Okay. Now, can you tell me what comparisons you made
3 to State's Exhibit Number 11, which is the spent cartridge
4 to State's Exhibit 13 which is the weapon itself and did
5 you draw any conclusions to a reasonable degree of
6 certainty in your field?

7 A Yes, I compared the cartridge case much like I did
8 the bullet. I put it under the comparison microscope.
9 And in this case I found there was sufficient agreement of
10 the marks on the breach face to conclude that that
11 cartridge case was fired by that gun.

12 Q This shell casing, this cartridge case was fired by
13 this gun?

14 A That's correct.

15 THE COURT: And that is exhibit what?

16 MR. CLEMENTS: That is Exhibit number 11.

17 THE COURT: Thank you.

18 BY MR. CLEMENTS:

19 Q Now, Mr. Whitler, I'm going to ask you about State's
20 Exhibit 12 which is the fired bullet. You made
21 comparisons of it to item 13, exhibit 13, did you not?

22 A Yes, sir.

23 Q Were you able to reach any conclusions to a
24 reasonable degree of certainty in your field regarding
25 this bullet to this gun and why or why not?

1 A State's Exhibit 12 bullet was compared to State's
2 Exhibit 13 pistol same way I did the cartridge case. And
3 unfortunately or in this case there wasn't sufficient
4 agreement of the marks to enable me to say the bullet was
5 fired by that gun. However, it does have the same
6 riffling characteristics, same widths. The bullet is the
7 right caliber. Number of lands and groves are correct.
8 But in this case, there's not enough agreement for me to
9 say it was fired by it. It could have been fired by it or
10 by another gun but similar riffling characteristics.

11 Q Now, when a bullet comes out of a gun and it has
12 lands and groves you said, right?

13 A That's correct.

14 Q Can you explain to the jury what those are?

15 A Well, in order to stabilize the bullet to make the
16 firearm more accurate, their groves cut in the barrel of a
17 firearm. If you've ever watched one of these James Bond
18 movies at the beginning, you notice you're looking down
19 the barrel of a gun. Those groves you're seeing that's
20 the land and the groves in the barrel. Each firearm or
21 most firearms have riffle barrel. There are some firearms
22 that don't have riffle barrels, but for those who have
23 riffle barrels, it's useful for my position because I
24 count the number of groves on a bullet. And the areas
25 between the groves are called lands areas. The groves

1 actually are called groves. So if I get a bullet in that
2 has seven landing groves on it and the firearm is
3 submitted only has six lands and groves, then I can say
4 immediately I know that bullet wasn't fired by that
5 particular firearm. In this case, the number of lands and
6 groves on the bullet with the same number and the same
7 widths as the test bullets. If it was the same caliber
8 but it just wasn't sufficient agreement of the marks
9 partially due to damage and partly because the gun didn't
10 reproduce that well on this particular bullet, so that's
11 why I say the bullet could have been fired by this gun or
12 it could have been fired by another gun with similar
13 riffling characteristics.

14 Q Now, you said it could be due partially to some
15 destruction or damage to the bullet?

16 A Yes, if you look at the bullet part of the jacket is
17 missing in places. So any time part of your surface area
18 is missing, that's potential area that there could have
19 been some marks in there.

20 Q Would help to identify it?

21 A In some cases, I mean I've had perfect bullets that
22 the gun just doesn't mark well. So you got all the area
23 that you need, but there's just no marks there. In others
24 if the jacket is torn away, your chances of success go
25 down tremendously if you got less jacket to work with.

1 Q And you said you fired this gun into a water tank,
2 right?

3 A That's correct.

4 Q And why do you fire the bullets into water?

5 A We fire them into water so you can recover them. It
6 allows you -- the tank is about 12 feet long. So it
7 starts on one floor and ends on the other. What happened
8 is when the water decelerates the bullet without damaging
9 it, so you're able to get a complete bullet to compare.
10 If you try to shoot it in other material, sometimes the
11 bullets tear up and they're not useful to you.

12 Q If a bullet is shot and it goes completely through a
13 man's skull completely through his head, it can have some
14 damage there that would make you unable to identify; is
15 that correct?

16 A It would have damage or could have damage. Some
17 bullets go through and make no damage. It just depends on
18 the construction of the bullet.

19 Q But that would be an explanation as to why you have
20 damage?

21 A Yes, or it could have hit another object after it
22 went through somebody.

23 Q Okay. But to reduce this down to what's critical
24 here and what's important is that you can say to a
25 reasonable degree of certainty in your field that State's

1 Exhibit 11 was fired by State's Exhibit 13?

2 A That's correct.

3 Q And that State's Exhibit 12 may have been fired by
4 State's Exhibit 13?

5 A It could have, yes.

6 Q Okay.

7 MR. CLEMENTS: That's all the questions I have,
8 Mr. Whitler, and I appreciate coming today. Mr. Brooker
9 I'm sure have some questions for you.

10 THE COURT: Cross examination.

11 MR. BROOKER: Just very briefly.

12 CROSS-EXAMINATION

13 BY MR. BROOKER:

14 Q Is it Whitler?

15 A Yes.

16 Q I think you were asked a question in reference to, I
17 think, just minute a ago reference to what's identified as
18 State's Exhibit 12. Is that the bullet fragment or slug
19 that was collected at the scene?

20 A That's the bullet that was submitted to me.

21 Q How did you come in contact, how did it get to you?

22 A It was submitted to SLED, I guess, by the Marion
23 County sheriff's department.

24 Q Okay. And I think you testified that that with
25 respect to State's Exhibit 11, which is a spent shell

1 casing that with a reasonable degree of professional
2 certainty that this was fired by this particular gun; is
3 that correct?

4 A That's correct.

5 Q And that within a reasonable degree of professional
6 certainty that Exhibit Number 12 may have been fired by
7 the gun?

8 A Yes, sir, could have been fired by it or another gun
9 with similar riffling characteristics.

10 Q Okay. And just a few questions and I don't know how
11 much you know about this case is is that is that and I'm
12 assuming that -- do you have any knowledge of this case or
13 were you just simply submitted this evidence and asked to
14 examine it and make a determination?

15 A Generally, the evidence is submitted sometimes we get
16 incident reports with them, how detailed they are or
17 sometimes they're quite detail and some aren't. But we
18 will sometimes look at them just to see if there's
19 anything unusual that we should be on the lookout for. It
20 may explain why the bullet is in pieces. You may see in
21 the report they dug it out of a wall or something, but
22 generally it really doesn't make any difference to me
23 what's in the incident report because to me a case is
24 bullets, cartridge cases, and a firearm. And my job is to
25 determine -- answer the question where they fired by it or

1 not.

2 Q And, of course, is is that -- and, of course, you do
3 these testing and, of course, even if there's any
4 controversy or not or not any controversy with respect to
5 the materials your -- with respect to the objects that
6 you're asked to examine. You're not concern as to whether
7 or not there's any controversy regarding the possession or
8 use of, you know, of shell cartridges or whether or not a
9 shell cartridge come from a particular gun or was used to
10 fire from a particular gun or either whether or not a
11 bullet fragment was fired by that particular gun. You
12 don't care about whether or not there's a controversy that
13 exist or doesn't exist. You just do the test?

14 A I have to try to answer the question that is -- the
15 sheriff's department is asking the question. They submit
16 a gun and a firearm as evidence. They want to know if the
17 firearm they submitted fired the firearm in evidence. My
18 job is to say yes or no. If it turns out -- I've had
19 cases where I said, no, you got the wrong gun. And I've
20 had cases where I said they didn't have guns. They just
21 submitted the bullets and cartridge cases. I said you're
22 looking for two or three different guns because there were
23 more than one gun shooting at the scene. That's basically
24 what my job is to answer to those questions how they
25 collected it and how they, you know, really doesn't

1 concern me at that point.

2 Q All right. Fine. And just a couple more questions
3 and I'll let you get off there. It's one question going
4 to be related to at least -- were you in the courtroom
5 when Dr. Schandle testified the pathologist?

6 A Yes.

7 Q Okay. And I'm going to ask you this question because
8 of something she raised and that is that do you -- are you
9 ever asked to test a gun to determine, you know, the
10 distance that is required in order for soot to come out
11 the barrel of that gun and make contact with the object
12 that's being shot at?

13 A The trace department of SLED does that.

14 Q You don't do that?

15 A No.

16 Q Do you know whether or not this gun was submitted to
17 the trace department so they can try to make a
18 determination of what was the distance between the
19 individual was shot and the barrel at the time in which it
20 was discharged?

21 A No, that's -- I don't have that in my records, no. I
22 mean, if I still work there, it could be looked up, but I
23 couldn't tell you if it was submitted or not.

24 Q And that's all I'm doing is asking you of your
25 knowledge did you know at the time in which you work there

1 and the time in which you handled this gun whether or not
2 it was submitted to the trace department for this
3 particular type of analysis?

4 A I don't see anything on the listing I have, but that
5 doesn't mean it couldn't have been asked for after my list
6 was created.

7 Q You just don't have no knowledge.

8 A I have no knowledge.

9 Q Thank you, sir. One more question and it's an
10 obvious question some people might say it's a silly
11 question. I am assuming is is that on the night of the
12 shooting, immediately proceeding the shooting and then
13 also at the time of the shooting that you were not at the
14 scene of that shooting; is that correct?

15 A That's correct.

16 Q And because you were not at the scene of the
17 shooting, you have no eyewitness knowledge with respect to
18 what happened immediately prior to the shooting and at the
19 time of the shooting?

20 A No, sir, my only involvement is the evidence that was
21 submitted to SLED.

22 Q Only thing you're here is to test these -- the bullet
23 fragment and the cartridge to the gun, that's it?

24 A That's it.

25 Q Okay.

1 MR. BROOKER: You can indulge me for just a
2 second, Your Honor, make sure I don't have any further
3 questions.

4 THE COURT: Yes, sir.

5 (WHEREUPON, a pause in the proceedings.)

6 MR. BROOKER: No further questions, Your Honor.

7 THE COURT: Mr. Clements.

8 MR. CLEMENTS: Your Honor, we ask that Mr.
9 Whitler be released from his subpoena.

10 THE COURT: Any objection?

11 MR. BROOKER: No objection.

12 THE COURT: Sir, you may step down. You free to
13 go. Thank you for being here. Have a nice day.

14 (WHEREUPON, the witness leaves the witness
15 stand.)

16 MR. CLEMENTS: Your Honor, our next witness will
17 be rather lengthy.

18 THE COURT: Ladies and gentlemen, what I am
19 going to do at this time is I am going to excuse you and
20 let you go to lunch. I'm going to ask that you be back in
21 the jury room at two o'clock, at two o'clock and we'll
22 resume the trial of this case at that time. Do not
23 discuss the case, don't do any independent investigation
24 on your own. You're to decide this case based solely upon
25 the testimony and evidence presented in here, have a nice

1 lunch. I'll see you back at two o'clock.

2 (WHEREUPON, the jury was excused for a lunch
3 break.)

4 THE COURT: Two o'clock.

5 (WHEREUPON, a lunch break was taken.)

6 THE COURT: Anything from the State before I
7 bring the jury out?

8 MR. CLEMENTS: Yes, Your Honor. I have redacted
9 the data from the U.S. Naval Observatory Astronomical
10 Applications Department regarding the moon on November 4th
11 2012 and January 30th 2015.

12 THE COURT: Have you seen such, Mr. Brooker?

13 MR. BROOKER: I did, Your Honor.

14 MR. CLEMENTS: I wanted to know if this is
15 satisfactory, Your Honor?

16 THE COURT: Mr. Brooker, any objection to this?

17 MR. BROOKER: We stand by on our previous
18 objections, Your Honor. We just obviously is is that it's
19 redacting out certain words, but those words are in the
20 description and actually contributes to or at least this
21 percentages that are identified in the body. And like I
22 said unless we have somebody to tell us what that means,
23 then I think it's guess work and to redact those two words
24 out and the percentages, it's actually taking away
25 information might be badger (sic) with respect to what

1 they are. Thank you, Your Honor.

2 THE COURT: All right. Anything else, Mr.
3 Clements?

4 MR. CLEMENTS: No, Your Honor.

5 THE COURT: Mr. Brooker.

6 MR. BROOKER: No, sir.

7 THE COURT: Bring me the jury please, sir.

8 (WHEREUPON, the jury came into open court.)

9 THE COURT: Madam forelady and ladies and
10 gentlemen of the jury, I hope you all had a nice lunch and
11 are ready to proceed this afternoon. Before we go any
12 further, I want to instruct you on a couple of things. A
13 couple of documents which will be submitted or documents
14 from the U.S. Naval Observatory Astronomical Applications
15 Department for the date of January 30, 2015, and
16 November 4, of 2012, concerning sun and moon data for
17 those particular days. The Court is taking what's called
18 judicial notice of this information and that is that you
19 all are to accept as conclusive the information contained
20 herein as it pertains to sun-moon data for those
21 respective dates. Madam court reporter hand those to you.

22 (WHEREUPON, Court's Exhibits Nos. 5 and 6 were
23 marked for the record.)

24 THE COURT: We are now going to continue the
25 trial of this case.

1 Mr. Clements, you are so recognized.

2 MR. CLEMENTS: Thank you, Your Honor. If it
3 please the Court, Your Honor, this is the time we would
4 call Matt Lane to the stand.

5 THE CLERK: Place your left hand on the Bible
6 and raise your right hand. Do you solemnly swear or
7 affirm the evidence you're about to give in the trial of
8 this case shall be the truth, the whole truth, and nothing
9 but the truth so help you God?

10 THE WITNESS: I do.

11 THE CLERK: Thank you, take a seat.

12 WHEREUPON,

13 Matthew Lane,
14 after first having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. CLEMENTS:

17 Q Good afternoon.

18 A Good afternoon.

19 Q I know you're kind of soft spoken. I'm going to ask
20 you to be sure you speak up and stay close to that
21 microphone because the court reporter needs to take down
22 every word you say. All these jurors need to hear every
23 word you say, okay.

24 A Yes, sir.

25 Q Will you please introduce yourself to the jury and

1 tell them where you live and how long you live there?

2 A My name is Matthew Lane. I also go as Matt as you
3 hear some people refer and I stay in Mullins, South
4 Carolina right near the Little Pee Dee River headed
5 towards Nichols.

6 Q And how long you lived in Mullins?

7 A All my life.

8 Q And how old are you, Matt?

9 A I'm 24.

10 Q Back in November of 2012, how old were you then?

11 A I was 21.

12 Q Okay. Do you know Blake Dozier?

13 A Yes, sir.

14 Q How long had you known Blake?

15 A Around four years.

16 Q Okay. And did you know Chad Strickland?

17 A No, sir.

18 Q Never met him before?

19 A No, sir.

20 Q Okay. And did you know Ethan Allen?

21 A Yes, sir.

22 Q How long had you known Ethan and how did you know
23 Ethan?

24 A Known Ethan since little league baseball.

25 Q All right. Did you know Stacy Fowler?

1 A No, sir.

2 Q Not at all?

3 A Not at all.

4 Q When was the first day you met her?

5 A November the 3rd of 2012 that be the day before the
6 shooting happened.

7 Q Okay. And who were you with when you met her?

8 A Blake Dozier.

9 Q Okay. Did you know a young lady by the name of Logan
10 Ratley?

11 A Yes, sir, I do.

12 Q How long had you known Logan?

13 A Since I was about ten I think.

14 Q Okay. Had you seen her in -- from November of 2012
15 had you seen her recently at that time?

16 A No, sir.

17 Q How about how long had it been since you seen her?

18 A Couldn't tell you. It could have been years.

19 Q Y'all went to high school together?

20 A Yeah, that probably was the last time we were around
21 each other.

22 Q Okay. And Blake how long had you known him?

23 A Around four years at that time.

24 Q And had you been hanging around him on November of
25 2012 prior to that had you been hanging around him much?

1 A No, sir, not at all.

2 Q Not at all?

3 A No, sir.

4 Q Was November the 3rd the first time you seen him in a
5 while?

6 A Yes, sir.

7 Q And it was about how long before that was the last
8 time you saw him?

9 A I know probably five or six months.

10 Q Okay. All right. And how did you happen to get up
11 with him on that day of November 3rd?

12 A He had had my four wheeler for a while. He was a
13 pretty good mechanic. He could work on about anything.
14 And he had somebody tell them that it might get gone out
15 of his yard, that somebody would take it. And so he
16 didn't really have time to work on it, so he called me and
17 said he wanted to get it back to me. So it wouldn't get
18 gone.

19 Q All right. And you did get it back from him?

20 A Yes, sir, he help me bring it home.

21 Q Okay. And so from that point y'all hung out some?

22 A Yes, sir.

23 Q Now, that day all up until that evening about what
24 time of the day did you start hanging out with him?

25 A I know it's midday, I guess, between 12 and one

1 somewhere round in there.

2 Q Okay. And what were y'all doing?

3 A We're just hanging out at my house. We had a few
4 beers. I think at that time we had a six pack of beer.
5 We just having a few beers talking about his problems and
6 my problems.

7 Q And just kind of chilling out?

8 A Yes, sir, just hanging out.

9 Q All right. And anybody else join you later on?

10 A Later on that evening Ethan Allen joined us.

11 Q And so that was the afternoon this was the evening?

12 A Yes, sir.

13 Q So about what time did y'all get up with Ethan?

14 A I know it was before dark, but it was later on in the
15 evening. It was in the late afternoon when we got up.

16 Q Right before it got dark?

17 A Yes, sir.

18 Q Was Ethan drinking?

19 A No, sir.

20 Q Why not?

21 A He just wasn't, but he was going to drive us. He was
22 going to be our D.D.

23 Q And y'all said y'all had a six pack for that whole
24 afternoon?

25 A We got some more I don't recall when or how much. I

1 know we didn't stop at a six pack between the two of us
2 that whole day.

3 Q Were y'all drinking heavy or drinking fast or
4 drinking slowly just kind of...

5 A We were just hanging out and that's what we had to
6 drink. We weren't having a race or anything like that.

7 Q Okay. Now, when y'all got up in the evening, you're
8 still at your house?

9 A Yes, sir, but we moved before that time before Ethan
10 got there we move from my house.

11 Q Okay. Where did you go?

12 A We went to one of our friend's house -- well, several
13 of our friends the Gerald's. We went over there for a few
14 minutes. We went to Stacy's house.

15 Q And that was just you and...

16 A Me and Blake.

17 Q You and Blake?

18 A Yes, sir, that's where we went first we went to
19 Stacy's house before we went to the Gerald's.

20 Q When you went there, who did you see there? This was
21 during the daytime, right?

22 A Yes, sir.

23 Q Who did you see there then?

24 A Stacy Fowler which I thought was the first time I met
25 her right then and Logan Ratley.

1 Q Okay. And you knew Logan, so what did you do when
2 you saw her?

3 A Well, I got out the car and hollered at her to come
4 give me a hug. I don't remember the specific terminology
5 I use, but I hadn't seen her in a long time she was a
6 friend.

7 Q So you gave her a hug?

8 A Yes, sir.

9 Q And y'all began to talk a little bit?

10 A Right.

11 Q What were Stacy and Blake doing were they happy or
12 unhappy?

13 A No, sir, they were fusing. Well, Blake didn't much
14 get much of a word in, but Stacy was fusing.

15 Q Okay. And then did y'all leave there and go back to
16 your house or go where?

17 A We went back to my house directly after that.

18 Q Okay. Who was driving?

19 A Blake was driving.

20 Q Whose car?

21 A My car.

22 Q Okay. And it was later on then that Ethan came up?

23 A Yes, sir.

24 Q Now, when did y'all leave and start riding around
25 with Ethan driving?

1 A I couldn't tell you the exact time, sir, but the
2 first place we went was the Game Changer. So it would
3 have been -- it was dark and I'm not sure about the time.

4 Q All right. And why was there a specific reason or
5 not why y'all went to the Game Changer?

6 A Blake wanted to see if Chad was there at the Game
7 Changer.

8 Q And why did he want to see if Chad was there?

9 A Because he was mad at Chad.

10 Q Okay. Do you know if his intentions were to fight or
11 talk or did he express that to you at all do you know?

12 A I can't recall him saying anything. I take that
13 back. I'm sure that he said something, but I cannot
14 remember.

15 Q Okay. All right. So did you go to the Game Changer?

16 A Yes, sir.

17 Q Did you ever go in or get out of the car?

18 A No, sir.

19 Q Did you ever see Chad there?

20 A No, sir.

21 Q Did Blake ever get out the car?

22 A No, sir.

23 Q Did Ethan ever get out of the car?

24 A No, sir, he did not.

25 Q Y'all just pulled up in the parking lot?

1 A Yes, sir.

2 Q And what did y'all do and why?

3 A It was Blake's intention to go in, but we talked him
4 out of it, so he did not go in.

5 Q You and Ethan?

6 A Yes, sir.

7 Q Okay. And so where did you go from there?

8 A After that, we went back -- no, sorry we went to Bill
9 Strickland's bar.

10 Q About how far is it from the Game Changer to Bill
11 Strickland's?

12 A Around 25 minutes.

13 Q Okay. During this time and the time you went to the
14 Game Changer, was Blake paying y'all attention or not?

15 A He was getting kind of preoccupied on his phone
16 especially after Ethan got there.

17 Q And you know what he was doing just fiddling with it
18 or talking on it or both?

19 A Well, I knew that he was talking with Stacy.

20 Q Okay. And was he -- did he seem -- see him using the
21 the phone with his fingers other than talking?

22 A I'm sure he did, but I can't recall.

23 Q Okay. All right. Y'all went to Bill Strickland's
24 for -- what did y'all do there and about how long did
25 y'all stay there?

1 A We shot pool, probably got another beer. We didn't
2 stay there all that long. Blake was real occupied by his
3 phone then.

4 Q He was what?

5 A He was preoccupied with his phone, so we just ended
6 up leaving there.

7 Q Okay. And what did y'all do and who was driving?

8 A Ethan was driving us..

9 Q He was driving the whole time?

10 A Yes, sir.

11 Q Okay. When you say he got more preoccupied with his
12 phone how so?

13 A Well, I sort of noticed that he was acting more
14 agitated at that time.

15 Q Okay. Then what happened?

16 A We left there and we went back to my house.

17 Q All right. Did you ever have any communications
18 with anybody that you were involved in on the way back to
19 your house or after you got back to your house?

20 A After I got to my house, I got a phone call from
21 Logan's phone and I can't recall exactly if I spoke to her
22 immediately. I didn't know if I answered or she answered
23 or if Chad might have answered, but I did talk to Chad on
24 that phone conversation.

25 Q Talk to Chad and what did Chad tell you?

1 A Chad -- I'm not sure about all the specifics of that
2 conversation.

3 Q Okay. What was the gist of it?

4 A He wanted to meet us. Well, he got mad. He ended up
5 getting ill with me also.

6 Q How did he get ill with you?

7 A I can't remember exactly how it went.

8 Q Are y'all talking junk to each other?

9 A Yes, sir.

10 Q Both of you?

11 A Yes, sir, he starts getting an attitude with me.

12 Q Did you get mad?

13 A Well, not mad, but I was messing with him. I ended
14 up getting mad by the end of it.

15 Q When you say you were messing with him, how were you
16 messing with him?

17 A I was talking a little bit of junk.

18 Q And was he talking junk?

19 A Yes, sir.

20 Q Okay. And he wanted y'all to meet him somewhere?

21 A Yes sir.

22 Q Did that come first or did y'all say anything for him
23 to meet y'all somewhere first, if you remember?

24 A He was trying to meet us somewhere.

25 Q All right. Where did he want to meet y'all?

1 A He said the Sunny Mart over in Nichols and Jack King
2 used car lot -- used to be Jack King's used car lot and
3 now it's just an empty car lot.

4 Q Where is that?

5 A Headed out of Nichols towards Fair Bluff or either
6 towards North Myrtle Beach. It's a fork number nine and
7 76.

8 Q Okay. All right. Is that the same direction the mud
9 bog is in?

10 A You can go that way if you go number nine and get on
11 Nichols Highway to go to 917.

12 Q Okay. Now, did you hear Blake talking with anyone?

13 A No, I can't -- well, I can't -- like I said, I'm sure
14 he did. He was on his phone, but I can't remember any
15 specific conversation.

16 Q You weren't paying attention or listening to him?

17 A Not really, not with those issues having with his
18 phone and his girlfriend.

19 Q Okay. Did you have any knowledge about whether Blake
20 was going to be a dad or not?

21 A Yes, sir, he told me that morning.

22 Q He told you that morning?

23 A Yes, sir.

24 Q Okay. All right. Did you ever hear that discussion
25 come up while you were riding in the car with him?

1 A Not that I can recall, sir.

2 Q Okay. All right. And after you talk with Chad, he
3 told y'all to meet him at Sunny Mart or meet him at the
4 used car place. Did he tell you for what purpose or what
5 he was gone do?

6 A I can't remember if he specifically said fight, but
7 it was to that nature. He wanted to get up and handle me
8 or Blake.

9 Q Okay. And you got mad and you talked back to him.
10 Did you offer to fight him?

11 A I told him after he was requesting for us to go to
12 all these places, the Sunny Mart which was closed and a
13 dark parking lot, I said that if he wanted to fight me or
14 Blake or whatever he could come to my house. I wasn't
15 going out there.

16 Q Okay. Did he respond to that?

17 A Yes, sir, he said he wasn't going to my house either.

18 Q Okay. All right. So was this anything more than a
19 bunch of yang yang?

20 A Not to me. It was just yang yang to me at the time.

21 Q Okay.

22 A I wasn't necessarily worried about it too much.

23 Q All right. You weren't worried about it much.
24 Somebody talks about fighting what do you think they talk
25 to you about fighting?

1 A I think about fist fighting, fighting with your hands
2 man to man.

3 Q Don't think anything about guns or knives or anything
4 like that?

5 A No, sir, not at all.

6 Q Now, after all this transpired, where did you all go?

7 A After the phone conversation?

8 Q Yeah?

9 A We went over to my neighbor's house.

10 Q All right. And that's your next door neighbor?

11 A Yes, sir, right beside me.

12 Q And who was that?

13 A Fletcher.

14 Q All right. Who was there?

15 A Fletcher and his girlfriend, Carol, and my friend
16 Mary Strouder was there and Ethan and that's all.

17 Q And ---

18 A Blake, but Blake never went in. Blake sat outside.
19 He was still on the phone at the time.

20 Q Still preoccupied with his phone?

21 A Yes, sir.

22 Q Okay. Did you ever get a phone call from anybody
23 while you were there at the house?

24 A Yes, sir.

25 Q Who called you?

1 A Well, that was the phone call from Logan. I was in
2 Fletcher's yard when I talked to them.

3 Q Okay. And you talked to Logan?

4 A Yes, sir, that was the same -- from Logan's phone
5 excuse me.

6 Q And did Logan ever tell you she was coming to your
7 house?

8 A Yes, sir.

9 Q And did you know why?

10 A Yes, sir, I knew she wanted to come talk to Blake.
11 She was calling me to make sure that it was okay.

12 Q All right. Did she come?

13 A Yes, sir, she came.

14 Q Did you see her?

15 A Yes, sir.

16 Q Did you talk with her then when she first came?

17 A Not right when she came. She walked straight over to
18 Blake, which was in my car.

19 Q What did they do?

20 A Well, she started fusing at Blake.

21 Q All right. Were you close by hearing everything or
22 just left them alone?

23 A I walked off. I didn't really want any part in all
24 that.

25 Q Okay. And where did you go?

1 A I went upstairs in Fletcher's house.

2 Q All right. And what happened next?

3 A While I went upstairs not only to get away from them,
4 I was trying to work out a ride because I had received a
5 text message from Logan's phone saying that Chad was not
6 there any more at the Stacy's house and that we should
7 come over.

8 Q Okay. All right. And you got that text from Logan's
9 phone?

10 A Yes, sir.

11 Q And who did you assume that was from?

12 A I assume it was from Logan.

13 Q Well, you said you were looking for a ride. Why were
14 you looking for a ride you had your car right there?

15 A Yes, sir, well, Ethan Allen was the D.D. -- let me
16 try to figure out how to explain it.

17 Q Okay.

18 A I kind of wanted to ride with Logan Ratley that was
19 the thing that was why.

20 Q And had you had so much to drink that you thought you
21 probably shouldn't drive?

22 A I knew I shouldn't drive, yes, sir.

23 Q Okay. And how about Blake you think he should drive?

24 A I don't think he should have drove, no, sir.

25 Q And so you were trying to arrange a ride for you or

1 arrange a ride for Blake?

2 A Arrange a ride for Blake.

3 Q And how were you going to do that?

4 A I was going to get Ethan to drive him in my car and I
5 was going to ride with Logan.

6 Q Okay. And where was Ethan?

7 A He was upstairs in Fletcher's house at the time.

8 Q Okay. Did you get Ethan to drive Blake?

9 A Well, he agreed to, but before Ethan came outside,
10 Blake took off in my car.

11 Q Blake took off in your car?

12 A Yes, sir.

13 Q And what did you do?

14 A I went and got in the car with Logan and we followed.

15 Q How fast did you drive?

16 A I don't know, sir. I knew it was pretty fast.

17 Q It was pretty fast?

18 A Yes, sir.

19 Q How was Blake driving? I want to ask you how fast
20 Blake was driving. How was Blake Driving?

21 A I don't know, sir. He passed by my car fine -- I
22 mean, passed by Logan's car fine because he had to pass by
23 her to get around, but Logan was parked this way.

24 Q Okay. But how about speed fast or slow?

25 A I can only assume he was going fast.

1 Q He beat y'all there?

2 A Yes, sir.

3 Q Okay. And y'all came from Scotch Community Road and
4 turned onto Ard Drive. Is that the way y'all came?

5 A Yes, sir, Center Church Road, Scotch Community Road,
6 then Ard Drive.

7 Q All right. And then when you got on Ard Drive, which
8 side did you turn to pull to in Stacy's yard?

9 A Went to the right into Stacy's yard.

10 Q Okay. When you pulled up -- when I say you, I mean
11 you and Logan. When you pulled up, how close did you pull
12 to your car, did you see your car there?

13 A Yes, sir, I saw my car. It was probably from here to
14 the table, the first table right there, so I guess ten
15 feet.

16 Q And Logan pulled up that close to it?

17 A Yes, sir, I'm pretty sure.

18 Q Now, what did you see when you pulled up and saw your
19 car, could see Blake at all?

20 A Yes, sir, he was getting out of the car when we
21 pulled up.

22 Q He was getting out of the car?

23 A Yes, sir.

24 Q You don't know how long he been there, do you?

25 A I know it couldn't have been very long at all because

1 we left in a matter of seconds after he did.

2 Q Okay. Now, when he was getting up out of the car,
3 who else was there close to the car if anyone?

4 A I don't know -- well, when he got out the car, when
5 he was getting out the car, Chad was coming off of the
6 porch and then he got shot. There was not a big time
7 frame.

8 Q All right. Did you see Stacy at all?

9 A I saw her, yes, sir.

10 Q Can you tell us exactly where everyone was or not?

11 A I can't exactly place where Stacy was at the time he
12 was shot. I can't place it at the time he was shot.

13 Q All right. So let's say if this is the back of your
14 car right here, probably be like maybe this wide that be
15 fair enough?

16 A Yes, sir.

17 Q All right. And you said y'all parked about ten feet
18 behind?

19 A I'd say so.

20 Q Tell me when you think it's about ten feet?

21 A That's around ten feet about right there, yes, sir.

22 Q All right. And which side of the car were you
23 sitting on the driver side or the passenger side?

24 A I was in the passenger side.

25 Q And were y'all in a straight line with him or to an

- 1 angle or to the side?
- 2 A She parked right behind him.
- 3 Q Right directly behind him?
- 4 A Right behind my car, yes, sir.
- 5 Q Okay. So you're sitting in the passenger side?
- 6 A Yes, sir.
- 7 Q And so you got the back of your car right back here?
- 8 A Right.
- 9 Q And the driver's side door, that's where Blake got
- 10 out?
- 11 A Yes, sir.
- 12 Q He opened the door and got out and stood upright
- 13 here?
- 14 A Yes, sir, he almost got completely stood up.
- 15 Q All right. And you said you saw Chad coming off the
- 16 porch when he was getting up?
- 17 A Yes, sir.
- 18 Q And did you hear anything?
- 19 A Not that I can remember.
- 20 Q Okay. You didn't hear a gunshot?
- 21 A I did hear a gunshot, yes, sir.
- 22 Q Did you hear a loud radio?
- 23 A I can't recall.
- 24 Q Did you hear any voices of them fusing or anything?
- 25 A No, sir.

1 Q Did you hear Stacy say anything?

2 A No, sir, but I was not listening for Stacy to say
3 anything either.

4 Q All right. Do you know whether Logan got out the car
5 or opened the door or do you recall that?

6 A To my knowledge, I don't think Logan got out the car
7 at all. But I don't think she opened the door, but she
8 could have.

9 Q You don't know for sure?

10 A No, sir, I don't know for sure.

11 Q Where was your focus?

12 A My focus was on Chad and Blake. Chad especially when
13 he came off the porch.

14 Q All right. And did he have anything in his hand when
15 he came off the porch?

16 A No, sir.

17 Q Okay. So did you see anything before you heard a
18 gunshot?

19 A Yes, sir.

20 Q What did you see?

21 A I saw him pull the gun out.

22 Q Saw him pull the gun out?

23 A Yes, sir.

24 Q All right. Had Stacy told you anything or said
25 anything to Logan about you?

1 A I'm sorry can you restate that?

2 Q Did Stacy say anything to Logan about you or move or
3 leave or anything at all that you heard?

4 A I can't remember hearing anything that Stacy said.

5 Q Okay. Did Logan back up?

6 A I'm not exactly sure. She might have put it in
7 reverse. This all happened really quick. My focus was on
8 Chad coming out of the house.

9 Q Okay. And so she might have put it in reverse and
10 then bam y'all heard...

11 A Yes, sir. We were not there long.

12 Q And what happened after you heard the gunshot?

13 A Blake fell.

14 Q Blake fell?

15 A Yes, sir.

16 Q And then what happened next?

17 A Logan pulled out the driveway and took me home.

18 Q Quickly or not?

19 A Yes, sir, quickly.

20 Q Very quickly?

21 A Yes, sir.

22 Q Now, did you ever get out the car?

23 A No, sir.

24 Q Did you have anybody else with you that got out of
25 the car?

- 1 A No, sir, it was just me and Logan.
- 2 Q Nobody else?
- 3 A Nobody else.
- 4 Q Did a white SUV come and pull up behind y'all?
- 5 A No, sir.
- 6 Q Did you ever see a white SUV at all that evening?
- 7 A No, sir, I did not.
- 8 Q What color was Logan's car?
- 9 A Logan was driving a black Explorer.
- 10 Q A black Explorer?
- 11 A Yes, sir.
- 12 Q But nobody else got out that you saw?
- 13 A No, sir.
- 14 Q And no one was behind y'all when y'all backed out?
- 15 A No, sir.
- 16 Q So when she backed out, what direction did y'all go
- 17 in and what were you saying?
- 18 A When she backed out, she headed the same way we came
- 19 in. We headed back toward Scotch Community Road. We took
- 20 a right at Center Church Road heading towards my house.
- 21 Q Were you say anything to her?
- 22 A I was freaking out.
- 23 Q You were freaking out?
- 24 A Yes, sir.
- 25 Q Why were you freaking?

1 A Because my friend just got killed.

2 Q Did you call anyone or contact anyone?

3 A I know I talked to Ethan at one point, but I can't
4 remember what all was said exactly. On the way home, yes,
5 I talk to Ethan.

6 Q You tell him what happened?

7 A I told him that Blake been shot.

8 Q Okay. And how quickly did you get home?

9 A Didn't take long at all. I say five minutes from
10 there going regular speed.

11 Q Okay. So when you got there, did you get out the
12 car?

13 A When I got home?

14 Q Yes.

15 A Yes, sir.

16 Q And who was there?

17 A Fletcher was there and Ethan was there. Everybody
18 that was there when I left there.

19 Q Everybody that was there when I left there was still
20 there?

21 A Yes, sir.

22 Q Okay. What did Logan do?

23 A Logan said that she needed to go back there -- back
24 to Stacy, to check on Stacy.

25 Q Okay. What did you tell her?

- 1 A I didn't want her to go back up there.
- 2 Q Why not?
- 3 A Because I was scared of danger.
- 4 Q All right. Did you leave your house that evening?
- 5 A After that?
- 6 Q Yes.
- 7 A No, sir.
- 8 Q Did anyone leave your house or leave Fletcher's
- 9 house?
- 10 A Yes, sir.
- 11 Q Who did?
- 12 A Ethan and Fletcher.
- 13 Q Where did they go if you know?
- 14 A They went to try to find out where Blake was after he
- 15 been shot.
- 16 Q And did you get any communication back from there?
- 17 A Yes, sir.
- 18 Q And what was that?
- 19 A Fletcher called me and said he talked to the
- 20 detectives and he said just stay at his house and they
- 21 would come to me.
- 22 Q Okay. And did they come to you?
- 23 A Yes, sir.
- 24 Q And did you talk to him?
- 25 A I did.

1 Q Did you fill out a statement form?

2 A I did.

3 Q Was that a complete statement or summary of the
4 events?

5 A It was just a -- just the main parts to me about that
6 night, late that night when Blake got shot.

7 Q Okay.

8 A I filled out another one that was more detailed of
9 the day.

10 Q When did you fill out a more detail one?

11 A I'd say it was one or two weeks after.

12 Q One or two weeks after?

13 A Yes, sir. It might have been a little bit less, I'm
14 not exactly sure the time on that.

15 Q And were you -- and they told you just to write it
16 out?

17 A Yes, sir, written statement.

18 Q Did you put every detail in there or just...

19 A I might have missed something, but pretty much every
20 detail all that I thought was important.

21 Q All that you thought was important?

22 A Yes, sir.

23 MR. CLEMENTS: Beg the Court's indulgence for a
24 moment.

25 (WHEREUPON, a pause in the proceedings.)

1 BY MR. CLEMENTS:

2 Q Now, I want to back up you said you weren't there
3 long at all in the car with Logan. You said you could see
4 Chad coming; is that correct?

5 A Yes, sir.

6 Q Was he coming straight at the car or from an angle or
7 where from the yard was he coming from?

8 A When he got off the steps, he came -- let me see how
9 to explain this. Well, he didn't come directly towards
10 the car. He walked more like straight out but at a short
11 angle -- a small angle towards the car. Like he wasn't
12 trying to get up on the car, he wasn't trying to get up on
13 Blake. He was keeping his distance but still coming.

14 Q Okay. Did you know -- could you tell from your
15 vantage point and angle you were looking at was he coming
16 across your field of vision or more straight at you?

17 A Well, it was both. I mean, I could tell he was
18 coming at an angle, but it was towards me at the same
19 time.

20 Q Kind of straight towards you?

21 A Yes, sir.

22 Q Were you able to tell about what distance he was at?

23 A Yes, sir.

24 Q Okay. And could you tell whether he got pretty close
25 to Stacy or not?

1 A I'm not sure about Stacy. Like I said, I just can't
2 place her.

3 Q Can you see how close he got to Blake?

4 A Yes, sir.

5 Q What's your best guestimate of how close he got to
6 Blake?

7 A My guest would be around six feet.

8 Q Okay. All right. And did you see him shoot
9 actually?

10 A Yes, sir.

11 Q All right. Was he fully extended when he shot or was
12 he -- he had it back here? How was he when he shot?

13 A I can tell you exactly how it happened. He pulled
14 it. I can't remember if it was at his side or right at
15 his back.

16 Q You can stand up if you need to.

17 A I know it was his right side. I'm not sure if it was
18 his back or his side. When he pulled it, he pulled his
19 hand directly up and shot right then, yes, sir.

20 Q All right. When you saw this happen, what were your
21 feelings at that time? Were you in shock, were you upset,
22 were you -- felt like you were clear in your mind? How
23 did this affect you when you saw this?

24 A Well, it was traumatic. It was unbelievable. I
25 mean, I never imagine it would happen. I guess out of the

1 ones you said shock would probably be the most accurate.

2 Q Did you see -- do you know what a muzzle flash is?

3 A Would that be the spark?

4 Q Fire coming from the barrel of the gun, did you see
5 any muzzle flash?

6 A I can't remember seeing muzzle flash.

7 Q You saw him point and pulling it out?

8 A Pulling out, point, bang.

9 Q Okay. All right. Y'all immediately left?

10 A Yes, sir. I heard him holler something at the car.

11 Q Heard Chad?

12 A Chad.

13 Q What was it if you know?

14 A I can't be positive on his exact words, but what it
15 sounded like to me was that he was hollering do you want
16 some too something like that. He look towards the car.

17 Q He look towards the car?

18 A Yes, sir.

19 Q Did he still have the gun in his hand?

20 A Yes, sir. I can't remember if he pointed it at the
21 car when he said it.

22 Q But he had the gun out?

23 A He had the gun out, yes, sir.

24 Q All right. And did you stick around to make sure
25 what he was saying?

1 A No, sir, Logan was already in reverse when she got me
2 out of there immediately.

3 Q And she got you out of there immediately?

4 A Yes, sir.

5 Q Okay.

6 MR. CLEMENTS: If you would please answer the
7 questions Mr. Brooker has for you.

8 THE COURT: Cross-examination.

9 CROSS-EXAMINATION

10 BY MR. BROOKER:

11 Q Mr. Lane, if I'm correct, you said you had known --
12 and correct me if I'm wrong, my recollection of what you
13 testified to said you had known Blake about three years or
14 four years at that time?

15 A Yes, sir.

16 Q Okay. And y'all were friends?

17 A Yes, sir.

18 Q You're also friends with Ethan Allen; is that
19 correct?

20 A Yes, sir, that's correct.

21 Q How long had you known Ethan?

22 A Very long time.

23 Q Now, if my understanding is correct what time did you
24 and Blake get together that day?

25 A Like I said, it was in the afternoon. Well, around

1 midday I assume it was around 12 or one. I cannot be
2 exact.

3 Q Did he come over to your house, did you go over to
4 his house? How did y'all end up getting together?

5 A He called me about my four wheeler and I went and got
6 it. I don't think he had a truck at the time or didn't
7 have one running at the time.

8 Q I think you said he was fixing on it or something for
9 you?

10 A Yes, sir, he was working on my four wheeler.

11 Q Okay. All right. When y'all finally got together,
12 were y'all drinking or did y'all start drinking at some
13 point in time?

14 A Yes, sir, we started drinking beer when he got over
15 there.

16 Q Okay.

17 A When we got back to my house, I'm sorry, sir.

18 Q I'm sorry. Go ahead.

19 A That's it.

20 Q That's it?

21 A Yes, sir.

22 Q So y'all started drinking when Blake got to your
23 house?

24 A After we got the four wheeler, took it back to the
25 house.

1 Q What were y'all drinking?

2 A Beer.

3 Q Okay. Had you been drinking prior to him getting
4 there?

5 A No, sir.

6 Q Did you know whether or not he was drinking prior to
7 him getting together with you?

8 A I know he wasn't drinking.

9 Q How do you know?

10 A He was with his mom and everything at his house when
11 I picked him up.

12 Q So you're assuming he wasn't drinking?

13 A I'm pretty sure he wasn't because she commented on it
14 before we left.

15 Q Now, how much beer did y'all drink when you got to
16 your house?

17 A I don't know, sir.

18 Q Were keeping track?

19 A Not really.

20 Q But you were definitely drinking enough where you
21 couldn't remember? Normally, when someone drinks a beer
22 or two, they can remember drinking a beer or two. You're
23 saying that you were drinking enough that you don't even
24 remember the amount that you consumed?

25 A I never really -- I didn't have a reason to think

1 about it at the time, but, no, sir, I don't think that I
2 was too messed up or anything.

3 Q How long did y'all stay there drinking at your house?

4 A I don't know, sir, a couple hours.

5 Q And then, of course, what is the next thing that you
6 did after you stayed at your house a couple hours? Did
7 y'all leave?

8 A Yes, sir.

9 Q Where did you go to next?

10 A We went to Stacy's.

11 Q Okay. And were you driving?

12 A No, sir, Blake was driving.

13 Q Okay. Now, prior to going to Stacy's, did you and --
14 well, before y'all went to Stacy's, you and Blake actually
15 talked about the relationship and the problems that he was
16 having with Stacy; is that correct?

17 A Yes, sir, we talked about it some.

18 Q And he told you that he was upset about Stacy and did
19 he also tell you that they had just broken up?

20 A Yes, sir.

21 Q And I think he told you they had just broken up
22 roughly about for -- they been dating for about five
23 months and that they had been broken up for about two
24 weeks?

25 A Yes, sir, that was my understanding at that time.

1 Q Now, I know you said that is your understanding, but
2 is that what you put in your statement?

3 A That is what I put in my statement. May I finish
4 with that?

5 Q You can.

6 A I was referring to that because I learned post that
7 they were together still after that that he stayed with
8 her.

9 Q Okay. So -- and just for correction is I'm going to
10 read this in your statement and you tell me if it's wrong
11 because you're saying you learned something different. In
12 your statement, you said that he told me that they had
13 been living together for about five minutes and she told
14 him to leave about two weeks, so what you're saying in
15 your statement is is that this was not just knowledge that
16 you were getting from anyone, but that this was coming
17 directly from the source. Blake told you that they had
18 been separated or they had been broken up for about two
19 weeks?

20 A Yes, sir, he told me that.

21 Q Okay. And do you have any reason to believe that he
22 was lying to you?

23 A No, sir.

24 Q And didn't Blake also told you that Stacy was
25 pregnant with his child and that she was talking about

1 getting an abortion?

2 A Yes, sir, he did.

3 Q And I imagine he was highly upset about that?

4 A He was upset about that.

5 Q To your -- I won't ask you that just withdraw that
6 question. He also told you that he was upset about the
7 relationship that Stacy was having with Chad. And he told
8 you that Stacy had a child with Chad and that she was
9 upset because they had been seeing each other and started
10 back talking again?

11 A Yes, sir, Blake was upset about that. He told me
12 about that.

13 Q And he told you that it was Chad Strickland?

14 A Yes, sir.

15 Q Okay. Now, prior to that -- and I think you may have
16 testified you didn't know Chad, is it or did you?

17 A No, sir, I've never met Chad.

18 Q Okay. Didn't know anything about him?

19 A No, sir.

20 Q Now, you also -- now, isn't it true that also is is
21 that Blake wanted to fight Chad?

22 A Yes, sir.

23 Q Okay. And that he told you that he thought Chad was
24 all talk and that he wanted to fight him?

25 A Yes, sir, he thought Chad was all talk. I don't

1 think I stated that just like that.

2 Q And if you need to refresh your memory I can read it
3 to you instead of ---

4 MR. CLEMENTS: Your Honor, we object. We think
5 he can show it to him and then ask questions about it or
6 ask him to read it.

7 MR. BROOKER: I just thought that be quicker,
8 Your Honor, but I'd show it to him if he wants toto.

9 MR. CLEMENTS: All right. The proper way is the
10 right way.

11 THE COURT: Go ahead, Mr. Brooker.

12 BY MR. BROOKER:

13 Q If at any time you think that I'm reading your
14 statement wrong, you let me know ---

15 MR. CLEMENTS: Your Honor, I object.

16 THE COURT: All right.

17 MR. CLEMENTS: He's reading parts of it.

18 THE COURT: Under Rule -- let me hold the
19 statement for a minute.

20 MR. BROOKER: Certainly. It's kind of marked
21 up, Your Honor.

22 (WHEREUPON, a pause in the proceedings.)

23 THE COURT: If you want to direct your attention
24 to Rule 612, you can give him -- allow him to review the
25 statement and then question him about it or pursuant to

1 Rule 613 you can ask him about it.

2 MR. BROOKER: Yes, and I understand that, Your
3 Honor, I was doing it that way because of the previous
4 conversation we had about time.

5 THE COURT: Okay.

6 BY MR. BROOKER:

7 Q Now, and I think you said that you didn't think that
8 you said exactly that?

9 A Yes, sir.

10 Q Okay. Do you remember giving your written statement
11 on November 13 of 2012?

12 A Yes, sir.

13 Q Would you like to take a look at that statement to
14 refresh your memory?

15 A Yes, sir.

16 Q Okay.

17 MR. BROOKER: Can you indulge me for just a
18 second?

19 THE COURT: Yes, sir.

20 BY MR. BROOKER:

21 Q Have you had a chance to look at your statement?

22 A Yes, sir, I have.

23 Q Did you in fact said in that statement that Blake
24 thought that Chad was all talk and wanted to fight him?

25 A Yes, sir, that was after he had told me that Chad

1 stated that he was going to show him who the man was,
2 that's why I said that.

3 Q And he also told you that morning that he was done
4 with Stacy?

5 A Yes, sir.

6 Q And that he wasn't going to call her and text her any
7 more?

8 A That's what he said.

9 Q That's what he said, but that didn't turn out to be
10 true, did it not?

11 A No, sir.

12 Q Okay. Because they were calling and texting each
13 other that day?

14 A Right.

15 Q And then y'all actually went out and saw them?

16 A Yes, sir.

17 Q Okay. And you testified that y'all left straight
18 from your house from drinking to go out and see Stacy at
19 her home?

20 A We did.

21 Q Okay. And I think you testified previously is is
22 that Stacy was there, that Logan was there and I think
23 also Stacy and Blake's excuse me -- Stacy and Chad's
24 three-year-old daughter was there?

25 A Yes, sir, I just can't recall seeing her.

1 Q Sure. And I think you said is is that immediately
2 after he got there that he didn't even get out of the car.
3 And I think you said in your words is that immediately
4 Stacy jumped on him verbally and started fusing with him?

5 A I don't know if it was immediately, but, yes, she
6 started fusing with him, that's what they did the whole
7 time until we left.

8 Q And she never even let him get a word in?

9 A No, sir.

10 Q So at least from that is that it was clear that they
11 were angry at each other, at least that they were angry at
12 each other or at least she was very angry upset at him?

13 A Yes, sir.

14 Q Now, I'll ask you this question is that you tell me
15 whether you heard anything, were there any loving
16 exchanges between them?

17 A Loving exchanges?

18 Q I love you. You love me and that sort of mushy gushy
19 stuff?

20 A Not that I recall, sir.

21 Q They were just arguing, fusing and fighting that
22 entire time y'all were there?

23 A That's what I got out of it.

24 Q And I think you said is is that where did you go
25 after that? Y'all didn't stay very long, where did you go

1 after that?

2 A We went over to our friends the Gerald's house.

3 Q I apologize.

4 A We went over to a friend's house.

5 Q Okay. And how long did you stay over that friend's
6 house?

7 A I can say that it wasn't long maybe 30 minutes or so?

8 Q Did y'all drink over there too?

9 A Yes, sir, I'm sure we had one with us.

10 Q Do you know how many beers you had over there?

11 A Probably just one, I can't testify to that, sir.

12 Q I'm sorry.

13 A I can't testify to the exact.

14 Q You don't remember exactly?

15 A No, sir.

16 Q Could have been one, could have been more than one?

17 A It could have been one, could have been two, one of
18 those.

19 Q Or more?

20 A I doubt it, sir, like I said, we weren't racing.

21 Q Yes, sir. You doubt it, but you don't remember?

22 A Yes.

23 Q After you left a friend's house, where did y'all go?

24 A We went back to my house.

25 Q And how long did you stay at your house?

1 A I couldn't tell you exactly.

2 Q Okay. Were you drinking when you got back to your
3 house?

4 A I can't recall, sir, but more than likely.

5 Q More than likely?

6 A Yes, sir.

7 Q Okay. But you don't remember?

8 A I don't remember exactly.

9 Q And I'm assuming is is that y'all were both drinking?

10 A Yes, sir.

11 Q And you may not remember and -- how long did y'all
12 stay over to your house before you left when you got back
13 to your house?

14 A I do not remember, sir.

15 Q But y'all eventually left and then where did you go
16 after you left?

17 A We went to one of Blake's friend's house for a
18 minute.

19 Q And who was that?

20 A I think I know his name, but I'm not sure.

21 Q That's fine. How long did you stay over there?

22 A Very shortly, like five minutes maybe five and ten
23 maybe.

24 Q Okay. And you left there and go where?

25 A We went back to the house and Ethan met us there.

1 Q Okay. And how long did you stay at your house when
2 you went back there?

3 A Not exactly sure about that, not long.

4 Q But when you stayed there -- when you went back to
5 the house, you were still drinking?

6 A I'm not exactly sure about that.

7 Q Okay. Isn't that the reason why you thought that
8 Ethan should drive because y'all ---

9 A Because we had been drinking, yes, sir ---

10 Q I didn't mean to interrupt you go ahead.

11 A I didn't mean to interrupt you, but, yes, sir, that's
12 why Ethan was going to drive because we had been drinking.

13 Q Okay. And you been drinking so much is is that you
14 can't even keep count of how much you been drinking?

15 A Sir, I couldn't keep count because I wasn't counting.
16 I didn't know the relevance of it at the time.

17 Q Yes, sir, I understand.

18 MR. BROOKER: If you can indulge for just a
19 second, Your Honor.

20 BY MR. BROOKER:

21 Q Now, at some point in time a decision was made to go
22 to the Game Changer and I think you testified to that is
23 is that Chad wanted to go to the Game Changer?

24 A That Blake did, yes.

25 Q I apologize that Blake wanted to go to the Game

1 Changer. And, of course, the reason why he wanted to go
2 to the Game Changer was is is that he wanted to fight
3 Chad?

4 A I know he wanted to fight Chad. Yes, sir, I guess, I
5 could say that, yes, sir.

6 Q Because I think you testified -- I think it is is
7 that you said in your statement earlier is when you got to
8 the Game Changer that y'all had to talk him out of going
9 on the inside?

10 A Yes, sir, Blake wanted to go in because Chad was in
11 there.

12 Q I imagine you tell me was is was he still upset?

13 A Was Blake upset?

14 Q Yeah, was he still upset about what you had testified
15 to before that Stacy was seeing -- Stacy had started back
16 seeing Chad and that they were talking on the phone or
17 together?

18 A Yes, sir, he was still upset about it.

19 Q Do you -- I want even ask it. I'm going to ask it
20 and I'm going to ask it a certain way. I'm going to ask
21 it based upon your knowledge is do you know whether or not
22 he loved Stacy?

23 A I do not know that, sir.

24 Q Okay. I think you said is is that at some point in
25 time is that after y'all talked him out of going inside --

1 going inside because Chad was in there is that y'all left
2 there and went to Bill Strickland's?

3 A Yes, sir.

4 Q Okay. And that y'all shot pool and y'all drink some
5 more at Bill Strickland's?

6 A Yes, sir.

7 Q You know how much you had consumed when you got to
8 Bill Strickland's?

9 A No, sir, I know it wasn't a whole lot.

10 Q How long did you stay there?

11 A Not very long. I have to say 30 minutes if I had to
12 approximate.

13 Q Now, prior to going to the Game Changer, did Blake
14 text or either call Stacy and say that he was going over
15 to the Game Changer to fight Chad?

16 A Not that I know of, sir.

17 Q Did he ever told you why that he wanted to go there,
18 you know, directly?

19 A I can't remember, sir, but I knew he wanted to go
20 because Chad was there.

21 Q When was it after y'all left Bill Strickland's and I
22 don't know exactly when the conversation started. But
23 when was it that the conversations over the phone between
24 -- I think there was -- and you correct me if I'm wrong,
25 but at some point in time, there was exchange of phone

1 calls from Stacy's phone and then from Logan's phone that
2 involved yourself at some point in time, involved Blake
3 and also involved Logan?

4 A Was that a question?

5 Q Yes, sir. Where were you at, where were y'all at at
6 that particular period of time when these barrage of calls
7 started?

8 A When I talked on the phone, we just got back to my
9 house from Bill Strickland's.

10 Q And, of course, is it that it's my understanding you
11 correct me if I'm wrong that ---

12 MR. BROOKER: You indulge me for just a second,
13 Your Honor, I want to make sure this is accurate.

14 BY MR. BROOKER:

15 Q My understanding is that at some point in time is
16 that Blake was on the phone with Logan and called Logan a
17 bitch?

18 A Yes, sir.

19 Q Was that after y'all had gotten back to your house?

20 A I cannot recall.

21 Q But you were aware that that exchange took place
22 between the two?

23 A I was aware that it happened, yes, sir.

24 Q And to your knowledge was he upset at Logan?

25 A He was upset at Logan a little bit, yes, sir.

1 Q That he was more upset at Logan that at least at that
2 particular point in time if not for longer, he didn't like
3 her; is that correct?

4 A He was mad because he thought that she was getting in
5 between him and Stacy, mad at Logan because of it.

6 Q Now, at some point in time you were on the phone
7 with -- when these phone calls were going back and forth,
8 you ended up on the phone call with Chad; is that correct?

9 A Yes, sir, I did.

10 Q Okay. And I think you testified on direct
11 examination that you were messing with him a little bit
12 and then eventually you said he told you that he didn't
13 have a problem with you. But after a little while when
14 the conversation progressed, then, of course, you thought
15 he then developed a problem with you or you developed a
16 problem him?

17 A Yes, sir, he explain he didn't have a problem with me
18 when he first got on the phone with me, but, yes, sir, it
19 progressed from there.

20 Q And I think you said is is that at least your
21 testimony was is that he offered y'all to come and meet
22 him some place?

23 A Yes, sir, he did.

24 Q Okay. Then, of course, you offered him to come to
25 your house; is that correct?

1 A Yes, sir, I told him that I meet him at my house
2 rather than out in the middle of nowhere, if he wanted to
3 meet.

4 Q And my understanding is is that you declined to come
5 and meet him and he declined to come at your house?

6 A Yes, sir.

7 Q Okay. And did at that particular period of time you
8 thought it was over?

9 A Yes, sir, that was all for me.

10 Q Now, did Logan call you at some point in time during
11 these barrages of calls, called you in reference to talk
12 about trying to get those two together so that they could
13 fight?

14 A No, sir, the only thing about getting them together
15 to get me and Blake over to -- I'm sorry could you restate
16 the question.

17 Q Yes, sir. At some point in time between these
18 barrages of calls, did Logan call you trying to arrange
19 for Blake and Chad to get together to fight?

20 A No, sir.

21 Q And were you there -- and you tell me whether or not
22 you know this or not, but it has been testified -- and, of
23 course, you were in court is is that at some point in time
24 when Blake was on the phone and Blake and Chad was talking
25 that Chad told Blake and I'll use the language that I

1 fucked your old lady this morning. Were you aware of
2 that, were you present there for that conversation?

3 A No, sir. Sir, I might have been present, but I
4 didn't hear any of that because Blake was around me pretty
5 much all the day.

6 Q He was angry during those exchanges of calls he was
7 yelling and screaming, was he not?

8 A Not while we were in the car, but, yes, he was upset
9 talking with her.

10 Q At some point in time you said you received a text
11 message from Logan saying that y'all should come over to
12 talk that Chad's no longer here?

13 A Yes, sir.

14 Q Okay. And you testified on direct examination that
15 you received a text, but you did not identify as being
16 from Logan. But did you advise the investigators that in
17 your statement that that text was from Logan?

18 A I did say it was from Logan, but like you said,
19 there's no way for me to identify -- it was no way for me
20 to identify the sender of the text.

21 Q Okay. But did you know whether or not you suggested
22 in your statement that it was Logan?

23 A I thought that it was Logan, so I'm sure I did.

24 Q And that that text said -- that that text said that
25 we have taken Chad home, is it not or they have taken Chad

1 home?

2 A Yes, sir, I remember it look like -- well, I know it
3 described that Chad was not there any more, that he had
4 left and for us to come over there.

5 Q But you don't remember whether or not it referred to
6 we or either they have taken Chad home?

7 A No, sir, not that part.

8 Q Making reference to the same statement, statement you
9 gave on November 13 of 2012, would you like to look at it
10 to refresh your memory of the exact language of how you
11 explained it?

12 A Yes, that will be fine.

13 Q Okay. So you said that that text said that you just
14 had a chance to review that and refresh your memory; is
15 that correct review your statement?

16 A With you right then, yes, sir.

17 Q And isn't that statement basically said that Logan
18 text you and said that y'all should come over and that
19 they had taken -- they had already taken Chad home?

20 A Yes, sir, that's what he said.

21 Q Now, you said you didn't know whether or not that
22 text came from Stacy excuse me -- came from Logan; is that
23 correct that's what you said, right?

24 A I know that it came from Logan's phone.

25 Q Okay. But wasn't in fact that that statement was

1 repeated once Logan got to the house. She told you that
2 same thing that, hey, Blake, Chad's not there let's go
3 over?

4 A No, sir. When she got there, she went directly to
5 Blake started talking to Blake.

6 Q Okay.

7 MR. BROOKER: You can indulge me just a second,
8 Your Honor, let me find my location on this thing.

9 THE COURT: Yes, sir.

10 BY MR. BROOKER:

11 Q Now, this happened after Lacy called excuse me --
12 after Lacy excuse me, Stacy excuse me -- Logan came over.
13 She did come over; is that correct?

14 A Yes, sir.

15 Q Let me make reference to your statement. I know that
16 you said that you don't remember her making that statement
17 that once she got to the house, that she repeated the same
18 thing. Do you remember giving a statement on November 4,
19 2012?

20 A Yes, sir.

21 Q And would you like to take a look at that statement
22 to refresh your recollection as to whether or not she made
23 that statement after she arrived at your house?

24 A I don't think it's on there, but, yes, I'll look at
25 it.

1 Q Yes, sir.

2 A Yes, sir, I just included it because I didn't put it
3 before about the text message.

4 Q Okay. But you did say that after she got over there
5 -- first of all, you had a chance just to review this
6 statement?

7 A Yes, sir.

8 Q And you did say after she got to -- after she left
9 Stacy and came to where you and Blake were, that she came
10 over to the car and started fusing and that she suggested
11 that y'all go over and that she told you that Chad was no
12 longer there. Is that what the statement says, right?

13 A Sir, that's the order of the text, but I don't think
14 that was my thought process. I don't think that I meant
15 that she said it then when she came over there because she
16 went directly to Blake's car and started fusing at him. I
17 went upstairs.

18 Q So you're saying you -- you're saying that you
19 received a text at that time?

20 A No, sir. I didn't put that previously in the
21 statement. I guess when I thought of it, I wrote it.

22 Q Okay. But that is the way it's written in this
23 statement, right?

24 A It is. That's the order it's written, yes, sir.

25 Q The order that it's written in the statement is is

1 that after she came over and that she started fusing with
2 Blake and that she said -- she said that, hey -- and I'm
3 paraphrasing here, but she said, hey, we should go over to
4 Stacy's house to talk things over and that Chad is no
5 longer there. That is the order that it's in this
6 statement, right?

7 A That is the order that it's in, yes, sir.

8 Q Okay. So you're saying that -- what you're saying
9 now is is that what you wrote in this statement may not be
10 accurate?

11 A Oh, no, sir, it's accurate, it's just the order in
12 which it's written.

13 Q And now -- and my understanding is when she got over
14 there that Blake and Logan were fusing?

15 A Yes, sir.

16 Q They had a heated argument?

17 A They were fusing from when she got there to when
18 Blake left.

19 Q Okay. Now, what was Blake demeanor prior to her
20 arriving there?

21 A I didn't really talk to him a whole lot when we got
22 back.

23 Q Yes, sir, I'm just talking about what you observed.
24 I'm not talking about what conversation?

25 A Well, he was just sitting in my car.

1 Q Did he appear to be upset?

2 A He was upset.

3 Q Okay. Now, you said that when Logan got there and at
4 some point in time -- let me go back to that particular
5 statement. I know that you said that the order is not
6 right when Stacy got there excuse me -- when Logan got
7 there. They fussed. Logan said we should go -- we should
8 go to Blake's and talk things out and that Chad was no
9 longer there. That statement goes on to say and I told
10 Logan that I would ride with her and that Blake would ride
11 with Ethan. So when she said that y'all then started
12 making arrangements as to how you're going to get over to
13 Logan's house and the arrangement was is that Ethan was
14 going to drive Blake and that you were going to ride with
15 Stacy?

16 A With Logan, yes, sir.

17 Q Excuse me with Logan. And was that agreed to that
18 everybody agreed to that when you were out there with the
19 car with Blake and Stacy excuse me -- and Logan and you
20 made that suggestion that they agreed with that -- was
21 that the plan?

22 A I went upstairs to talk to Ethan about it.

23 Q Yeah, I know. But you went upstairs and talked with
24 Ethan about it. And then, of course, is is that did you
25 come back and told them that Ethan would do that?

1 A I never really got a chance to. Blake took off when
2 I was coming back out. I was more trying to get Ethan
3 going more than anything, get him moving.

4 Q And I'm going to try to move along quickly trust me I
5 am, but would you like to refresh your statement -- would
6 you like to refresh you memory by looking at your
7 statement of November 13 of 2009 (sic) as to whether or
8 not you came back out after talking with Ethan and told
9 them that Ethan would do this? Would you like to look at
10 your statement to refresh your memory as to whether or not
11 you said that?

12 A Yes, sir.

13 Q Thank you, sir. So you're saying is that you walked
14 back out -- if you went in the house and you walked back
15 out and told them that, hey, I've talked to Ethan and
16 Ethan agrees to do it?

17 A Yes, sir, I guess so. I must have just walked out on
18 the porch and hollered, it must have been why I didn't
19 really remember.

20 Q Okay. So that just kind of flipped -- slipped your
21 mind just a minute ago?

22 A Yes, sir.

23 Q But that was the plan; is that correct?

24 A That was the plan, yes, sir.

25 Q Is that when you walked back out on the porch or

1 wherever it was and he took off? Did he took off
2 immediately after he come out and said that?

3 A I might have walked back in, I don't know exactly,
4 sir.

5 Q Okay.

6 A But he took off before I got back out there
7 completely.

8 Q But you were able to ---

9 A But we weren't able to get in the cars and everything
10 he was gone, yes, sir.

11 Q But you were able to let them know that Ethan had
12 agreed to drive Blake and that the plan was agreed to?

13 A Yes, I think Blake knew that.

14 Q Because Ethan had been driving y'all around for a
15 while y'all were drinking?

16 A Yes, sir, he was driving us while we had been
17 drinking, yes.

18 Q Did y'all continue to drink at Fletcher's house?

19 A No, sir, not that I recall. I can't tell you that,
20 sir.

21 Q There was a little bit -- there was a gathering going
22 on there. Wasn't there people there and there was also
23 alcohol?

24 A There was Ethan, Mary, Fletcher, Fletcher's
25 girlfriend Carol and me and Blake.

1 Q So you don't remember whether or not y'all continued
2 to drink when you got there to the gathering?

3 A Well, Blake was out on the phone the whole time. I
4 know he wasn't drinking anything. I can't recall if I had
5 a beer there or not.

6 Q Now, at some point in time he just took off -- Blake
7 took off and abandoned the plan?

8 A Yes, sir.

9 Q Okay. And he took off driving fast isn't that --
10 what you tell investigator -- tell the investigator that
11 he took off and he was driving very fast?

12 A Yes, sir, he took off.

13 Q He was driving so fast because you said at some point
14 in time when y'all came y'all couldn't keep up with him?

15 A Yes, sir, we never was able to keep up.

16 Q And you may not know, but I'm asking of your personal
17 knowledge. Do you know what happened while Logan and
18 Blake was at that car that caused him to get so upset that
19 he would abandon this plan and just took off by himself?

20 A No, sir, since something was said.

21 Q Now, when y'all went after them, I know that you
22 testified that it was you and Logan in the car?

23 A Yes, sir.

24 Q And that it was your testimony that there was nobody
25 else in that car along with you and Logan?

1 A Just me and Logan.

2 Q That's your story?

3 A Yes, sir.

4 Q Okay. Now, while you were driving over there, you
5 said -- did you develop a bad feeling about things?

6 A Yes, sir, when she was speeding, I did.

7 Q Okay. And was it at that particular period of time
8 that you asked Logan, hey, is Chad really gone?

9 A Yes, sir.

10 Q And she told you, no, he is over there?

11 A Yes, sir.

12 Q Was that the first time that you know -- you under
13 the impression he wasn't there and that was the first time
14 you became aware that he is there?

15 A Yes, sir.

16 Q That came from Logan?

17 A Yes, sir.

18 Q And you may not know this, but I'm going to only ask
19 it. If she didn't send the text, how did -- do you know
20 -- I'm asking what you know. If you don't, you say no.
21 Did you know how she knew that Chad was still over there,
22 if she never send a text or never said that to you while
23 you were at the -- while y'all were at the car talking to
24 Blake after she arrived?

25 A Are you ---

1 Q I'm sorry I can rephrase that if you like me to.

2 A Yes, please.

3 Q What I was asking is do you know how Logan knew that
4 Chad was still over there assuming that she never sent the
5 text and assuming that she never told y'all after she
6 arrived at your house and had that conversation with you
7 and Blake?

8 A Well, she left there to come to my house, so I guess
9 he just assumed that he was still there.

10 Q And I think is is that what was the first thing that
11 happened when you pulled up into the driveway?

12 A We parked, we stopped. I watch Blake get out of the
13 car -- well, almost completely out of the car. Chad came
14 off the porch, pulled the gun, shot Blake before he was
15 completely out of the doorway.

16 Q Okay. And I think your testimony was is is that he
17 never stand completely up before he was shot?

18 A Not completely like if you were going to take your
19 next step like to walk.

20 Q And did you tell Ethan that same thing, did you tell
21 Ethan that that Chad had shot -- had been shot on Blake
22 before he could even get out of the car?

23 A Yes, sir.

24 Q And do you remember -- indulge me for a second. Do
25 you remember telling Investigator Watson there when you

1 were describing that that when Chad got out of the -- when
2 Blake was getting out of the car, that he was never able
3 to completely stand up before he was shot?

4 A Yes, sir. Yes, sir, that was my statement for the
5 whole thing.

6 Q And when you got there, is it your testimony that you
7 never got out of that car?

8 A Yes, sir, that is my testimony.

9 Q Is it your testimony that Logan never got out of that
10 car?

11 A Yes, sir, Logan never got out of the car either.

12 Q Is it your testimony and I'm assuming that it is
13 because you said there was nobody else? Is it your
14 testimony that there was never another man that exited
15 that car along with you and Logan?

16 A Me and Logan never exited the car either, but, no,
17 sir, there was no other person in the vehicle.

18 Q Now, when you pull up in the yard and you said
19 that -- and I know you've already described the shooting,
20 I'm not asking that. When you pulled up in the yard, how
21 long was it before the shooting take place from the time
22 in which you pulled up into the yard?

23 A It was not long at all, but Blake was opening the
24 door to the car and getting out of the car when she was
25 shot and we were backing out.

1 Q So was it two minutes?

2 A Probably wasn't even that long, sir.

3 Q And let me get this right is is that and so you
4 correct me if I'm wrong, so when y'all pulled up into the
5 yard immediately after y'all pull up in the yard, the
6 first thing you noticed was Blake opening the door to get
7 out of the car?

8 A Yes, sir.

9 Q Okay. So it happened instantly. Blake was instantly
10 getting out of the car as y'all were pulling up in the
11 yard?

12 A Yes, sir, Blake was getting out as we were pulling
13 up.

14 Q Okay. And before he could even get up, I think your
15 testimony was is is that Chad come running off the porch
16 and shot.

17 A Yes, sir.

18 Q Before he could stand completely up?

19 A Exactly.

20 Q And if my testimony -- my understanding is correct is
21 that you testified on direct examination that they were
22 roughly -- and, of course, you say you were estimating
23 about six feet apart?

24 A Yes, sir, that's what I thought. That's what I could
25 tell.

1 Q And that's your best estimate?

2 A Yes, sir.

3 Q But is it your testimony that they were not close
4 enough or were not in arms length of each other?

5 A They weren't in arms length, no, sir.

6 Q So he was never as close as I am to you right now?

7 A No, sir.

8 Q Okay. And would we estimate right now I'm about
9 maybe two, three feet away from you?

10 A Yes, from my torso.

11 Q Okay, from your torso?

12 A Yes, sir.

13 Q Okay. All right. But they were definitely in your
14 opinion in your testimony, they were definitely not with
15 inches of each other?

16 A Not within inches, no, sir.

17 Q Was Stacy's lights on, did she ever turn her truck
18 off?

19 A Logans' vehicle.

20 Q I apologize Logan. I apologize Logan lights on on
21 her vehicle. Did she ever turn them off?

22 A No, sir, she left them on.

23 Q She ever uncranked her vehicle, turn her vehicle off?

24 A I can't tell. I just know that I had the light --
25 the lighting was on Blake from the back of my car, that's

1 how I know that the lights were on.

2 Q Okay. The lights were directed at Blake and you
3 could see Blake from what his position is?

4 A It was directly at the back of my car and Blake was
5 getting out, so, yes, sir, it was. The lights were
6 shining -- the closest person that the lights were shining
7 the lights on would have been Blake.

8 Q How far you -- and I think you testified to this and
9 you correct me if I'm wrong is is that you said that --
10 and I don't want to get this wrong is that you testified
11 on direct examination that Logan's car was roughly ten
12 feet away from your car that Blake was driving?

13 A Yes, sir, that's an approximate though.

14 Q Approximately ten feet away?

15 A Yes, sir.

16 Q Now, let me ask you a question, it's a real important
17 question. Do you think that your consumption of alcohol
18 may have in any way that day affected your perception,
19 affected your memory, affected your understanding of what
20 went on that day?

21 A No, sir.

22 Q So your alcohol -- the alcohol never played a role in
23 what you thought you saw and heard?

24 A I might would have acted a little differently. I
25 probably wouldn't have talked any junk with Chad at all,

1 but, no, sir, I understood everything that was going on
2 very well.

3 Q So if you'd been sober, you saying you would not have
4 talked any junk to Chad?

5 A I probably wouldn't have.

6 Q So your personality was altered by the alcohol?

7 A A little bit, I guess.

8 MR. BROOKER: If you can indulge me for just a
9 second, Your Honor, let me make sure I don't have any
10 follow up.

11 THE COURT: Yes, sir.

12 (WHEREUPON, a pause in the proceedings.)

13 MR. BROOKER: One or two more questions and I'll
14 be done.

15 BY MR. BROOKER:

16 Q You also testified that when y'all rode up in the
17 yard and stopped that that's when the shooting happened?

18 A Well, shortly after -- well, he was getting out of
19 the vehicle and stood up, that's when he was shot.

20 Q So it didn't happen as y'all were backing out?

21 A No, sir, she might have had it in reverse then I
22 don't know, but, no, I don't think we were backing out.

23 Q Okay. Because -- were you sitting next to Logan?

24 A Yes, sir.

25 Q Okay. Did she have her head turned around looking to

1 back out as boom, a gun went off?

2 A I don't know, sir, I was looking straight at the
3 Blake and Chad.

4 Q But you definitely know that y'all were not backing
5 out when he was shot?

6 A I really don't think so, sir.

7 Q Okay. How did you prepare for your testimony today?

8 A How did I prepare?

9 Q Yes, sir.

10 A I read my two statements and I also had the
11 transcript from the last hearing.

12 Q Okay. Did you talk with Mr. Clements or someone from
13 his office?

14 A Yes, sir.

15 Q In reference to your testimony?

16 A Yes, sir.

17 Q Did y'all have a prep session?

18 A Not really a prep session. He asked me several times
19 if I had any questions. If I had any questions, I'd ask
20 him.

21 Q Was anybody with you when y'all had this at least
22 session whatever you wanted to call it?

23 A No, sir, that was on a -- I think I was there by
24 myself on that day.

25 Q Okay. Now, I notice that you been here this entire

1 week, right?

2 A Yes, sir, I have.

3 Q And the entire week that you sat there, you sat with
4 Blake's family; is that correct?

5 A Behind them, yes, sir.

6 Q Okay. And I'm assuming that you sat there with
7 them -- let me ask you this, do you have a job?

8 A I'm a full-time student.

9 Q Okay. And I'm assuming that you sat here this entire
10 week because you're here supporting Blake and his family?

11 A Yes, sir, and I was served with a subpoena also.

12 Q Okay. So you're not here as a neutral party?

13 A No, sir.

14 MR. BROOKER: No further questions.

15 THE COURT: Any redirect?

16 MR. CLEMENTS: Yes, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. CLEMENTS:

19 Q Matt, let me ask you -- Mr. Brooker just asked you
20 about how much you had to drink and how it affected your
21 perception and all that. Let me ask you this question,
22 how sobering is an experience is it to see your friend gun
23 down?

24 A It's a very sobering experience, yes, sir.

25 Q Now, my understanding you just told Mr. Brooker that

1 you thought from your perception that Chad was about
2 six feet away from Blake?

3 A From what I could tell.

4 Q And I'm about six feet tall. Would you say this is
5 about six feet right here?

6 A A little bit closer, sir. Right there.

7 Q Okay. This is about six feet what you think?

8 A Yes, sir.

9 Q You stand up please. Chad's a pretty tall boy; isn't
10 he?

11 A Yes, sir, I think so.

12 Q Got long arms over there, right?

13 A Yes, sir.

14 Q And I'm going to hold this this way. That's about a
15 good six to eight inches on this barrel; is it not maybe
16 even ten?

17 A Yes, sir, probably about six, seven inches.

18 Q Okay. So you got six or seven inches and then a long
19 arm and I'm six feet away from you and that closes that
20 gap pretty close; doesn't it?

21 A It does, yes, sir.

22 Q Gets it real close?

23 A Real close.

24 Q You can sit down. Mr. Brooker was asking you about
25 your statements and he wanted to get some of it.

1 MR. CLEMENTS: I think he marked his as court's
2 exhibit -- I mean, as an ID exhibit, but I like to mark
3 that for State's identification purposes.

4 (WHEREUPON, State's Exhibit No. 56 and 57, was
5 marked for identification only.)

6 BY MR. CLEMENTS:

7 Q Now, this is State's Exhibit 56 for ID. Do you
8 recognize this?

9 A Yes, sir.

10 Q Is that the same thing that Mr. Brooker had?

11 A Yes, sir, on one question and he had my first
12 statement that I did that night.

13 Q Okay. And he had this?

14 A Yes, sir.

15 Q And he ask you about Blake thinking that Chad was all
16 talk but Blake wanted to fight him, right?

17 A Yes, that's what he ask me, yes, sir.

18 Q Okay. And that's what he ask you about. All right.
19 I'm going to ask you if between those two red marks if you
20 said that on that statement, if you'll read that for us
21 that part of your statement? Read it loud please.

22 A He told me that Chad had told him that he was going
23 to show Blake who the man was. Blake thought that he was
24 all talk, but Blake wanted to fight him.

25 Q Okay. So who was initiating that?

1 A That was Chad with the statement that he told Blake,
2 yes, sir.

3 Q And State's Exhibit Number 57 for ID. Show you that
4 is that your first statement that you wrote that night?

5 A Yes, sir, this was the night after it happened.

6 Q And you wrote that statement within how many minutes
7 or hours of when you saw Blake get gun down?

8 A I don't know, sir, probably -- I'm not exactly sure
9 what time they came over.

10 Q It was pretty close, was it not?

11 A An hour or two hours.

12 Q Within an hour or two hours. How upset were you?

13 A I was pretty upset. I mean, I just watched my friend
14 get killed.

15 Q And on this statement, did you have to add in some
16 stuff you can try to stick in that you had forgotten
17 about.

18 A Yes, sir.

19 Q What's that part that you were adding in that written
20 in over the top of something? Can you read that little
21 part?

22 A Yes, sir, it says and that Chad was not there, that's
23 what I filled in.

24 Q Okay. And you had to fill it in because you forgot
25 it?

1 A I forgot as I was writing it, yes, sir.

2 Q And were you telling Mr. Brooker or not that you had
3 the sequence wrong?

4 A That was not there, sir, that was about the -- not
5 about the text message. I'm sorry, sir.

6 Q That's okay. What does that say?

7 A It says she said that we needed to go to Stacy's
8 house and talk things out and then I had inserted what I
9 stated a minute ago and that Chad was not there.

10 Q Is that from the text or from her telling you that?

11 A That was from the text because she didn't talk to
12 me -- at least -- about the ride. I hollered about the
13 rides but not about anything else.

14 Q Tell us again when she got there, she went straight
15 to where?

16 A Straight to Blake.

17 Q And did you stay and listen to them fuss?

18 A No, sir, I heard a lot of bickering that day.

19 Q Is that where you said that you had enough of it and
20 you went upstairs?

21 A I didn't want any part in it.

22 Q You wanted to get away from it. That was the origin
23 you didn't want any part in that?

24 A Yes, sir.

25 Q So you didn't talk to her about that, did you?

1 A No, sir. I think that I just included -- it was
2 right after it happened and I forgot to put it before, so
3 I just wrote it. I was just writing.

4 Q In between fitting it in?

5 A Yes, sir.

6 Q Okay. And this was right after you seen Blake
7 killed?

8 A Yes, sir, I didn't understand that somebody would
9 come to me and I would have to explain it.

10 Q Get all the chronology, right?

11 A Yes, sir.

12 Q So that chronology is not completely accurately?

13 A Right, that's just the facts that were there.

14 Q Now, you didn't talk to her really before y'all left,
15 have a conversation with her before y'all left chasing
16 Blake, did you?

17 A No, sir.

18 Q Did she ever tell you or did you ever tell her that I
19 got a text from y'all saying that Chad wasn't there?

20 A No, sir, I never said that.

21 Q When she came to your house to talk to Blake, did she
22 ever tell you Chad wasn't there?

23 A No, sir.

24 Q Not until ---

25 A I just assume ---

1 Q Not until you were almost there?

2 A Yes, sir, not until we were almost there.

3 Q Okay.

4 MR. CLEMENTS: Beg the Court's indulgence one
5 moment.

6 (WHEREUPON, a pause in the proceedings.)

7 MR. CLEMENTS: Thank you, Matt.

8 THE COURT: Any further recross?

9 MR. BROOKER: Just very briefly on these points
10 that was just raised by the prosecutor.

11 RECROSS-EXAMINATION

12 BY MR. BROOKER:

13 Q Now, when you were talking about -- I think when you
14 were asked questions in reference to the gun and I think
15 Mr. Clements said that he reached out. When the shooting
16 took place, did -- was Chad stand directly up? Was he
17 standing upright like I am right now?

18 A Yes, sir, he was moving towards the car.

19 Q Okay. But he was on his feet, he wasn't laying on
20 the ground or anything like that?

21 A Not at all.

22 Q Okay. And I think your testimony was when
23 Mr. Clements asked you is that he raised his hand straight
24 up and shot the gun; is that correct?

25 A From where he had it straight up shot.

1 Q He raised it straight up and shot?

2 A Yes, sir.

3 Q Okay. Now, just one more question in reference to
4 what Mr. Clements just asked and then we'll put this to
5 bed and that is about that statement. Now, that statement
6 reads and you can refresh your memory. It's been State's
7 Exhibit 57 for identification purposes. And you were
8 asked about that statement and that statement reads --
9 we'll read it out and just let the jury make it's own
10 decision. But your statement reads she says -- Logan
11 ended up coming -- calling me back and said that she was
12 coming to my house. She came and she went directly to my
13 car in which Blake was sitting and they started fusing.
14 And she said that we needed to go to Stacy's house and
15 talk things out and that Chad was not there. And I told
16 Logan that I would ride with her and that Blake and Ethan
17 and Mary was going together. That was all in sequence did
18 I read that not correctly?

19 A You read it correctly, sir.

20 Q You didn't mention anything about an e-mail or text
21 message or Facebook?

22 A No, sir, but that's what she said, so that's why I
23 put that.

24 Q But your statement says that she came, right?

25 A Yes.

1 Q And your statement suggest and says that she made
2 those statements while she was standing at the car with
3 you and Blake whether that's true or not; is it true?

4 A May I read it one more time, sir?

5 Q Yes, sir, you may.

6 A Sir, it seems that everything's in order except for
7 that. She didn't tell that then. She text it to me and I
8 think that I was including because I didn't put it
9 previously and I realized it was important.

10 Q But you didn't mention text; is that correct?

11 A I did not mention the word text, no, sir.

12 Q Or Facebook?

13 A No, sir, not in this statement.

14 Q And I'll ask you one more question and I'm going to
15 sit down. When I read that statement to the jury, did I
16 read it correctly just a minute ago?

17 A You read what I had written, yes, sir.

18 Q Correctly -- that's what I'm talking about. I read
19 correctly what's written on your statement page; is that
20 correct?

21 A Yes, sir.

22 MR. BROOKER: Thank you. No further questions.

23 THE COURT: Sir, you may step down. Thank you.

24 (WHEREUPON, the witness leaves the witness
25 stand.)

1 THE COURT: Ladies and gentlemen, we're going to
2 take a break right now. I'm going to let you go to the
3 jury room. Do not discuss the case. I'll get you back
4 out here as quickly as possible.

5 (WHEREUPON, the jury retire to the jury room.)

6 THE COURT: We'll stand down for a few minutes.

7 (WHEREUPON, a break was taken.)

8 THE COURT: Anything from the State before I
9 bring the jury back out?

10 MR. CLEMENTS: No, Your Honor.

11 THE COURT: Defense counsel.

12 MR. BROOKER: No, sir.

13 THE COURT: Bring the jury please, sir.

14 (WHEREUPON, the jury came into open court.)

15 THE COURT: All the jurors are present.

16 Mr. Clements, you're recognized call your next
17 witness please.

18 MR. CLEMENTS: Thank you, Your Honor. We call
19 Ms. Stacy Fowler.

20 THE CLERK: Place your left hand on the Bible
21 and raise your right hand. Do you solemnly swear or
22 affirm the evidence you're about to give in the trial of
23 this case shall be the truth, the whole truth and nothing
24 but the truth so help you God?

25 THE WITNESS: Yes, ma'am.

1 THE CLERK: Have a seat in the witness box.

2 WHEREUPON,

3 Stacy Fowler,

4 after first having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. CLEMENTS:

7 Q Good afternoon.

8 A Good afternoon.

9 Q Can you please tell this jury who you are and tell
10 them where you live?

11 A My name is Stacy Fowler and I live in Scotch
12 Community on Ard Drive.

13 Q Now, if you would -- you soft spoken get close to
14 that microphone, get your voice up, maybe scoot your chair
15 up a little bit.

16 A Yes, sir.

17 Q All right. You say you live on Ard Drive in the
18 Scotch Community?

19 A Yes, sir.

20 Q All right. Do you know Chad Strickland?

21 A Yes, sir.

22 Q And how long have you known Chad Strickland?

23 A I've known him since I was in about -- actually known
24 him most of my life I known of him.

25 Q Okay. And you say you known him most of your life.

1 Have y'all had a relationship together?

2 A Yes, sir, we have six-year-old daughter together.

3 Q And you had a relationship together that went on for
4 how long?

5 A About seven years.

6 Q Now, do you have a daughter by him that is how old
7 now?

8 A She's now six.

9 Q How old was she at the time of this event on November
10 of 2012?

11 A She was three years old.

12 Q Do you know Logan Ratley?

13 A Yes, sir, I do.

14 Q How long had you known Logan prior to 2012 November?

15 A I got to know her the summer before. I knew of her,
16 but I didn't really know her know her until then.

17 Q Y'all got to be friends sometime before November?

18 A Yes, sir.

19 Q Okay. Were you hanging out with her off and on
20 October and November?

21 A Yes, sir, she had actually been staying with me and
22 Blake for a couple of weeks.

23 Q Now, do you know Matt Lane?

24 A I know Matt Lane now, but then I didn't -- I knew of
25 him only reason -- I just knew that Blake had a four

1 wheeler of his, but other than that, I didn't know him.

2 Q Okay. When was the first time you met Matt Lane?

3 A The first time would have been November 3rd, which
4 was the day before the shooting happened.

5 Q And the shooting happened just after midnight?

6 A Yes, sir.

7 Q On the 4th?

8 A Yes, sir.

9 Q Do you know Ethan Allen?

10 A Ethan Allen I've actually known of my whole life. We
11 actually have never -- I mean, I don't have any hate
12 towards him or anything. We've never had actually a
13 friendship, but as far as speaking, we talk to each other.

14 Q Did Ethan Allen ever come to your house at nighttime
15 of November 3rd into November 4th?

16 A To my knowledge, Ethan Allen has never been to my
17 house.

18 Q Okay. Now, you knew Blake Dozier?

19 A Yes, sir.

20 Q How long had you known Blake Dozier?

21 A I had known Blake my whole life too because we went
22 to school together, but Blake and I actually had a
23 relationship we were living together.

24 Q Okay. And y'all in November of 2012 y'all had been
25 dating for how long?

1 A We been dating for approximately between six to seven
2 months.

3 Q And y'all been living together for how long?

4 A We been living together for about three months.

5 Q Three months?

6 A Yes, sir.

7 Q And were you pregnant in November of 2012?

8 A Yes, sir, I was five months pregnant -- between four
9 and half to five months.

10 Q Okay. Now, the night of November the 3rd --
11 November 2nd who stayed with you at your home on Ard
12 Drive?

13 A Blake Dozier.

14 Q Who else?

15 A My daughter Kayle Strickland and my mother. My
16 mother spent the night with us the night before the
17 shooting because her boyfriend was out of town and she
18 didn't want to stay by herself.

19 Q Okay. What about Logan Ratley she ever spend the
20 night with you?

21 A She has spent the night with us, but she didn't spend
22 the night that night. I can't recall why. It wasn't
23 because anything happened, but I think she may have stayed
24 with her friend Mandy Huggins.

25 Q I'm going to ask you if you would to identify

1 something for us. I'm going to show you State's Exhibit
2 Number 3. Can you recognize that or not?

3 A Yes, sir.

4 Q Okay. And what is that a view of?

5 A That's a view of Scotch Community Road right here and
6 then you can turn off right here onto Ard Drive.

7 Q All right. And where do you live, is it there?

8 A The last one shown on the right-hand side.

9 Q That one right there?

10 A Yes, sir.

11 Q Okay. And what do you have on either side of your
12 house?

13 A On this side of my house is actually a residence, but
14 there's trees there.

15 Q This side right here?

16 A This side right here is a residence, but there's also
17 a fence between our house.

18 Q And some trees?

19 A Yes, sir. And then on the far side is actually a
20 vacant lot, which they do cut the grass in the middle of
21 that lot, but down along the sides and along the far side
22 of it is actually grown up trees and weeds and stuff.

23 Q And shrubs?

24 A Yes, sir.

25 Q Okay. I would like to show you State's Exhibit

1 Number 4. Can you recognize that?

2 A Yes, sir.

3 Q And what is this road right here?

4 A That's Ard Drive.

5 Q Whose house is that?

6 A Mine.

7 Q And what are these areas right here?

8 A This is a vacant lot. This all the way down is trees
9 and shrubbery and stuff like that and also this. This is
10 actually the backyard of this residence which faces the
11 back of the road and then this is the residence of Vickie
12 Hernandez.

13 Q Okay. I want to show you some photographs and get
14 you to identify those for us if you will if you can.
15 State's Exhibit 18 do you know what that is and can you
16 tell us what that is?

17 A Yes, sir.

18 Q And I'm sorry I have to do this. What is that?

19 A That's Blake's body.

20 Q And where is it located, what yard is that?

21 A That's in my yard beside the car that he was driving.

22 Q And what is that right there?

23 A That's my front porch.

24 Q What's down the side along here down the side of your
25 yard?

- 1 A Trees.
- 2 Q Okay. And what else?
- 3 A On which side?
- 4 Q If you come out your steps on the left side?
- 5 A On the left over here?
- 6 Q Yes, sir -- yes, ma'am.
- 7 A That's a fence and trees.
- 8 Q And trees?
- 9 A Yes, sir.
- 10 Q Okay. State's Exhibit 29 can you identify that for
- 11 us?
- 12 A That's the front of my house, the back of Matt's car
- 13 and Blake.
- 14 Q Okay. State's Exhibit 26 what's the residence there?
- 15 A That's my house on Ard Drive.
- 16 Q And what is -- and over on this area on this side of
- 17 your yard down the property line?
- 18 A That's grown up trees and bushes.
- 19 Q All right. And whose car is that do you know?
- 20 A That's Matt's car with Blake's hat on top of it.
- 21 Q Okay. And I don't know if you can identify this or
- 22 not, but this is State's Exhibit 54. Do you recognize
- 23 that or anything in that picture?
- 24 A That's the grown up lot beside my house and the end
- 25 of my house that's taken from Vickie Hernandez's porch.

1 Q Okay. You been to Vickie's porch or house before?

2 A Yes, sir.

3 Q Okay. Is that normally how this looks?

4 A Everything on that lot was actually pretty much dead
5 then. It wasn't green like it usually is.

6 Q Okay. So when it's not in the wintertime it's green?

7 A It's green, uh-huh.

8 Q Okay. I just got two more photos to show you. Show
9 you State's Exhibit 28 do you recognize that?

10 A Yes, sir, that's Blake's feet inside where he stepped
11 out the car and fell to the ground inside the car door.

12 Q And that's a view from which area?

13 A From like standing at my porch from -- it's actually
14 kind of from the side at an angle.

15 Q And your porch was at an angle from the car?

16 A Yes, sir, you couldn't walk directly off of my porch
17 straight to the car. You would have had to kind of walk
18 kind of towards the left.

19 Q Okay. And that's what this picture depicts?

20 A Yes, sir.

21 Q State's Exhibit 28. State's Exhibit 27 can you
22 identify that and tell us what's shown there?

23 A That's the back of Matt's car with the door open and
24 Blake laying beside down the car like inside the car door.

25 Q Okay. And what's back here?

- 1 A My house and my porch.
- 2 Q And does your porch have a porch light?
- 3 A Yes, sir.
- 4 Q Is it on?
- 5 A Yes, sir.
- 6 Q Okay. Stacy ---
- 7 A Yes, sir.
- 8 Q There's a lot of back and forth the day before, but I
- 9 want to concentrate more on what's important here of what
- 10 happened when you and Chad and Blake were all at your
- 11 house at the same time.
- 12 A Okay.
- 13 Q And all the preliminary stuff I'm just going to go a
- 14 little bit into that.
- 15 A Yes, sir.
- 16 Q If you can tell me were you and Blake getting along?
- 17 A Me and Blake had been having rough time -- I mean,
- 18 most relationships have their arguments, but as far as
- 19 getting along at the time of his death, yes, we were
- 20 getting along.
- 21 Q Had y'all had an argument that day?
- 22 A That day, yes, sir, we had.
- 23 Q Okay. Was there a reason for that argument or
- 24 several reasons for that argument?
- 25 A Well, there was a couple reasons for that argument.

1 Q What were they?

2 A Well, he didn't -- he had said that day that if Chad
3 couldn't man up and be a daddy that wasn't -- that I
4 wasn't going to be around him like that anymore. That if
5 he could either get Kayle every other weekend on his own
6 time or he didn't have -- Blake wasn't saying that he
7 couldn't see Kayle. Blake just said that I wasn't going
8 to be with Chad by myself anymore without him around.

9 Q Okay. And so Chad was seeing Kayle and you would be
10 with them?

11 A Only that day not -- this isn't something that
12 happened all the time just that day because -- well, I
13 think Chad had Kayle earlier, but then I can't remember --
14 Kayle wanted to go and eat pizza, but Chad didn't have a
15 way to take her, so I took them to take her to eat.

16 Q In whose vehicle?

17 A My grandmother's.

18 Q Okay. And had y'all talked about going to Chuck E.
19 Cheese?

20 A Chad was actually suppose to take Kayle to Chuck E.
21 Cheese the next day.

22 Q Okay. And y'all went where?

23 A We just went to Pizza Hut.

24 Q Okay. And then you went back home and spent time
25 with Kayle and Chad?

1 A I think we may have went to my house first because I
2 had -- because Kayle had been at Chad's house and I had to
3 wash Kayle and get her dressed before I would take her to
4 a restaurant.

5 Q And this may be unpleasant, but we got to know about
6 this.

7 A Right.

8 Q What happened between you and Chad that day?

9 A That's actually why Blake and I had been arguing
10 because I told Blake -- I was woman enough to tell Blake
11 that me and Chad had actually been together that day and I
12 told Blake about it. And, of course, Blake was mad and
13 Blake said, well, did you let him know that you were
14 pregnant. At that time I didn't tell him that I was
15 pregnant. I just didn't think it was necessary for me to
16 go out of my way and let him know that me and Blake were
17 going to have a baby because it really wasn't any of his
18 business.

19 Q You said he you talking about Chad?

20 A Chad, right, because we -- I mean, I didn't think it
21 was necessary for me to have to tell him everything that
22 was going on in my life because very rarely did we ever
23 even talk to him.

24 Q Okay. But you still wanted him to be involved for
25 Kayle's sake?

1 A Right, of course, I still wanted him to be -- I mean,
2 regardless he's Kayle's daddy.

3 Q All right. But when you said y'all were together
4 that day, tell this jury really what you mean by being
5 together?

6 A We actually had sexual relations that day and let I
7 Blake know. It was to his knowledge. It wasn't something
8 that I didn't tell him and, you know, people have rough
9 times and they make mistakes. I'm sure there's a lot of
10 people in this courtroom that have done it.

11 Q Well, that's -- we're more concern here with what
12 ended up causing this situation.

13 A Well, when I told Blake, Blake was upset about it.
14 Of course, any man's going to be and that's when Blake
15 said, well, today was his last day at our house. If he
16 can't be a man and get his child on his own, then that's
17 his own problem. He never said he couldn't get her
18 because I mean he didn't do that.

19 Q How did Blake treat Kayle?

20 A Blake treated Kayle like she was his own. Blake
21 worked and took care of Kayle.

22 Q All right. Well, I got to ask you a question as a
23 man, okay. Why would you do that with Chad?

24 A I guess for the fact of wanting him to be there for
25 Kayle. And Blake and I had been arguing, I guess.

1 There's really no excuse for it. I mean, I could tell you
2 any excuse in the book, but it's not going to make
3 anything better. So I'm not going to try to make an
4 excuse for it.

5 Q Who initiated it you or Chad?

6 A He did.

7 Q Did you want to get back with Chad?

8 A No, I wanted him to be Kayle's daddy. He was Kayle's
9 daddy, but as being physically there for Kayle, he was
10 not. He was about his bar life and any of his friends
11 wouldn't tell you, but if truthful, they could tell you
12 that.

13 Q Well, did you want to break up with Blake?

14 A No.

15 Q Had you told Blake a couple weeks earlier to leave,
16 to get out?

17 A A couple of weeks -- I want to say it was a couple of
18 weeks prior to that he actually went and spent the night
19 at his parent's house because Blake was -- I mean, I was
20 pregnant, of course -- even before I was pregnant, he
21 wasn't going to fuss at me or with me, so he went and
22 spent the night with -- I can't remember if it was that
23 week or the week before.

24 Q But he came back?

25 A Yes, sir, he was back.

1 Q All right. Were you here in the courtroom when we
2 did opening statements?

3 A Yes, sir.

4 Q All right. And you heard me give opening statement
5 and Mr. Brooker give opening statement?

6 A Yes, sir.

7 Q All right. And there's a lot of things I want to ask
8 you about it. You tell me whether they're true or not and
9 give me your perspective on them, okay.

10 A Yes, sir.

11 Q Did you still have feelings and affection for Chad?

12 A Affection, no. He was my child's father. We were
13 together seven years, so I'm not going to say at the time
14 that I hated him at the time I say. I didn't hate him
15 then.

16 Q You didn't hate him then?

17 A No.

18 Q All right. Were y'all intimate other than that day?

19 A No, sir.

20 Q So was Chad always in the picture?

21 A No, sir, because very rarely would he even answer the
22 phone for Kayle.

23 Q Was Chad and you sexually involved still other than
24 that day?

25 A No, sir, other than the time that I told Blake about

1 it.

2 Q And that was something new, that hadn't been going on
3 behind Blake's back?

4 A No, sir, that was the only time I had actually been
5 around Chad probably since we separated.

6 Q Did you know that Chad carried a gun?

7 A No, sir.

8 Q Did you know that Chad always carried a gun?

9 A No, sir, Chad didn't always carry a gun.

10 Q Did you know that day when he was at your house
11 either earlier that day or when he came back with you and
12 Logan, did you know he had a gun on him?

13 A No, sir.

14 Q If you'd a known he had a gun on him at your
15 residence, would you have allowed that or not?

16 A No, sir, and he knows that.

17 Q He knows that?

18 A Yes, sir, because he knows I never ever allowed any
19 guns around my children or my child. I only had Kayle
20 then.

21 Q Now, when y'all left and went to the mud bog, that
22 was you and who?

23 A That was me and Logan. We took Kayle by my
24 grandmother's house.

25 Q Did you have to go back and get her?

1 A Yes, sir, I don't think Logan went with me. I think
2 I went back by myself and picked up Kayle and then I went
3 straight back to the mud bog.

4 Q Did you then go to the mud bog?

5 A Yes, sir.

6 Q You stayed there long?

7 A I can't really recall exactly how long we were there,
8 but I know it wasn't a long time. Maybe, a couple of
9 hours.

10 Q Why did you leave?

11 A I got a text message from Blake. Blake text me and
12 he said -- I can't tell you for sure word for word, but
13 I'm pretty sure that it said I found out Chad's at the
14 Game Changer and I'm gone mess things up.

15 Q All right. And was there any kind of Facebook status
16 or anything that you were familiar with yes or no?

17 A I never -- I didn't really get on Facebook then.

18 Q Okay. All right. So after you talked to Blake found
19 out he was going to the Game Changer, did you talk to
20 Chad?

21 A Actually, I didn't talk to Blake. Blake actually
22 sent me a text message and told me that. And then I
23 called Blake and I called him over and over and he
24 wouldn't answer the phone. And I didn't know what was
25 going on because I didn't have any knowledge of them even

1 arguing or anything. So then I called Chad and Chad
2 answered the phone and I asked him where he was and he
3 said at the Game Changer. He ask me -- he said where is
4 your boyfriend and I said I don't know that's why I'm
5 calling. And he told me that -- and I don't know this for
6 sure, but Chad told me that Blake called there and asked
7 was he there.

8 Q All right. So what did you do?

9 A Well, I never could get Blake to answer the phone.
10 Finally, he did answer the phone. I was almost at the
11 Game Changer and I said Blake where are you and he said
12 I'm at Bill Strickland's. And he said where is Chad and I
13 said -- I told him I didn't know because I wasn't going to
14 tell Blake, well, he's at the Game Changer because I
15 didn't want -- I didn't want them to fight.

16 Q Blake already been by Game Changer, hadn't he?

17 A Then I didn't know. I didn't have any knowledge he
18 had been there or not. Chad had told me that he called --
19 that Blake called the Game Changer looking for him.

20 Q Did y'all pick Chad up?

21 A Yes, sir.

22 Q All right. Where did y'all pick him up from?

23 A Game Changer.

24 Q And when you picked him up who drove?

25 A Chad.

1 Q Where did he go?

2 A We left Game Changer and we went straight to Chad's
3 house. Chad said he had to go home and I remember him
4 saying he had to go home and get his money because he said
5 he didn't have much on him or something. I didn't think
6 at the time -- nothing dawned on me about why he needed
7 money, but then I'm pretty sure he come out with his coat
8 on too.

9 Q Do you know if he got anything else?

10 A I'm not sure. I didn't go in.

11 Q So y'all didn't go in the house and he wasn't in
12 there long?

13 A No, sir, he wasn't in there long at all. He run in
14 and straight back out.

15 Q Did you know when you picked him up from the Game
16 Changer that he was armed with a .45 automatic pistol?

17 A No, sir, not to my knowledge he wasn't. I mean, I
18 don't know for sure.

19 Q Do you know if when he went to his house whether or
20 not he armed himself with a .45 automatic pistol?

21 A I don't know. No, sir, I don't know.

22 Q Do you know when you ended up back at your house that
23 he had a .45 automatic pistol?

24 A No, sir.

25 Q All right. Now, when y'all left his house, who drove

1 then?

2 A Chad did.

3 Q And where did y'all end up going?

4 A Well, by that time Chad had actually -- Chad had
5 actually told -- I don't know if he told Blake or if he
6 told Matt that he would meet them -- that he would meet
7 Blake at Sunny Mart.

8 Q Okay. Well, let's back up. Were there a lot of
9 phone conversations and communication going back and
10 forth?

11 A Yes, sir, there was a lot of phone calls.

12 Q Back and forth?

13 A Yes, sir, back and forth.

14 Q Was your phone being used?

15 A No, sir, I actually had my phone in the backseat with
16 me.

17 Q Did it die or run batteries or anything?

18 A The battery was dying. I think that I did tell them
19 that my phone died because at one time Chad had said let
20 me hold your phone and I told him it was dead.

21 Q Okay. And so whose phone was being used?

22 A Logan's and Chad's.

23 Q Okay. And who were they communicating back and forth
24 with?

25 A With Blake and I think they ---

1 Q And Matt?

2 A They talk to Matt, I don't think they talked to him
3 but one time.

4 Q Okay. Did you ever hear Chad make any threats of any
5 sort or any boastful statements?

6 A Yes, sir, he told Blake ---

7 Q What were they?

8 A He told Blake to meet him at Sunny Mart and he would
9 whip his ass. And he told him that he would show him who
10 the real man is.

11 Q All right. Did you ever hear him say anything about
12 any other place then Sunny Mart?

13 A Well, it use to be the used car lot the kings right
14 -- if you go past Sunny Mart, it's right across the street
15 from the graveyard right in the center of the road.

16 Q You heard Chad say something about that?

17 A Shad, yes, sir.

18 Q What did he say?

19 A If you don't want to meet at Sunny Mart where all the
20 cops are, meet me there.

21 Q Okay. And did you hear him talking about him going
22 to meet them somewhere at all or not?

23 A I couldn't hear what was going on on the other end of
24 the phone, but then Chad said I'm not stupid I'm not going
25 to your house where you're at. I'm assuming he's talking

1 to Matt because Blake wasn't at his parent's house or in
2 my house.

3 Q Okay. And did he say anything about calling the law?

4 A Who?

5 Q Chad.

6 A Not that I can remember, but like I don't even
7 remember them saying that they would meet at my house to
8 fight because I know that I would have objected to that.

9 Q Okay. Now, so that was continuously going back and
10 forth. What kind of mood did that put Chad in, how was he
11 acting?

12 A Chad was mad.

13 Q Okay. And did he ever say anything to Blake about
14 what you and he did?

15 A Yeah, he did, but Blake already knew, but then Blake

16 ---

17 Q What did Chad say?

18 A He told him he said I fucked your old lady today, I'm
19 going to fuck her tonight and tomorrow. And I'm pretty
20 sure that that pissed Blake off.

21 Q Well, I can imagine. What, if anything, did Chad
22 find out about you being pregnant?

23 A Blake told him -- Blake said you may have had her
24 today, but she's pregnant with my baby.

25 Q How do you know that?

1 A Because Chad asked me.

2 Q Chad asked you after ---

3 A He asked me once we got -- once Logan left and we
4 were at my house.

5 Q Okay. And so y'all had that fusing going back and
6 forth. Did you go anywhere else or did you wind up back
7 at your house? You were driving towards Nichols; is that
8 correct?

9 A Right.

10 Q All right. Did you get to Nichols?

11 A Yes, sir, we got to Nichols. We got to right there
12 on that road -- I think it's called Pee Dee Highway maybe,
13 I think is the name of it right past that cemetery and
14 Chad stopped and I got in the driver's seat and I drove
15 straight back to my house.

16 Q Where were you going before you stopped and turned
17 around?

18 A Well, he had actually driven past the car lot where
19 he was suppose to meet Blake at because Blake wasn't going
20 there.

21 Q But was there anywhere else y'all were supposed to be
22 going to?

23 A Not to my knowledge I can't remember.

24 Q Who was driving?

25 A Chad was driving then, but once I got in the driver's

1 seat, we went straight to my house.

2 Q So he stopped. Did he tell you why he stopped?

3 A I'm not gone say for certain, but I remember ---

4 Q I don't want you to guess only if you know.

5 A Okay. I'm not sure. We just traded drivers and I
6 drove home.

7 Q All right. Did you drive straight to your house?

8 A Yes, sir.

9 Q And whose vehicle were y'all ride in?

10 A Logan's.

11 Q What type of vehicle was that and what color is it?

12 A It was a black Ford Explorer.

13 Q And you went to your house and pulled up in the yard.
14 Was anyone there?

15 A No, sir.

16 Q All right. Did everyone go in?

17 A Yes, sir.

18 Q And who was everyone that was there with you in the
19 vehicle?

20 A Me, Logan, Chad and Kayle.

21 Q Now, Logan went in the house as well?

22 A Yes, sir.

23 Q Okay. What did y'all do when you got in the house?

24 A I sit down on the couch. I had Kayle in my arms.

25 Logan come in because her phone was actually going dead.

1 She charged it for not very long at all and she had to use
2 the bathroom.

3 Q Did Chad have her phone at all that you saw him with?

4 A When we were inside the house?

5 Q At any time while y'all were riding around or any
6 time?

7 A Yes, sir, I seen Chad with her phone. He actually
8 talked to Blake on Logan's phone.

9 Q Did you see him making any text?

10 A I didn't see it with my own eyes, but I'm not gone
11 say that it didn't happen because I'm not for sure.

12 Q Okay.

13 A Because I was mad at that point too because I was
14 ready for them to stop fusing.

15 Q All right. And so Logan plugged up her phone and
16 charged it. Did she do anything else?

17 A She went to the bathroom. She only left it plugged
18 up long enough to go to the bathroom, which is right down
19 the hallway and right back out.

20 Q Okay. So she left?

21 A Yes, sir.

22 Q Did you know where she was going or not?

23 A No, I really don't know where she was going. I
24 thought that she said she was going to Mandy's. She may
25 not have said that.

1 Q Just what you assumed?

2 A Right.

3 Q Okay. What was the next -- well, after she left,
4 what did you and Chad do?

5 A Chad then got Kayle. Chad was sitting in the
6 recliner in my house. He got Kayle and he was rocking her
7 to sleep.

8 Q Okay. Did y'all ever get her down to sleep?

9 A Yes, sir, he actually -- she had just went to sleep
10 whenever Logan called me.

11 Q So Logan called you and what did she tell you?

12 A She said Blake's on the way and I said what's wrong
13 -- I said, why, is something wrong and she said I don't
14 know, but he's mad. I said, well, there's not going to be
15 any fusing because I'll call the law.

16 Q Okay.

17 A And by that time I walked onto the front porch.

18 Q All right. Did Chad know about that conversation,
19 did you tell him Blake was coming?

20 A I -- well, when I went to -- I don't remember if I
21 told him or if he just -- yeah, he knew Blake was coming.

22 Q All right.

23 A I probably even heard Logan say Blake's on the way.

24 Q And what did you do?

25 A I got up and went to walk on the porch and Chad laid

1 Kayle down on the couch and I told ---

2 Q Was she asleep?

3 A She was asleep. By the time, I got onto the porch I
4 seen the headlights coming down the dirt road. And I
5 didn't know right then who it was, but I assumed it was
6 Blake. Then he come in the driveway and I told Chad stay
7 on the porch, don't come off the porch just let me handle
8 it.

9 Q Now, when Chad was on the porch with you, did he
10 respond to you when you said stay on the porch?

11 A No, sir, I don't remember him saying anything.

12 Q All right. And when Blake pulled up in with the car,
13 did he pull straight in where the headlights were at at
14 the porch or did he pull in where the headlights were at
15 at the porch or did he pull in where the headlights were
16 this way towards your trailer or did he pull in where the
17 headlights were this way this end of your trailer?

18 A They would have been shining kind of past my house
19 because my driveway goes all the way through to the back,
20 so it's a dirt driveway. So he just pulled straight into
21 the driveway with the headlights shining toward the end of
22 the house.

23 Q At the right end of the house?

24 A Right end.

25 Q Okay. All right. And he stopped the car?

- 1 A Yes, sir.
- 2 Q Was the radio on or not or do you know?
- 3 A Yes, sir, a radio was probably wide open.
- 4 Q What kind of music was coming on there?
- 5 A I don't even know what it was. I really couldn't
- 6 understand.
- 7 Q Rock, rap, what?
- 8 A It was rap.
- 9 Q How quickly did you get to the car?
- 10 A I got to the car before Blake could even get his door
- 11 open all the way. I was already -- I went down the porch
- 12 and went straight to the car.
- 13 Q All right. Where was Chad during this time?
- 14 A On the porch to my knowledge.
- 15 Q Okay. And so you don't know if he was coming behind
- 16 you or not?
- 17 A To my knowledge, I don't know if he was coming behind
- 18 me or not because I was focused on Blake and what was
- 19 wrong. I didn't know.
- 20 Q Did you feel like you needed to intervene so it
- 21 wouldn't be trouble?
- 22 A Yes, sir.
- 23 Q When you got to the car was Blake in or out or
- 24 getting out?
- 25 A Blake was getting ready to get out the car.

1 Q Okay. And he opened the door all the way?

2 A He didn't even have the door open all the way and I
3 was -- when I started -- I told him I said we're not
4 fusing up here, Blake, Kayle's in the house. And he
5 didn't say anything.

6 Q He didn't say anything?

7 A He didn't have time to say anything. As I was
8 talking to him, he was going to finish opening the door up
9 and he stood up ---

10 Q Did he have a hat on?

11 A He did when he went to get out the car because he's
12 blind in his left eye. He actually -- the top of the
13 car -- his hat was always kind of cocked side ways. The
14 top of the car hit his hat and knocked it and he caught
15 his hat and threw it on top of the car.

16 Q Now, did another vehicle come up?

17 A Yes, sir.

18 Q Was it a white SUV?

19 A No, sir.

20 Q What kind of vehicle was it?

21 A It was a black Ford Explorer.

22 Q And was it a car that you recognized?

23 A Yes, sir, it was Logan.

24 Q All right. And was anybody in the car with Logan?

25 A Matt Lane.

1 Q How could you tell?

2 A Because when I was standing at -- where Blake was at.
3 I was standing at the car he was in when they pulled up
4 and I seen Matt. I'm pretty sure the interior light was
5 working because Logan went to open her door and the light
6 come on and I seen Matt.

7 Q All right. And what did you say when you saw Matt?

8 A Get him the hell out my yard.

9 Q Why?

10 A Because I didn't -- I was where Blake was at and
11 Blake seem to be calm and I thought Chad was on the porch.
12 So I didn't really know Matt like that, so I didn't know
13 if he was coming up there to try to -- I'm not saying that
14 he did now because he didn't say anything, but I didn't
15 know if he was coming up there thinking that there was
16 going be a fight and was going to say anything, but he
17 never said anything.

18 Q Did he ever get out the car?

19 A No, sir.

20 Q And you had just met Matt that day?

21 A Earlier that day I had met Matt.

22 Q Okay. Now, when you told Logan get him out of your
23 yard, do you know where Chad was at that time?

24 A At that time I still thought he was on the porch, but
25 everything happened so fast apparently ---

1 Q Let's go bit by bit with this. I want to jump from
2 you a minute and jump to another vehicle. All right. As
3 far as you knew Chad was still on the porch?

4 A Yes, sir.

5 Q You told Logan to get him out the yard. Did she stay
6 in the yard or did she close the door or what exactly
7 happened?

8 A Well, I don't even remember if she got her door all
9 the way open, but if she did, she closed it because she
10 put her car in reverse. I do remember that.

11 Q Okay. And then what happened next?

12 A She went to back out of the yard. And I don't know
13 if her head was turned or not, but I know that she -- her
14 car was in reverse.

15 Q Car started moving backwards?

16 A Right. But it had barely just -- was barely moving
17 backwards. She had just gotten it in reverse and then the
18 gunshot went off.

19 Q A gunshot went off. Where was the gunshot -- well,
20 first let me stop right here. The door on the car was
21 open, right, like it's shown in the pictures that are in
22 evidence?

23 A Yes, sir.

24 Q And if the door was open like this, it be kind of at
25 an angle because it doesn't go all the way 90 degrees on a

1 car door, does it?

2 A Right, yes, sir.

3 Q Can you step where you thought or where you say Blake
4 was and the door would still be going this way?

5 A Blake was probably right -- well, about right here
6 because he had just gotten out of the car ---

7 Q Okay.

8 A --- just gotten out good.

9 Q And where were you were you here with the door in
10 between or were you here or where were you recall being?

11 A I don't remember if I was inside of the door or --
12 I'm pretty sure, I was inside of the door standing
13 directly -- me and Blake were really close.

14 Q So you were right about here?

15 A I was probably closer to Blake than you are to me.

16 Q Okay. And what happened next what did you hear?

17 A The gun went off and Blake fell.

18 Q All right. And where did the gun go off?

19 A Past the left side of my head.

20 Q Past here?

21 A Uh-huh.

22 Q Could you hear it good -- I mean, did you hear it
23 sounded like it was right there?

24 A Yes, sir.

25 Q Could you feel the vibrations?

1 A I could feel the vibrations off of the gun.

2 Q And how loud was it?

3 A It was very loud.

4 Q All right. And did you see whether Blake had a
5 chance to move his head or not, do you know?

6 A Before he was shot?

7 Q As he was shot?

8 A I don't think Blake ever moved. I don't think he
9 moved his head at all. I mean because he was actually
10 looking at me. He was blind in his left eye, so if it was
11 from that side, then he never seen Chad.

12 Q But he came by you this way?

13 A Right here.

14 Q And he got hit about here?

15 A Right about here.

16 Q Okay. All right. You can have a seat there. Did
17 Blake fall right where he stood?

18 A Yes, sir.

19 Q Where did he end up, where did his head end up?

20 A The back of his head was facing the back tire and he
21 was laying on his side.

22 Q Okay. Was he right where this is depicted here on
23 State's 27 and State's 28, he was covered up with a sheet
24 is that where he lay -- is that where he fell?

25 A Yes, sir, he was standing up like -- his head would

1 have been like right here inside that door.

2 Q And this police vehicle in this picture on State's
3 Exhibit 28 was Logan's car closer or not?

4 A It was probably closer then that.

5 Q Logan's car was closer than this police vehicle was
6 in this picture?

7 A Yes, sir.

8 Q And I'm sorry you know we got to do this.

9 A Yes, sir.

10 Q I want to show you State's Exhibit Number 5. Does
11 that accurately depict the result of that shot?

12 A Yes, sir.

13 Q Is that a, yes, ma'am?

14 A Yes, sir.

15 Q Did Blake ever get out and walk around that door and
16 stumble around like he was drunk or anything of that
17 nature?

18 A No, sir, Blake never had time to.

19 Q Was Blake ever yelling and screaming?

20 A No, sir.

21 Q Being outrageous?

22 A No, sir.

23 Q Now, the shot was fired. He hit the ground and what
24 did Logan's vehicle do?

25 A She left the yard spinning on the dirt road.

1 Q Speeding out?

2 A Uh-huh, yes, sir.

3 Q When that happened, what did you say, if anything?

4 Tell this jury what you told Chad?

5 A I can remember saying Chad what the hell did you do.

6 Q You sure that was the right cuss word?

7 A No, I think I said what the fuck.

8 Q What did Chad say to you?

9 A He looked at me and he said fuck it the mother fucker
10 is dead call the law.

11 Q So you didn't ever hug his neck and say Chad what are
12 we going to do now?

13 A No, I didn't, I never approached him.

14 Q You didn't push him or anything of that nature?

15 A That could have happened, but I don't really
16 remember.

17 Q When you heard the shot go off by the left side of
18 your head, did it feel like it went off right there or was
19 it back away from you?

20 A It actually felt like it was right beside my head.

21 Q Okay. And did you turn around immediately or did you
22 watch Blake fall?

23 A I was in shock. I just stared at Blake and then
24 looked to my right. And when I looked to my right Chad
25 was standing there or to my right kind of behind me.

1 Q And he backed away or you don't know where he was
2 when he shot?

3 A I don't know exactly where he was.

4 Q Okay. So he said F it the MF was dead call the law?

5 A Yes, sir, that was his exact words.

6 Q And then what did he do?

7 A He left running.

8 Q Which direction did he leave running?

9 A To the left, he went out my driveway to the left.

10 Q Did you see him go out your driveway all the way?

11 A No, because I run in the house to my child.

12 Q Did you know where he went?

13 A I had no clue where he went.

14 Q How did you feel were you afraid or not?

15 A I was scared because I had just watch him shoot
16 somebody and I didn't know what he was capable of. I
17 really didn't know at that time.

18 Q Did you hear him holler something at the car or did
19 you even take that in?

20 A At what car?

21 Q At Logan's car.

22 A I didn't really pay any attention. My concern was
23 Blake.

24 Q So you don't know whether he yelled something at them
25 or not?

1 A I don't know.

2 Q All right. Did he ever threaten you?

3 A I know he told me that I haven't seen him.

4 Q That you hadn't seen him?

5 A Yes, sir.

6 Q Okay. All right. So you went in the house and
7 checked on your daughter?

8 A I went in the house and I locked the door. I closed
9 the door and locked it. Well, I was already on the phone
10 calling 9-1-1 by that time and I went in and got my
11 daughter.

12 Q Okay. When you called 9-1-1 -- when you called
13 9-1-1, did you give them an account of what happened?

14 A I told them what happened and I didn't tell them who
15 done -- I didn't tell them who done anything.

16 Q Did you tell them all the correct facts?

17 A No, I didn't.

18 Q Do you remember what you told them?

19 A Yes, sir, I remember.

20 Q And it wasn't correct?

21 A No, sir, because I didn't want them to know who done
22 anything.

23 Q Why?

24 A Because I was scared and I was concerned about -- at
25 that moment I really wasn't concerned about me, I was

1 concerned about my three-year-old daughter that was there
2 and I didn't know where he went. I mean, I wanted to
3 protect her. So I told them that my boyfriend had been
4 shot.

5 Q Did you tell them you were present when he was shot
6 or not?

7 A No, I think I told them was in the house.

8 Q All right. I'm going to show you the incident report
9 and let you refer to that and read that and see if that
10 refreshes your recollection of what you told 9-1-1?

11 A I told them I was in the house.

12 Q You told them you were inside?

13 A Yes, sir, I thought that's what I told them I just
14 wasn't sure.

15 Q Okay. And that you didn't know who did it?

16 A Yes, sir.

17 Q You say you did that because you were afraid?

18 A I was scared. At that point I really -- I mean, I
19 was pregnant and I cared what happened to me, but I was
20 more concerned about my three year old.

21 Q Why were you scared?

22 A Because I had just seen him shoot someone. And after
23 seven years, I would have never ever dreamed that.

24 Q Did you ever know Chad to carry a gun?

25 A Chad didn't even own a gun when he lived with me. At

1 one time I think he had -- it was a really really old gun
2 that probably didn't even shoot that was his -- I think
3 they said it was his great grandfather's gun and I told
4 him that I didn't want that gun in my house. And his
5 daddy got that gun back the same day as a matter of fact
6 that he had it.

7 Q Now, when this happened, did you ever see Blake swing
8 at Chad?

9 A No, sir.

10 Q Not at all?

11 A No, sir.

12 Q When he was shot, where were his hands?

13 A What you mean when he was shot?

14 Q When the shots was fired and you were close to him,
15 do you know where his hands were? Were they up, were they
16 down, by his side?

17 A They weren't in the air as in swing at somebody. I
18 can't remember exactly, but, no, he was not swinging his
19 arms at all.

20 Q Did he try to get around you at all?

21 A No, sir.

22 Q Did he take any steps whatsoever?

23 A No, sir, he didn't have time to even move.

24 Q And he didn't swing at you or push at you?

25 A No, sir.

1 Q When you called 9-1-1, did you go back outside or did
2 you stay in the house?

3 A No, sir, I stayed in the house until the cops were in
4 my yard.

5 Q And then what did you do?

6 A That's when I meet Deputy Cribb on -- once he was
7 walking up to my house, I seen him. I didn't even open my
8 door then. He stopped at Blake and then he walked up to
9 my front door and that's when I walked on the front porch.
10 I never went outside by myself.

11 Q And did you give any kind of statements to Sergeant
12 Cribb or talk to him? When I say give a statement, I
13 don't mean a written statement? Did you give him a verbal
14 or oral statement, if you remember?

15 A I don't remember even talking to him that night
16 because they actually -- he actually told me I needed to
17 go to the emergency room to be checked out because I was
18 pregnant with Blakelynn.

19 Q Did the ambulance come?

20 A Yes, sir.

21 Q And you went to the hospital?

22 A Well, I was actually in the back of the ambulance in
23 my backyard for a little while because they tested me for
24 gun powder residue before they would even let me leave my
25 house.

1 Q And who did that, what officer?

2 A James Lee.

3 Q And then you went to the hospital?

4 A Yes, sir.

5 Q Now, did any officers go with you to the hospital?

6 A Reggie Hotaling was by my bedside the whole time.

7 Q All right. When you got to the hospital, did you
8 feel safe there?

9 A No.

10 Q Why not?

11 A Because there's two entry ways to labor and delivery
12 and anybody can come in. At that time anybody could come
13 through those doors, they changed it now.

14 Q Was Reggie Hotaling was with you then?

15 A Yeah, he was with me.

16 Q All right..

17 A Well, he was in and out.

18 Q Why were you so scared?

19 A Because I didn't know -- I was in shock and I didn't
20 know -- I still didn't know where Chad was at or what. I
21 mean, there was a lot going on in my mind then.

22 Q When was the first time that you gave a written
23 statement to law enforcement?

24 A It was -- we left -- when I was discharged from the
25 hospital, it was -- I don't even know how long it was. We

1 went to the sheriff's department and that's when I did a
2 written statement, but it was very brief. It probably
3 didn't have detail at all.

4 Q Was that on November 4th at 4:14 in the morning?

5 A That's probably it.

6 Q And do you recall who you gave that statement too?

7 A It was Mr. Martin Bell and Charlie Watson. Reggie
8 may have been there too, but I remember that those are the
9 two that I actually talked to.

10 Q Do you recognize them on sight now?

11 A Yes, sir.

12 Q You see them in the courtroom?

13 A Well, I see Mr. Watson.

14 Q Okay. All right. Now, are you sure that the facts
15 on here are consistent or in chronological order or do you
16 know?

17 A There's probably stuff left out. It's probably mixed
18 up.

19 Q Why?

20 A Because I had just seen Blake get killed.

21 Q All right. And did you write this yourself or they
22 write it for you?

23 A I wrote that myself.

24 Q Okay. All right. Is there anything you can think of
25 -- you reviewed this by any chance?

1 A I couldn't tell you what that says. It's been a long
2 time.

3 Q Did you try be to completely honest on this or not?

4 A I remember that I included in that who done it. I
5 don't remember if I included -- well, it looks very short,
6 so I know that there's hardly any detail in it because I
7 know I had written a statement that was about six pages
8 long.

9 Q Okay. Do you want to look at this?

10 A If I need to.

11 MR. CLEMENTS: I want to have this marked for ID
12 since I'm going to have you identify it.

13 MR. BROOKER: Your Honor, is this going to be
14 for the purposes of refreshing her memory?

15 THE COURT: I'm not sure where he's going right
16 now.

17 (WHEREUPON, State's Exhibit No. 58 was marked
18 for identification only.)

19 BY MR. CLEMENTS:

20 Q I'm to going to show you State's Exhibit 58 for ID.
21 Do you recognize that?

22 A This doesn't even include me in picking him up from
23 the Game Changer.

24 Q But my question is is can you identify that?

25 A Yes, sir, I wrote this.

1 Q Okay. At what time?

2 A At 4:14 a.m. on November 4th.

3 Q Do you remember if you wrote this at the hospital or
4 back at your home or do you remember where you wrote this
5 at?

6 A I wrote that at the sheriff's department.

7 Q At the sheriff's department?

8 A Yes, sir.

9 Q Okay. All right. What was your state of mind and
10 emotions at that particular time?

11 A I was upset. I was worried about my daughter
12 because, I mean, she was with my mother and she was safe,
13 but I wanted her with me. And all I could think about
14 was Blake.

15 Q Did you give a subsequent statement to law
16 enforcement?

17 A Afterwards?

18 Q Yes.

19 A I give another one I think it was the -- it may have
20 been the same day that Blake was buried or either the day
21 after.

22 Q What day was he buried on do you remember?

23 A I can't remember the exact date.

24 (WHEREUPON, State's Exhibit No. 59 was marked
25 for identification only.)

1 BY MR. CLEMENTS:

2 Q Okay. I'm going to show you State's Exhibit 59 for
3 identification. Can you identify that?

4 A Yes, sir. This is the statement that I had written
5 at the drug unit in Marion.

6 Q And how many pages is that?

7 A Six pages.

8 Q And what date and time did you do that?

9 A At 12:14 p.m. on November 8th of 2012.

10 Q Okay. Have you reviewed this recently or not?

11 A Recently, I have reviewed it -- not recently I mean
12 not in the past couple of months, but I've reviewed it.

13 Q Okay. And do you recall from your review -- I'm not
14 going to ask you to read it all right now, but do you
15 think this pretty accurate or not?

16 A There's probably things mixed up in there too. I
17 mean, there may be even things left out. I mean, I
18 included a lot in that, but there's still a lot that
19 happened.

20 Q A lot more happened than six pages?

21 A Right.

22 Q Now, on 22nd of January of 2013, did you have
23 occasion to write another statement yes or no?

24 A Yes, sir.

25 Q And can you please tell this jury what those

1 circumstances were and why you wrote that statement?

2 A I wrote that statement for Thurmond Brooker. He was
3 actually going through family members of mine to contact
4 me. I didn't know who he was really. I didn't talk to
5 him directly. He was contacting my family. I hadn't
6 really spoken with law enforcement officers, so I didn't
7 know where we were at in this case. And I was actually
8 just kind of -- it was kind of pressure and I give him a
9 statement. I don't even really know what it even included
10 probably crap.

11 Q All right. Well, let me ask you ---

12 MR. CLEMENTS: If you will, I'm going to have
13 this marked for identification and ask if you can identify
14 it.

15 (WHEREUPON, State's Exhibit No. 60 was marked
16 for identification only.)

17 BY MR. CLEMENTS:

18 Q State's Exhibit 60 you recognize that?

19 A Yes, sir, that's the statement that I had written for
20 Mr. Thurmond Brooker.

21 Q And how many pages is that?

22 A Five.

23 Q All right. I want you if you will, if you will
24 review that and if you come to something in there that you
25 review that you dispute or that you say is wrong, if you

1 would tell us and correct that for us?

2 A Well, Blake didn't really look angry. He actually --
3 he looked stunned when he pulled in the yard as if
4 apparently -- I'm not saying that he didn't know, but
5 apparently he didn't know that Chad was there when he seen
6 him he kind of...

7 Q Anything else on there?

8 A Right here where it says I asked them to leave my
9 yard, I actually didn't state on here who I told to leave
10 my yard. It was -- I actually told.

11 MR. BROOKER: Your Honor, if we can probably
12 stop, I'm just going to make one ---

13 THE COURT: What's your objection and your
14 grounds?

15 MR. BROOKER: The objection is is that she is
16 reading from the statement. And, of course, she's not
17 being asked any questions. I have no problem with her
18 being asked questions in the proper way. And, of course,
19 is is that she testifies, of course, that she needs her
20 memory recollected. And, of course, there's a procedure
21 to do that but not testify from any statements because
22 that statement is not in evidence.

23 MR. CLEMENTS: May I respond, Your Honor?

24 THE COURT: Yes.

25 MR. CLEMENTS: Your Honor, what I asked her to

1 do is to review this statement if there's anything on
2 there incorrect if she tell us what was the correct thing.

3 THE COURT: Objection overruled. You may
4 continue.

5 A What was I saying?

6 Q You were saying about when you told him to leave.

7 A Oh, it doesn't even say in here who I told to leave,
8 but so that was actually left out.

9 Q Who was it you told to leave?

10 A I told Matt to get -- I told Logan to get Matt out my
11 yard.

12 Q Okay. All right.

13 A Right here where -- at that night, yes, Chad did seem
14 to be a threat to me.

15 Q All right. And you said in the statement that Chad
16 was not a threat?

17 A Right, yes, sir.

18 Q But that night you thought he was?

19 A Yes, sir, Chad had never been like that before ever.

20 Q Okay. And that's the only thing you correct on that
21 statement?

22 A Yes, sir.

23 MR. CLEMENTS: Beg the Court's indulgence.

24 THE COURT: Yes, sir.

25 (WHEREUPON, a pause in the proceedings.)

1 BY MR. CLEMENTS:

2 Q Did you see a white SUV pull up in your yard that
3 night?

4 A A white SUV didn't pull up in my yard that night.

5 Q A white SUV didn't pull up in your yard that night?

6 A No, sir.

7 Q From the time that Chad left running to the time that
8 the police got there, did you hear any other gunshots?

9 A No, sir.

10 Q And again you told Chad to stay on the porch?

11 A Yes, sir, that's included in every statement.

12 Q Were you ever in the appearance of any danger from
13 Blake when he got out that car?

14 A No, sir.

15 Q Did Chad get attacked by Blake or was he under attack
16 from anyone else that evening?

17 A No, sir, not at my residence he wasn't. If somebody
18 at that bar attacked him, then that was beyond me, but it
19 wasn't Blake.

20 Q So no one -- there was not a group of guys in your
21 yard to attack Chad?

22 A No, sir.

23 Q Was there any reason that you could discern from the
24 conditions and actions of what was going on out there for
25 Chad to rush out there with a gun and shoot Blake?

1 A No, sir.

2 MR. CLEMENTS: Please answer any questions

3 Mr. Brooker may have.

4 THE COURT: Cross-examination.

5 MR. BROOKER: Thank you, sir.

6 CROSS-EXAMINATION

7 BY MR. BROOKER:

8 Q You're in the room obviously when Matthew Lane
9 testified?

10 A Yes, sir.

11 Q Do you know why -- and you tell me if you don't -- do
12 you know why Blake would have told Matthew that y'all were
13 together for five months and that y'all had broken up two
14 weeks ago?

15 MR. CLEMENTS: Your Honor, I object to
16 speculation.

17 MR. BROOKER: I asked her did she know.

18 THE COURT: Overrule. Go ahead.

19 A I have no clue because I didn't have any knowledge of
20 him saying that.

21 Q Do you know why Blake would have told Matthew that
22 you were thinking about aborting -- and let me make sure I
23 don't get this wrong. You know why Blake told Matthew
24 that you were going to abort the child?

25 MR. CLEMENTS: Objection for speculation of how

1 she could know why Blake did anything.

2 THE COURT: Can y'all approach at side bar
3 please?

4 (WHEREUPON, a bench conference was held in the
5 presence of the jury, but out of the hearing of the
6 jury.)

7 THE COURT: Overruled. You may answer the
8 question if you know the answer, ma'am.

9 Mr. Brooker, you may need to restate your
10 question.

11 MR. BROOKER: Thank you. Thank you, sir.

12 BY MR. BROOKER:

13 Q Do you know why Blake told Matthew that you were
14 going to abort or either wanted to abort the pregnancy?

15 A In the beginning of the pregnancy, that was
16 mentioned, but I was five months pregnant at the time and
17 I don't even know if you can even do that at that point.

18 Q But this conversation took place between Blake -- do
19 you know that this conversation took place between Blake
20 and Matthew that Saturday, November 3 of 2012?

21 A No, sir, I didn't know it took place.

22 Q Now, when you spent the night at that house, did you
23 and Blake sleep in the same bedroom that Friday night he
24 spent the night?

25 A Yes, sir.

1 Q And were you intimate with him that night?

2 A Probably not my daughter was in the bed beside us.

3 Q Okay. She slept in the bed with y'all?

4 A Yes, sir.

5 Q Now, what time did Blake leave that morning? This
6 would have been Saturday morning. He spent Friday night,
7 this would have been Saturday morning. What time did he
8 left?

9 A I don't remember what time he left. I know his daddy
10 come and picked him up.

11 Q Then, of course, is that my understanding is is that
12 after that or at least after you testified that he left,
13 that at some point in time -- indulge me for just a
14 second. You called Blake sometime that Saturday morning?

15 A I probably talked to him a couple of times that day.

16 Q At that particular period of time, it's your
17 testimony that everything was fine in y'all's
18 relationship?

19 A That morning probably not.

20 Q Why wasn't everything fine in y'all's relationship
21 that morning?

22 A The morning?

23 Q Yes, ma'am. That Saturday morning you spent the
24 Saturday night talking about that excuse me -- the Friday
25 night and that Saturday morning?

1 A I really don't remember, that's been two and a half
2 years. We know some couples are perfect, but I wasn't,
3 still not. So I had arguments.

4 Q Did your momma leave the house also that morning?

5 A She didn't leave until I think it was later. It may
6 have have been early that morning, I'm not sure. Her
7 boyfriend was out of town. I don't remember what time he
8 come picked her up.

9 Q But she left at some point in time?

10 A Yes, sir.

11 Q Okay. And did she left before Chad get to your
12 house?

13 A Yes, sir, she was already gone.

14 Q And how did Chad get to your house?

15 A I can't really -- I want to say that I picked him and
16 Kayle up because he didn't have a vehicle. I don't think
17 he had a vehicle at that time.

18 Q But any way he ends up back to your house?

19 A With Blake's knowledge.

20 Q Now, you said at some point in time that you and Chad
21 then engaged in sexual relationships?

22 A Yes, sir.

23 Q Was it that morning after he got to your house? I
24 don't know what time it was that he got to your house?

25 A It had to have been when he was at my house.

1 Q Did y'all engage in sexual relationships?

2 A When he was at my house.

3 Q And, of course, that would have been hours before the
4 man that you loved that you had just spent the night with
5 had left; is that correct?

6 A I don't understand what do you mean?

7 Q This sexual intercourse between you ---

8 A Was before who left?

9 Q Not before you left. Let me rephrase that. I don't
10 want to confuse you, so let me rephrase it. I'm saying
11 that the sexual intercourse that you had with Chad that
12 you had sex with Chad within hours after getting out of
13 the bed with supposedly the man that you loved which was
14 Blake?

15 A It's not supposedly. It is the man that I love.
16 People make mistakes, but you're correct.

17 Q But it was within hours of you -- that you got out of
18 the bed with Blake and then got in the bed with Chad?

19 A No, we probably didn't get in the bed.

20 Q Well, you had sex with Chad?

21 A Yes.

22 Q At your house?

23 A Yeah, we would have had to have been together for
24 that to have happened.

25 Q Now, you said at some point in time that when you and

1 Chad was making plans to go to the Pizza Hut or Chuck E.
2 Cheese or wherever it is to take your daughter together,
3 that you had called Blake and told Blake that y'all were
4 going to Chuck E. Cheeses's or you asked him or told him
5 that y'all were going to Pizza Hut or Chuck E. Cheese's or
6 something like that?

7 A I called Blake before I ever picked Chad up.

8 Q How did he feel about it?

9 A Well, he felt like me, you know, he was there for
10 Kayle, but he wasn't Kayle's daddy and she deserved her
11 daddy so...

12 Q When did you have the conversation -- when did you
13 have the conversation with Blake and told Blake that you
14 had actually had slept or had sex with Chad?

15 A Right before he come to my -- yeah, it was right
16 before him and Matt come to our house later that
17 afternoon.

18 Q So at this particular period of time when you talked
19 with him and told him about you and Chad and your child
20 going to Chuck E. Cheese or Pizza Hut, he didn't know that
21 you had, you know, just slept with him or recently slept
22 with him?

23 A Because I talked to Blake before I went and picked
24 Chad up.

25 MR. BROOKER: You can indulge me for just a

1 second.

2 (WHEREUPON, a pause in the proceedings.)

3 BY MR. BROOKER:

4 Q So did the relationship between you -- did that
5 happen before you went to Chuck E. Cheese or afterwards
6 the sex between you and Chad?

7 A Pizza Hut before.

8 Q Before y'all went to Pizza Hut?

9 A Yes, sir.

10 Q Okay. So that happened before Pizza Hut because you
11 indicated at least that you had called and checked on him
12 and Kayle around three o'clock?

13 A Well, even when Kayle -- even after he killed
14 Blake -- recently when Kayle ever went to Chad's house, I
15 always text his daddy to check on Kayle. I check on my
16 child all the time.

17 Q So Kayle spent the night at your house, but you're
18 saying at some point in time ---

19 A She went to her daddy's house.

20 Q She went to her daddy's house?

21 A Uh-huh.

22 Q Okay. And you called her around three o'clock to
23 check on Chad around three o'clock to check on Kayle. And
24 that's when the conversation happened around Pizza Hut
25 about, you know, maybe Pizza Hut?

1 A No, actually I think Chad actually called me back an
2 hour or so later because Kayle was with Chad, so I had no
3 knowledge that she wanted to go and get any pizza.

4 Q And when y'all got to Pizza Hut and y'all came back;
5 is that correct? And, of course, it's my understanding is
6 is that you actually contacted Logan to have Logan to come
7 and that you and Logan took Chad home?

8 A Yes, sir, I think me and Logan did take Chad home,
9 but Kayle stayed with me.

10 Q Okay. Now, and did you call Blake after you got home
11 or after again after you took Chad home, y'all had taken
12 Chad home?

13 A Yeah, I'm sure I probably did talk to Blake.

14 Q And did he tell you that he was riding around
15 drinking?

16 A He may have. I can't really remember.

17 Q Did you get upset about that?

18 A Yes, I did.

19 Q How were y'all doing at that particular period of
20 time, were y'all arguing or fusing at that particular
21 period of time?

22 A At that time I actually started fusing because I ask
23 him why was he driving if he was drinking.

24 Q Now, and you testified that eventually around 7:15
25 that he came over to the house, that Chad excuse me --

1 that Blake and Matthew came over to the house?

2 A Yes, sir.

3 Q Okay. And you said that you talked to him about
4 drinking and that sort of stuff?

5 A That's why I was fusing because he was drinking and
6 driving. Once Ethan was driving, then it was fine.

7 Q Okay. And you told him you loved him and to be
8 careful?

9 A I always told him I loved him, I told him I loved him
10 before I even hung up the phone.

11 Q So it's not accurate that y'all were fighting like
12 cats and dogs and yelling and screaming and he could not
13 even get a word in, that's not accurate is it?

14 A I probably was fusing, I get pretty loud, but I still
15 loved him.

16 Q And I'm not going to go into the monotonous step, but
17 my understanding is is that after Blake and Chad left ---

18 A You mean Blake and Matt.

19 Q Excuse me Blake and Matt left I apologize. After
20 Blake and Matt left at some point in time you and Logan
21 get dress for the mud bog, take Kayle to her grandmother's
22 house and drop her off and y'all went to the mud bog; is
23 that correct?

24 A Yes, sir.

25 Q Is that in Conway?

1 A No, sir, that's in Pleasant View.

2 Q Pleasant View I apologize. And then, of course, my
3 understanding is is that Kayle wanted to be with her
4 mother, that you received communication or contact from
5 her grandmother and so that led you to go back and pick
6 her up and then y'all went back to the mud bog?

7 A Yes, sir.

8 Q With Kayle?

9 A Yes, sir, Kayle was with me.

10 Q Okay. And about 20 minutes thereafter is that when
11 you received the text from Blake saying that he was going
12 to the Game Changer?

13 A I can't remember exactly how long it was after. It
14 wasn't long after I got back there with Kayle whenever I
15 received the text message.

16 Q Would it be inaccurate to suggest that or state that
17 you identified it was 20 minutes?

18 A Twenty minutes sounds about right when I got back
19 there with Kayle about 20 minutes afterwards I left -- I
20 had to leave again.

21 Q And he told you that he was going to the Game
22 Changer -- that he had find out that Chad was at Game
23 Changer and that he was going there to mess things up?

24 A Mess things up not Chad.

25 Q Yeah, that's what I said mess things up.

1 A Yes, sir.

2 Q Okay. Now, you became immediately concerned, didn't
3 you?

4 A Yes, sir, I didn't understand what was going on. I
5 didn't have any knowledge of them even having any
6 confrontation.

7 Q But you thought there was going to be a problem;
8 wasn't it?

9 A Of course.

10 Q And that's the reason why -- that is the reason why
11 you then told Logan we got to go and pick up Chad at the
12 Game Changer?

13 A Well, I'm don't actually remember saying that at that
14 time. I said we got to go and told her that I couldn't
15 get in touch with Blake.

16 Q But you were worried that there was going to be an
17 altercation, that's the reason why you rushed off with
18 Chad?

19 A Well, I didn't even want them to argue because
20 there's really no need in it.

21 Q And did you call Chad?

22 A After I couldn't get in touch with Blake, I called
23 Chad.

24 MR. BROOKER: If you can indulge me for just a
25 second, Your Honor.

1 THE COURT: Yes, sir.

2 (WHEREUPON, a pause in the proceedings.)

3 BY MR. BROOKER:

4 Q So it's your testimony that you could get in touch
5 with Chad excuse me -- get in touch with Blake?

6 A Yes, sir.

7 Q Now, did you wrote in your statement or did you say
8 in your statement that you finally got in touch with him
9 -- with Blake and that you asked him you just wanted him
10 to go home and be careful?

11 A I did finally -- I think I stated earlier to
12 Mr. Clements I finally did get in touch with Blake right
13 before I pulled up at the Game Changer and he actually ask
14 me where Chad was. He didn't say where is Chad because
15 I'm going to whip his ass. He just said where is Chad.

16 Q Now, I have what's been -- and I don't know whether
17 or not Mr. Clements identified this as an exhibit for
18 purposes of identification. I think this is what's been
19 marked for identification purposes State Exhibit 59. And
20 this is the long, I think, six page statement that you
21 gave?

22 A Yes, sir.

23 Q Do you remember that statement?

24 A Yes, sir.

25 Q Okay. And I'll ask you whether or not you want to

1 refresh your memory, but in that statement, isn't it true
2 that you did say that you finally got in touch with them
3 and that you asked them why are you doing this. And that
4 you wanted him and he said that -- you ask him why is he
5 doing this. I'm sorry, I'm sorry. I'm doing the --
6 reading the wrong thing. Let me rephrase that. That when
7 you finally got in touch with him, that you told him all
8 three of you Matt, Blake and Seth. Is Seth is that ---

9 A Seth was with him at one point.

10 Q That Matt, Blake and Seth all of you are drunk, stop
11 where you are and I'll come and pick you up to go home?

12 A I did say that, but at that time I didn't know
13 that -- like I said, I didn't know Seth like that, I
14 didn't know that he didn't drink.

15 Q Now, would you agree with me that that's what's
16 contained in that statement what's been identified as
17 State's Exhibit 59 that you did make that statement. And
18 I'll hand it to you if you need to look at it to make sure
19 that I'm reading it correctly or to refresh your memory.
20 Would you like to do that?

21 A Yes, sir.

22 Q Okay. I'll point to it, so that we can do it
23 quickly. That's accurate?

24 A Yes, sir.

25 Q Now, in State's Exhibit -- what's been identified as

1 State's Exhibit Number 60 that is the statement or the
2 letter that you wrote to me. Did you write this letter to
3 me?

4 A Yes, sir.

5 Q And you mailed it to me?

6 A No, sir, I give it to you at the sheriff's
7 department.

8 Q Okay.

9 MR. BROOKER: If you can indulge me for just a
10 second.

11 MR. CLEMENTS: No objection.

12 THE COURT: No objection.

13 (WHEREUPON, Defendant's Exhibit No. 1 was marked
14 for identification only.)

15 BY MR. BROOKER:

16 Q I want you to take a look at this and tell me what it
17 is?

18 A It's an envelope, but I can remember giving you that.
19 You told me to meet you at the sheriff's department
20 because you had to have an interview with Chad. I guess
21 you right, I mailed it..

22 Q You mailed this to me. And that statement is
23 different, that statement tells a different account and
24 that statement you said this is after you got the next.
25 We are still at that particular point after you got the

1 text from Blake and this is for identification purposes

2 ---

3 A I already read it.

4 Q I'm sorry.

5 A I read it.

6 Q State's 60 you've already read it?

7 A Yes, sir, Mr. Clements let me read it a while ago.

8 Q You said I immediately called Blake to see what was
9 going on. He didn't answer. I then called Chad. So what
10 you're saying is is that at that particular period of time
11 that after you got that text that you never talked with
12 him?

13 A Until I was almost at Game Changer. I think I said
14 that a while ago.

15 Q Now, you can take a look at it, but in that second
16 statement the statement that you wrote to me ---

17 A Yeah, there's a lot of stuff that was left out of
18 that statement.

19 Q You never indicated in that statement that you had a
20 conversation with Blake after you left the mud bog to go
21 pick Chad up at the Game Changer?

22 A Correct. I didn't really feel it was necessary. Law
23 enforcement had the statement.

24 Q But in this one you said that you did had a
25 conversation after you got Blake's text message and

1 you're on your way to the Game Changer?

2 A Right, the one that I give to Martin Bell and Charlie
3 Watson.

4 Q Okay. But would you agree with me that those two
5 statements are inconsistent because on one you said that I
6 talk with them -- that I called him, he finally answered
7 my phone and I talked with him and I said, Blake, you,
8 Seth and Matt y'all are drunk let me come and pick you up
9 to take you home. And you said you had that conversation,
10 but on this one, you said you never talked with them
11 before you got to the Game Changer to pick Chad up. Those
12 are inconsistent, are they not?

13 A I also said that there was probably things left out
14 and there was probably things mixed up.

15 Q Yes, ma'am, I understand that.

16 A But you're right, yes, sir.

17 Q They are inconsistent?

18 A Yes, sir.

19 Q Now, when you got to the -- and, I think, you finally
20 got to the Game Changer. Y'all drove straight there; is
21 that correct?

22 A Yes, sir.

23 Q You know about what time that was?

24 A Not that I can remember. I may have said it in a
25 statement, but I don't remember.

1 Q That's fine if you don't. I didn't know whether you
2 did or not. And you said at least in one of these
3 statements that you called -- you said in the first
4 statement that you gave statement to law enforcement, that
5 you were going to the Game Changer, that y'all went to the
6 Game Changer to try to see whether or not Blake was there,
7 but that you never had a conversation. You never called
8 Chad or either had a conversation with Chad before you
9 went to the Game Changer?

10 A Like I said, I may have left something out.

11 Q That's a statement that you gave to law enforcement.
12 A letter that you wrote to me is that you said that when
13 you got that text and you left the mud bog to go to the
14 Game Changer, that once you could not get in touch with
15 Blake, then you called Chad and talked with Chad; is that
16 correct is that what you said in the statement that you
17 wrote to me?

18 A I can't remember.

19 Q Would you like to look at it to refresh your memory?

20 A Yes, sir.

21 Q Okay. That's fine. So that's accurate, those two
22 statements are inconsistent?

23 A Yes, sir.

24 Q One statement -- that the statement to law
25 enforcement you never mentioned calling Chad at the Game

1 Changer and telling Chad that, hey, I just got this text
2 from Blake. But in the other one, you said I called Chad?

3 A Yes, sir, but I also said that I may have left
4 something out. It's a human error.

5 Q But would you agree with me that these two statements
6 are inconsistent at least those parts that we just
7 discussed?

8 A Yes, sir, I already said that.

9 Q Now, when you got to the Game Changer -- and I want
10 to make this clear and I want to be as fair to you as
11 possible. Is is that why -- did you leave to go to the
12 Game Changer after you got that text? Did you actually
13 call Chad or did you not, which is true?

14 A Yes, sir, I called Chad.

15 Q You did call Chad?

16 A Yes, sir, I talked to Chad. Chad answered the phone.

17 Q Okay. So the version that you gave to law
18 enforcement ---

19 A I may have left it out.

20 Q But the version that you wrote to me I think in 2013
21 -- January 22, 2013, that's the correct version you did
22 call him?

23 A That part was -- did I say in that one that I did
24 call Chad?

25 Q Yes, ma'am.

1 A Well, that's correct I did call Chad.

2 Q Yes, ma'am. Okay. And why were you rushing to the
3 Game Changer to get Chad?

4 A Because I didn't want anybody to fight, but I would
5 have much rather seen an ass whipping than a shooting.

6 MR. BROOKER: Your Honor, if I could just at
7 least ask something, that she at least respond to my
8 question and I think that's completely irresponsible.
9 She'll have her chance, I guess, on follow up to do it.

10 THE COURT: Restate your question.

11 BY MR. BROOKER:

12 Q Okay. Now, if you knew that the man you supposedly
13 loved and the man that you didn't ---

14 A I never said that.

15 Q Okay. All right. I'll give you chance. So you
16 never said that you didn't love -- I'm talking about at
17 that particular period of time?

18 A At that time I never said I hated Chad at that time.

19 Q Not that you hate him, but that you didn't love him?

20 A I didn't say at time that I didn't love him. I was
21 with him seven years. At that time I'm not going to say I
22 didn't have love for him.

23 Q Yes, ma'am. So did you love him on January -- on
24 November 3rd of 2014 (sic) did you still have love for
25 him?

1 A At that time I probably did still have love for him,
2 he's my child's father.

3 Q Okay. So if you did have love for him, when you
4 wrote your statement to law enforcement is -- did you not
5 say that you did not have any feelings for him any more?

6 A I wasn't in love with him and it's not that I wanted
7 -- you know, I was dying to be with him or anything.

8 Q And isn't it true that you wrote -- that you said
9 that you cared about him, but you had no feelings for him?

10 A I probably did say that then. I just seen him shoot
11 somebody.

12 Q But now you confess that you may have still loved
13 him?

14 A At the time I probably did still have love for him.
15 I wasn't in love with him or anything. If you love
16 somebody, you don't just immediately not love them.

17 Q Yes, ma'am. And I just wanted to get that clear.

18 A I understand.

19 Q Okay. So the statement would not have been accurate
20 that you gave to law enforcement. You still had love for
21 him?

22 A Some.

23 Q My question was is -- and like I said I may be wrong
24 is is that I think you testified on direct examination
25 that you're with Blake and that you wanted to be with

1 Blake?

2 A Yes, sir.

3 Q Blake was it; is that correct?

4 A Yes, sir.

5 Q And my question was is if you know that the man you
6 love, the man that is it, the one that you want to be with
7 may get into a violent altercation with the man that you
8 said you may still have some love for but is not going to
9 be with, why would you run to the rescue of Chad and not
10 Blake?

11 A Can you restate that?

12 Q Why would you go and get Chad and not Blake if Blake
13 was your one and you knew that there was potentially
14 there's going to be an altercation at the Game Changer,
15 you know, why did you call Chad and go there and pick him
16 up?

17 A Because Blake was in a vehicle at the time. When I
18 found out, I was almost at the Game Changer, that he was
19 in Fair Bluff, North Carolina at Bill Strickland's. I
20 couldn't really go there. I didn't really know exactly
21 where it was.

22 Q Okay.

23 A To avoid altercation, yes -- I mean, I would have
24 never thought Chad was going to shoot somebody with our
25 three-year-old daughter there or shoot somebody at all.

1 Q But you said in your second statement that you never
2 got in touch with him before you pick him up at the Game
3 Changer. So you didn't know that he was at Bill
4 Strickland at that particular period of time?

5 A Who did I not get in touch with Chad or Blake?

6 Q You didn't get in touch with Blake before picking
7 Chad up at the Game Changer, so you didn't know he was at
8 Bill Strickland's at that time?

9 A Right. Well, Chad had already told me that Blake had
10 been to the bar looking for him. I didn't know if Blake
11 was still at that bar. Blake wouldn't answer the phone.

12 Q And did Chad also tell you that he had been at the
13 bar looking for him and that he had told Brent that he's
14 coming there to beat his ass?

15 A Yeah, Chad told me that, but Blake didn't tell me
16 that.

17 Q Yes, I know, that's what Chad told you?

18 A But I don't know for sure that that was said because
19 that comes from Chad to me.

20 Q To your understanding -- and I'm asking you to your
21 knowledge, did Chad indicate to you that he wanted to try
22 to avoid any confrontation or avoid trouble?

23 A At the beginning, yeah, when we picked him up, he did
24 say I don't need to be in any trouble.

25 Q That's what you told me in the statement you wrote to

1 me on January 22, 2013; is that correct?

2 A Correct.

3 Q Okay. Now, the statement that you gave to law
4 enforcement is completely different, is it not true?
5 Isn't it true that in that statement that you wrote ---

6 MR. BROOKER: Indulge me for just a second.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MR. BROOKER:

9 Q You wrote that when you picked Chad up -- I'm looking
10 at the wrong statement that's why I can't find it. That
11 you wrote in that statement that when you picked Chad up
12 and that when Chad got into the vehicle, he told you --
13 when you asked him where we're going you wrote in that
14 statement that Chad said to you -- I said where are we
15 going and he said that I'm going to find that son of a
16 bitch. I ask him who and he said Blake.

17 A He probably did say that. I don't remember for sure.
18 I'm not saying -- if I put in that statement, then he
19 probably did say it.

20 Q Okay. And that's what I'm trying to ask. I'm trying
21 to figure out which one of these statements is true,
22 that's what you put in the statement that's identified as
23 State's Exhibit 59 for identification purposes. The
24 statement that you wrote to law enforcement you put in
25 there that as soon as he got in the car he said that I'm

1 going to find that son of a bitch Blake. But in this one
2 you said that he said I don't want any problems here. He
3 said me either just pick me up because I don't need to get
4 in any trouble.

5 A I think he said that over the phone.

6 Q And when he picked you up and that statement ---

7 A He didn't pick me up.

8 Q I mean, when you picked them up -- when you and Logan
9 picked him up, you never mentioned that he said anything
10 about, you know, being angry at that time and wanted to go
11 get that son of a bitch; is that correct?

12 A Yet, again I probably left that out.

13 Q Okay.

14 A But, no, it's not in that statement.

15 Q Yes, ma'am. But those are two inconsistencies would
16 you agree with me?

17 A Yes, sir.

18 Q That there's something in one statement and it is
19 completely void of the other; is that correct?

20 A Yes, sir.

21 Q Now, once he got in the vehicle and you agreed that
22 you voluntarily went there to pick him up because you were
23 driving; is that correct?

24 A Yes, sir.

25 Q You voluntary went to the Game Changer to pick him

1 up?

2 A Yes, sir.

3 Q Okay. Now, once you got to the Game Changer and he
4 got in the car, did he say anything to you?

5 A I can't really remember.

6 Q Did he threaten you?

7 A Threatened me, no, he didn't threaten me in the car.

8 Q Did he threaten to take Kayle away from you?

9 A Then?

10 Q Yes.

11 A No, Chad and I weren't even arguing when he got in
12 the car.

13 Q Do you remember writing in the statement that after
14 he said I'm going to find that son of a bitch and that you
15 said take me home?

16 A He wouldn't take me home.

17 Q And you said -- and you wrote in that statement he
18 said I told him -- he said -- that he said something to
19 the effect that -- he said something to the effect that --
20 that he said you will go where the hell I want you to go
21 and that later on he threatened -- he said you get out and
22 I will call the cops and I'll take Kayle. That's what you
23 wrote in the statement to law enforcement that he said
24 you'll go where the hell I want you to go. And then if
25 you get out of this car, I'll call the police and take

1 Kayle?

2 A He may have said that. He was mad at that point. He
3 told Logan to call Blake from his phone -- from her phone.

4 Q But you just testified that when he got in the car
5 with you that he never threatened you?

6 A Threatened me as in threatening my life, no. You
7 never said what kind of threat.

8 Q Telling you he's going to take your daughter away is
9 not a threat?

10 A Yeah, I guess, it is.

11 Q Now, at some point in time I know that this is where
12 it gets a little bit convoluted, but at some point in time
13 y'all were in the car and I know that there was a lot of
14 exchanges, you know, as far as text messages that was
15 going back and forth; is that correct? Text messages and
16 also telephone calls I apologize?

17 A Yes, sir, I really can't speak for the text messages,
18 I don't remember.

19 Q But telephone calls?

20 A Yes, sir.

21 Q Okay. Okay. And that once you got into the car with
22 Chad and you had picked him up from the Game Changer,
23 Blake kept trying to call you, but you wouldn't take his
24 call; is that correct?

25 A When Blake did -- Blake wouldn't answer my call.

1 Q Yes, ma'am. Yes, I know.

2 A And I ---

3 Q I'm sorry, I don't want to talk over you.

4 A Go ahead, I'm sorry.

5 Q My understanding is that when you left the mud bog to
6 go to the Game Changer, you were trying to call and that
7 he never answered your call. Once you picked Chad up from
8 the Game Changer, that he then attempted to try and call
9 you after you had picked Chad up and y'all had left the
10 Game Changer, but you did not take his calls?

11 A Right, because Chad told me to hand him my phone and
12 I wasn't going to let anyone fuss back and forth on my
13 phone. So I put my phone on silent and told Chad that it
14 was dead.

15 Q Okay. So you didn't talk to him?

16 A To Blake?

17 Q Yeah, Blake when he tried to call you back after you
18 picked Chad up from the Game Changer?

19 A I talked to Blake one time. I think I talked to
20 Blake for a brief second when Chad went in his house.

21 Q Okay.

22 A I'm not going to be positive, but I think I did talk
23 to Blake one time when Chad went in his house.

24 Q Is that mentioned at least in the statement you wrote
25 me?

1 A No, sir.

2 Q So this testimony at least is not contained in the
3 statement that you wrote about, I guess, maybe a month and
4 a half after the ---

5 A No, sir.

6 Q --- almost two months after the shooting?

7 A No, sir.

8 Q So it's not contained in there?

9 A No, sir.

10 Q Okay. Now, you also don't mention that in the
11 statement that you wrote to law enforcement what when
12 Chad -- when you got to Chad's house that Chad went in and
13 that y'all -- that you then talked to Blake while Chad was
14 in the house?

15 A Right. I said I may not have, but if I did, then
16 that's when it was. It wasn't when Chad was in the
17 vehicle.

18 Q Yes, ma'am.

19 A But I sent Blake a text message and that is included.

20 Q Yes, ma'am. Now, was Logan trying to arrange a place
21 where Matt excuse me -- where Blake and Chad could meet so
22 that they could fight?

23 A Yes, sir.

24 Q And isn't it true after she was trying to push up
25 this fight that you got angry with her in the car?

1 A Yes, sir.

2 Q For trying to do that; is that correct?

3 A Yes, sir.

4 Q And that isn't it true that she said to you, you
5 know, I'll just take -- when they fight, I'll just take
6 Kayle and walk Kayle away so that they could fight?

7 A Yes, sir.

8 Q So she was trying to push up this fight?

9 A I'm not going to say she was trying to push it, but
10 she was trying to arrange it.

11 Q She was trying to arrange for them to fight?

12 A Yes, sir.

13 Q And did you ever tell Logan, did you ever tell Logan
14 that, hey, it's fine if they fight at my house?

15 A No, sir. No, sir, I never said that.

16 Q So you never said that to her?

17 A No, sir, today was the first I even heard about that.

18 Q And there was never any plans to have a fight at your
19 house, was it?

20 A No, sir. Well, Chad had actually said -- I do
21 remember Chad saying come to Stacy's house and we'll
22 settle it, but then I spoke up because there wasn't -- I
23 mean, I had my child.

24 Q Yes, ma'am, and I understand. But was there ever a
25 plan formally that, yes, this is where we're going to go

1 and do it, we're going to go to Stacy's house and fight,
2 was that plan created? I know you said it was talked
3 about, but was that plan created?

4 A No one ever said that they were going to go to my
5 house and fight, no, sir.

6 Q So you're saying that Chad mentioned it, but nobody
7 ever -- but the parties never agreed to go to your house
8 to get into a fight?

9 A Right.

10 Q Now, how long did this go on with the bickering back
11 and forth over the phone?

12 A An actual time frame, I'm not sure, but it was
13 probably about an hour to what I'm guessing, but I can't
14 really remember. I know it was a little while.

15 Q Now, did at some point in time Blake called Logan's
16 phone and did Chad then get the phone from Logan? Is that
17 when he told Blake, you know, that according to your
18 statement, you know, that, you know, that and excuse my
19 vulgar language, but I'm going to repeat it verbatim that
20 I fuck your old lady today?

21 A No, I think Chad talked to him on his own phone when
22 he said that. I'm not for sure though, I don't really
23 remember which phone, you know, because there was so much
24 -- Logan's phone was passed back and forth between the two
25 of them so much I really don't remember which phone it was

1 on.

2 Q Would you dispute the fact that it's contained in
3 your statement that it happened on Logan's phone?

4 A No, sir, I won't dispute that. I probably did
5 contain that in there.

6 Q Do you want to look at it to make sure that I'm not
7 being inaccurate and telling the truth?

8 A No, sir, I believe you.

9 Q Okay. So you will concede that that's the testimony
10 that you gave in a statement that Blake called Logan's
11 phone and that Chad got the phone at some point in time
12 and Chad told him that he had had sex with you?

13 A Yes, sir, because I think Blake quit answering Chad's
14 phone calls. I'm not gone be a 100 percent certain, but I
15 think that Chad had -- I think Logan was on the phone with
16 Blake arranging somewhere for them to fight and Chad was
17 calling Blake's phone, but Blake wouldn't answer for Chad
18 because he was on the phone with Logan.

19 Q Is there anywhere contained in this statement that
20 you gave to law enforcement that Chad was calling Blake
21 and that Blake was refusing to answer his phone. Is that
22 anywhere within the statement that's identified as State's
23 Exhibit 59 for identification purposes?

24 A I said I think Chad was calling him and he wouldn't
25 answer. I didn't say for sure.

1 Q But you did not put that in this statement, did you?

2 A It could have been left out and it's because I'm not
3 for certain that that happened.

4 Q Okay. But if it is left out and if you're not for
5 certain that it happened, why are you testifying to that
6 today before this jury if you don't know whether or not it
7 happened?

8 A There's a lot of things I think been testified
9 actually may not have happened, but I mean, I wasn't
10 testifying to it. I said it may have or it may have not
11 happened.

12 Q Do you know whether or not it happened?

13 A I don't know.

14 Q And you certainly didn't wrote in your statement it
15 happened?

16 A No.

17 Q And in the statement you wrote to me ---

18 A It's not in there either.

19 Q It's not in their either. So today's the first time
20 you mentioned it?

21 A Yes, sir.

22 Q So the testimony you just -- well, I'm gone be fair
23 to you. I'm not going to say it's inconsistent because
24 you've corrected it. You change and says maybe it didn't
25 happen; is that correct?

1 A Yes, sir.

2 Q All right. Now, when Blake told -- when Chad told
3 Blake that over the phone that you put in your statement
4 that, hey, I just, you know, fucked your old lady. Is
5 that at that time you said that Blake already knew?

6 A Blake already knew.

7 Q Because?

8 A I told Blake myself and I didn't really talk to Blake
9 much. I probably didn't talk to Blake whenever -- I just
10 finally let them just keep fusing because I tried to stop.
11 There's nothing I could do.

12 Q And when you told him -- I think you told him this
13 when Blake and Ethan came by the house at around 7:15?

14 A It was right before, right before they come by.

15 Q You told them over the phone?

16 A Uh-huh, yes, sir.

17 Q Was that the reason why y'all were fusing and
18 fighting when he came over because you told him right
19 before he came over that you had had sex with Chad that
20 day?

21 A No, sir. We were fusing then because he was driving
22 and he was drinking. Well, he wasn't -- I'm not gone say
23 he was drinking at the time, but he had been drinking. I
24 don't know if he had beer with him or not I didn't see.

25 Q So when you told him, he didn't get upset?

1 A Of course, he did. He was -- that's when he said
2 that Chad didn't need to be at our house. He wanted to
3 see Kayle anymore from then on out, that he would have to
4 be a real man and get his child on his own instead of me
5 having to be there for him to see her.

6 Q And that was by telephone?

7 A Right. He may have said that when they got there,
8 but I don't remember. But he did say it on the phone.

9 Q Okay. So it's your statement is that you just told
10 this man that supposedly loves you, you know, a couple
11 minutes before he gets to your house that, hey, I just,
12 you know, few hours ago had sex with, you know, with my
13 old boyfriend and that when he gets there that y'all will
14 talk about it?

15 A Chad wasn't my boyfriend.

16 Q I said old boyfriend.

17 A Okay.

18 Q Yeah, old boyfriend. That y'all didn't talk about
19 it, that y'all were more talking about his drinking. Is
20 that what you're telling the jury?

21 A Yeah, there was nothing even said about that once
22 Blake got to my house, nothing was said about that.

23 Q Okay.

24 A As I think they testified that it was because he was
25 drinking or had been drinking.

1 Q Yes, ma'am. Now, at some point in time y'all arrived
2 back to your house; is that correct?

3 A Yes, sir.

4 Q Okay. And that when y'all went to Chad's house
5 before, I think you said that he went in there to get some
6 money and a coat?

7 A I knew he said he went in to get money. I don't
8 remember if he said he was going to get the coat or not,
9 but I know when he come out he had a coat on.

10 Q Okay. But he went in the house to get money?

11 A Right, that's what he told us.

12 Q Okay. And I think you testified that he told you
13 that -- you stated that he told you that he only had \$20
14 on him?

15 A Yes, sir.

16 Q And that he needed to get some money?

17 A Yes, sir.

18 Q And isn't it true the reason why that he was going by
19 his house to get some money was is because y'all were
20 suppose to then go back to the mud bog and that he needed
21 money to go back to the mud bog?

22 A No, sir, I don't remember that. I'm not going to say
23 that's not true, but I don't remember us even saying
24 anything about the mud bog.

25 Q And isn't it true that the so called Sunny Mart in

1 Nichols that you go that way to get to the mud bog?

2 A You can, but that could be completely out of the way.

3 I mean, that's like way out of the way.

4 Q So when he was driving out in that area, isn't it
5 accurate that he was going out in that area in Nichols
6 because y'all were going to the mud bog not because he was
7 going to Sunny Mart or some place to try to meet them to
8 fight?

9 A No, sir, that's not true. He was going to Nichols to
10 meet Blake at Sunny Mart to fight.

11 Q But my understanding is that they never agreed to
12 meet at Sunny Mart?

13 A No, Blake never agreed to it, but Chad still went
14 that way. Chad was on the phone. You can leave Chad's
15 house and come straight through Nichols. Chad was on the
16 phone with Blake and he said, I tell you what, you meet me
17 at Sunny Mart.

18 Q And did that conversation happen with Blake or did it
19 happen with Matt?

20 A I really can't remember.

21 Q About the Sunny Mart?

22 A I really don't know which one was on the other end of
23 the phone. I don't know if it was Blake or Matt. I know
24 it was one of them.

25 Q Okay. Now, y'all turned around, you get in the

1 driver's seat and then what's when y'all go back to your
2 house; is that correct?

3 A Yes, sir.

4 Q Okay. When you get back to your house, I think all
5 of y'all got out and you went into your house; is that
6 correct?

7 A Yes, sir.

8 Q And at some point in time Logan said she was not
9 feeling well and was going to go over to Mandy's?

10 A Yes, sir, that I'm pretty sure that's what she said.
11 I may be wrong, but I remember that's what she said.

12 Q Okay. And when you got back to your house, did you
13 talk with Blake?

14 A When I got back to my house?

15 Q Yes, ma'am.

16 A No, sir, I don't think I talked to Blake then.

17 Q Okay. When was the next time you talked to Blake
18 after you got back to your house?

19 A I don't remember if I talked to him any more until
20 Blake got to my house.

21 Q Until he came over there?

22 A Right, yes, sir.

23 Q Now, in the statement that you wrote to law
24 enforcement, that is not what you told them; is that
25 correct?

1 A I'm not sure. Like I said, I don't think I talked to
2 Blake any more, that's been two and a half years ago.

3 Q Now, I'm making reference to what's been identified
4 as for identification purposes State's Exhibit 59. Would
5 you like to refresh your memory with respect to what you
6 told law enforcement about that?

7 A Uh-uh, because I can tell you that I did talk to
8 Blake because Blake told me that when Chad left, that -- I
9 think he said Mary Strouder, which I don't really know
10 would bring him home.

11 Q That Mary Strouder would bring him home?

12 A I think that's the name that he said. I don't really
13 know -- I want to say that that's one of Matt's friends.

14 Q Okay. And I want to just be certain because just a
15 minute ago when I asked you whether or not you talked with
16 Blake, you said that I didn't talk with Blake. Once I got
17 to my house, I didn't talk to Blake until he showed up
18 that night and then ---

19 A I said I don't think I did.

20 Q Yes. And then when I told you that that's
21 inconsistent with your statement, you're saying, okay,
22 well, maybe I did talk to Blake that night. So which one
23 is true is what you're testifying ---

24 A Yes, sir, I talk to Blake because I remember him
25 telling me that -- I'm pretty sure he said Mary Strouder

1 because I really don't know her., I've met her after
2 everything, but I didn't know who she was.

3 Q And it's your testimony that when you talk to Blake
4 that you told Blake that Chad's here and that Blake says,
5 well, just let me know when he leaves so I can come home?

6 A Well, Blake was ready to come home at that point.

7 Q Okay. But -- and let me ask you something, was he
8 angry when you told him that, hey, Chad's here and was he
9 angry?

10 A He was ready for Chad to leave. I mean, I'm not gone
11 say he was furious or anything, but he just said it's time
12 for Chad to go home. So Blake actually knew that Chad was
13 there.

14 Q Okay. Well, please explain to me because why he
15 would not be furious because you testified previously that
16 after you told Blake that you had slept with Chad or at
17 some point in time I think when he came over, that Blake
18 told you that you cannot see Chad any more and that he
19 didn't want Chad to come over again?

20 A Blake said -- I remember that I stated Blake said
21 after today Chad can be a man and get his child by himself
22 without me being around.

23 Q Okay. So you're saying that Blake saying, okay,
24 well, you know, you slept with Chad today, so I'm going to
25 let you just see him for today and after today you can

1 never see him any more at the house?

2 A I didn't say that because Logan was still there at
3 this point.

4 Q But it was your testimony that he told you you could
5 not see him any more and that he was not to be at that
6 house any more, that's what you testified to earlier; is
7 that correct?

8 A He said that if he wanted to spend time with Kayle
9 anymore that he would be spending it with Kayle by himself
10 and not with me.

11 Q And that he couldn't come over to the house is what
12 you testified to also?

13 A To mine and Blake's house right.

14 Q But yet it's your testimony that after he told you
15 all of that, that you called him and it's -- at that time
16 it's something like 11 o'clock at night or something like
17 that?

18 A Uh-huh, yes.

19 Q Between 11 and 12 o'clock at night?

20 A Yes, sir, because it was right before Logan left.

21 Q Okay.

22 A It wasn't long after she left when he come.

23 Q Okay. And we're going to move along. Now, in the
24 statement that you mentioned -- that you gave me you never
25 mentioned in that statement, you never mentioned in that

1 statement the statement that you gave me what's been
2 identified as State's Exhibit Number 60. You never
3 mentioned in that statement that once you arrived back at
4 home -- once y'all arrived back at home you, Chad and
5 Stacy and your daughter ---

6 A Logan.

7 Q Yeah, you, Chad, Logan and your daughter, you never
8 mentioned in that statement that you called Blake and told
9 Blake that Chad was at the house; is that correct?

10 A Well, Blake actually called me and I answer the
11 phone, but, no, it's not included in there.

12 Q So would you agree with me that that means that these
13 two statements are inconsistent, that one is telling an
14 event that the other says absolutely nothing about?

15 A But I've actually also stated too that something may
16 have been left out. It's human error.

17 Q Yes, ma'am. But that would make these two statements
18 inconsistent with respect to that; is that correct?

19 A I wouldn't say so because I have already stated that
20 something may have been left out and that's very well one
21 of those things.

22 Q Okay. Would you agree that you have admitted up at
23 this particular point in time to having left a lot of
24 stuff out?

25 A Yes, sir.

1 THE COURT: Ladies and gentlemen, I'm going to
2 ask you to step to the jury room for just a minute. This
3 witness has been on the stand for a couple hours. Do not
4 discuss the case. I'll get you back out here in just a
5 minute.

6 (WHEREUPON, the jury retire to the jury room.)

7 THE COURT: Ms. Fowler, I'm going to allow you
8 to step down. Do not discuss your testimony.
9 Mr. Brooker. Let me see the lawyers in chambers please.

10 (WHEREUPON, a break was taken.)

11 THE COURT: Bring me the jury please.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: Ladies and gentlemen of the jury,
14 let me ask you all this, I told you all Monday when we
15 qualified you all that very rarely would I keep you here
16 beyond six o'clock. I have done so at this point. What I
17 would like to do is finish this witness for the day, okay.
18 And my question to you all before we go any further in
19 looking at the time does anybody need to make a phone call
20 or anything to let somebody know where you are where you
21 may not be able to be, if so raise your right hand for me.
22 Okay, I just wanted to make sure and check before we went
23 any further.

24 All right. Mr. Brooker, you may continue, sir.

25 MR. BROOKER: Thank you, Your Honor.

1 BY MR. BROOKER:

2 Q I think, Ms. Fowler, I think where we left off was is
3 that you were at the house and I think is is that I ask
4 you -- the last question I ask you is is that -- and I'm
5 going to move pretty quickly, okay. The last question I
6 asked you testified that that when you got to your house
7 that you called Blake and told Blake that Chad was there
8 and that he be leaving. That you would agree with me that
9 that statement is contained in the statement you gave law
10 enforcement, but it's contained in the written statement
11 that you wrote to me on January I think 22nd 2013, would
12 you agree with me on that?

13 A That it just wasn't contained in it?

14 Q Yes. That it's contained in one but not contained in
15 the other?

16 A Yes, sir.

17 Q Now, when you were home with Chad, I think, my
18 testimony was is that after Logan left that, you know,
19 that Chad was holding Kayle trying to put Kayle to sleep?

20 A Yes, sir.

21 Q And were y'all there sitting on he couch?

22 A I was actually sitting on the couch, he was sitting
23 in the recliner rocking Kayle to sleep.

24 Q Okay. And did eventually you get her to sleep?

25 A Yes, sir, he had just gotten her to sleep when Logan

1 called me.

2 Q Okay. Now, I'm going to ask you a very important
3 question and then I'm going to move on about this very
4 quickly. Is did at some point in time while they were
5 riding -- while y'all were riding in this -- and this is
6 when this telephone chatter was going back and forth. At
7 some point in time did Chad and Blake talk and that they
8 said, hey, let's squash all of this stuff and that they
9 agreed that, hey, we're going to squash all of this stuff
10 before you got back to the house?

11 A Well, to my knowledge both of them had just decided
12 not going to be a fight until then later on I got that
13 phone call.

14 Q Okay. All right. And when you say being a squash
15 is is that you're saying is is that they said that they
16 were just going to -- and I'm going to try to do this
17 quickly and you correct me if I'm wrong. What's been
18 identified as State's Exhibit 59 for identification
19 purposes you said that that Chad then talks to Blake and
20 said to Blake what is all of this about. And Blake said
21 that's my old lady and you're not getting her back and
22 that Chad says if that's what you worried about -- if
23 that's what is -- that what it's about we can squash all
24 this because I don't want her. I just want to be apart of
25 Kayle's life. And Blake said okay and Chad said man to

1 man we can squash this.

2 A If it's in there, then, yeah, it's hard to remember
3 everything from then. But, yeah, they had -- Chad and
4 Blake talked to each other quite a few times that night.
5 Sometimes it was yelling back and forth and then sometimes
6 they were -- like I said, I don't even know when it was
7 Matt or when it was Blake on the phone.

8 Q But you did wrote that in that statement that they
9 said we're going to squash all this and basically they
10 said, okay, we're fine. All of this is done. We're going
11 to squash this stuff. You did wrote that in your
12 statement?

13 A Yes, sir, I wrote that.

14 Q Now, when Chad got to your house, when y'all got to
15 the house and then you said Stacy -- Logan had already
16 left. Chad was there holding his daughter putting her to
17 sleep, okay, and then, of course, at some point in time
18 you learn that Blake was coming over?

19 A Yes, it wasn't long after Logan left at all.

20 Q Logan called you and I think you indicated that
21 approximately five minutes later that Logan called you and
22 said, hey, Blake's on his way; is that correct?

23 A Yes, sir.

24 Q And that isn't it also true at that particular period
25 of time that you told Logan when she called and said that

1 he was over -- that you told her to don't come to your
2 house, tell them, I think, specifically you told them is
3 is that tell them don't y'all come to my house or I'm
4 going to call the police?

5 A Right. But I didn't say who not to come, but when I
6 asked Logan what's going on why is he coming now and she
7 said I don't know, but he's mad. And I said, well, I'm
8 going to call the cops because there's not going to be any
9 arguing up here. Yet, again, I had my three year old
10 there.

11 Q But would you agree with me that you told her that if
12 you all come here, that I'm going to call the police?

13 A Yeah, I said that, but I never said any names. I
14 never said that I said if Blake comes here.

15 Q But you all encompasses everyone that's coming,
16 right?

17 A But that could have also meant Logan and Matt.

18 Q Yes, it did. It did include them, it included
19 everybody, that's what you all means it's everybody.

20 A But Blake wasn't in the vehicle with Matt and Logan,
21 so that was a separate set that was a you, not a you all.

22 Q Now, also isn't it true that once Blake got there
23 that you testified I think on direct examination that when
24 you got there and that he was calm. That you walked out
25 onto porch, that Chad was on the porch, that you stepped

1 off the porch. You told Chad to stay there and that he
2 was calm?

3 A He didn't have time to not be calm.

4 Q Okay. Is that what your testimony was on direct
5 examination; is that correct?

6 A Yes, it was.

7 Q But when you wrote the statement on January 13 excuse
8 me -- on January 22, 2013, what's been identified as
9 State's Exhibit Number 60 that is not what you said; is
10 that correct?

11 A No, that statement right there was written so that
12 people would get off of my back. You were going through
13 numerous people to contact me.

14 Q Okay. And that statement says and you correct me if
15 I'm wrong. I look to my -- I apologize. You say the
16 vehicle's flying somebody driveway and I met the car in
17 the drive to avoid any altercation between Blake and Chad.
18 And you said Blake then gets out with a very angry look on
19 his face. At that time I knew there was no stopping him
20 because he had a lot of anger and he smelled as if he had
21 been drinking.

22 A He did smell as if he'd been drinking, but that
23 didn't -- Blake looked as if he was shock because
24 apparently Chad wasn't suppose to be there and I didn't
25 know that he thought that at that time.

1 Q Okay. But what do you mean when you said when I look
2 into his eyes and he was very angry and I knew there was
3 no stopping him?

4 A There really wasn't -- had he -- even if he would
5 have been angry, he didn't have time to do anything before
6 he was shot to the dirt.

7 Q But would you agree with me that that's different
8 from what you testified to before that he was calm and
9 that when he was calm, you told -- you testified that you
10 told Logan and, of course, you said something to Logan to
11 the effect is that get them the hell of out here referring
12 to Matt?

13 A Right.

14 Q And that your testimony was at that time is that he
15 was calm and that y'all were talking?

16 A Who was?

17 Q You and Blake.

18 A Well, I was talking to Blake. Blake never had a
19 chance to really say anything once I was talking to him.

20 Q So y'all were not fusing and arguing and yelling and
21 screaming at each other?

22 A No, sir.

23 Q Okay. And just for the record is is that my
24 understanding you correct me if I'm wrong, I'll move
25 quickly with this is is that when Blake got out of the car

1 was he standing in the doorway of his car?

2 A Yes, sir, right inside the doorway.

3 Q Okay. Was he standing all the way up like I am right
4 now?

5 A Yes, sir, I think he had stood all the way up.

6 Q Okay. And you stated some point in time you said
7 Chad had come down. Do you know when Chad allegedly come
8 down?

9 A No, sir, because I didn't even know Chad come off of
10 the porch.

11 Q Okay. Then, of course, I think your testimony was is
12 is that you said to Logan -- you turn your attention to
13 Logan said to Logan you all get him the MF out of here?

14 A I told her to get Matt the hell out of my yard.

15 Q And then, of course, you said then is is that then
16 the gun went off?

17 A Right. But I never moved I was still standing right
18 in front of Blake.

19 Q You were facing Blake, right?

20 A I was facing Blake.

21 Q You were not facing Chad?

22 A No, sir, my back was towards my house.

23 Q Okay. And at that time you were directly -- when the
24 gun went off, you were directing your attention to the car
25 and at Logan trying to get them out of there?

1 A Yes, sir, I didn't -- I don't know where Chad was at
2 to my knowledge he was on the porch.

3 Q Did you ever see Blake swing at Chad?

4 A No, sir.

5 Q So the fact that you didn't see it, that is not to
6 say that it didn't happen, is it?

7 A It didn't happen. There's no way it happened. I was
8 standing between them and Blake never -- Blake's arms
9 never moved. Blake didn't have time to do anything.

10 Q Okay.

11 A I would have been aware if there would have been a
12 fight.

13 Q So you saying that you know that part for certain?

14 A I know for certain that Blake did not hit Chad.

15 Q Okay. Now, in your statement, you said I told them
16 when they pulled up to leave my yard none of them ever
17 acknowledged I told them to leave?

18 A Well, Logan didn't leave once I told her, but she
19 didn't leave apparently because now I know that Matt seen
20 Chad coming off the porch. I didn't know what was going
21 on behind me. I hadn't never been good at seeing back
22 there.

23 Q But would you agree with me that when you wrote that
24 statement, you're not singling out that you were talking
25 only about Matt and Logan?

1 A I never really specifically said any names so ---

2 Q But -- I'm sorry go ahead. I don't mean to
3 interrupt.

4 A I'm sorry, it's okay.

5 Q But in that statement you said I told them to leave?

6 A Right. But I still didn't single out Blake. I
7 didn't single out Logan or Matt. I never once said any
8 name in there.

9 Q You didn't exclude anyone when you said I told them
10 to leave?

11 A I didn't exclude anyone, but I didn't say that I was
12 including Blake either.

13 Q And then also when it happened is is that you said
14 that everything happened so fast it was unreal?

15 A That's the truth.

16 Q Okay. That is the truth?

17 A Yes, it was all very fast.

18 Q Okay. And when it happened so fast is is that you
19 wasn't sure of exactly what happened? That's how fast it
20 happened?

21 A Word for word I can't sit here and tell you exactly
22 word for word what happened, but as far as anyone being
23 hit, I can tell you that that did not happen.

24 Q Did you and Chad talk excuse me -- did you and Blake
25 talk when he got out of the car?

1 A Well, a brief second -- before Blake got out the car,
2 I put my hand on his chest and I said Blake we -- there's
3 not going to be any fusing up here and he acknowledged
4 that. He said I'm not here to fuss, but he didn't have a
5 chance to tell me that he didn't know that Chad was still
6 there. Then he also told me that he loved me.

7 Q Did you wrote in any one of these statements -- and
8 let me look and see to be absolutely certain where you
9 told him there was not going to be any fusing and he told
10 you that that's fine there was not?

11 A Right.

12 Q Did you wrote that in this statement?

13 A Yes, I did. As I stated, Blake wasn't there to fuss.

14 Q Okay. And it says I went to the car and told Blake
15 please don't start anything. He said I'm not because of
16 Kayle. He got out of the car and standing in front of me.
17 He says to me baby I love you?

18 A He may not have said it that way, but he told me he
19 loved me. It's not that he had a lot of time to say much.

20 Q Is that anyway contained in this written statement
21 the one that you made on January 22, 2013?

22 A Probably not because there was probably a lot of
23 stuff left out.

24 Q A lot of stuff left out?

25 A Yes, sir.

1 Q Or a lot of stuff changed; is that correct?

2 A No, sir, that's not correct. A lot of stuff left
3 out.

4 Q Now, at that particular period of time I think you
5 testified that there was no fusing, that y'all didn't
6 fuss, yelling and screaming and cursing that sort of
7 stuff, that never happened, did it?

8 A No, sir. Blake's radio was really loud in the car
9 and that was the only kind of anything loud that was going
10 on in that yard besides that gunshot.

11 Q And then after all of this happened and you left and
12 law enforcement -- and when law enforcement left -- I
13 think, you said testified on direct examination that after
14 the gun was fired, that the car went away that Logan and
15 Stacy was in, that Blake excuse me. That Chad ran away
16 and that you went back into the house and called 9-1-1?

17 A I was actually in the process of calling 9-1-1 as I
18 was going back inside of my house to Kayle.

19 Q Okay. You had your cell phone?

20 A Uh-huh.

21 THE COURT: Is that a yes?

22 THE WITNESS: Yes, sir.

23 THE COURT: Thank you.

24 BY MR. BROOKER:

25 Q Okay. And when you talked with law enforcement, I

1 think this is mentioned, so I'm just going to go over it
2 briefly because I think it's mentioned on direct
3 examination. When you called 9-1-1, you was not honest,
4 were you?

5 A No, sir, because I was scared.

6 Q You told them, you know, that correct me if I'm
7 wrong, you told them, you know, that you were in your
8 house and all of sudden you heard a shot and you look out
9 the window and you saw your boyfriend on the ground?

10 A Yes, sir, because I was scared. I really didn't know
11 what I was suppose to say. I was trying to protect my
12 child. I didn't know where Chad was at.

13 Q Okay. But that was a lie, was it not?

14 A The 9-1-1 call?

15 Q Yes, ma'am.

16 A Yes, sir, but I cleared that up though.

17 Q Now, you also testified to the fact that on direct
18 examination -- and I'm almost finish I promise. I know
19 you been up here for a long time, but you testified on
20 direct examination that this -- that you were standing
21 there when this gun went off, that it went off by -- was
22 your right ear or your left ear?

23 A The left side.

24 Q At your left ear?

25 A Yes, sir.

1 Q And that it went off close to the left ear that you
2 could feel the vibration of it?

3 A Yes, sir, it was very loud.

4 Q Okay. Now, do you know anything about guns?

5 A No, sir, never really been around them.

6 Q You ever heard one shot?

7 A No, sir, not really -- I mean, just like far off
8 distance someone may have been in the woods and I could
9 hear one. But as being shot close to me, no, I've never
10 been around any.

11 Q So you don't know whether or not a .45 caliber is an
12 extremely loud gun? You don't know whether or not that's
13 true or not?

14 A No, sir, I have no clue.

15 Q And when you go to the hospital, did you receive
16 medical attention when you went to the hospital?

17 A Yes, sir, they just checked the baby just to make
18 sure the baby was okay.

19 Q Isn't it true that they didn't have to check your
20 ears, did they? You didn't have any damage to your ears
21 or any ringing in your ears or anything like that?

22 A Well, they didn't check my ears. I really didn't
23 complain. I really wasn't concerned about my ear.

24 Q Did you have any ringing in your ear?

25 A Yes, I did.

1 Q And I'll make it very quick. Is it mentioned in any
2 of these statements either one of them?

3 A I really didn't think ringing in my ear was -- I
4 didn't know that it was meant to be in the statement, but,
5 no, sir, it's not in there.

6 MR. BROOKER: If you can indulge me for a
7 second, Your Honor, I may be about finished. And for
8 purposes of the record, Your Honor, objection is that
9 because I think there was some confusion with respect to
10 whether or not this letter was sent to me.

11 Do you have any objection to me making that an
12 exhibit?

13 MR. CLEMENTS: No, sir, no objection.

14 MR. BROOKER: Your Honor, just the letter that
15 she -- if we could make that ---

16 THE COURT: That envelope.

17 MR. BROOKER: That envelope an exhibit.

18 THE COURT: Defense Exhibit Number 1 without
19 objection so admitted.

20 (WHEREUPON, Defendant's Exhibit No. 1 was
21 admitted into evidence.)

22 MR. BROOKER: If you can indulge me just a
23 second, Your Honor, is I'm going to go check and see, but
24 I'll wrap this up.

25 THE COURT: Yes, sir.

1 (WHEREUPON, a pause in the proceedings.)

2 BY MR. BROOKER:

3 Q And just very quickly is that you testified on direct
4 examination that when Blake got there and, of course, is
5 is that and you said instead of being angry you think he
6 looked more shock or surprised?

7 A Yes, sir.

8 Q At seeing Chad?

9 A Yes, sir.

10 Q Now, if that's the truth, then why would he be
11 shocked and surprised to see Chad, is that if you said
12 previously is that you talked with him on the phone and he
13 knew Chad was there?

14 A Because as one of the other witness said he was told
15 that Chad was not there.

16 Q Okay.

17 A Not told by me that Chad was not there. I don't know
18 who I wasn't at that location.

19 Q So to your understanding is that he looked to be
20 shocked when he saw Chad?

21 A He obviously wasn't mad because Blake was kind of a
22 big man. He probably would have approached him if he
23 wanted to.

24 MR. BROOKER: No further question, Your Honor.

25 THE COURT: Mr. Clements.

REDIRECT EXAMINATION

BY MR. CLEMENTS:

Q You don't know whether Matt knew Chad was there or not, did you -- I mean, Blake?

A No, sir, I don't know if he knew -- you mean once he was on the way?

Q Yeah, you don't know if he knew Chad was there, do you?

A No, sir.

Q Now, would it cause a look of shock to you if somebody was coming up with a gun like that?

A Obviously, yes, sir, it would.

Q Could that have been a reason why there was a shock look on Blake's face?

A Yes, sir.

Q Now, Mr. Brooker asked you about how long all this took. You said it all just happened so fast. Did this or did this not take place over a 15 minute period?

A No, sir, it wasn't 15 minutes.

Q Did this or did this not take place over a 30 or 35 period?

A No, sir.

Q Mr. Brooker asked you about all these statements and inconsistencies. And isn't it true or not true that someone can write something down and put part of it and

1 then write it down again and put more of it and it not be
2 contradictory?

3 A Yes, sir, that's why I said some things may have been
4 left out.

5 Q Okay. So that's not contradictory, right?

6 A No, sir, it's just I simply may have left something
7 out.

8 Q What, if anything, in your statements that you gave
9 contradicts Chad Strickland coming off the porch after you
10 told him to stay there?

11 A Nothing.

12 Q What, if anything, in your statements contradicts
13 Chad Strickland coming up and shooting Blake Dozier in the
14 face?

15 A Nothing.

16 Q What, if anything, in your statements contradicts the
17 fact that both of them were angry with each other?

18 A Nothing.

19 Q Now, let me ask you this, right before Blake got over
20 there and Chad's rocking in your recliner with his
21 three-year-old daughter, did he have that .45 automatic
22 pistol right on him with -- holding that baby?

23 A Apparently, he did. To my knowledge, I didn't know,
24 but, yeah, apparently, he was rocking my child while
25 having his gun on him.

1 MR. CLEMENTS: No further questions.

2 THE COURT: Mr. Brooker.

3 MR. BROOKER: We are fine, Your Honor, no
4 further questions.

5 THE COURT: Ma'am, you may step down. Thank
6 you.

7 (WHEREUPON, the witness leaves the witness
8 stand.)

9 THE COURT: Can the lawyers approach a second?

10 (WHEREUPON, a bench conference was held in the
11 presence of the jury, but out of the hearing of the
12 jury.)

13 THE COURT: All right. Ladies and gentlemen,
14 we're going to stop at this stage for the day. I'm going
15 to let you go home at this point for the rest of the
16 evening. Do not discuss the case at all. Do not do any
17 independent investigation on your own. Please be back
18 here tomorrow morning at nine o'clock and we will resume
19 the trial of this case at that time. Thank you all. I
20 hope you all have a good evening.

21 Everybody else remain seated.

22 (WHEREUPON, the jury excused for the day.)

23 THE COURT: Anything from the State before we
24 break for the balance of the evening?

25 MR. CLEMENTS: No, Your Honor. Thank you.

1 THE COURT: Defense counsel.

2 MR. BROOKER: Nothing from the defense, Your
3 Honor.

4 THE COURT: Nine o'clock in the morning.

5 (WHEREUPON, the proceedings were concluded for
6 the day to be reconvened on May 21, 2015.)

7 THE COURT: Anything from the State before I
8 bring the jury out?

9 MR. CLEMENTS: Yes, sir. Your Honor, I guess
10 wait to rest in front of them, but I don't have anything
11 other than I'm going to rest.

12 THE COURT: All right. Let me ask this
13 question, Mr. Brooker, you have any motions?

14 MR. BROOKER: Just briefly, Your Honor, but they
15 will be brief.

16 THE COURT: Well, any objection to us doing that
17 now and when they come out, just simply if you rest, just
18 renew your motions and then we move straight in rather
19 than them coming out, sitting down, you resting and me
20 sending them right back out. Any objection to that from
21 the State?

22 MR. CLEMENTS: No objection that work for me.

23 MR. BROOKER: I don't have any objection to it.

24 THE COURT: All right. For purposes of --
25 therefore, at this point, I will hear any motions that you

1 intend to make at the time the State rest, Mr. Brooker.

2 MR. BROOKER: Thank you, Your Honor. Now, the
3 first motion we're going to make, I believe, is probably
4 the simplest one. And, of course, is that's going to be a
5 motion for a directed verdict with respect to the charge
6 of pointing and presenting a firearm, which, I think, is
7 the easiest one. Is is that as you can remember, I think,
8 in the indictment is is that the charge of pointing and
9 presenting a firearm was based upon the allegation that on
10 the night of the alleged incident that Chad Strickland
11 after he had discharged the firearm on to the decedent,
12 that he then turned the firearm on to Stacy Fowler,
13 pointed the firearm at her. And then, of course, threaten
14 to do harm to her. I'm sorry, Your Honor, I'll give it to
15 the bailiff, I don't want any special treatment. I
16 apologize, Your Honor.

17 THE COURT: That's all right, go ahead.

18 MR. BROOKER: As you can remember yesterday,
19 that at least that was the allegations that sustained the
20 charge for the pointing and presenting a firearm that that
21 Chad Strickland after he had discharged the gun on the
22 scene, that he took the gun and then, of course, pointed
23 it at the -- I think Stacy Fowler. And then, of course,
24 while pointing it at her threatened her, that she did not
25 cooperate or I think that the allegations specifically was

1 is that if, you know, if she did not say something to the
2 effect that she didn't know what happened or either he
3 could come back and take the kids. But if you can
4 remember during direct testimony yesterday from Stacy
5 Fowler and also cross-examination and I make this motion
6 first is that because during the testimony, I was
7 specifically hoping that once Stacy did cross-examination
8 excuse me -- direct examination that they never asked her
9 that question and she never stated on direct examination
10 that Chad had been pointing a gun at her and threatened
11 her after shooting Blake. And then, of course, on direct
12 examination when we got out -- we made a point not to ask
13 her any questions in reference to that because that
14 information had not been solicited. And it was not then
15 that we solicited -- it was not solicited when the State
16 got up and did redirect and then, of course, is that we
17 did not do any recross. So there is no testimony that was
18 given by Stacy Fowler or any of the witnesses that
19 testified that Chad Strickland had pointed a gun at Stacy
20 Fowler after discharging a gun on the decedent.

21 The elements obviously of pointing and
22 presenting a firearm probably the most important element
23 is is that they have to put evidence into the record that
24 the defendant actually pointed the gun at the alleged
25 victim regardless of whether or not the gun was loaded or

1 not. In this particular case, there was absolutely no
2 evidence that was presented that he pointed the gun at
3 Stacy Fowler. And as a result of that that charge that we
4 believe asked to be resolved or dismissed by way of
5 directed verdict. Otherwise if it is submitted to the
6 jury, the jury would have no evidence in which to find
7 that particular element and the jury would then be forced
8 to speculate. Even if the jury's forced to speculate, I
9 think there is even nothing in which they could speculate
10 to because it was never raised or never alleged during any
11 of the testimony that the gun was pointed at Stacy Fowler.

12 THE COURT: All right. Mr. Clements.

13 MR. CLEMENTS: Your Honor, and I may be wrong on
14 this, but I believe that the -- it's pointing and
15 presenting. You present the gun even if you don't point
16 it directly at somebody and that's sufficient for the
17 elements of the offense. And Ms. Fowler testified that he
18 told her go ahead the MF was dead to call the law and you
19 hadn't seen me. I'm gone and you hadn't seen me. She
20 said that from the stand yesterday. You have not seen me
21 and she said she was scared of him, didn't know where he
22 had gone. That's part of why she was not accurate on her
23 9-1-1 call. She said that he told her, I believe, you
24 hadn't seen me. And he certainly had the gun and
25 presented it even though he didn't necessarily point it at

1 her. And also this argument may fail because we didn't
2 include their names as victims in the indictment, but he
3 also made a threat towards the car which Matt said he
4 thought it was y'all want some too. And he had certainly
5 presented the gun at that time even though he hadn't
6 pointed it at every individual.

7 THE COURT: Well, I thought about this yesterday
8 and I'm going to -- when we broke here yesterday, I think
9 the State is on very very thin ice on this pointing and
10 present claim. I'm not going to rule on it right now, but
11 I'm going to reserve my ruling until all of the evidence
12 is in. I want to think about it a little bit more. I
13 tend to at this point agree with Mr. Brooker on this, but
14 I want to look at a couple cases. Because I -- not only
15 was I concerned as I listened to Ms. Fowler testify,
16 certainly heard Mr. Lane testify as to after the shooting
17 took place something along lines of what he believed the
18 defendant to say to the effect of something such as you
19 want some too or something -- I don't remember the exact
20 terminology, but did not hear any direct testimony of this
21 defendant pointing a firearm at Ms. Fowler just didn't
22 hear it. The question then therein is whether or not
23 simply being in possession so to speak when this shooting
24 took place and her being present, does that in and of
25 itself rise to a level of presenting a firearm. There's

1 no testimony he pointed it at her.

2 MR. CLEMENTS: I would agree that we did not
3 elicit any testimony that he actually pointed the gun at
4 any of them but the victim. He brandish it and presented
5 it. If that argument doesn't meet statutory demands ---

6 THE COURT: The question is whether or not there
7 has to be some direct, I guess, inference so to speak
8 within a reasonable person's mind as to whether or not it
9 was being pointed or was it presented to her in some
10 unlawful manner. I mean, I think that's what it boils
11 down to.

12 MR. BROOKER: And I agree with you 100 percent,
13 Your Honor. I would just add is that the strict language
14 of the statute when it talks about -- it says it is
15 unlawful for a person to present or point at another
16 person, so that word at means that it has to be some sort
17 of indication that that person is basically using that gun
18 as a way of threatening the other person. That it's
19 presented at that person or either pointing it at that
20 person, you know, which is at least in my opinion is that
21 very thorough. And, I think, when the legislature may be
22 draft that, you know, they're trying to be extremely
23 thorough in making sure that some slick lawyer doesn't,
24 you know, kind of wiggle out the difference between
25 pointing and or presenting. But it specifically says it

1 has to be at the person. And then, of course, with
2 respect to -- I think what you said with respect to I
3 think, someone testifying that you want some too and
4 you're absolutely right Your Honor that was Matthew Lane
5 who testified to that that he said he wasn't certain or he
6 believed as they were backing out that he shout something
7 like to the effect that you want something too. And then,
8 of course, is, but, of course, you know, with respect to
9 that that would not be grounds at least to continue on
10 with respect to Matthew Lane because the indictment
11 doesn't allege specifically that Matthew Lane was the
12 victim of pointing and presenting. And as a result of
13 that, we were not put on notice. And as a result of that,
14 we did not include that, you know, in any of our arguments
15 or either any of our questions with respect to Matt Lane.
16 Thank you, Your Honor.

17 THE COURT: Thank you.

18 Mr. Clements.

19 MR. CLEMENTS: In danger of being a slick
20 lawyer, I would submit ---

21 THE COURT: He meant to say smart, right, Mr.
22 Brooker.

23 MR. CLEMENTS: I would submit that that key word
24 in the statute that I was relying on is or. It doesn't
25 say consent at or point at. It says to present or point

1 at and that's all I have to say. I don't want to be
2 slick.

3 THE COURT: I'm going to take it under
4 consideration and I'll let you know.

5 MR. BROOKER: Nothing else to say about that,
6 Your Honor, but just when I said slick lawyer, I was
7 referring to defense attorney.

8 THE COURT: Any other motions at this time, Mr.
9 Brooker?

10 MR. BROOKER: The only other, Your Honor, is
11 that we're going to renew is probably, I think, we need to
12 renew right now, so that we have the opportunity at least
13 renewing it at the close of the defense case and that is
14 is that obviously is that it is not an issue that we can
15 present before the jury. And that is is that the defense
16 and person and property and, I think, that immunity
17 motion, but what we can do is at least at this particular
18 period of time because there is more evidence that has
19 been raised then what was presented at the time of the
20 immunity hearing. So we would renew our motion for
21 immunity based upon section 16-11-440, which is the
22 immunity statute. And very briefly I won't go into it
23 because, I think, we made an argument there, but
24 subsection C says a person who is not engaged in unlawful
25 activity and who is attacked in another place where there

1 is -- well, he has a right to be -- has no duty of retreat
2 and can meet force with force. We believe that those
3 elements were satisfied specifically is that he was not
4 engaging in any unlawful activity and that is that he was
5 on the premises that Stacy had testified that she actually
6 drove the car that brought him there. That prior to the
7 decedent arriving that he was inside, that he was putting
8 the child to sleep so he had every right to be there. He
9 was a guess at that particular period of time. And, of
10 course, it says is is that obviously he was not engaging
11 in any unlawful activity. He did possess a gun but, of
12 course, you can possess a gun on private property. You
13 don't need a concealed weapons permit to do that. So the
14 fact that he had a gun in his waist band, you know, it's
15 not illegal.

16 And then, of course, is is that testimony with
17 respect to whether or not he is under attack who is
18 attacked in another place where he has a right to be. I
19 will concede, Your Honor, is is that's one that has not
20 been fully developed because we have not had enough
21 evidence. But I need to raise it here because if I don't
22 raise it this particular period of time, I don't know
23 whether or not I can renew that at the end of his case in
24 chief. So we renew at least right now that that
25 particular motion to have it dismissed based upon

1 16-11-44. And that being said, Your Honor, I'll sit down.

2 THE COURT: All right. Well, if I had not been
3 the, I guess, the judge to hear that matter, but certainly
4 want you to or allow you to further argue it. But I heard
5 the -- in it's entirety that matter, the defendant's
6 assertion of immunity under the Protection of Persons and
7 Property Act, which I denied then. So noting your
8 renewing of such motion at this time, but this court's
9 ruling at that time and at this time remains the same. So
10 note for the record.. All right. Anything further?

11 MR. BROOKER: Nothing further from defense, Your
12 Honor.

13 THE COURT: Mr. Clements.

14 MR. CLEMENTS: Nothing further, Your Honor.

15 THE COURT: All right. So when the jury comes
16 out, you rest and at that point renew all your motions
17 just for the record. And then we'll move right in -- I
18 need to advise the defendant of his rights.

19 Sir, if you'll please stand, Mr. Strickland. Go
20 ahead raise your right hand.

21 THE DEFENDANT: Yes, sir.

22 THE COURT: You swear to tell the truth, the
23 whole truth and nothing but the truth so help you God?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You can put your hand down. You are

1 Chad Nelson Strickland?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: We have now reached the stage of the
4 trial where you may present your defense. You have the
5 right to claim the protections given to you by the Fifth
6 Amendment to the Constitution of the United States.
7 Before I go any further, I want you to understand that
8 during this process as I explain these rights to you if
9 you do not understand anything, I need you to let me know
10 that. You understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. If you have any
13 questions or if you need me to further explain anything as
14 I go through your rights with you, I want you to let me
15 know that. You understand?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: All right. Now, the Fifth Amendment
18 to the United States Constitution states in part that no
19 person, no person shall be compelled in any criminal case
20 to be a witness against himself. This means that you
21 cannot be required to testify in this case. You have the
22 right to testify on your own behalf. However, no one can
23 make you testify. This is a personal right and no one can
24 waive this right except you. If you decide to testify,
25 you will be subject to the same rules that govern other

1 witnesses and you may be examined and cross-examined on
2 any relevant issue in this case.

3 In addition, if you have any convictions
4 involving dishonesty or false statement or for crimes
5 punishable by imprisonment for more than a year and this
6 court determines that the probative value of admitting
7 this evidence outweighs its prejudicial effect to you, the
8 prosecutor will be able to introduce your record to attack
9 your credibility. If you decide to testify, this decision
10 on your part must be freely, voluntarily and intelligently
11 made with knowledge of the protections given to by the
12 Fifth Amendment to the Constitutional Right and the
13 consequences of your decision to testimony.

14 If you decide not to testify, I will instruct
15 this jury that they cannot, that they cannot give the fact
16 that you did not testify any consideration whatsoever.
17 And that that there is to be absolutely no prejudice to
18 you because you did not testify. Now, it is left entirely
19 up to you whether or not you testify. You may talk with
20 your attorney, your family, your friends or whomever you
21 so desire, but the final decision as to whether or not you
22 testify is left entirely up to you. Do you understand
23 what I've explained to you?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: You have any questions about what

1 I've explained to you?

2 THE DEFENDANT: No, sir.

3 THE COURT: Have you discussed with your
4 attorney whether or not you should testify?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Do you wish to talk to your lawyer
7 any more at this time?

8 THE DEFENDANT: Few seconds if possible.

9 THE COURT: All right. Go ahead and do that.

10 (WHEREUPON, a pause in the proceedings.)

11 THE COURT: Mr. Strickland, you had an
12 opportunity to further discuss with your lawyer?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You need any more time to talk to
15 him?

16 THE DEFENDANT: No, sir.

17 THE COURT: Do you wish to testify in the trial
18 of your case?

19 THE DEFENDANT: Yes, sir, I do.

20 THE COURT: You may be seated.

21 THE DEFENDANT: Thank you, sir.

22 THE COURT: Anything else from the State at this
23 time?

24 MR. CLEMENTS: No, Your Honor.

25 THE COURT: Defense counsel.

1 MR. BROOKER: No, Your Honor.

2 THE COURT: We're going to stand down for just a
3 second, let me see the lawyers in chambers for just a
4 second. Then we're going to come out here and resume the
5 trial.

6 (WHEREUPON, a break was taken.)

7 THE COURT: If you bring me the jury please,
8 sir.

9 (WHEREUPON, the jury came into open court.)

10 THE COURT: Good morning, ladies and gentlemen,
11 I appreciate your patience back there. I apologize for
12 having you wait back there for a few minutes, but we were
13 out here doing some things so that once we started we
14 could continue on. At this time I am going to recognize
15 the State.

16 Mr. Clements.

17 MR. CLEMENTS: Thank you, Your Honor. If it
18 please the Court, the State would rest.

19 THE COURT: All right. Ladies and gentlemen,
20 the State has rested its case. It has presented its case
21 to you. At this time before we go any further though,
22 Mr. Brooker, I'm going to recognize you for any motions et
23 cetra or renewing of such at this time.

24 MR. BROOKER: None other than what we've
25 previously presented, Your Honor.

1 THE COURT: All right. So noted for the record.
2 The Court's rulings pursuant to prior -- all prior motions
3 remain the same. Now, the State has presented its case.
4 Ladies and gentlemen, at this time the defense has an
5 opportunity to present its case. So therefore I am going
6 to recognize Mr. Brooker at this time to present any
7 defense case.

8 Mr. Brooker, you're so recognized.

9 MR. BROOKER: Thank you, Your Honor. At this
10 time, Your Honor, we call Vickie Hernandez.

11 THE CLERK: Place your left hand on the Bible
12 and raise your right hand. Do you solemnly swear or
13 affirm the evidence you're about to give in the trial of
14 this case shall be the truth, the whole truth, and nothing
15 but the truth so help you God?

16 THE WITNESS: I do.

17 THE CLERK: You may take your witness box.
18 Thank you.

19 WHEREUPON,

20 Vickie Hernandez,
21 after first having been duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. BROOKER:

24 Q Mrs. Hernandez, where do y'all live at?

25 A Right beside Stacy at [REDACTED] Ard Drive.

1 THE COURT: Ma'am, I need you to speak up, okay,
2 presume you're speaking to that gentleman on the back row
3 on the far left corner of the jury box please.

4 A At [REDACTED] Ard Drive.

5 Q Are you married?

6 A Yes, sir.

7 Q How long have you been married?

8 A Almost 15 years.

9 Q Okay. And do you have any children?

10 A I have four girls that we adopted.

11 Q Okay. Now, do you work or you a full-time mom?

12 A Full-time mom.

13 Q Okay. All right. Now, do you remember the night of
14 November, Saturday, I think, it was November 3rd early in
15 the morning November 4th of 2012?

16 A Yes, sir.

17 Q Was there a shooting out in the residence where you
18 live at?

19 A Yes, sir.

20 MR. CLEMENTS: Your Honor, I object to the
21 leading.

22 MR. BROOKER: It's preliminary.

23 THE COURT: Sustain at this point. Go ahead,
24 Mr. Brooker.

25

1 BY MR. BROOKER:

2 Q Let me ask you to take a look at State's Exhibit
3 Number 4 and this is an aerial shot. I don't know whether
4 or not this is going to be difficult for you, but do you
5 recognize this residence?

6 A Yes, sir.

7 Q Okay. And what residence is this?

8 A My home.

9 Q Okay. And is Stacy residence -- the residence where
10 Stacy Fowler lives is it on here?

11 A Yes, sir.

12 Q Okay. Where is that resident?

13 A That one right there.

14 Q Okay. Just for the purposes of the jury I was
15 blocking them, whose residence is this?

16 A Mine.

17 Q Okay. And who residence is this down here?

18 A Stacy's.

19 Q Okay. Now, what is your relationship with Stacy
20 Fowler?

21 A She's my cousin.

22 Q Okay. And how is she your cousin?

23 A Uh.

24 Q And she your cousin on your mother's side or your
25 father's side? She's a first cousin, second cousin?

1 A My mother's side.

2 Q Okay.

3 A She's my second cousin.

4 Q She's your second cousin, okay. And because she is
5 your second cousin how long have you known her?

6 A All her life.

7 Q Okay. Now, at Ard Drive were you live at, how long
8 have you lived there?

9 A Since 2008.

10 Q Since 2008?

11 A Yes, sir.

12 Q And, of course, you were living there or were you
13 living there in the early morning hours of -- were you
14 living there on March 4 excuse me -- November 4, 2012?

15 A Yes.

16 Q Okay. Did something happen during the early morning
17 late Saturday afternoon early morning at Ms. Fowler's
18 house?

19 A A shooting happened.

20 Q A shooting happened?

21 A Uh-huh.

22 Q Okay. And you tell me when did you first became
23 aware of what was going on over at Stacy Fowler's house?
24 I want you to tell me what happened?

25 A Me and my husband and kids had just got back home.

1 We were grocery shopping and we come back home. And when
2 we come back home, I was being noseey because there were,
3 you know, some stuff going on. And I heard him fusing and
4 stuff. And then a car come flying up in the yard and
5 Stacy told Chad to stay on the porch. And she went out to
6 the car -- to Blake's car and was trying to talk to Blake
7 and then -- Blake was mad. He was upset real bad. And
8 then Chad come off the porch and they started fusing.
9 Stacy was trying to get Chad -- I mean, Stacy was trying
10 to get Blake pretty well calm down, but Chad was right
11 there behind her. He still come off the porch because
12 they were fusing. All of them was fusing.

13 Q So -- and let me make sure I understand you right.
14 You said that at some point in time Chad was on the porch?

15 A Yes, sir.

16 Q Stacy went down to confront Blake and, of course,
17 that at that time that they have an argument -- were they
18 arguing Stacy and Blake before Chad come off the porch?

19 A I can't ---

20 Q Excuse me before Blake -- excuse me before Chad come
21 off the porch?

22 A I know they were sitting there at the car and they
23 were saying things. And I can't place exactly what the
24 two were saying between the two of them, but I do know
25 that they were talking loud.

1 Q Okay. And that's my question is were they having a
2 calm conversation or were their voices elevated?

3 A No, they wasn't having a calm conversation.

4 Q Were they yelling?

5 A Stacy was just trying to get him to stay in the car
6 and everything like that.

7 Q Did Stacy at any time ever ask him to leave?

8 A The car had come up Stacy told him -- she said who in
9 the hell is that, get them the hell out my yard.

10 Q Okay. Is that the first car that pulled up?

11 A No, the first car that pulled up was Blake and they
12 come flying up in Stacy's yard. And I mean real fast come
13 up in Stacy's yard and Stacy come out on the porch and
14 then she went down to the car. And she told Chad to stay
15 on the porch and then Stacy and Blake was talking. Well,
16 I don't know if they were fusing or whatever. I know it
17 got kind of loud.

18 Q Okay. Now ---

19 A And then Chad come off the porch.

20 Q How long were they talking?

21 A I'm not sure about the time. I don't know how many
22 minutes or whatever.

23 Q Okay. How many minutes was the first car there
24 before the second car came?

25 A I don't really know. I mean, I can't tell you how

1 many minutes I wasn't timing it. I don't know.

2 Q Okay. You don't know because you didn't remember,
3 you just don't remember?

4 A No, sir, I don't remember exactly how long it was.

5 Q Okay. Now ---

6 A I know it wasn't that long before the other car come
7 up behind them.

8 Q Okay. And do you remember giving a statement to
9 Detective, I think, Detective Watson and I think Detective
10 Lee on June 6th of 2013?

11 A Yes, sir.

12 Q Okay. Did you provide them with a written statement?

13 A Yes, sir.

14 Q Now, you testified, I think, just a minute ago that
15 when you pulled up that Stacy Fowler said to Chad to stay
16 on the porch; is that correct?

17 A Yes, sir.

18 Q And you said that when her and Blake -- when she went
19 down to the car and Blake was driving, that they began
20 talking and she tried to calm him down; is that correct?

21 A Yes, sir.

22 Q Okay. Now, do you know whether or not that is
23 consistent with what you told Detective Watson on June 6th
24 of 2013?

25 MR. CLEMENTS: Your Honor, we have a point of

1 law.

2 THE COURT: You all come over here.

3 (WHEREUPON, a bench conference was held in the
4 presence of the jury, but out of the hearing of the
5 jury.)

6 BY MR. BROOKER:

7 Q Back to the statement that you gave Detective Watson,
8 okay. And do you remember telling Detective Watson at
9 least in that statement in writing in that statement when
10 I saw a gray car or silver car pull up ---

11 MR. BROOKER: I can allow her to read it if you
12 like.

13 MR. CLEMENTS: Your Honor ---

14 MR. BROOKER: I already asked her whether or not
15 she wrote the statement. I'll do it that way.

16 THE COURT: Yes, sir, Mr. Clements.

17 MR. CLEMENTS: If he's going to do it that way,
18 that's fine. I was going to object to leading him reading
19 the statement.

20 THE COURT: Can you all come over here for just
21 a minute please?

22 (WHEREUPON, a bench conference was held in the
23 presence of the jury, but out of the hearing of the
24 jury.)

25 THE COURT: All right. Mr. Brooker, you may

1 continue.

2 BY MR. BROOKER:

3 Q I think, we've established that you said that you
4 remember giving this statement to Detective Watson and
5 Lee, I think, on June 6th of 2013; is that correct?

6 A Yes, sir.

7 Q Okay. Would you like to take a look at your
8 statement and refresh your memory with respect to what you
9 said to them and wrote to them on that particular day?

10 A Yes, sir.

11 Q Sure. Now, when you saw the car coming up in the
12 yard and what color car was that?

13 A It was a gray car.

14 Q Okay. And when that car came up who car was that?

15 A That was the car Blake was driving.

16 Q Okay. And when that car pulled up, what happened
17 after that car pulled up now that your memory is
18 refreshed?

19 A When that car pulled up, Stacy said who in the fuck
20 is that.

21 Q And then, of course, when that pulled up she was not
22 -- the other car had not arrived, the car that was
23 containing the other people had not arrived yet?

24 A No, Uh-uh.

25 Q Okay. So she was making that reference -- was she

1 making that reference to Blake in the car that Blake was
2 riding in?

3 A To that car because I don't think at that time Stacy
4 knew who that was.

5 Q Okay. But you said she said that ---

6 MR. CLEMENTS: Your Honor, I object to
7 speculation.

8 THE COURT: Let him finish his question please.

9 BY MR. BROOKER:

10 Q You said in your statement that she asked who the
11 fuck was that; is that correct?

12 A Uh-huh. She didn't ask the person in the car. She
13 just said who in the fuck is that.

14 THE COURT: Mrs. Hernandez, if any of the
15 lawyers ask questions that require yes or no answer,
16 please give me a yes or no answer so the record's clear.
17 It doesn't look too good if later it's uh-huh or uh-uh. I
18 need a clear yes or no.

19 THE WITNESS: Yes, sir.

20 THE COURT: Thank you.

21 BY MR. BROOKER:

22 Q Okay. And then, of course, is it that did she also
23 spoke to Chad and ask something of Chad when she made that
24 statement?

25 A She told Chad to stay on the porch. She said don't

1 come off the porch -- Chad don't come off the porch.

2 Q Okay. Did she say anything else to Chad?

3 A No, she didn't say nothing else to Chad.

4 Q Would you like to take a look at that same statement
5 to refresh your memory?

6 A I can.

7 Q As to what you wrote then?

8 A I can.

9 Q Now, have you had a chance to take a look at your
10 statement again?

11 A Yes, sir.

12 Q Okay. And when Stacy said who the fuck is that and I
13 asked you did she say anything to Chad at that particular
14 period of time. Now, that your memory has refresh do you
15 remember what she said to Chad?

16 A I put in my statement she said Chad get them the fuck
17 out my yard, but I did not mean to put Chad's name in
18 that. The only thing she said was who in the fuck is
19 that, they need to get the fuck out of my yard.

20 Q But isn't it true that you wrote in your statement
21 that she said to Chad get the fuck out of my yard. They
22 need to get the fuck out of my yard. Then she told Blake
23 he needed to get -- looks like he needed to go is that
24 what you wrote in this statement?

25 A Yes, she did tell Blake he needed to go.

1 Q Okay. And when she told Blake that he needed to go,
2 did Blake go?

3 A No.

4 Q And then, of course, I also ask you whether or not
5 they were talking calmly previously or whether or not they
6 were first fusing?

7 MR. CLEMENTS: Object to asked and answered.

8 THE COURT: Finish your question please.

9 BY MR. BROOKER:

10 Q I also previously asked you whether or not --
11 previously whether or not they were talking calmly or
12 either whether or not they were yelling and fusing?

13 MR. CLEMENTS: Objection asked and answered he
14 did say he had already asked her that and she's answered
15 it.

16 THE COURT: Let him finish his question. He may
17 be preferencing a question with that statement. Let him
18 finish. And if you have an objection, then you can so
19 object.

20 Mr. Brooker, please finish your question.

21 MR. CLEMENTS: Sorry, Judge.

22 MR. BROOKER: Thank you, Your Honor.

23 BY MR. BROOKER:

24 Q Okay. Now, you previously testified to the fact ---

25 THE COURT: We gotten that, go into your

1 question if you would.

2 BY MR. BROOKER:

3 Q When you said that they were kind of -- that they
4 were kind of talking, you know, a little bit loudly is
5 that that's not what you indicated on your statement, did
6 you?

7 A They were fusing. They were -- Stacy was telling
8 Blake to leave and Blake was refusing to leave.

9 Q Now, they were fusing -- were they cussing as well
10 too?

11 A Well, they always cuss when they arguing.

12 Q And then, of course, is is that you also said you
13 didn't remember the time. Is is that do you need to look
14 at your statement previously when I ask you whether or not
15 ---

16 A No, sir, in my statement, I put 15 minutes.

17 Q Okay. In your statement, you put 15 minutes?

18 A To my knowledge, that's about how long everything
19 took to me. I mean, like I said, I wasn't timing it but
20 about around 15 minutes.

21 Q Okay. Now, you also indicated that Stacy told Chad
22 to stay on the porch?

23 A Yes, sir.

24 Q Now, did you put that in your statement that you
25 wrote here?

1 A No, sir, but I remember.

2 Q Did you remember testifying at the immunity hearing
3 that, I think, we had in January of 2015?

4 A Yes, sir, and I said at that time that Stacy told
5 Chad to stay on porch.

6 Q But you didn't put that in your statement, did you?

7 A Not on that statement I didn't, no.

8 Q It is completely void; isn't it?

9 A Yes, sir.

10 Q Okay. And in fact you said in this statement that
11 Stacy told Chad to get him the fuck out of here?

12 A Yes, sir.

13 Q Is that the complete opposite -- and I'm asking a
14 question of you is that the complete -- is that the
15 complete opposite of staying on the porch versus asking
16 him to take an active role in getting him the fuck out of
17 here?

18 A Yes, sir.

19 Q So she was asking him for his participation, was she
20 not according that statement?

21 A To that statement yes, sir.

22 Q Okay.

23 A But like I said, I didn't mean to put his name in
24 that statement.

25 Q Now, you said also that the whole thing took about 15

1 minutes; is that correct?

2 A Yes, sir, around about that time. I'm not sure of
3 the time.

4 Q Now, at what point in time did Chad come up or did
5 Chad at any point in time come up and stand behind Stacy?

6 A Yes, sir.

7 Q Okay. What point was that?

8 A Blake was outside of the car and Stacy -- it was --
9 The car door was open. Blake was standing at the car
10 door. Stacy was standing in front of Blake and then Chad
11 come up and stood behind Stacy. And Stacy was pretty well
12 trying -- she was telling them like to stop it all, but
13 they weren't listening. Blake wasn't listening. Nobody
14 was listening.

15 Q Okay. And, I think, at that particular point in time
16 is that when another SUV pulled up?

17 A Yes, sir.

18 Q And when the SUV pulled up what happened?

19 A When that SUV pulled up, they were still fusing and
20 then -- when the SUV pulled up, they were still fusing and
21 arguing. Chad and Blake was fusing. And then Stacy was
22 just hollering and telling them to stop the arguing. I
23 can't place every word that was spoke, but I do know Stacy
24 was telling them to stop or leave it alone. I can't
25 remember every word that was spoke between all of them,

1 but I know that the other people -- I'm not saying that
2 Blake swung at Chad. I'm not saying that Blake hit Chad.
3 I don't know what Blake done. All I know is that Blake
4 did step up to Chad, like not up to Chad, but come up
5 closer to Stacy because Stacy was in between Chad and
6 Blake. And when he come up, Chad lean back and people
7 saying that the other two guys didn't get out of the car
8 ---

9 MR. CLEMENTS: Objection. She said people are
10 saying and that would be hearsay, Your Honor.

11 THE COURT: Objection sustained on that.

12 BY MR. BROOKER:

13 Q You just tell me what you observed regardless of what
14 everybody else says about the other two people getting out
15 of the car?

16 A The guy that was on the passenger side of the car, he
17 did get out the car and he was at the trunk of the car
18 that Blake was driving when Blake stepped up closer to
19 Chad. Chad leaned back, leaned like this. And when he
20 come up, he says I'm tired of this shot and that's when he
21 shot the gun. The other guys that was at the trunk of
22 Blake's car run and got back in the car and then the white
23 SUV spun out the yard.

24 Q How many guys did you see getting out of the car?

25 A Two.

1 Q Two guys you saw?

2 A Uh-huh.

3 Q And did a girl also get out of that car?

4 A She never got out the car. She opened her door, the
5 driver door.

6 Q So in the SUV that pulled up, it's my understanding
7 is is that there were three people in that car. There was
8 a girl who -- and was the girl driving?

9 A Yes, sir.

10 Q Okay. My understanding you correct me if I'm wrong,
11 there was three people in that car. There was a girl who
12 was driving?

13 A Yes, sir.

14 Q And then, of course, there was two boys. Where did
15 the boys get out of the car from?

16 A From the passenger side of the car.

17 Q Okay. What I'm saying is is that was it both from
18 the passenger side, rear and back of the passenger side?

19 A Yes, sir.

20 Q Okay. And then, of course, you saying that they
21 advanced to the end of the car to where Blake was?

22 A They were coming up to Chad and they made it to the
23 trunk of Blake's car before Chad leaned back and then he
24 come up and said what he said about I'm tired of this
25 shit. And then when they seen that Blake -- when they

1 seen that Chad had shot the gun, they run got back in the
2 SUV and the SUV spun out of the yard.

3 Q Okay. When Chad leaned back, was it your belief that
4 he had been hit?

5 A I don't know.

6 MR. CLEMENTS: Your Honor, that would call for
7 speculation and I would object to that.

8 THE COURT: She's already answered that issue as
9 well. You can ask her of her own personal knowledge what
10 she saw, whether or not she knows it happened.

11 MR. BROOKER: Yes, sir. Okay.

12 BY MR. BROOKER:

13 Q Now, you're saying that you don't know that you saw
14 him lean back?

15 A Chad did lean back.

16 Q Okay. Did you write anything slightly different in
17 your statement, the statement that you gave on ---

18 A I said on my statement that it look like somebody was
19 going to take a swing at Chad. I don't know if he swung
20 at Chad or what he done. All I know is Chad leaned back.
21 And when Chad leaned back, he come up with the gun and
22 that's when he shot Blake.

23 Q Okay. And just for the record is is that you said he
24 leaned back. How far did he go back?

25 A He lean back like this and then he come up. He says

1 I'm tired of this sit and he shot. He said I'm tired of
2 your shit and he shot the gun.

3 Q But he only shot the gun after you saw this leaning
4 back motion?

5 A Yes, sir.

6 Q Not before?

7 A No, not before.

8 Q Okay. Now, at that time what did the two guys do out
9 there. I think you testified that they had gotten out the
10 SUV and they was at the back of the car that was driven by
11 Blake at the scene. What did they do after that when that
12 happened?

13 MR. CLEMENTS: Objection asked and answered.
14 She's already said they ran back in the car.

15 THE COURT: Objection sustained.

16 BY MR. BROOKER:

17 Q So when they got back in the car, what happened after
18 they got back in the car?

19 A When they got back in the car, they backed out. When
20 they backed out of Stacy's yard, they backed out like to
21 the right and then went back out to like going to Scotch
22 Community. But that same car come back around and that
23 car sat right there in the dirt road. There's my
24 neighbor's house and then there's a T in the dirt road.
25 And that car sat right there at the dirt road and the T of

1 the dirt road.

2 Q And I think you said the first it went towards Scotch
3 Community?

4 A Uh-huh.

5 Q How long was it before it came back -- it came back
6 into your dirt road? Came back on Ard Drive after first
7 going towards the Scotch Community?

8 A Long enough for it to run -- for it to go around the
9 block and it's like -- I mean, you can just drive right
10 around the block. I don't know how long it was, it wasn't
11 -- not a matter of time. And sometime I did leave out
12 when Chad shot Blake, Stacy she holler, she say, Chad --
13 it was either Chad what the hell did you do or Chad what
14 the fuck did you -- one of the two she said that to Chad
15 what we are going to do now.

16 Q Okay.

17 A And then Stacy went back in the house. I thought
18 Chad went back in the house, but it was -- I know for sure
19 Stacy went back in the house. I didn't see Chad any more.

20 Q Okay. Okay. Now, what did you do after you saw
21 that? After you saw the shooting happened and I think
22 your testimony is is that Stacy Fowler said what the hell
23 or what the fuck did you do and she said something to the
24 effect what are we going to do Chad?

25 A What are we going to do now.

1 Q What are we going to do now?

2 A Uh-huh. And that night of the shooting I stated that
3 to Stacy sister and to Stacy mama. I was outside in the
4 dirt road talking to Stacy mama and her sister because her
5 mama ask me what happened because of what was going on and
6 I said ---

7 Q You don't need to say what her mother said because
8 it's hearsay.

9 A Just say what I said?

10 Q Yes, ma'am.

11 A And I told her mama I said -- told her what I saw and
12 I told her mama that Stacy says Chad what are we going to
13 do now. And her -- I can't say what her mama said.

14 Q Yes, ma'am, you can't ---

15 A I said, yes, she did say Chad's name.

16 Q All right. So when they all went back -- when Stacy
17 went back in the house, what did you do then? This is
18 immediately after the shot had happened and I think you
19 said that Chad went away. You didn't see Chad any more
20 and Stacy went into house. What did you do?

21 A I went back in the house. And then I heard another
22 gunshot, which I went back to the door and it was a SUV
23 that was parked beside my house in the T of the dirt road,
24 that's the other direction that the other gunshot come
25 from. And then after that I didn't see the car any more,

1 the car left. I shut my door and then the next thing I
2 know I looked out my window and all the cops and stuff was
3 Stacy's.

4 Q How long did that -- the car that you said how long
5 did that car stay there?

6 A About five minutes, just sitting there. Because when
7 the other gunshot went off, I didn't know if they were
8 bothering with Stacy or if they were after Stacy or
9 whatever, so because me and my husband walked up there to
10 check on Stacy.

11 Q Now, you said that this happened when you and your
12 husband came home. Was your husband outside at any of the
13 time in which you were outside when this yelling and
14 fusing was going on?

15 A Yes, sir. I was taking groceries in the house and
16 then he told me he said they raising Cain down there and I
17 come back out on the porch and that's what was going on.
18 They were all fusing down there.

19 Q Now, I know you testified at some point in time that
20 law enforcement got to Stacy's house?

21 A Yes, sir.

22 Q Did you ever go down there?

23 A Yes, sir.

24 Q Okay. Tell me about that?

25 A When I went down there, Stacy was standing on the

1 porch and she was white as a ghost. And I looked at her
2 and she told me to come up there to where she was and I
3 went up there. I didn't know I weren't suppose to go up
4 under the yellow tape. And any way I went up under the
5 yellow tape and was going to her and I got just about to
6 her front porch where she was and then the cop put a
7 machine gun on me and told me to back out the yard slowly
8 and made me back up out the yard. He had a big old gun.
9 I don't know if it was a machine gun. All I know is I
10 call them a machine gun.

11 Q Okay. Why did you come up there and approach the
12 officers?

13 A I didn't approach the officers, I was going to Stacy.

14 Q Okay. You were going to Stacy?

15 A Yes, sir, because she was really upset.

16 Q Okay. And was your husband with you when you went up
17 there?

18 A Yes, sir.

19 Q Okay. After the gun was pointed at you and you were
20 told to back up did you comply?

21 A I backed up.

22 Q What did you do after that?

23 A That's when I went to the dirt road and I talked to
24 Stacy's mama and sister and Stacy mama's boyfriend.

25 Q Okay. All right. And how long did you stay at the

1 scene out there while law enforcement was out there?

2 A To her mama left. I can't remember how long it was.

3 Q Okay. That's all right.

4 A To be honest with you, when Blake first got shot at
5 first, I didn't know who exactly it was had got shot. All
6 I know is somebody got shot and then when I seen it up
7 close it was Blake that was laying there dead.

8 Q Now, when you testified that you went down there to
9 go to Stacy, did you go down there for any other reason?

10 A No, sir, just to go check on Stacy.

11 Q Did you have any interest in telling law enforcement
12 what you had witnessed?

13 A I didn't want to get involved.

14 Q Okay. Now, do you remember when you wrote your
15 statement on June 6th of 2013?

16 A Uh-huh.

17 THE COURT: Is that a yes?

18 A Yes, sir.

19 THE COURT: Thank you.

20 BY MR. BROOKER:

21 Q And would you like to take a look at your statement
22 to refresh your memory with respect to that part?

23 A Yes, sir.

24 Q Sure. Does looking at your statement of June 6,
25 2013, does it refresh your memory any?

1 A Yeah, yes, sir.

2 Q Okay. And did you go up there for another reason?

3 A Yeah, because I knew if he knew that I was a witness,
4 they were going to ask me what happened, but they didn't
5 give me any time.

6 Q Did you go up there to tell them what you had saw?

7 A Had I been asked, yeah, I would have told them. I
8 would have stated what I saw.

9 Q Now, one of the questions that have been asked and I
10 think of you before is is that were you capable of seeing
11 what took place in Stacy's yard?

12 A First off that guy back there in the back of the
13 courtroom with the shades on top of his head, I need him
14 to stop making faces at me.

15 THE COURT: Hold on. Hold on. Ladies and
16 gentlemen, can you all step to the jury room for just a
17 minute. Do not discuss the case.

18 (WHEREUPON, the jury retire to the jury room.)

19 THE COURT: What's the problem, Mrs. Hernandez?

20 THE WITNESS: The guy back there with the shades
21 on top of his head, he's rolling his eyes at me, making
22 faces at me the whole time.

23 THE COURT: Let me say this and I have observed
24 Mr. Ethan Allen. Sit up, Mr. Allen. I've observed
25 Mr. Allen back there smiling talking to Mr. Lane, took my

1 eyes off of him and not observed any more, but it's not
2 proper for you to address that issue.

3 THE WITNESS: Sorry.

4 THE COURT: That's okay, that's okay. But it's
5 not proper for you to address that issue that's for the
6 Court to address. I will have nobody in the audience
7 making facial expressions whether you agree with what
8 she's saying or not, that is not for you in the audience
9 to make a determination for, that's what these 12 people
10 in this box are over here for. And if I see it again, you
11 will be removed from the courtroom. Am I clear, Mr.
12 Allen?

13 ETHAN ALLEN: Yes, sir.

14 THE COURT: Mr. Lane?

15 MATTHEW LANE: Yes.

16 THE COURT: Does anybody not understand what I
17 just addressed with everybody in this courtroom? Anybody
18 have any questions about it?

19 All right. Anything before I bring the jury
20 back out, Mr. Clements?

21 MR. CLEMENTS: Not from me, Your Honor.

22 THE COURT: Mr. Brooker.

23 MR. BROOKER: Nothing, Your Honor.

24 MR. CLEMENTS: Nothing, thought better of them.

25 THE COURT: Bring me the jury back please, sir.

1 (WHEREUPON, the jury came into open court.)

2 BAILIFF: Judge, some of them have to go to the
3 restroom.

4 THE COURT: All right. Then you all step back
5 in the jury room for just a minute. You all let me know
6 when you ready to come back out, okay.

7 (WHEREUPON, jury return to the jury room.)

8 THE COURT: I'm going to stand down for just a
9 second. Mrs. Hernandez, you may step down, but you're not
10 allowed to discuss your testimony, okay.

11 (WHEREUPON, a break was taken.)

12 THE COURT: Ma'am, you may come back up here.
13 Anything before I bring the jury back out, Mr. Clements?

14 MR. CLEMENTS: No, sir.

15 THE COURT: Mr. Brooker.

16 MR. BROOKER: No, sir.

17 THE COURT: Bring me the jury please, sir.

18 (WHEREUPON, the jury came into open court.)

19 THE COURT: All jurors present. Mr. Brooker,
20 you may continue, sir.

21 MR. BROOKER: Thank you, Your Honor.

22 BY MR. BROOKER:

23 Q I want to ask you a couple questions in reference to
24 what you witnessed that night. Now, where is your house
25 in relationship -- and I'll use the exhibit so that you

1 can see. And I think I'll go ahead and use ---

2 MR. BROOKER: If you can indulge me for just a
3 second, Your Honor.

4 THE COURT: Yes, sir.

5 BY MR. BROOKER:

6 Q Go ahead and use State's Exhibit -- I think this is
7 four. And I think you previously identified your house at
8 least on this exhibit; is that correct?

9 A Yes, sir.

10 Q Okay. And you've also previously identified Ms.
11 Fowler's house; is that correct?

12 A Yes, sir.

13 Q Okay. Now, I'm going to ask you again is is that is
14 there any -- is there a lot between your house and Stacy's
15 house?

16 A Yes, sir.

17 Q Okay. Now, on the night or either early morning of
18 November 4th 2012, were you able to see what was going on
19 in her yard?

20 A Yes, sir.

21 Q Okay.

22 A There is bushes and stuff in between mine and Stacy's
23 yard, but at that time the bushes was nothing like it is
24 now. Everything was dead through there. There was
25 nothing. You can see clear through. Me and Stacy sits on

1 our front porch and talk sometimes back and forth.

2 Q Okay. Y'all sometime sit on y'all front porch and
3 talk back and forth across the lot?

4 A When Stacy's in her yard, I sits there and talk
5 across the yard to her sometimes, very seldom, but we do
6 it sometimes.

7 Q Are you certain as to what you saw that night?

8 A It's something I won't never forget.

9 Q Are you certain with respect to what you heard that
10 night?

11 A Yes.

12 Q And could you hear clearly?

13 A Yes.

14 Q And could you see clearly?

15 A Yes.

16 Q Now, let me let you take a look at some other
17 exhibits. I want to ask you some questions in reference
18 to that.

19 MR. BROOKER: If you can indulge me for a
20 second, Your Honor, there's a lot of exhibits here and I
21 need to get to the one I'm looking for.

22 THE COURT: Yes, sir.

23 BY MR. BROOKER:

24 Q Now, you were not in the courtroom when Mr.
25 Owens testified in reference to these photographs, but for

1 preliminary purposes only, these photographs were taken on
2 January 15 -- January 30th of of 2015?

3 THE COURT: Tell me what numbers they are, Mr.
4 Brooker?

5 MR. BROOKER: I apologize, Your Honor. They are
6 exhibits 54, 52 and exhibit 47, State's Exhibit 54, 52 and
7 47.

8 THE COURT: All right.

9 BY MR. BROOKER:

10 Q For preliminary purposes were taken on January 23
11 excuse me -- January 30th of 2015, January of this year.
12 Can you take a look at those photographs for me? Does
13 those photographs accurately depict what the vision was
14 between your house and Stacy's house on the night of the
15 shooting or early of the feuding on November 4, 2012?

16 A Yeah.

17 Q Okay. This is how it was then?

18 A Not the -- where the stuffs is green at, it wasn't
19 green. It was all dead.

20 THE COURT: What exhibit are you showing her?

21 MR. BROOKER: I'm showing her ---

22 THE COURT: Hold on. I know you showed her
23 three, but you were just showing her one of the specific
24 ones. I want to be clear for the record which one you
25 talking about.

1 MR. BROOKER: Certainly. We're looking at
2 State's Exhibit 47.

3 THE COURT: Okay.

4 BY MR. BROOKER:

5 Q And what you're saying is that where it's green it
6 was not green?

7 A No, it was clear. It's cleared between mine and
8 Stacy's house during that time.

9 Q Okay. Was it clear then what you can see in State's
10 Exhibit ---

11 THE COURT: Finish your question.

12 Q --- State's Exhibit 54?

13 MR. CLEMENTS: Objection to leading.

14 THE COURT: I'll allow it, go ahead.

15 A It was almost the same, but it was just a little bit
16 clearer. It wasn't exactly like that.

17 Q Okay. But you could see through?

18 A Yes, sir.

19 Q All right. Now ---

20 MR. BROOKER: If you can indulge me for just a
21 second, Your Honor, I want to make sure I don't have any
22 follow-up questions before I sit down.

23 THE COURT: Yes, sir.

24 (WHEREUPON, a pause in the proceedings.)

25 MR. BROOKER: Just a couple more questions and

1 I'll sit down.

2 BY MR. BROOKER:

3 Q You previously testified that you're related to
4 Stacy; is that correct?

5 A Yes, sir.

6 Q Does that it make very difficult for you to come up
7 here and give your testimony today?

8 A It ain't -- I don't want nobody to think I'm on
9 nobody's side is what I'm trying to say. I saw what I
10 saw. I feel sorry for Blake's family, but I can't help
11 what I saw. And I can't help what I heard when I was out
12 there.

13 Q Did you tell the truth of what you testified to
14 previously, did you tell the truth to the best of your
15 ability?

16 A Yes, sir.

17 Q And I'll ask you one more question and then I'll sit
18 down. Is is that have -- do you feel or have you felt
19 intimidated by anybody inside or outside of this courtroom
20 today or either any day in reference to your testimony?

21 A Nobody intimidates me.

22 MR. BROOKER: No further questions.

23 THE COURT: Cross-examination.

24 MR. CLEMENTS: Thank you, Your Honor. If I
25 could have these marked for State's ID. Sorry, Your

1 Honor, beg the Court's indulgence.

2 (WHEREUPON, State's Exhibits Nos. 61, 62 and 63
3 were marked for identification only.)

4 CROSS-EXAMINATION

5 BY MR. CLEMENTS:

6 Q Good morning, Ms. Hernandez.

7 A Good morning.

8 Q Now, you told Mr. Brooker you didn't want to be
9 perceived as being on anybody's side, right?

10 A Right.

11 Q And you couldn't help what you saw and you couldn't
12 help what you heard?

13 A Right.

14 Q And you're testifying to the best of your ability you
15 remember anything; is that correct?

16 A Yes, sir.

17 Q All right. And what you did testify to is that Chad
18 shot Blake; isn't that correct?

19 A Yes, sir.

20 Q And that Chad said I'm sick of your shit, bam?

21 A Yes, sir.

22 Q Isn't that what you testified to?

23 A Yes, sir.

24 Q And you also testified several times to him you kept
25 telling him that Stacy told Chad stay on the porch, right?

1 A She told Chad to stay on the porch the first time,
2 yes, sir.

3 Q All right. And you saw the white SUV came up and a
4 girl was driving and two guys got out of it, right?

5 A Yes, sir.

6 Q And you said that?

7 A Yes, sir.

8 Q Now, Mr. Brooker was asking you about your statement
9 that you wrote for Investigation Watson?

10 A Yes, sir.

11 Q I believe you said Investigator Watson and another
12 investigator who did you say it was?

13 A Martin Bell.

14 Q Martin Bell. That's not what you said earlier. You
15 had another name, right? But it was Martin Bell and
16 Charlie Watson, right?

17 A The only one I said awhile ago was Charlie.

18 Q Okay. All right. But it was Charlie and Martin
19 Bell?

20 A He didn't -- Charlie come in there -- I meant Martin
21 Bell come in there for some of it, but he left out.

22 Q Okay. Yeah, I saw that on the video. State's
23 Exhibit 63 this is your statement you wrote, right?

24 A Yes, sir.

25 Q And before you wrote, they talked to you for a long

1 time, right, and videotaped it and audio taped it; isn't
2 that correct?

3 A Yes, sir.

4 Q And you talked to them in detail then, didn't you?

5 A Yes, sir.

6 Q And they asked you a lot of questions and told you
7 that, you know, some of those questions were going to come
8 up again, right?

9 A Yes, sir.

10 Q And you told them they were welcome to come to your
11 porch and take measurements or do whatever they needed to
12 do?

13 A Yes, sir.

14 Q And Charlie told you that you can rest assure
15 somebody's probably going to show up sometime later,
16 didn't they?

17 A Yes, sir.

18 Q Okay. And on January 30th 2015, they came and took
19 pictures at your home; isn't that correct?

20 A Yes, sir.

21 Q And left a search warrant there?

22 A Uh-huh, I mean, yes, sir.

23 Q Now, Mr. Brooker showed you some pictures. I'm going
24 to show you some pictures State's Exhibit 47 you recognize
25 that is that Martin Bell standing there?

1 A Yes, sir.

2 Q And that picture is taken from your porch looking
3 across to Stacy's yard and across this lot and across
4 those trees and bushes, right?

5 A Yes, sir.

6 Q And I don't know if you were in the courtroom you
7 heard that they had Mr. Bell there with a wheel measuring
8 the measurements. Were you here and heard that?

9 A Uh-huh, yes, sir.

10 Q All right. And State's Exhibit 52 that shows over
11 there to Stacy's house and those cars are about where the
12 cars were that evening, weren't they?

13 A Yes, sir.

14 Q Okay. And State's Exhibit 54 that's the same, right,
15 and the car's in basically the same place? Is that white
16 car about where you said that white SUV would be?

17 A Yes, sir.

18 Q And then that dark car there you can see -- can you
19 see that?

20 A Yes, sir.

21 Q And that was about where Blake's car was, right?

22 A Yes, sir.

23 Q And he was standing in the doorway of that -- where
24 you open the door, right?

25 A Yes, sir.

1 Q And matter of fact that's exactly where he fell where
2 he was shot right there, wasn't he?

3 A Yes, sir.

4 Q There's one thing I want to ask you about now because
5 it's really confusing me, but I'm going to get to it in
6 detail a little bit. You said they pulled a machine gun
7 on you?

8 A I don't know what kind of gun it was. It look like a
9 machine gun. All I know it was a big gun because it was a
10 big gun and he asked me what was I up there for.

11 Q You didn't tell him I was an eyewitness?

12 A I can't remember exactly what was said, but I said
13 I'm coming to check on my cousin. He said who are you I
14 said Stacy's my cousin.

15 Q And you didn't tell him you were a witness?

16 A At that time I didn't, no, sir.

17 Q Well, at that time or any other time did you tell
18 them that you were a witness, did you?

19 A No, sir, I didn't tell nobody. I didn't want to get
20 involved.

21 Q Didn't want to get involved. And you didn't get
22 involved until....

23 A Until my family found out about it and they told the
24 cops.

25 Q They told the cops. You sure you didn't get involved

1 until February 23rd 2013 at 5:45 p.m. when Mr. Brooker
2 came to your house and he took a record statement from you
3 and Eric, right?

4 A Yes, sir, Uh-huh.

5 Q That's when you got involved was then, right?

6 A Yeah, that's when he came out to my house, but
7 beforehand, my family had first let everybody know that I
8 seen everything.

9 Q They did. Well, why did the police not have any idea
10 whatsoever about y'all until Mr. Brooker told us?

11 A I don't know that, but I know I didn't go willingly
12 to the police.

13 Q You didn't go willingly to the police. Did they have
14 to come get you?

15 A Charlie was about to.

16 Q Okay. And that's when you went and you gave this
17 audio-video statement and gave this written statement,
18 right?

19 A Yes, sir.

20 Q That wasn't until months, months down the road,
21 right, June the 6th, 2013?

22 A Yes, sir.

23 Q And you went unwilling is what you just told this
24 jury?

25 A At that time I did not go unwillingly I had to go.

- 1 Q You had to?
- 2 A Yes, sir, I had to.
- 3 Q Okay. You weren't subpoenaed or anything, were you?
- 4 A No.
- 5 Q Okay.
- 6 A But Charlie told me I needed to go and give a
7 statement. You can ask him I'm not lying.
- 8 Q And you told them exactly what you told us when you
9 said you told him Chad said I'm sick of your shit and,
10 bam, and shot him, right?
- 11 A Uh-huh, yes, sir.
- 12 Q You told him that. And you told them about a white
13 SUV?
- 14 A Yes, sir.
- 15 Q And you telling us about a white SUV?
- 16 A Yes, sir.
- 17 Q Now, what happened to the black Explorer?
- 18 A I don't know what happened to the black Explorer.
- 19 Q You never saw the black Explorer come up?
- 20 A All I know is I seen that white SUV.
- 21 Q Please answer my question and then I'm happy for you
22 to explain. But you telling us you never saw that black
23 Explorer pull up in that yard behind that car Blake was
24 driving?
- 25 A I seen that car pull up.

1 Q You did. You saw the black Explorer?

2 A Yes, sir.

3 Q You did?

4 A But I thought it was a white -- can I explain it now?

5 Q Sure. You thought the black was a white?

6 A Okay. The black SUV was there, but at some point in
7 time there was a white SUV that was there also.

8 Q All right. Well, let me ask you about this, on
9 February 23rd of 2013, Mr. Brooker came to your house and
10 recorded a statement from you and from Eric?

11 A Yes, sir, and I said it was a white SUV that pulled
12 up in the yard.

13 Q And you -- I understand excuse me.

14 THE COURT: Let him finish his question please.

15 BY MR. CLEMENTS:

16 Q And you never ever ever mentioned a black Explorer,
17 did you?

18 A No, sir.

19 Q And Eric never ever mentioned a black Explorer, did
20 he?

21 A No, sir.

22 Q As a matter of fact, he spoke first and then you came
23 up and said let me correct him because I wasn't in the
24 house I was out the house?

25 A Yes, sir, because he had got the time mixed up when I

1 was in the house.

2 Q Yeah, he said he saw it all and he said it took 30 or
3 35 minutes, right?

4 A Yeah.

5 Q Okay. And neither one of y'all said a word about a
6 black Explorer?

7 A I sure didn't.

8 Q Sure didn't. Now, on June the 6th, 2013, you give an
9 audio and video statement and y'all talked for quite a
10 long time, didn't you?

11 A Yes, sir.

12 Q And you told them about a white SUV?

13 A Yes, sir.

14 Q And you never ever ever mentioned a black Explorer?

15 A No, sir.

16 Q And then after they finished talking with you for
17 well over an hour on that video, they gave you an
18 opportunity to write it down as well, didn't they?

19 A Yes, sir.

20 Q And said write everything down and they weren't
21 pressuring you, were they?

22 A No.

23 Q They weren't being mean to you, were they?

24 A No.

25 Q You never ever ever wrote down here about a black

1 Explorer, did you?

2 A No, sir, because I didn't remember a block Explorer.

3 Q You didn't. Well, you had an opportunity to talk to
4 them and they ask y'all about everything they could think
5 of to ask you, didn't they?

6 A Yes, sir.

7 Q And you had an opportunity with Mr. Brooker and that
8 was the first time you talked to anybody and that was
9 about four months later and you didn't remember, didn't
10 say anything then?

11 A No, sir.

12 Q And you didn't write it down?

13 A No, sir.

14 Q Now, you came up here on a motions hearing and you
15 testified under oath on that same witness stand, didn't
16 you?

17 A Yes, sir.

18 Q And you never ever ever mention a black Explorer, did
19 you?

20 A No, sir.

21 MR. CLEMENTS: Beg the Court's indulgence one
22 minute.

23 THE COURT: Yes, sir.

24 (WHEREUPON, a pause in the proceedings.)

25

1 BY MR. CLEMENTS:

2 Q And I questioned you at that time about a white SUV,
3 didn't I?

4 A Yes, you did.

5 Q And y'all said it was like a Jeep Cherokee, didn't
6 you?

7 A It was made up like a Jeep Cherokee. All I know is
8 SUV.

9 Q All right. And you told -- I think, you told Charlie
10 Watson that it was like kind of an old style Jimmy, a GMC
11 Jimmy; isn't that what you told him?

12 A It was in that body style. I don't know the name.
13 I'm not good with names of cars. All I know it was white.

14 Q White SUV?

15 A The one that I remember because that's the one that
16 was sitting in the T of my road.

17 Q And you said one of the older ones?

18 A Yeah.

19 Q Okay.

20 A I can even tell you who the white SUV belong to.

21 Q You can?

22 A Yes, sir.

23 Q Who?

24 A Logan's brother Blake.

25 Q Okay. And she was driving then or some female was

1 driving?

2 A No, I know I said it was a white SUV that they were
3 in. She said it's black. All I know she never got out
4 the car of whatever car she was driving.

5 Q She never got out of whatever car she was driving?

6 A No.

7 Q But you have testified numerous times or stated
8 numerous times that it was a white SUV, haven't you?

9 A Yes, sir, I did, but I've also telling you it was a
10 mistake.

11 MR. BROOKER: I think he's asked that question
12 probably about nine times she said white SUV.

13 THE COURT: All right. Let's move on Mr.
14 Clements. Sustained moved on please.

15 MR. BROOKER: Thank you, Your Honor.

16 BY MR. CLEMENTS:

17 Q Now, after all those other times, you never said
18 anything about a black SUV. Now, you're telling this
19 jury, oh, I forgot. Now, I remember, Mr. Clements, it was
20 a black Explorer, which is a SUV pulled up. I just forgot
21 hadn't told it all these times. Is that what you're
22 telling this jury?

23 A I'm telling the jury and I'm telling you the car I
24 remember it was a white SUV.

25 Q But you just said just a few minutes ago now you know

1 there was a black Explorer pulled up?

2 A Now, I know it because I heard the testimony.

3 Q Oh, okay. I thought you said you remember now you
4 saw it?

5 A I remember she drove up in the car, but the car I
6 remember it was the white SUV. I know my colors. You got
7 on a black suit and that's a white thing over there. I
8 know my colors.

9 Q I'm sure you do. I'm not trying to suggest otherwise
10 about knowing your colors, that's not what I'm getting at.
11 What I'm getting at is really what happened you talked to
12 a bunch of people and pieced a bunch of stuff together and
13 you got it all confused, haven't you? Because it's a lot
14 of hearsay and third-hand information you got; isn't it?

15 A I got the car confused. I did not get what I saw
16 confused. I did not get the way it happened confused.

17 Q All right. So you're not confused then when you told
18 Mr. Brooker that you can't say Blake ever swung at Chad.
19 You never saw it, did you?

20 A I can't say Blake swung at Chad. I never stated that
21 Blake swung at Chad. On all my statements, I said it look
22 like as if somebody was going to swing at Chad. Chad lean
23 back. And when he come back up, that when he pulled the
24 trigger.

25 Q Okay. Can you help me out a little bit. I'm going

1 to try to lean over and I can't do the limbo or anything.
2 I use to when I was younger, but when I lean back about
3 how he did can you tell me before I fall down and hit the
4 ground?

5 A You want me to show you?

6 Q No, I'm doing it you tell me when I get to the right
7 space?

8 A Go back.

9 Q Okay.

10 A Come up and he pulled the gun. When he come up, he
11 pulled the gun. He said I'm tired of your shit.

12 Q I'm tired of your shit, bam.

13 A Yes.

14 Q And you never saw Blake swing at him, did you?

15 A No, I did not see Blake swing at him.

16 Q You never saw Blake with a weapon, did you?

17 A No, sir, I didn't, but I do know Blake was not nobody
18 to play with. He was -- he had a bad temper too.

19 Q Okay. And ---

20 A From what I hear from people. I don't know Blake.

21 Q I'm not asking you what you hear from other people.
22 You don't know Blake?

23 A I sure don't.

24 Q Matter of fact, you had told, I think, before you
25 said you only seen him two times?