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ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

VOLUME TWO OF THREE

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SC Court of Appeals

Appeal from Lancaster County

Honorable Thomas W. Cooper, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

ALLEN WESLEY MASSEY,

APPELLANT

APPELLATE CASE NO 2015-001934

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE'S EXHIBITS #10-13 FROM IMMUNITY HEARING (PHOTOS OF
APPELLANT'S LIP)**

**STATE'S EXHIBIT #24 FROM IMMUNITY HEARING (VIDEO OF APPELLANT'S
STATEMENT)**

JANICE ROSS - CROSS

1 Q Okay. Well, is there a range that it could have been
2 in, you know, the trajectory could have been?

3 A There's a range of how the body could have been
4 positioned.

5 Q Well, we're just talking about an erect body right
6 now, standing straight-up. That's what you were doing with
7 Mr. Edgerton, right?

8 A Yes.

9 Q Well, I mean, was that just one set thing? You know
10 what that angle is but even though you don't know where the
11 bullet entered and where it ended up, you know what that
12 angle was, you know what that trajectory was.

13 A I know where the bullet entered and where it ended
14 up, I don't have the exact angle.

15 Q So you know the direction the gun was pointing in
16 relation to an erect body, correct?

17 A Correct.

18 Q And you know that without knowing the distance on that
19 erect body from the top of the head to those two different
20 points.

21 A Yes.

22 Q Okay. All right. Did you make a determination of
23 whether the body was erect or bent over or have any history
24 to give you any guidance on that?

25 A I can't tell that from the autopsy.

JANICE ROSS - CROSS

1 Q So when you're doing an autopsy you have no idea what
2 position the body was in when you're comparing -- when
3 you're determining that trajectory, correct?

4 A ~~Not unless someone witnessed the shooting.~~

5 Q Or was on video.

6 A Exactly.

7 Q Which it wasn't on this case, right?

8 A Correct.

9 Q So it's certainly really possible that the body was
10 bent over and in a way that an apparent downward trajectory
11 was actually from a bullet that was fired below the entry
12 point.

13 A Yes.

14 Q Which would have created the appearance of a downward
15 trajectory.

16 A Correct.

17 Q Even though that's created only because of the
18 position of the body.

19 A Correct.

20 Q Dr. Ross, you've done 9,000 autopsies.

21 A Yes.

22 Q Wow. And have you done autopsies of individuals that
23 have died as a result of a blow with a fist based on the
24 history?

25 A Yes.

JANICE ROSS - CROSS

1 Q How many of those have you done, do you suppose?

2 A I couldn't guess. Hundreds.

3 Q A blow with a fist apparently can cause some serious
4 bodily injuries, can't it?

5 A Yes.

6 Q And when you -- you've examined a lot of fists, I
7 suppose, just looking for evidence, that's what you're
8 doing is just looking for facts that you can report, right?

9 A Correct.

10 Q But do you have experience with cases where the
11 history of a fist has been used and you had the opportunity
12 to examine those fists?

13 A Yes.

14 Q And do they always have markings on them?

15 A Not always. And it depends on the pigmentation of
16 the skin, how easy it would be to see a bruise, contusion
17 or bruise.

18 Q On the skin of the fist?

19 A Yes.

20 Q Now --

21 A Or anywhere on the body.

22 Q Okay. And the -- in a hypothetical if I hit someone
23 with my fist, the affect on my fist is going to depend on
24 where I hit that person, correct?

25 A It could, yes.

JANICE ROSS - CROSS

1 Q I mean, because if I hit you -- if I hit someone in a
2 bony place, it's going to have more effect than if I hit
3 them in a flat -- a place where the skin is flat or fleshy,
4 correct?

5 A Correct.

6 Q And if I got -- hit someone smack dab in the lips with
7 a flat part of my fist, are the lips going to cushion the
8 affect of what you could see on that fist?

9 A Think might.

10 Q And they might not?

11 A Correct.

12 Q Why wouldn't they? Under what circumstance
13 wouldn't --

14 A If the teeth were showing at all it might hit the
15 fist, but otherwise they would cushion it, yes.

16 Q And so the fact that you observed no marks on Mr.
17 Robinson's fist doesn't prove anything about whether he
18 struck someone with that fist or not really, does it?

19 A Correct.

20 Q If there was something you could say, "Oh, yeah, he
21 did," but you didn't find nothing.

22 A Correct.

23 Q And that wouldn't be that unusual.

24 A Correct.

25 Q No question fists can cause serious bodily injury,

JANICE ROSS - CROSS

1 though.

2 A Correct.

3 Q Now, did you review toxicology?

4 A Yes.

5 Q Do you have that with you?

6 A Yes, I do.

7 Q I was going to ask you to look at it but you're doing
8 it, aren't you? Why would toxicology be relevant to
9 autopsy in a homicide?

10 A It could show if there, for instance, is a drug high
11 enough that would cause unconsciousness then that may
12 change the whole story, the whole situation.

13 Q Would your autopsy reveal simply -- it would reveal
14 the blood alcohol level at the time of the death.

15 A Correct.

16 Q Do you obtain samples of that nature yourself, or it's
17 too late by the time it gets to you, isn't it, to do that?
18 You acquire that from someone else?

19 A We get that during the autopsy. That's the first
20 thing we do -- beside x-rays on a case like this we draw
21 blood before we interrupt any organs so we get a good
22 sample.

23 Q Now, did you acquire a sample for Demarcus Robinson?

24 A Yes.

25 Q And have you received the results of that?

JANICE ROSS - CROSS

1 A Yes.

2 Q Can you review that?

3 A I'm not a toxicologist but I can tell you what we
4 have.

5 Q What did the report reveal about the blood alcohol
6 level?

7 A The blood alcohol was .159 percent.

8 Q .159?

9 A Correct.

10 Q Okay. Were there any other things tested for in that
11 report?

12 A Yes. The other thing that was positive was THC, or
13 marijuana.

14 Q Okay. Now, I believe in that report you're going
15 to -- you have -- that report has a threshold level. What
16 is a threshold level?

17 A That's the point at which the machine can pick up
18 that chemical.

19 Q So what's the threshold for the alcohol?

20 A .01.

21 Q And the reading was .159?

22 A Correct.

23 Q So that's approximately 16 times above the threshold?

24 A Correct.

25 Q And on the marijuana, what's the threshold?

JANICE ROSS - CROSS

- 1 A 2.0.
- 2 Q And what was the finding?
- 3 A 7.2.
- 4 Q So that's three and a half times the threshold?
- 5 A Yes.
- 6 Q But what does that -- how did you interpret that?
- 7 A Just that the person has been exposed to marijuana.
- 8 I'm not an expert in how to interpret levels of
- 9 cannabinoids.
- 10 Q Now, does your training -- did you have -- do you have
- 11 any expertise in psychology related to behavior with regard
- 12 to alcohol?
- 13 A No, sir.
- 14 Q So you can't opine on that.
- 15 A Correct.
- 16 Q I believe that Ms. Collins asked you about what your
- 17 autopsy revealed, about if your autopsy revealed anything
- 18 about the distance between the gun and the entry point in
- 19 Mr. Robinson's body. She asked you that question, didn't
- 20 she? Did I recall that?
- 21 A I don't believe so.
- 22 Q Okay. Well, I'm asking you that question.
- 23 A Okay.
- 24 Q Did your autopsy reveal anything about the distance
- 25 between the discharge of the gun and the unfortunate Mr.

JANICE ROSS - CROSS

1 Demarcus Robinson?

2 A You're talking about the range of the wound, the
3 range meaning how far the muzzle of the gun was from the
4 skin from the entrance wound? When you fire a gun there's
5 soot and powder that comes out also, but the soot and
6 powder only goes so far depending on the gun and the
7 caliber, et cetera. But if you see soot and tattooing or
8 powder on the -- around the entrance wound you can say
9 that the gun was fairly close to the skin. In this case
10 there was no soot and no stippling around the entrance
11 wound indicating that it was at least a couple of feet
12 away or further, however I did not have any clothing so I
13 don't know if anything was found on the shirt if he was
14 wearing a shirt.

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

16 (Break in proceedings.)

17 Q Well, Dr. Ross, I would ask you to look at these
18 photographs if you would, please.

19 MS. COLLINS: I'm sorry. I think we need to mark them
20 for the record.

21 MR. GRIER: Yeah, for identification purposes.

22 Q All right. Dr. Ross, I'll hand you back what's marked
23 as Defendant's Exhibit 1 and Defendant's Exhibit 2. You
24 have already looked at those, haven't you?

25 A Yes.

JANICE ROSS - CROSS

1 Q And you don't know anything about what -- what does
2 that appear to be? Do you -- let's ask that question.

3 A There appears to be some soot around the entrance
4 wound to the hole of the shirt.

5 Q Now, you don't actually know whose shirt that is
6 because nobody told you.

7 A I don't. I don't know if that's the hole on top of
8 the bullet wound.

9 Q I'm sorry?

10 A I don't know if that's the hole on the top of the
11 bullet wound. The black material around the hole appears
12 to be soot.

13 Q Okay. So that has the appearance of soot.

14 A Correct.

15 Q And, you know, assuming that you're -- for the
16 purposes of argument for this discussion, if those had been
17 the clothes of Demarcus Robinson and you had examined them
18 and that's what you saw, what would you have concluded
19 about the distance between the muzzle of the gun and the
20 entry point of the bullet?

21 A The muzzle of the gun would be a few inches away from
22 the decedent. The exact range would have to be done by
23 SLED to look -- to do target shooting with the same gun
24 and the same ammunition.

25 Q Which --

JANICE ROSS - CROSS

1 A To identify exactly how much inches away from the
2 victim.

3 Q Now, when you say inches based on -- how many inches
4 would --- what would be the maximum inches with the
5 information you have with any gun that you've had
6 experience with?

7 A It depends on the gun and ammunition.

8 Q All right. But in any event it does -- you would
9 opine that it's fairly close proximity.

10 A Correct.

11 Q Now, you examined the entry I believe in State's
12 Exhibits 5 and 6. Those actually do depict the entry --
13 the point of entry for the bullet; is that right?

14 A Yes.

15 Q And does that tell you anything about the distance of
16 the -- that the clothing doesn't tell you -- does it tell
17 you anything about the distance of the gun to the body?

18 A No, it does not.

19 Q Well, does it tell you whether the gun was in direct
20 contact with the body or not?

21 A Well, there's no muzzle imprint, so it does not look
22 like the muzzle was impressed on the skin.

23 Q Okay. So if the muzzle had been directly next to the
24 skin there would have typically -- and you would expect to
25 see some impression that you could interpret and opine that

JANICE ROSS - CROSS

1 the gun was directly in contact with the skin.

2 A Correct.

3 Q Now, when we say directly in contact with the skin or
4 directly -- would that even do that through clothing?

5 A Yes.

6 Q So if the gun was -- if this was a shirt that Demarcus
7 Robinson was wearing and the gun had been in direct
8 contact, you should have been able to observe something
9 that we would find in the autopsy where you would be giving
10 an opinion that the gun was in direct contact with that
11 skin.

12 A Yes.

13 Q But there wasn't anything that you saw, correct?

14 A Correct.

15 MR. GRIER: That's all. Thank you, Dr. Ross.

16 THE COURT: Redirect?

17 MS. COLLINS: Thank you, Your Honor, briefly.

18 REDIRECT EXAMINATION

19 BY MS. COLLINS:

20 Q So Dr. Ross, is it your testimony that the trajectory
21 of the bullet path as you described it today would be
22 consistent either with the victim standing up if the shot
23 is coming from his right, or -- I'm not wording this very
24 well -- it would be consistent either with the victim
25 standing up and being shot, but also consistent if the

JANICE ROSS - REDIRECT

1 victim was bending over being shot, is that your testimony
2 here today?

3 A Yes.

4 Q Now, Mr. Grier asked you about a muzzle mark basically
5 and you described that if the gun is pressed on the skin
6 you would see a muzzle mark; is that right?

7 A Correct.

8 Q But then when Mr. Grier asked you otherwise then he
9 started talking about, "Well, if the gun was against the
10 skin as opposed to being pressed against the skin." Is
11 there a distinction between if the gun was just right here
12 and not being pressed up against the body was to whether or
13 not it would leave a muzzle mark?

14 A You might have some impression even if it was just
15 very close by.

16 Q But you might not?

17 A Correct.

18 Q And what about if the deceased was wearing two shirts.
19 In fact, if the deceased were wearing the white undershirt
20 and another shirt on top of that, and the gun was not
21 pressed with any force against the skin, could it still
22 have been in close contact with the body without leaving a
23 muzzle mark?

24 A Well, that soot is in a pretty wide diameter, I mean,
25 not real wide, but it's wide enough to indicate to me that

JANICE ROSS - REDIRECT

1 the muzzle was a little bit away from the clothing.

2 Q So the muzzle was a little bit away from the clothing?

3 A Yes, within say an inch or inch and a half, that's a

4 guess. Again, to get an exact measurement you would have

5 to take the gun with the same ammunition and target

6 practice against something white.

7 Q And your expertise is not in ballistics, it's in

8 forensic pathology, correct?

9 A Correct.

10 MS. COLLINS: Thank you, Dr. Ross.

11 THE COURT: Anything further?

12 MR. GRIER: Not from the defense, Your Honor.

13 THE COURT: You may come down, thank you very much.

14 May this witness be excused?

15 MS. COLLINS: We would ask that she be excused.

16 THE COURT: Without objection?

17 MR. GRIER: Without objection.

18 THE COURT: All right. Ladies and gentlemen of the

19 jury, that will conclude the testimony for today. It has

20 been a long day as you -- I don't have to tell you. So I

21 am going to dismiss you now until 9:30 in the morning, is

22 that all right with everyone? 9:30 suit everybody? Let me

23 give you a few -- make a few comments before I let you go.

24 First off, in the morning when you reconvene and when

25 everybody is there, I want you to -- I would ask you to

1 elect one of your members as the foreperson of the jury.
2 Now, that person doesn't have a lot of responsibility
3 during the course of the trial, but in the event that the
4 ~~jury reaches a verdict at the end of the trial you'll be~~
5 I have to have somebody to write down the verdict and
6 preside in the jury room. So if you'll elect one of your
7 members to be the foreperson of the jury -- it can't be the
8 last gentlemen selected because they are our alternate
9 jurors. And when we reconvene in the courtroom the
10 foreperson will take the chair where the lady with the
11 green sweater is and -- not that green sweater, this green
12 sweater -- and will maintain that seat throughout the
13 trial. As I said earlier, there are no numbers on any
14 seats and you're welcome to sit wherever you want to. Now,
15 ~~something else that's required of me by our supreme court,~~
16 and I will tell you in this day of social media and all of
17 the things that go along with that, Facebook, Twitter, any
18 of these social media, occasionally there's been an attempt
19 by jurors to try to do some independent research about the
20 particular case. Now, I have personally had an experience
21 with that. I had a fairly egregious case in Lexington
22 about a year ago, and I will tell you that once that was
23 disclosed I had to declare a mistrial and held the juror
24 that was responsible for that behavior actually had --
25 during jury deliberations had tried to look somebody up on

1 the internet and then told them what they found on the
2 internet and told the jury they'd better be sure to convict
3 this fellow. Well, that was totally inappropriate and I
4 had to deal with it harshly, let me just put it that way.
5 So I'm going to caution you, as I said earlier, you will
6 hear everything in this courtroom that's relevant to this
7 case, and I may even ask you tomorrow or one day this week
8 if anybody has tried it, not that I don't trust you but
9 sometimes it always is good to remind jurors that what goes
10 on in the courtroom is what you have to make your decision
11 on, not something necessarily that you found out that
12 somebody else did. I use the example sometimes in civil
13 cases, in wreck cases where jurors may leave the courtroom
14 and just think, "I'll just drive by that intersection to
15 see how this thing happened," that's sort of an independent
16 research, which I'm cautioning you not to do. Also, I'm
17 going to ask you to respect my earlier comments about not
18 discussing this case with somebody -- anybody over the
19 evening hours. It is so easy for somebody, a friend or a
20 family member to say something to you about what did you do
21 today and you tell them honestly you got selected on the
22 jury, then they'll ask you what it's about and you tell
23 them and they may say something like, "Oh, I think I know
24 what that case is about, this is what you ought to do,"
25 purely innocently doing that it could have an influence on

1 your ultimate decision. So the best thing for you to do is
2 just tell -- if somebody inquires about what your jury
3 service was about today, just tell them that the Judge told
4 ~~you not to disclose it, that's the easy way out, just to~~
5 blame it on me. My kids do that a lot, or they used to
6 when they were younger. So I'm going to ask you not to
7 discuss it with anybody and not to engage in any -- not to
8 engage in any, but not to try to read -- if there's been
9 any press report about it, not to watch it or read it or
10 listen to it if you recognize what they may be reporting.
11 So I think that's about all I can say in terms of
12 cautioning you to try to keep yourself focused on the trial
13 and not necessarily on what goes on outside of the trial.
14 I'm going to dismiss you now until 9:30 in the morning,
15 ~~have a pleasant evening. And remember, you're going to~~
16 select a foreperson when you get back in the morning, and
17 the bailiff will report to me who that will be. Have a
18 pleasant evening, ladies and gentlemen. Thank you very
19 much.

20 (The jury left the courtroom.)

21 THE COURT: Anything from the State?

22 MS. COLLINS: No, Your Honor.

23 THE COURT: Anything from the defense?

24 MR. GRIER: No, sir.

25 THE COURT: All right, 9:30.

1 (Court recessed for the evening and resumed at 9:50
2 a.m. on Tuesday, August 4, 2015.)

3 THE COURT: State ready proceed?

4 MS. COLLINS: The State is ready.

5 THE COURT: Defense ready to proceed?

6 MR. GRIER: Ready, Your Honor.

7 THE COURT: I'm going to bring the jury in, and just
8 give you a little heads up, I'm going to just give them a
9 brief comment about what you both raised in your opening
10 remarks, that is the issue of self-defense. And it's not
11 an instruction, it has nothing to do with the facts, but I
12 think self-defense under our law is a thing that's kind of
13 hard to put your hands around especially for a lay person,
14 so I think I'm just going to remind them of what you said
15 in your openings, nothing more. I have also given the
16 jurors pads and pencils if they want to use them, I will
17 give them instructions about using those and that they're
18 only for their own personal use and remembrance. The
19 witness list is fairly long and sometimes I think it's
20 helpful to jurors to be able to keep the players straight.
21 So with that preface, bring the jury in.

22 (The jury returned to the courtroom.)

23 THE COURT: Good morning, ladies and gentlemen. We
24 are now ready to continue with the trial. Ms. 84, I
25 appreciate you being willing. Were you willing to serve as

1 foreperson? I didn't know if you had much choice. Okay.
2 Before we begin or pick up with the witness's testimony,
3 let me -- I know yesterday was kind of a probably an
4 overwhelming day to some extent for you because you heard a
5 lot of talk from me and talk from the lawyers. I want to
6 tell you just to relax today and as we go through these
7 witnesses we're probably going to be here for a couple of
8 more days so it's going to take awhile to get through the
9 testimony in this case, but I want you to keep in mind what
10 we're here for. And the lawyers in their opening
11 statements gave you sort of a preview but I want to take
12 just a minute to explain one thing that I think sometimes
13 can be confusing to jurors, and that is the issue of
14 self-defense. Now, it sounds simple when I say
15 self-defense, but in this case the defendant is charged
16 with murder. If the defendant proves certain things or if
17 self-defense is proven it's called a complete defense. The
18 unusual thing about our law is in South Carolina that
19 self-defense must be proven by the State, not necessarily
20 by the defendant, by the State. In other words, the State
21 has to prove that it was not self-defense in order for you
22 to be able to convict for murder if you find those facts to
23 be appropriate. So as I say, that may sound like it's a
24 little bit backwards but that is the law of the State of
25 South Carolina that the State must prove that it was not

1 self-defense in order for you to convict on the charge of
2 murder. So that is a first sort of concept that I want you
3 to just keep in mind as we go through this trial. And the
4 second thing is that the lawyers mentioned something called
5 lesser-included offenses. The way I like to describe that
6 is -- and if you watch cop shows and things like that on
7 television you'll hear them talk about murder in the first
8 degree, murder in the second degree, murder in the third
9 degree. Well, we don't call it that in South Carolina, but
10 it's basically the same concept that the lesser -- what we
11 call the lesser-included offense of murder is manslaughter
12 and there are two forms of manslaughter, that is voluntary
13 and involuntary, and I'll get into that in more detail with
14 you later in the trial. But I thought the best thing and
15 the most important thing to keep in mind is this issue of
16 murder and self-defense. It is clearly -- both attorneys
17 have told you that's what the case is about and you need to
18 keep in mind that in order to convict for murder the State
19 has to prove it was not self-defense. Okay. All right.
20 Solicitor, call your next witness.

21 MS. COLLINS: Thank you, Your Honor. The first
22 witness this morning for the State is Ms. Ebonie Harris.

23 The witness, EBONIE HARRIS, was first duly sworn and
24 Testified as follows:

25 DIRECT EXAMINATION

1 BY MS. COLLINS:

2 Q Good morning. If you could please try to talk
3 directly into the microphone, I will try to speak up, too,
4 ~~so that the jury can hear everything. Please state your~~
5 name.

6 A Ebonie Harris.

7 Q Ms. Harris, how do you spell Ebonie for the record?

8 A E-b-o-n-i-e.

9 Q All right. Did you know Demarcus Robinson?

10 A Yes, ma'am.

11 Q And what was your relationship with Demarcus?

12 A That was my fiance.

13 Q He was your fiance?

14 A Yes, ma'am.

15 Q If you could speak up just a little bit more. And did
16 y'all have a children together?

17 A Yes.

18 Q How many?

19 A One.

20 Q And what is the name of that child?

21 A Gianna (phonetically) Harris.

22 Q Is that a little girl or a little boy?

23 A Little girl.

24 Q And how old is Gianna now?

25 A Gianna is seven.

EBONIE HARRIS - DIRECT

1 Q How long had y'all been together, you and Marcus, at
2 the time of his death?

3 A It was a year and some change.

4 Q I can't hear you, I'm sorry.

5 A It was a year and some change.

6 Q A year and some change?

7 A Yes, ma'am.

8 Q And were y'all living together at that time?

9 A Yes.

10 Q Okay. Do you have other children?

11 A Yes, I have another girl.

12 Q Is she older than Gianna?

13 A Yes.

14 Q It's a little girl?

15 A Yes, ma'am.

16 Q What is her name?

17 A Azaria (phonetically.)

18 Q And did Demarcus help you take care of that child as
19 well as his with you?

20 A Yes.

21 Q Do you know the defendant, Allen Wesley Massey?

22 A Yes, ma'am.

23 Q How long have you known him?

24 A It was over ten years.

25 Q Over ten years?

EBONIE HARRIS - DIRECT

1 A Yes, ma'am.

2 Q And did the defendant have a nickname back in October
3 of 2013?

4 A Yes, ma'am.

5 Q What was that?

6 A Urk.

7 Q And do you know why that was his nickname?

8 A No, ma'am.

9 Q Is the defendant related, if you know, to Malika or to
10 you?

11 A As far as I've been told, yes, ma'am.

12 Q And what is that relationship?

13 A We were told we were cousins.

14 Q Close, like first degree or way down the line?

15 A Down the line.

16 Q Down the line?

17 A Yes, ma'am.

18 Q I'm 53 so I'm having a little bit of trouble hearing
19 you, if you could speak up a little bit.

20 A I'm sorry.

21 THE COURT: See the lady down at the end of the jury
22 box and the gentleman on the end?

23 THE WITNESS: Yes.

24 THE COURT: They have to hear what you say because
25 your testimony is very important and they have to be able

EBONIE HARRIS - DIRECT

- 1 to hear you.
- 2 THE WITNESS: Yes, sir.
- 3 Q So Malika Harris is related to you, right?
- 4 A Yes.
- 5 Q And what's her relationship with you?
- 6 A Sister.
- 7 Q Ms. Harris, where were you on October 12th of 2013
- 8 when Demarcus was shot at Malika's and killed?
- 9 A Outside in the car.
- 10 Q And whose car was that?
- 11 A It was my car.
- 12 Q And what type of car was that?
- 13 A A 2000 Honda Accord.
- 14 Q And was that a two door or a four door?
- 15 A Four door.
- 16 Q And what color was it?
- 17 A Gold.
- 18 Q It was gold?
- 19 A Yes, ma'am.
- 20 Q All right. And where had you been earlier that
- 21 evening?
- 22 A I was at a party.
- 23 Q Where was that party?
- 24 A I was at two. I was at one off of 16th Street and
- 25 another one off of Jackson Road by my house.

EBONIE HARRIS - DIRECT

1 Q Which party did you go to first?

2 A The one by my house, off Jackson Road.

3 Q Was that during the evening hours of October 11, 2013?

4 A Yes, ma'am.

5 Q And was Demarcus with you at that time?

6 A Yes, ma'am.

7 Q And about how long were y'all at that party?

8 A It was a few hours.

9 Q Did you see the defendant there at that party?

10 A No, ma'am.

11 Q About what time did y'all leave the party at your
12 house and go to the party at Jackson Street?

13 A It was about 12.

14 Q After twelve midnight approximately?

15 A Yes, ma'am.

16 Q Who was with you when you went to the party on 16th
17 Street?

18 A My sister.

19 Q And was Demarcus still with you also?

20 A No.

21 Q Okay. So did he stay at the other party?

22 A Yes.

23 Q He didn't go to the party on 16th Street?

24 A No.

25 Q Which sister was with you? Malika?

EBONIE HARRIS - DIRECT

- 1 A Yes.
- 2 Q Did you see the defendant, Allen Massey, there at the
3 16th Street party?
- 4 A No at that time, no.
- 5 Q Did you see him at all while you were there at the
6 16th Street party?
- 7 A I went back again.
- 8 Q Okay. So you were there at the 16th Street party and
9 left?
- 10 A Yes.
- 11 Q And where did you go after that?
- 12 A I went to pick Demarcus up.
- 13 Q You went to pick Demarcus up?
- 14 A Yes.
- 15 Q And where was Demarcus?
- 16 A He was at a party.
- 17 Q So he was still at the Jackson Street party at that
18 time?
- 19 A Yes, near my home.
- 20 Q Was it at your home or near your home?
- 21 A Near my home.
- 22 Q And when you picked Demarcus up at that party at
23 Jackson Street, where did y'all go?
- 24 A We left and we went back to 16th Street.
- 25 Q You went back to the 16 Street party?

EBONIE HARRIS - DIRECT

1 A Yes.

2 Q And when you got back there -- so Demarcus was with
3 you, correct?

4 A Yes.

5 Q Did you and Demarcus -- or did you see Allen Wesley
6 Massey there at the 16th Street party at that time?

7 A Yes, ma'am.

8 Q And to your knowledge did Demarcus see him? Were you
9 together with Demarcus when you saw Allen Massey?

10 A Yes, they engaged, they shook hands.

11 Q They shook hands there at the 16th Street party?

12 A Yes, ma'am.

13 Q Had you ever seen the defendant and Demarcus interact
14 before?

15 A Yes. I seen them speak to each other, yes, ma'am.

16 Q To your knowledge had they ever had words before?

17 A No, ma'am.

18 Q No arguments before?

19 A No, ma'am.

20 Q How would you characterize their relationship before
21 this night, this incident?

22 A To my knowledge they didn't have any problems.

23 Q Were they friends?

24 A Friends, associates.

25 Q Associates and friends?

EBONIE HARRIS - DIRECT

1 A Yes, ma'am.

2 Q So at the 16th Street party when you went back the
3 second time with Demarcus, you said that Mr. Allen Wesley

4 Massey was there and he actually shook hands and spoke with
5 Demarcus there; is that right?

6 A Yes, ma'am.

7 Q And both of those gentleman appeared on good terms at
8 that time?

9 A Yes, ma'am.

10 Q When did you leave the 16th Street party?

11 A We didn't stay long because it was over, it was only
12 a few people there. And when we left there we went to my
13 sister's home, which was on City Avenue.

14 Q Okay. At any time while you were at the 16th Street
15 party, did you see any trouble between Mr. Massey, the
16 defendant, and Demarcus, your fiance?

17 A No, ma'am.

18 Q Do you know about what time you and Demarcus went from
19 the 16th Street party to your sister's house on City
20 Avenue?

21 A No, ma'am.

22 Q So when y'all came to there were you still driving the
23 car?

24 A He was driving.

25 Q Okay. Demarcus?

EBONIE HARRIS - DIRECT

1 A Yes, ma'am.

2 Q And you were riding with him?

3 A Yes, ma'am.

4 Q And y'all parked at City Avenue?

5 A Yes, ma'am.

6 Q And what happened after that?

7 A Well, we was at my sister's house for a little while.

8 Q And that's Malika's house?

9 A Yes, ma'am.

10 Q Go ahead.

11 A And he said he wanted a beer, so we left and went to

12 the store. But before we went to the store we were

13 walking on the way to the car and that's when I heard

14 Allen said, "Is that Malika?" And I said, "No, it's

15 Ebonie." And so he walked down the street and that's when

16 me and Marcus was in the car at this point and he seen him

17 in the car and he said, "I need to holler at you."

18 Q Who said? You said he said.

19 A Allen told Marcus "I need to holler at you." And he

20 was like. "Okay. I'll be right back."

21 Q Who was like okay?

22 A Marcus said, "Okay. I'll be right back."

23 Q And did the two men at that time appear on good terms

24 with each other?

25 A Yes, ma'am.

EBONIE HARRIS - DIRECT

1 Q And when you said earlier he said he needed a beer,
2 was that Demarcus?

3 A Yes, ma'am.

4 Q All right. So after y'all saw Mr. Massey walk by the
5 car and, as you said, say that he needed to holler at
6 Marcus and Marcus said, "Okay. I will be right back,"
7 where did y'all go?

8 A We went to Crenco.

9 Q Did you see where Mr. Massey went?

10 A Well, he went in the house.

11 Q And you and Demarcus went to Crenco to get a beer?

12 A Yes, ma'am.

13 Q There wasn't beer already at the house?

14 A No, ma'am.

15 Q And so after you got -- did you go in Crenco with
16 Marcus?

17 A No. I didn't go inside the store, I stayed in the
18 car.

19 Q So after he got his beer did y'all go somewhere else?

20 A No.

21 Q Where did you go?

22 A We went back to my sister's home.

23 Q Okay. And when you went back to your sister,

24 Malika's -- it was Malika's home, right? We're still

25 talking about [REDACTED] City Avenue?

EBONIE HARRIS - DIRECT

1 A Yes.

2 Q Where did y'all park?

3 A We parked on the side of the road.

4 Q Were you right in front of the house?

5 A Not directly in front of the house but back a little

6 bit. It wasn't directly in front of the home.

7 Q Did you go in the house?

8 A No, ma'am.

9 Q Where did Marcus go at that time?

10 A He went in.

11 Q Why didn't you go in the house at that time?

12 A I had a headache.

13 Q And so you stayed in the car at that time?

14 A Yes.

15 Q Was it your -- what was your understanding about how

16 long Marcus was going to be in the house when he went back

17 in?

18 A He said, "I'm not going to be long, I'll be right

19 back."

20 Q Okay. Now, you stayed in the car. Were you in the

21 front passenger seat still?

22 A Yes, I was still in the seat.

23 Q The girls were being babysat I guess?

24 A Yes, ma'am.

25 Q Were your windows down?

EBONIE HARRIS - DIRECT

1 A No, the windows were up.

2 Q Was the car parked so that the passenger side was
3 closest to the house or was --

4 A Yes.

5 Q It was?

6 A Yes.

7 Q And you said the windows were up though?

8 A Yes, ma'am.

9 Q Could you see the house from where you were sitting?

10 A Yes.

11 Q So you saw Marcus go in the house?

12 A Yes.

13 Q When Marcus went in the house, did you see any people
14 outside of the house either on the porch or in the wall?

15 A Yes, ma'am.

16 Q Who did you see?

17 A I say Navoney Curry on the porch, and I can't
18 remember the other guy's name. There was two guys on the
19 porch.

20 Q All right. And after Marcus went in the house, what
21 did you see happen?

22 A I seen the two guys on the porch and I just heard a
23 faint noise.

24 Q What did it sound like?

25 A It was just a faint pop.

EBONIE HARRIS - DIRECT

1 Q And it was just one?

2 A Just one.

3 Q And then what happened?

4 A ~~I saw the two guys go inside the house and I saw~~

5 Allen run outside.

6 Q So the two guys, Navoney Curry and the other guy you

7 don't know his name, went inside the house?

8 A Yes.

9 Q And who came out?

10 A Allen.

11 Q The defendant, Allen Massey?

12 A Yes, ma'am.

13 Q How long had Demarcus been in the house at that point?

14 A In reality it didn't seem like it was even five

15 minutes.

16 Q Okay. And when Mr. Massey came outside the house, did

17 you see -- was he carrying anything?

18 A No, I didn't see anything.

19 Q Okay. And was he wearing a hat that night, do you

20 remember?

21 A I don't recall.

22 Q But you could clearly see it was Mr. Massey?

23 A Yes, ma'am.

24 Q Was he walking or running?

25 A He was running.

EBONIE HARRIS - DIRECT

- 1 Q And where did he run at that time?
- 2 A He ran past my side of the car.
- 3 Q Ms. Harris, at that point what did you do?
- 4 A Some guys ran out behind him and they were talking --
- 5 well, they were yelling at him I assume, I don't know.
- 6 And the only word that I could hear was pistol, so I
- 7 leaned back in the seat. And when they went in the house
- 8 I turned around and I could see him running down Elm
- 9 Street, 15th street towards Elm.
- 10 Q Who were the guys that you saw come out on the porch
- 11 and say something about the pistol?
- 12 A The one that I heard was -- well, they call him guns,
- 13 Tommy.
- 14 Q A person named Tommy? Do you know his last name?
- 15 A I think it's McGriff.
- 16 Q And you said you leaned back in the seat?
- 17 A Yes.
- 18 Q Why was that?
- 19 A If I had -- you hear pistol, I didn't know if anybody
- 20 knew I was in the car so I just laid the seat back.
- 21 Q Were you concerned about the possibility of there
- 22 being a pistol around?
- 23 A Hearing it, yes.
- 24 Q Okay. And so you leaned pack so you weren't seen?
- 25 A Yes.

EBONIE HARRIS - DIRECT

1 Q And after you sat back up and saw Mr. Massey running
2 down toward Elm street; is that right?

3 A Yes.

4 Q What did you do then, Ms. Harris?

5 A I didn't do anything at that point but I could hear
6 yelling, and once I heard the yelling I got out of the
7 car. I still didn't think anything so I walked into the
8 house.

9 Q Let me back up, I'm sorry, but you said the word
10 yelling and I want to ask you something. Prior to hearing
11 that soft pop, did you hear any yelling or arguing from the
12 house?

13 A No.

14 Q All right. So backing up to where you were you walked
15 inside the house then, and what did you see?

16 A They was there yelling, they were yelling at me that
17 he shot Marcus.

18 Q The people in the house were yelling that he had shot
19 Marcus?

20 A Yes.

21 Q And did they say who?

22 A Yes. They --

23 MR. GRIER: Your Honor, this is hearsay, I object to
24 her saying what other people said. Those people can be
25 called as witnesses, but it's certainly hearsay what they

EBONIE HARRIS - DIRECT

1 say.

2 MS. COLLINS: I'd submit it's an excited utterance.

3 THE COURT: I think so, excited utterance and

4 accepted. I overrule your objection.

5 Q So what were they saying at that time, or shouting?

6 A They were just shouting that Urk shot Marcus.

7 Q Okay. What kind of mood had Demarcus been in that
8 night that you observed up until the point, the last time

9 he went into Malika's house?

10 A He was in a great mood.

11 Q Y'all were at two other parties. Had you had
12 something to drink that night?

13 A Yes, ma'am.

14 Q And what had you had to drink?

15 A I was drinking liquor.

16 Q How much had you had to drink?

17 A Couple of shots. Well, more than a couple of shots.

18 Q Were you able to still observe everything?

19 A Yes, ma'am.

20 Q So you had not had so much that it affected your
21 ability to observe everything and recall it for this jury?

22 A Correct.

23 Q Had you seen Demarcus having something to drink?

24 A Yes, ma'am.

25 Q How much did you see him have to drink that night?

EBONIE HARRIS - DIRECT

1 A He probably -- well, he had more than me.

2 Q He had more than you?

3 A Yes, ma'am.

4 Q Did he appear to you to be under the influence of
5 alcohol or intoxicated at that time?

6 A No, ma'am, because I let him drive.

7 Q And you would not have let him drive if you felt that
8 he was impaired?

9 A Correct.

10 Q Because, of course, you value the lives of the parents
11 of your child and your children. When you went inside and
12 they were saying that Urk had just shot Demarcus, did you
13 see Demarcus?

14 A Yes, ma'am.

15 Q Where was he at that time?

16 A Laying on the floor.

17 Q The floor of which room?

18 A Of the kitchen.

19 Q Was he on his back or his side or his tummy?

20 A He was on his side.

21 Q Did he appear to still be breathing at that time?

22 A He didn't look like he was responsive.

23 Q Were his eyes open?

24 A Yes, ma'am.

25 Q Was he moving?

EBONIE HARRIS - DIRECT

- 1 A No, ma'am.
- 2 Q Was he able to say anything to you?
- 3 A No, ma'am.
- 4 Q Were you able to say anything to him?
- 5 A I didn't say anything.
- 6 Q Did the ambulance come to help Marcus?
- 7 A Yes, ma'am.
- 8 Q And did the police come?
- 9 A Yes, ma'am.
- 10 Q And when the police came did you talk to them?
- 11 A Afterwards.
- 12 Q You talked to an officer in his patrol car?
- 13 A Yes.
- 14 Q At any point in the night had you seen Demarcus and
- 15 Mr. Massey arguing?
- 16 A No, ma'am.
- 17 Q At any point during that night had you seen Demarcus
- 18 argue with anyone?
- 19 A No.
- 20 Q You said you saw Allen Massey run away from the house
- 21 toward Elm Street.
- 22 A Uh-huh.
- 23 Q Did the defendant ever come back to Malika's while you
- 24 were there to check on Marcus?
- 25 A No, ma'am.

EBONIE HARRIS - DIRECT

1 Q Did he ever call you to check on Marcus?

2 A No, ma'am.

3 Q To your knowledge did he ever call Malika to check on

4 Marcus?

5 A No.

6 Q He just ran?

7 A Yes, ma'am.

8 Q And that was the last you saw of him until he was

9 arrested?

10 A Yes, ma'am.

11 Q Were you still at the house when you found out that

12 Marcus had passed?

13 A Yes, ma'am.

14 Q And Mr. Massey wasn't there then.

15 MR. GRIER: I can't hear the question.

16 Q And Mr. Massey wasn't there then.

17 A No, ma'am.

18 MS. COLLINS: Thank you.

19 THE COURT: Cross examination?

20 MR. GRIER: Thank you, Your Honor.

21 CROSS EXAMINATION

22 BY MR. GRIER:

23 Q Ms. Harris, you know I represent Mr. Massey.

24 A Yes, sir.

25 Q And I am truly sorry about your loss.

EBONIE HARRIS - DIRECT

1 A Yes, sir.

2 Q Ms. Collins asked you about Mr. Massey's nickname, and
3 that was Urk?

4 A Yes, sir.

5 Q Did you really know his real name? Folks nicknames
6 get so common sometimes I find people don't know people's
7 real names. Did you know his real name?

8 A Yes, sir, from school.

9 Q Did you go to school with him or were y'all in the
10 same grade, you and Mr. Massey?

11 A He was behind me.

12 Q He was what, younger?

13 A Yes, sir.

14 Q Are you familiar with a television show Family

15 Matters?

16 A Yes, sir.

17 Q Do you know who Steve Urkle is?

18 A Yes, sir.

19 Q And in that television program he is kind of a nerdy,
20 brainy guy.

21 A Yes, sir.

22 Q Is that where the nickname Urk came from as far as you
23 know?

24 A I don't know where it came from.

25 Q All right. Now, Marcus had a nickname as well.

EBONIE HARRIS - CROSS

1 A Yes, sir.

2 Q What was his nickname?

3 A Knockout king.

4 Q How did he come to get that nickname, Ms. Harris?

5 A Because he would knock people out.

6 Q He didn't just go around doing it like, but did you
7 observe it at times?

8 A I had.

9 Q What would precipitate -- what would cause that to
10 happen? When you observed it, what -- how did it happen?

11 How did he come to knock people out?

12 A If he was provoked.

13 Q If he was provoked?

14 A Yes, sir.

15 Q And are you aware of anything that was provoking to
16 him on this night?

17 A No, sir.

18 Q And in fact, you know, I know part of the tragedy for
19 everybody and for you is that these people were friends.

20 A Yes.

21 Q And when you say -- okay. Well, you know, just to get
22 the evening and set up the different things that were going
23 on that night, we got kind of three different things going
24 on. Three different places that you kind of socialized at
25 that night, correct?

EBONIE HARRIS - CROSS

1 A Yes, sir.

2 Q And so the 16th Street was the first place you went?

3 A No, sir.

4 Q Okay. Where is the first place you went?

5 A The one off of Jackson Road, the one that is near my
6 home.

7 Q If we say Jackson Road, is that in the Wiley Park
8 area? So if someone is referring to the Wiley Park party
9 that would be the party at Jackson Road?

10 A Yes, sir.

11 Q All right. Now then, there was a party at 16 Street
12 as well?

13 A Yes, sir.

14 Q How close are those places to each other?

15 A Driving, three or four minutes.

16 Q They are walking distance really, aren't they?

17 A Yes.

18 Q A few blocks?

19 A Yes.

20 Q And, in fact -- okay. And then the third location
21 where Malika's house [REDACTED] City Avenue, that's very close by
22 as well, isn't it?

23 A Yes.

24 Q A few blocks from either of those other -- the Wiley
25 Park party or the 16th Street party, City Avenue is just a

EBONIE HARRIS - CROSS

1 couple of minutes away by car, at the most a few minutes
2 away even walking.

3 A Yes.

4 Q ~~So this is all taking place in the same area?~~

5 A Yes.

6 Q Okay. Did you live close by in that area as well?

7 A Yes.

8 Q Where did y'all live? You and Marcus lived together?

9 A On Jackson Road.

10 Q Y'all lived on Jackson Road?

11 A Yes.

12 Q But the Jackson Road -- the Wiley Park party was not
13 at your house?

14 A Correct.

15 Q Whose party was that?

16 A It was his cousin's.

17 Q Okay. So the Wiley Park party was his cousins, is
18 that Jamalaya (phonetically) how do you pronounce her name,
19 his cousin?

20 A Kaiasha (phonetically.)

21 Q Pardon me. Okay. So you were at that party. And
22 from there -- and that's on Wiley Park?

23 A Yes.

24 Q Or at Wiley Park, Jackson Road at Wiley Park.

25 A Yes, sir.

EBONIE HARRIS - CROSS

1 Q Why did y'all leave there?

2 A Well, I left to drop my sister off, but we stopped at
3 the 16th Street party first before I dropped her off.

4 Q Okay. You and -- Malika is your sister -- left Wiley
5 Park and went by 16th Street?

6 A Yes.

7 Q And then you dropped Malika off at her house?

8 A Yes.

9 Q Now, do you recall why you left the Jackson Road, the
10 Wiley Park party?

11 A There was no particular reason.

12 Q Well, I mean, was there some talk about a shooting
13 over there?

14 A No. I didn't hear about a shooting, not until later
15 on that night.

16 Q Okay. All right. Okay. So Malika left the party.

17 But you and her left not because there was a shooting --

18 A Correct.

19 Q -- at Wiley Park. And Marcus -- did Marcus tell y'all
20 to leave?

21 A He -- well, he said -- well, he asked me was I going
22 to drop her off.

23 Q I'm sorry?

24 A He was asking me was I going to drop her off, she was
25 ready to go.

EBONIE HARRIS - CROSS

1 Q He didn't tell you to leave the Wiley Street party
2 and -- he didn't tell you and Malika to leave the Wiley
3 Street party as a result of some confrontation, or there
4 was some shooting that was going on?

5 A No. I didn't know of a confrontation.

6 Q Okay. All right. And how did you find out that there
7 was a shooting over there at Wiley Park?

8 A It was --

9 MS. COLLINS: I will object to hearsay.

10 THE COURT: Sustained.

11 Q But you did find out about it later?

12 A I heard about it, yes, sir.

13 Q All right. Now, Marcus had children by some other
14 ladies?

15 A Yes.

16 Q Did he have relationships with all of his children?

17 A Yes.

18 Q Did you know his children?

19 A Yes.

20 Q Do you know who Diquan (phonetically) Blackmon is?

21 A Yes.

22 Q Did Diquan and Marcus have a child in common with the
23 same woman?

24 A Do who? Could you repeat it? I'm sorry.

25 Q I'm sorry. Do Mr. Blackmon and Marcus have a child in

EBONIE HARRIS - CROSS

1 common with the same woman, with one other woman? Not you
2 but another woman?

3 A Not to my knowledge.

4 MR. GRIER: Beg the Court's indulgence.

5 (Break in proceedings.)

6 Q Do you know Raheem Huff?

7 A Who?

8 Q Do you know Raheem Huff?

9 A No.

10 Q So if you didn't know him you wouldn't be aware with
11 Marcus having a child in common with Raheem Huff?

12 A He never told me about a child, so no, I wouldn't
13 know.

14 Q Were you aware of Marcus getting in any confrontation
15 with anyone at Wiley Park?

16 A No.

17 Q When you use the word associates, you're not talking
18 about like gang associates or anything like that.

19 Sometimes people hear associates, neither Marcus nor Allen,
20 they weren't gangbangers, they weren't hanging out.

21 A No, I'm not saying like gang affiliations.

22 Q Just associates. They associated together when they
23 would see each other out?

24 A Yes.

25 Q Would they make a point to see each other at times or

EBONIE HARRIS - CROSS

1 was it just a run-in with each other?

2 A A run-in.

3 Q Had Allen ever been to your house to see Marcus?

4 A No, sir.

5 Q Now, did Marcus buy a bottle of liquor and take it

6 over to Malika's house? Did he have a bottle of liquor

7 that he took to Malika's house?

8 A He had a bottle, yes.

9 Q Did you see him take it into the house?

10 A Yes. We were together the first time.

11 Q I'm sorry, what now?

12 A We were together the first time we entered the home,

13 so we --

14 Q Did you ever go into Malika's house?

15 A Yes.

16 Q There were two?

17 A There were two, yeah. Before we went to the store we

18 were in the home together.

19 Q Okay. And at that point Marcus carries a bottle of

20 liquor in there?

21 A Yes.

22 Q Now, did I understand you to say that -- okay. You go

23 to the store and get --

24 A We went to the store to get a beer.

25 Q To get beer?

EBONIE HARRIS - CROSS

- 1 A Yes, sir.
- 2 Q When you returned you were not feeling well and so you
- 3 said you weren't going in.
- 4 A Yes. Because he said he wasn't going to be in long.
- 5 Q You are sitting in the car waiting for Marcus to
- 6 return?
- 7 A Yes.
- 8 Q And did you tell about a meeting with Mr. Massey
- 9 before -- so you came out of [REDACTED] City Avenue and Mr. Allen
- 10 walks up and he apparently -- you don't know for sure but
- 11 Marcus said, "I'll see you later," basically, "I'll be
- 12 back, we'll get up later." Is that in essence --
- 13 A Yes, sir.
- 14 Q So you didn't actually see -- you didn't see a lot go
- 15 into the home?
- 16 A I saw him walk in because we were going.
- 17 Q So you saw him walk into the home?
- 18 A Yes.
- 19 Q Which -- how did he get in?
- 20 A I just saw him walk in the house.
- 21 Q I know, but were there multiple doors, front door?
- 22 A It was a screen door.
- 23 Q Pardon?
- 24 A A screen door.
- 25 Q Screen door?

EBONIE HARRIS - CROSS

1 A Yes.

2 Q So it was just a screen door was the only door?

3 A Yes, sir.

4 Q ~~There was another door on the~~

5 A It was open.

6 Q Okay. Screen door was open and he just walked in.

7 You didn't see whether he let anybody in or he knocked or
8 anything?

9 A No, I didn't see it.

10 Q Okay. All right. Now, you say that you wouldn't let
11 Marcus drive if you would have felt like he was impaired?

12 A Correct.

13 Q So you don't have any reason to believe that he was
14 impaired at all that night?

15 A He was under the influence but I don't feel like he
16 was drunk.

17 Q All right. Well, going back to the 16th Street party,
18 Malika went to the 16th Street party with you?

19 A Yes, sir.

20 Q From the Wiley Street -- from the Wiley Park party?

21 A Yes, sir.

22 Q All right. Shonettia with you too?

23 A Yes, sir.

24 Q Shonettia remained at the Wiley Street party when
25 Malika left?

EBONIE HARRIS - CROSS

1 A She rode with somebody else, she wasn't involved with
2 us.

3 Q Do you know who she rode with?

4 A No, sir.

5 Q Once you walked out of your sister, Malika's, house,
6 you never returned to the house?

7 A I never went back inside the home.

8 Q Never went back inside. And you were not present--
9 during unfortunately when Marcus was shot?

10 A No.

11 Q Had you -- I asked you if Allen had been to your house
12 before, but had you seen him at Malika's house before?

13 A No.

14 Q Malika and Shonettia had lived on Elm Street, I think,
15 beforehand?

16 A Yes.

17 Q How about there? Did you go over there much?

18 A No.

19 Q Okay. Did you go over to Malika's house often?

20 A No.

21 Q So it wouldn't be that unheard of that you just -- if
22 Allen had been there that you hadn't crossed paths with
23 him, that wouldn't be extraordinary?

24 A I'm sorry?

25 Q It wouldn't be unusual that y'all didn't cross paths

EBONIE HARRIS - CROSS

1 because you didn't go over there that much either.

2 A Correct.

3 MR. GRIER: Thank you.

4 ~~THE COURT: Any redirect?~~

5 MS. COLLINS: Yes, Your Honor. Thank you. I would

6 like to have this picture marked as the next State's

7 Exhibit, please.

8 REDIRECT EXAMINATION

9 BY MS. COLLINS:

10 Q I would like to show you what has been marked as

11 State's Exhibit 8. Is that Malika's house at [REDACTED] City

12 Avenue?

13 A Yes, ma'am.

14 Q The car that's parked in front of that house, is that

15 the car that you were in or is that someone else's car?

16 A Someone else's.

17 Q So your car was parked at a different location?

18 A Yes.

19 Q But it was still close enough to the house you could

20 see things going on in the house?

21 A Yes, ma'am.

22 Q Is this a fair and accurate depiction of Malika's

23 house?

24 A Yes.

25 MS. COLLINS: I would like to move State's Exhibit 8

EBONIE HARRIS - REDIRECT

1 into evidence.

2 MR. GRIER: No objection.

3 (The photo was received as State's 8.)

4 Q I told you about the nickname that your fiance,
5 Marcus, had. Did you ever know him to start a fight?

6 A No, ma'am.

7 Q In all of the time you were with him you never saw him
8 start a fight?

9 A No, ma'am.

10 Q And you said he had knocked people out. How many
11 times before had you seen him knock people out?

12 A I have only witnessed it twice to my knowledge.

13 Q Had you seen him fight other people but not knock them
14 out?

15 A No.

16 Q And you said that when you saw it he only did it when
17 he was provoked.

18 A Yes, ma'am.

19 Q By provoked, do you mean the other person started the
20 fight?

21 A Yes.

22 Q Would the other person have started the fight with
23 their hands, actually swing at him first?

24 A Yes.

25 Q Did you ever see him respond to just words of someone

EBONIE HARRIS - REDIRECT

1 with a swing?

2 A Yes, I have seen it.

3 Q But you said you never saw him start a fight, correct?

4 A Correct.

5 Q I just want to be clear, I kind of got a little

6 confused. Mr. Grier asked you -- kept asking about the

7 Wiley Street party. Is that the one that was kind of near

8 your home-off, was it Jackson street?

9 A Yes, ma'am.

10 Q It's not the one at 16th Avenue, right?

11 A Correct.

12 Q Did you see Mr. Massey have any interactions with

13 Rashawd Robinson at either party?

14 A I didn't see him either.

15 Q You didn't see Rashawd Robinson --

16 A I didn't see --

17 Q -- anytime that evening?

18 A No.

19 Q When you saw Mr. Massey at the Wiley Street party as

20 Mr. Grier called it -- well, you didn't see him at this

21 Wiley Street party.

22 A No.

23 Q When you saw Mr. Massey at the 16th Street party, did

24 you know that he had -- if he had a gun in his pocket?

25 A No, ma'am.

EBONIE HARRIS - REDIRECT

1 Q Did you see him with a gun out of his pocket at any
2 time that evening or early morning?

3 A No, ma'am.

4 Q And when he, Mr. Massey, came up to the car that you
5 and Marcus were in, did he have a gun in his hands?

6 A No, ma'am.

7 Q Did he tell you if he had a gun or not?

8 A No, ma'am.

9 Q And when you saw Mr. Massey going in your sister's
10 home, did you have any knowledge of whether or not he had a
11 gun on him?

12 A No, ma'am.

13 Q You said the screen door was open. By that, do you
14 mean like swung open or was it unlocked or --

15 A It was unlocked.

16 Q But it was closed but unlocked.

17 A Correct.

18 Q And you said you didn't see him knock, you just saw
19 him go in?

20 A I just saw him go in the home.

21 Q Did y'all tell him to go in? Did y'all tell him to go
22 on in the house or did you just say we will be back?

23 A Marcus said he would be back.

24 MS. COLLINS: Okay. That's all. Thank you, Ms.
25 Harris.

EBONIE HARRIS - REDIRECT

1 THE COURT: Anything further?

2 MR. GRIER: Just briefly, Your Honor.

3 RECROSS EXAMINATION

4 BY MR. GRIER:

5 Q You were asked on redirect about Marcus knocking out
6 folks. Was he aggressive when he would drink?

7 A Well, not with me. In the time that I saw him I
8 didn't ever really saw him start anything.

9 Q So he was not typically aggressive? Did alcohol
10 affect his behavior around other people?

11 A No.

12 MR. GRIER: Okay. Thank you.

13 THE COURT: All right. Ma'am, you may come down.
14 Thank you very much.

15 MS. COLLINS: We would ask that this witness be
16 excused.

17 THE COURT: Any objection? Without objection? You
18 are free to go, ma'am. Next witness.

19 MS. COLLINS: The State calls Malika Harris.

20 The witness, MALIKA HARRIS, was first sworn and
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. EDGERTON:

24 Q Can you please state your name for the record?

25 A Malika Harris.

MALIKA HARRIS - DIRECT

- 1 Q Ms. Harris, do you have any children?
- 2 A Yes.
- 3 Q How old are your children?
- 4 A Nine and six.
- 5 Q Were you and your children residing at [REDACTED] City Avenue
- 6 in October of 2013?
- 7 A Yes.
- 8 Q Is that in Lancaster?
- 9 A Yes.
- 10 Q Ms. Harris, did you know the defendant, Allen Massey?
- 11 A Yes.
- 12 Q Does he have a nickname?
- 13 A Yes.
- 14 Q Do you know that nickname?
- 15 A Urk.
- 16 Q How long have you known the defendant?
- 17 A Quite awhile.
- 18 Q Has that been his nickname for a good while as long as
- 19 you have known him?
- 20 A As long as I have known him.
- 21 Q Were you present at your residence at [REDACTED] City Avenue
- 22 the evening of October 11th and the early morning hours of
- 23 October 12th?
- 24 A Yes.
- 25 Q Did the defendant come into your home that morning?

MALIKA HARRIS - DIRECT

1 A Yes.

2 Q Do you recall approximately about what time that was
3 in the morning?

4 A ~~I don't remember.~~

5 Q I understand. Do you recall whether you invited him
6 over that evening?

7 A I didn't.

8 Q You did not invite him, didn't call him on the phone
9 or anything?

10 A No.

11 Q And when he came into your home that evening, did you
12 let him in?

13 A No, I didn't.

14 Q You didn't get up and go to the door and open it and
15 say, "Urk, come in?"

16 A No.

17 Q Were you surprised when he came in?

18 A I wouldn't really say surprised, but I was kind of
19 shocked to see him because he hadn't been there at that
20 residence.

21 Q Did you know that he had a gun on him that evening?

22 A No.

23 Q So just to be clear, he didn't say "Malika, I have a
24 gun?"

25 A No, he didn't.

MALIKA HARRIS - DIRECT

1 Q Did you hear him tell anyone else that he had a gun?

2 A No.

3 Q If he would have had come to you and told you that he

4 had a gun that evening would you have let him come in with

5 a gun?

6 A No, I wouldn't.

7 Q Why not?

8 A Because I have kids and my kids are usually always

9 there with me.

10 Q And it's not safe.

11 A It's not safe.

12 Q You would have told him to go home, leave the gun

13 somewhere else, something like that?

14 A Yeah.

15 Q Did you have company that evening at your house?

16 A I did.

17 Q Can you just describe to the jury real quick what you

18 all were doing that evening?

19 A Playing cards, joking a little bit, rapping, dancing.

20 Q Ms. Harris, did you know the victim in this case,

21 Demarcus Robinson?

22 A Yes.

23 Q Did he go by Marcus or Demarcus?

24 A Marcus.

25 Q How long had you known Marcus?

MALIKA HARRIS - DIRECT

1 A Since I was a little girl.

2 Q So you grew up with Marcus?

3 A Uh-huh.

4 Q Did you have any other connection other than just
5 growing up with Marcus?

6 A That was my sister's fiance.

7 Q Long time -- had they dated a long time?

8 A Yeah.

9 Q They had been together a long time? Did you consider
10 him like a brother-in-law?

11 A Yes.

12 Q Did Marcus ever help you with your children?

13 A All of the time.

14 Q Did he help you take care of them, babysit them, stuff
15 like that?

16 A Yeah.

17 Q Was he good to your children?

18 A He was.

19 Q Did he help them with their homework?

20 A All of the time.

21 Q Going back to the evening of October 11th and the
22 early morning of October 12th, did Marcus -- was Marcus
23 present at your house?

24 A Yes, he was.

25 Q Do you remember who he came with?

MALIKA HARRIS - DIRECT

- 1 A My sister.
- 2 Q Did you invite Marcus over that evening?
- 3 A He just said he was coming.
- 4 Q But y'all had spoken previously?
- 5 A Yes.
- 6 Q Sort of an open invitation because he helped you with
- 7 your kids and y'all were friends and everything?
- 8 A Yes.
- 9 Q Do you recall -- it's okay if you don't -- do you
- 10 recall about what time Marcus arrived that evening?
- 11 A It was probably around 1:00 or 2:00 a.m.
- 12 Q And he had been there before?
- 13 A Yes.
- 14 Q Can you give the jury a quick layout of your house?
- 15 Kind of describe -- you come in the front door and just
- 16 kind of describe where the rooms are in relation to one
- 17 another.
- 18 A When you first walk in the door this is a hallway, go
- 19 to the right, that's my living room, once you go to the
- 20 living room you can go through the kitchen. If you want
- 21 to go through the other side of the house on the hallway I
- 22 have got two bedrooms on your left-hand side and my
- 23 bathroom was also on the left.
- 24 Q Okay. Thank you. And that evening where were you and
- 25 your company hanging out primarily?

MALIKA HARRIS - DIRECT

1 A In the kitchen.

2 Q So y'all were playing cards in the kitchen?

3 A Yes.

4 Q Do you recall what time the defendant arrived? I may
5 have asked that already but --

6 A Shortly after Marcus and Ebonie came, it wasn't long.

7 Q Y'all were still hanging out in the kitchen when he
8 arrives?

9 A Yes.

10 Q When he walked in -- the defendant that is, when he
11 walked in, did he speak with you?

12 A Yes, he did.

13 Q Were you at the table? Were you sitting or standing,
14 do you recall?

15 A I don't know. I know I was at the table.

16 Q What happened next?

17 A I mean, he came in, actually dapped everybody up,
18 hugged everybody.

19 Q The defendant?

20 A Yes.

21 Q He comes in. Okay. And then what happens?

22 A After awhile most of us had played cards, me and my
23 friend, Shonettia, went to the bathroom. When I came back
24 out there was tussling and Marcus got shot.

25 Q Do you recall -- I'm sorry to be intrusive, in front

MALIKA HARRIS - DIRECT

- 1 here -- how long you were in the bathroom?
- 2 A Probably like three or four minutes maybe.
- 3 Q Okay... How far away -- I'm just trying to give the
- 4 jury an idea of where the bathroom is in relation to the
- 5 kitchen.
- 6 A Maybe like 10 feet.
- 7 Q So you walked out of the bathroom, you can see what's
- 8 happening in the kitchen once you're out of the bathroom,
- 9 not once you're inside.
- 10 A Once you're out of the bathroom you had to make a
- 11 right and then you can see what's going on in the kitchen.
- 12 Q And so you come out of the bathroom, you make the
- 13 right and you see them tussling?
- 14 A Yes.
- 15 Q Ms. Harris, did you see a gun? Did you see the
- 16 defendant pull out a gun?
- 17 A Yes.
- 18 Q Did you hear -- you heard the gun go off?
- 19 A Yes.
- 20 Q What did it sound like?
- 21 A Like "pop." It wasn't too loud, it wasn't too quiet,
- 22 it was enough for me to hear.
- 23 Q It wasn't what you see in the movies, what you expect,
- 24 it wasn't real loud?
- 25 A Right.

MALIKA HARRIS - DIRECT

1 Q Thank you. You say they're tussling, you hear the
2 gunshot go off.

3 A Uh-huh.

4 Q Did Marcus say anything?

5 A Not when he got shot he didn't, he just held himself.

6 Q Let me go back just a minute. Before the gunshot,
7 right before the gunshot, right after you're in the
8 bathroom and you see them tussling, did the defendant say
9 anything to Marcus?

10 A I didn't hear him say anything.

11 Q Did you hear Marcus say anything to the defendant?

12 A No.

13 Q When the gunshot went off, were they both standing?

14 A No.

15 Q What position were they in relation to one another?

16 A Marcus was kind of like -- I think Marcus was
17 standing up. No, Marcus was on the ground. Marcus was
18 laying down, but he was kind of standing over the top I'm
19 thinking.

20 Q Okay. You're saying after Marcus got shot he fell
21 down on the ground?

22 A Yeah. He was still standing up, once he got shot he
23 was falling down slightly.

24 Q Okay. Staggering?

25 A Yes, he was kind of staggering a little bit.

MALIKA HARRIS - DIRECT

1 Q Do you know if Marcus had a gun that evening?

2 A No.

3 Q Did he have a knife or any other sort of weapon?

4 A No, I didn't see one.

5 Q After you heard the gunshot, can you tell the jury
6 what happened next?

7 A After the gunshot I just seen Urk run, that's all.

8 Q So he did not try to render first aid to Marcus?

9 A No.

10 Q Did he in any way try to help Marcus?

11 A No.

12 Q Did he in any way -- did he take out his cellphone and
13 try to call 911?

14 A No.

15 Q Police, fire department, anything like that?

16 A No.

17 Q He just ran. Do you recall where the defendant ran?

18 Did he run out the front door?

19 A Yes. He ran through my living room and out the front
20 door.

21 Q Did you follow the defendant out the front door?

22 A No. He stood right there for a second, because I was
23 in a daze so I stood right there, then I went out and got
24 my sister.

25 Q You went out and got your sister, and what happened

MALIKA HARRIS - DIRECT

1 after that?

2 A I remember Sindarous Wells doing CPR on Marcus and I
3 remember him coughing one time.

4 Q -- Marcus?

5 A At that point he's laying on the ground.

6 Q He is laying on the kitchen floor?

7 A Yes.

8 Q This is an insensitive question, but was there a lot
9 of blood?

10 A Yes.

11 Q Did anyone call 911?

12 A Yes.

13 Q Do you recall who did?

14 A I don't know.

15 Q Do you remember how long it was before the first
16 responders arrived, the people who ended up helping Marcus
17 that night?

18 A It wasn't long, it was like seven or eight minutes
19 maybe.

20 Q Did you stay in the kitchen while they were -- well,
21 after the first responders got there, did you stay in the
22 kitchen?

23 A I stood there for a minute, then I let them go.

24 Q After the police arrived, after Marcus had been taken
25 to the hospital did you speak with the police?

MALIKA HARRIS - DIRECT

1 A Yes.

2 Q Did you give an interview?

3 A Yes.

4 Q You fully cooperated with the police, you told them
5 what happened, right?

6 A Yes, I did.

7 Q Ms. Harris, in the early morning hours of October
8 12th, did you receive a call regarding what had happened to
9 Marcus?

10 A Yes.

11 Q And they told you he had passed away?

12 A Uh-huh.

13 MR. EDGERTON: Beg the Court's indulgence for just a
14 moment.

15 (Break in proceedings.)

16 Q Just a few more questions, Ms. Harris, I apologize.

17 You said when the defendant came in he dapped everyone up.

18 Can you just describe to the jury real quick what that
19 means?

20 A Basically shaking your hand.

21 Q Thank you. Did you ever see the defendant hit Marcus?

22 A No.

23 Q And to go back just a minute to when they are you said
24 tussling, can you just describe that a little bit, in a
25 little bit more detail to the jury?

MALIKA HARRIS - DIRECT

1 A Basically just holding each other, they were locked
2 up when I came out.

3 Q Their arms are locked together sort of?

4 A Uh-huh.

5 Q They're standing up tussling?

6 A Uh-huh.

7 Q That's when the shot goes off?

8 A Right.

9 Q Just to be clear, when you hear the shot the defendant
10 is standing up?

11 A Uh-huh.

12 Q Mr. Massey is standing up?

13 A Right.

14 MR. EDGERTON: Beg the Court's indulgence one more
15 time.

16 (Break in proceedings.)

17 Q I just want to clarify one more thing. I asked you
18 did you see the defendant hit Marcus. Did you see Marcus
19 hit the defendant?

20 A No. When I came out they were just locked together.

21 Q I apologize for having to go back into it, I just want
22 to clarify for the jury that they are tussling.

23 A Uh-huh.

24 Q And you didn't -- okay.

25 MR. EDGERTON: Thank you. Please answer any questions

MALIKA HARRIS - CROSS

1 that defense counsel has.

2 THE COURT: Cross examination?

3 CROSS EXAMINATION

4 BY MR. GRIER:

5 Q Malika Harris, correct?

6 A Correct.

7 Q Ms. Harris, Ebonie is your sister.

8 A Correct.

9 Q Marcus is your sister's boyfriend.

10 A Right.

11 Q Are you close to Marcus?

12 A Yes, I was.

13 Q You and your sister are real close?

14 A Uh-huh.

15 Q Obviously. Now, Allen is related to you through your

16 dad, I think, maybe is what you believe?

17 A He's my cousin.

18 Q Distant cousins?

19 A Yes.

20 Q Known him for --

21 A Quite while.

22 Q -- quite awhile?

23 A Uh-huh.

24 Q Knew his nickname?

25 A Urk.

MALIKA HARRIS - CROSS

1 Q Urk? Do you know how he got that nickname?

2 A No, I really don't.

3 Q Are you familiar with Family Matters, the show Family

4 Matters, Steve Urkle?

5 A Uh-huh.

6 Q He's kind of a nerdy guy.

7 A Yeah.

8 Q Is Allen known for being smart school-wise?

9 A Yeah, he's smart.

10 Q And Marcus had a nickname as well, didn't he?

11 A Mark.

12 Q Marcus.

13 A I called him Mark.

14 Q Was he known as knockout king?

15 A I don't call him knockout king.

16 Q All right. Was it common for other people to call him
17 that?

18 A I have heard people say it before.

19 Q Do you know how he got that name?

20 A No.

21 Q All right. That night, the night of October 12, 2013,
22 how many places did you go to besides your house?

23 A Two.

24 Q All right. And where were those places?

25 A I went to a little house party that was on -- off of

MALIKA HARRIS - CROSS

1 Brooklyn Avenue, and I went to another house party off of
2 Central Avenue.

3 Q Now, just to clarify that, 16th Street is right there
4 off Brooklyn.

5 A I'm guessing that's the name of the road, I'm not
6 sure of the name.

7 Q Well, did -- how about -- you're saying Central
8 Avenue, is that near Jackson Road?

9 A Yes.

10 Q Is that near Wiley Park?

11 A Yes.

12 Q So if we talk about Wiley Park, do you know we're
13 talking about the party that was on Central Avenue or
14 Jackson Avenue depending on maybe at the corner of them? I
15 don't know.

16 A Yeah.

17 Q Well, which one of those parties did you go to first?

18 A The one off of Brooklyn Avenue.

19 Q Okay. So that's the 16th Street party. If that's the
20 16th Street party if there are two of them and one of them
21 is 16th Street Brooklyn?

22 A Right.

23 Q You went there first.

24 A Uh-huh.

25 Q Who did you go there with?

MALIKA HARRIS - CROSS

1 A Shonettia Hunter and Navoney.

2 Q And from there where did you go?

3 A To another block party.

4 THE COURT: Speak up, please.

5 A To another block party.

6 Q That was Wiley Street?

7 A Yes.

8 Q Now, who did you leave the 16th Street party with?

9 A Shonettia.

10 Q Okay. And from there you went over to Wiley?

11 A Uh-huh.

12 Q And how long had you stayed -- did you stay at the

13 16th Street party?

14 A I don't remember.

15 Q You don't remember?

16 A It wasn't long, 35 or 40 minutes maybe.

17 Q So over at the Wiley Street party, how long do you

18 think you stayed there?

19 A Maybe about 30 or 45 minutes too.

20 Q Why did you leave?

21 A Somebody started shooting.

22 Q Okay. Did that happen while you were there?

23 A Uh-huh.

24 Q Do you know who started shooting?

25 A No, I don't.

MALIKA HARRIS - CROSS

- 1 Q Were there a lot of people there?
- 2 A There was a good many people there.
- 3 Q Okay. Did you see Tyzhe Hough there? Do you know
- 4 Tyzhe Hough? Do you know who at that is?
- 5 A I don't know who that is.
- 6 Q Well, was -- did Marcus get in a confrontation with
- 7 somebody over there?
- 8 A I didn't see him get in a confrontation with anybody.
- 9 Q You didn't? Okay. How many shots were fired?
- 10 A Maybe four or five and I took off running.
- 11 Q And did somebody tell you to leave?
- 12 A Marcus told me to leave.
- 13 Q So did he leave?
- 14 A I guess after I did.
- 15 Q All right. Well, why didn't he leave with y'all?
- 16 A Because he was with my sister.
- 17 Q Did you leave?
- 18 A I left.
- 19 Q And did you leave -- who did you leave with?
- 20 A Shonettia.
- 21 Q You did not leave with Ebonie?
- 22 A No.
- 23 Q So when you left Wiley Street you left with Shonettia
- 24 and you didn't leave with Ebonie?
- 25 A Right.

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1 Q From there where did you go?

2 A Home.

3 Q How did you get home?

4 A Shonettia drove.

5 Q Ebonie didn't take you home?

6 A No.

7 Q Did you ever see law enforcement at -- over at Wiley
8 Park?

9 A I didn't give them time to stay there, I left.

10 Q Smart thing. Okay. So from the time you left the
11 Wiley Park party until you saw your sister again --

12 A Uh-huh.

13 Q -- how long was that?

14 A Maybe about 15 minutes, maybe, if that long. It
15 wasn't that long.

16 Q But as far as you know you and nobody else left Wiley
17 Street and went over to 16th Street and then went home, you
18 didn't do that?

19 A No.

20 Q Okay. Shonettia didn't do that?

21 A No.

22 Q All right. So when is the next time you saw your
23 sister?

24 A Once they came to my house.

25 Q Okay. Now, when they came to your house -- and you

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- 1 say they.
- 2 A Uh-huh, Ebonie and Marcus.
- 3 Q Okay. Did anybody leave before the shooting?
- 4 A They left and went to the store, Ebonie and Marcus
- 5 did.
- 6 Q And they came back?
- 7 A Yes.
- 8 Q They both came back?
- 9 A Yes.
- 10 Q They both came back and went in the house?
- 11 A Yes.
- 12 Q Ebonie was present when the shooting occurred?
- 13 A Yes.
- 14 Q Well, you had lived on Elm Street previously?
- 15 A Yes.
- 16 Q Allen was a frequent visitor to Elm Street?
- 17 A Yes.
- 18 Q You know -- and how do you describe Allen -- your and
- 19 Allen's relationship?
- 20 A I was close with him, I enjoyed his company. When he
- 21 came there was no problem with him coming, I enjoyed him
- 22 being around.
- 23 Q How did he react with the rest of your family and your
- 24 children?
- 25 A He loved my kids, played with them all of the time.

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1 He's a sweet man. Wrong place, wrong time.

2 Q Well, on this particular night was there any issue
3 with Allen Massey being in your home?

4 A No.

5 Q He was as welcome -- he came in -- dapped is like
6 (indicating) is that right, putting your fist -- hello
7 instead of shaking hands?

8 A Yes.

9 Q Probably a lot more sanitary, too. You don't rub
10 shaking hands. I mean, y'all were rapping?

11 A Yes.

12 Q And that just means there was music going.

13 A Yes.

14 Q And when you say wrapping, I mean, people are making
15 beats -- what does making a beat mean?

16 A Just doing beats on the table.

17 Q Just having fun?

18 A Banging on the table, yes.

19 Q There were people joining in making up lyrics, having
20 a good time.

21 A Yes.

22 Q Now, did Allen bring any alcohol in when he came?

23 A Not that I know of.

24 Q Did you speak with him?

25 A We hugged, that's all.

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- 1 Q Did he appear intoxicated or --
- 2 A No.
- 3 Q How about Marcus?
- 4 A No.
- 5 Q Marcus had a bottle of liquor.
- 6 A Yes, he did.
- 7 Q Y'all were doing shots.
- 8 A Yes.
- 9 Q Now, at some point -- and I think you said Allen
- 10 hadn't really been there that long when you went to the
- 11 bathroom?
- 12 A Right.
- 13 Q And did you just say -- y'all are playing cards? Did
- 14 y'all take a break? Were you playing cards at the time?
- 15 A Yes.
- 16 Q Okay. So did y'all take a break or did you say, "I've
- 17 got to go?"
- 18 A Yeah. Me and Shonettia were actually racing to the
- 19 bathroom.
- 20 Q Y'all were racing to the bathroom?
- 21 A Right.
- 22 Q Because you both -- it was getting kind of urgent?
- 23 A Right.
- 24 Q Now, ultimately y'all ended up in the bathroom
- 25 together.

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1 A Right.

2 Q Who -- I'm sorry to ask it, but did you use the
3 bathroom?

4 A Yes.

5 Q Both of you?

6 A I used it before she did.

7 Q Okay. All right. And while you were in there did you
8 hear anything?

9 A No.

10 Q It was like quiet, nothing, didn't hear a gunshot
11 while you were in the bathroom?

12 A No.

13 Q Didn't hear anybody yelling, screaming, angry?

14 A No.

15 Q It's quiet the whole time you are in the bathroom,
16 nothing.

17 A Right.

18 Q So there isn't any kind of noise that brings y'all out
19 of the bathroom.

20 A Right.

21 Q It just coincidentally -- you went first.

22 A Uh-huh.

23 Q And, I mean, did you wait on Shonettia or did you
24 leave after you went?

25 A I left out a little before she did.

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- 1 Q Well, I mean, was she using the bathroom -- did you
2 wait on her?
- 3 A No.
- 4 Q So you finished your business and took off.
- 5 A Right.
- 6 Q All right. And then she stayed in there.
- 7 A Yes.
- 8 Q All right. So when you leave -- how soon after you
9 leave do you see something that led to why we are here
10 today?
- 11 A As soon as I walked out of the bathroom that's what I
12 saw.
- 13 Q Now, let's get into that. Unfortunately we don't have
14 a diagram of the layout of the house, but I believe -- let
15 me see if I got this right. All right. You walk in your
16 front door.
- 17 A Uh-huh.
- 18 Q And incidentally State's Exhibit 8, that's a picture
19 of your front door.
- 20 A Right.
- 21 Q Okay. Now, hold on to that while I -- okay. Now, so
22 I'm looking at your front door, there's a window on the
23 right, there's a porch.
- 24 A Right.
- 25 Q There's a window on the right and there's a window on

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1 the left. Now, as I understand the layout of your house if
2 I walk in your front door there's a hallway.

3 A Right.

4 Q If I go straight down that hallway I get in the
5 kitchen.

6 A You go straight down the hallway and the kitchen is
7 on your right and the bathroom is on your left.

8 Q Okay. All right. If I walk in your front door and I
9 go straight then I'm going to hit a wall.

10 A Yes.

11 Q And at that wall -- as I approach that wall if I look
12 to my left I've got a bathroom.

13 A Right.

14 Q And if I look to my right I've got a kitchen.

15 A Well, it was like a washroom on the back there in the
16 kitchen was kind of like in front of the washroom.

17 Q So the kitchen is in front of the washroom. So I've
18 got to walk by a washroom to get in the kitchen?

19 A You've got to walk past the kitchen -- the bathroom
20 is a little bit further out than what the kitchen was.

21 Q Okay. All right. Well -- all right. When I walk out
22 of that bathroom what am I looking at?

23 A The washroom, you make a right and then there is the
24 kitchen.

25 Q Okay. So when you walked out you were headed back to

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1 the kitchen.

2 A Right.

3 Q So when you stepped out, the washroom is right there

4 in front of you, you took a right to go to the kitchen?

5 A Uh-huh.

6 Q Is there a hallway there to go to the kitchen?

7 A Yes.

8 Q How long is that hallway?

9 A Probably like three steps. Once you're in the
10 hallway you can see a kitchen.

11 Q Okay. Well, you can see the doorframe of the kitchen.

12 A Yes.

13 Q Now, when I step out of that bathroom and I take --

14 turn to the right, I'm looking at the doorframe and I'm
15 looking into the kitchen.

16 A Right.

17 Q Now, that doorframe -- if I step through that

18 doorframe, the card table is right there on the right,

19 correct, where y'all were playing cards?

20 A Uh-huh.

21 Q So you leave the bathroom, you're looking into the

22 living room, the card table -- you can't see the card

23 table -- when you're stepping out of the bathroom you can't

24 see the card table, can you, because it's off to the right

25 once you step into the kitchen.

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1 A Yes. You have to come take a couple of more steps
2 and then you can see it.

3 Q Okay. But there's enough room from that doorframe
4 going into the kitchen from the bathroom that there's room
5 for a table there.

6 A Right.

7 Q And how big is that table? Was that a four seater
8 kind of square table?

9 A Yes.

10 Q Bigger than your averaging card table, but it was an
11 eating table, wasn't it?

12 A Yes.

13 Q Okay. And when I step out of that bathroom and I look
14 into the kitchen I can see what in the kitchen if nobody is
15 in there and I'm just looking into the kitchen.

16 A Kitchen table. You can see everything once you come
17 out of the bathroom and take a couple of steps.

18 Q Okay. Well, what's directly -- if I'm looking down
19 that hallway stepping out of the bathroom there, what's
20 directly across the kitchen from my line of view?

21 A Across from the kitchen is my kids' room.

22 Q Okay. All right. At any rate -- now, when you step
23 into the kitchen you've got a card table on your right,
24 you've got a door going into the living room --

25 A Right.

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- 1 Q -- beside the card table?
- 2 A Right.
- 3 Q And immediately on the other side of the door you've
- 4 got a stove?
- 5 A Right.
- 6 Q You don't live there anymore, do you?
- 7 A No.
- 8 Q It has been awhile?
- 9 A Yes.
- 10 Q And then further into the kitchen beyond the stove,
- 11 cabinets, counters?
- 12 A Yes.
- 13 Q Well, was Shonettia behind you when you stepped out
- 14 into the -- out of the bathroom?
- 15 A I didn't even look back to see if she was there or
- 16 not.
- 17 Q Did you speak to -- did you ever speak to Shonettia
- 18 and tell her what was that noise while y'all were in the
- 19 bathroom?
- 20 A No.
- 21 Q Did you ever ask her, "Did you hear that," or, "What
- 22 was that noise," while you were in the hallway?
- 23 A No.
- 24 Q Was she in the hallway with you?
- 25 A I don't know.

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1 Q Well, she had to go --

2 A I was looking straight ahead in the kitchen, I didn't
3 look behind me to see was she behind me or not.

4 Q I understand. But you already used the facilities and
5 she's still got to do it, right?

6 A Right.

7 Q So she's behind you, and if you walk right out -- she
8 wasn't behind you if she was using the facility and you
9 walked right out, right?

10 A Right.

11 Q Now, did you see a gun?

12 A Yes.

13 Q Okay. And how far apart were Allen and Marcus when
14 you saw the gun?

15 A Probably from myself to maybe like right here. Their
16 arms was locked a little bit when I first seen them.

17 Q All right. Did you say that -- do you recall saying
18 that they were wrapped up?

19 A Uh-huh.

20 Q Now, what does wrapped up mean? When you say that,
21 can you just explain?

22 A Arms locked up basically almost like you're
23 wrestling.

24 Q Arms not around each other but just arms locked up.

25 A Right.

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- 1 Q All right. You see the gun in Allen's hand.
- 2 A Uh-huh.
- 3 Q Which hand is it in?
- 4 A His right hand.
- 5 Q Okay. And you're looking at them -- the way you're
- 6 describing this they're sideways to you.
- 7 A Right.
- 8 Q All right. Now, when you're looking at them coming
- 9 out of the bathroom they're sideways to you, who is on the
- 10 right and who is on the left from your field of vision?
- 11 A Allen was on my right and Marcus was on the left.
- 12 Q So you're looking at the left side of Allen's body and
- 13 the right side of Marcus' body, correct?
- 14 A I'm thinking we are looking at Allen's left and
- 15 Marcus' right.
- 16 Q That's what I said. Because Allen is on your right
- 17 and he's facing Marcus.
- 18 A Right.
- 19 Q Marcus is on your left and he's facing Allen.
- 20 A Right.
- 21 Q So you are looking at Marcus's right side and we are
- 22 looking at Marcus's left side.
- 23 A Right.
- 24 Q They're both hands wrestling?
- 25 A Yes.

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1 Q Okay. Where does the gun come in?

2 A Urk pulled it out.

3 Q So he pulled his hand out. Are they still like locked
4 up?

5 A They are kind of separated from each other a little
6 bit.

7 Q Okay. And so he -- all right. Well, they
8 separated -- and how far?

9 A I'm not sure, it wasn't too far.

10 Q Okay. And your view of the gun was not -- the gun is
11 in his right hand --

12 A Right.

13 Q -- on the opposite side of his body. Are you just
14 standing there while this is going on? Do you stop or do
15 you --

16 A Everything happened so fast, it was in seconds.

17 Q I understand. Okay. But you're saying Allen had the
18 gun in his right hand.

19 A Right.

20 Q And so, I mean, how do you see it come --

21 A From up his side.

22 Q Okay. So he grabbed it from where?

23 A From like off his side maybe.

24 Q Okay.

25 A I don't know if he had a side pocket, I couldn't see

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1 the other side but I saw the gun.

2 Q You could not see where he got it from exactly because
3 you were blocked.

4 A Right.

5 Q But he pulls the gun out and he and Marcus are very
6 close. What's Marcus doing?

7 A Still trying to tussle with him.

8 Q Okay. So, you know, what kind of angle does the gun
9 come up to? Do you see the gun come up or out, or does
10 he --

11 A It was kind of down-ways a little bit the way I seen
12 it.

13 Q Okay. So do you see the gun as tilted down. Is his
14 arm more or less straight out or is it lower or --

15 A I don't remember how he was standing.

16 Q Okay. So when you step out of the bathroom how many
17 steps is it to the kitchen do you think?

18 A My bathroom -- where the bathroom is it was -- my
19 sink was separated -- it was like an opposite room, my
20 sink was in one room and toilet and shower in another
21 room. So you had to come from where the toilet was
22 through the part where the sink was, and then out to the
23 hallway in the kitchen.

24 Q All right. Well, that means -- so -- but you've got
25 to go through all -- you've got to go out of the toilet

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1 into the vanity, is that what you call it, a vanity area

2 where you do mirror and sink --

3 A Yes.

4 Q -- and all of that?

5 A Yeah. About ten steps and you're back in the

6 kitchen.

7 Q Okay. But when you get through the vanity do you take

8 a right before you're even looking into the kitchen.

9 A Yes.

10 MS. COLLINS: Judge, I'm going to object at this

11 point, I think this is asked and answered.

12 MR. GRIER: I don't think it is.

13 THE COURT: Under 403 I think it does get to be

14 repetitive so -- we've been out of the bathroom now four

15 times. Move on, please.

16 Q Okay. But -- okay. Well, when you say -- the very

17 last thing you're talking about stepping out of the vanity

18 and taking a right.

19 A Right.

20 Q So when you say -- now, and from there you said it was

21 about three steps in the kitchen?

22 A Right.

23 Q Okay. All right. Well, Ms. Harris, do you remember

24 the officer that interviewed you on the morning of October

25 13th of 2013?

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1 A I don't remember the name but I see him sitting
2 there.

3 Q You see him sitting here?

4 A Yes.

5 Q Are you sure that's him?

6 A He looks real familiar to me.

7 Q Well, do you know Officer Burlingame?

8 A I don't know that name.

9 Q Okay. All right. But you gave a statement that
10 morning, right?

11 A Yes.

12 Q And, you know, was that statement -- were you -- had
13 you been drinking?

14 A A little bit, yes.

15 Q Did you feel like you knew what was going on?

16 A I know I know what was going on.

17 Q Okay. Well, I mean, do you believe that -- you talked
18 to an officer, correct?

19 A Right.

20 Q And you told that officer what --

21 A What I knew and what I saw.

22 Q And you were truthful. Well, do you remember the
23 officer -- and I'm going to -- do you remember the officer
24 asking you a question "They're wrapped up and you can't see
25 the gun?" And your response was, "Right," right?

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1 A I don't recall. I know I seen a gun.

2 Q So do you recall the officer asking you again, "Did
3 you ever see the gun?" And you answering "I didn't see
4 it?"

5 A I don't recall.

6 MR. GRIER: Your Honor, may we approach? We're going
7 to need to set up a --

8 (A bench conference was held.)

9 THE COURT: All right. Ladies and gentlemen of the
10 jury, the attorneys will set up some electronic equipment
11 here and apparently we are going to see a little clip of a
12 video so it would be a good time, probably past time, to
13 take a little break. So just retire to your jury room,
14 don't discuss the case, please, among yourselves, just
15 relax for a few minutes and we will call you when we are
16 ready. Thank you very much.

17 (The jury left the courtroom and a recess was taken.)

18 MS. COLLINS: I was told by the officer that the
19 witness, Ms. Malika Harris, was seen going outside with two
20 other ladies. I asked that they attempt to locate all
21 three ladies and they have done so is my understanding, and
22 they've asked that my instructions have all three come back
23 up here, I don't know who those three are, but the witness
24 and two others, whoever they are, come back and be
25 available if Your Honor wants to question them.

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1 THE COURT: Do you want me to question them?

2 MS. COLLINS: Well, first I want to bring Ms. Harris
3 in, the witness, and have you address whether -- who she
4 was with and whether or not she spoke with any of the
5 witnesses about the testimony.

6 THE COURT: You say these other two are witnesses?

7 MS. COLLINS: I don't know, I was just told she went
8 out with two ladies.

9 MR. GRIER: I don't know.

10 THE COURT: Because I don't know who your witnesses
11 are so other than what the --

12 MS. COLLINS: Why don't we bring them in, if it's all
13 right, Judge, bring in the witness --

14 THE COURT: I want her as soon as she gets it.

15 MR. GRIER: Judge, can we inquire -- because I don't
16 think it was on the record, was she given instructions
17 about talking to other people? --

18 THE COURT: Yes, sir, by me personally.

19 MS. COLLINS: And also this morning I told all of the
20 witnesses that since the trial has begun they're not to
21 discuss their testimony with any other witnesses.

22 THE COURT: I told her she could go out, relax, but
23 just don't talk to anybody. Now, she might not --

24 MR. EDGERTON: She may have taken that to mean --

25

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1 THE COURT: About the case.

2 MS. COLLINS: I am now getting clarification it was

3 two females and one male in the company of the witness.

4 or -- that was the total three.

5 (Break in proceedings.)

6 MS. COLLINS: Ms. Harris, please come back up to the

7 witness stand.

8 THE COURT: Are you okay? Took a little longer?

9 THE WITNESS: I didn't know.

10 THE COURT: Okay. I said ten minutes.

11 THE WITNESS: I'm sorry.

12 THE COURT: You were -- were you with other people

13 when you took your break?

14 THE WITNESS: I was outside smoking.

15 THE COURT: Were you by yourself?

16 THE WITNESS: No.

17 THE COURT: Were you with any witnesses in this case?

18 THE WITNESS: Yes.

19 THE COURT: Did you talk to them about this case?

20 THE WITNESS: No, I was truly on the phone.

21 THE COURT: You were with a --

22 THE WITNESS: I was on the phone with my mama.

23 THE COURT: With your mama?

24 THE WITNESS: Checking on my kids.

25 THE COURT: Okay. Just have to be careful.

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1 THE WITNESS: Okay.

2 THE COURT: Anything further?

3 MS. COLLINS: Nothing further from the State.

4 MR. GRIER: Nothing, Your Honor.

5 THE COURT: All right. Bring the jury, please.

6 (The jury returned to the courtroom.)

7 THE COURT: All right, Mr. Grier, you may continue.

8 MR. GRIER: Thank you, Your Honor. Your Honor, I

9 think Ms. Collins and I had a stipulation that, in fact,
10 the officer was not Officer Small, it was Burlingame who
11 will testify later, but they look -- with his cap on you
12 could see why that would be confusing, I'm not trying to
13 discredit anybody in stating that, it's simply was
14 confusing. And we're going to -- because of our tech.

15 situation here we are going to simply only be able to put
16 up an image of Ms. Harris and the officer, we are going to
17 play audio for the purposes of --

18 THE COURT: Explain that to the jury, please.

19 MR. GRIER: Because of some limitations in our
20 technology, some difficulties that we have encountered, all
21 of us, we are unable to play the video and the audio
22 simultaneously in an audible way. If we played off of the
23 system you found you are able to hear it, so we've had to
24 separately set up speakers to play the audio. That means
25 to play the video and audio you have to coordinate two

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1 computers, it's next to impossible to synchronize those two
2 computers so the video sinks with the audio, therefore we
3 are not even going to attempt to show the video, it
4 doesn't --

5 THE COURT: What is it a video of?

6 MR. GRIER: Well, so we have an image of them -- of
7 the officer and of -- the interview is taking place and it
8 is, in fact, Ms. Harris testifying. That's the purpose of
9 that if the Court feels that's appropriate.

10 THE COURT: I just want the jury to understand what
11 you're posing to show.

12 MR. GRIER: Yes, sir.

13 MS. COLLINS: And, Judge, if I can just add, there is
14 a way for playing the complete interview to do it, but
15 because I understand the defense wants to do a portion, so
16 I just want to explain. Because they may later see
17 complete ones and see that we can do them together but it
18 is complicated.

19 THE COURT: All right. Let's move on.

20 MR. GRIER: Your Honor, we would offer Defendant's
21 Exhibit -- and I think we stipulate this actually has been
22 provided by -- Defense Exhibit 3, which is a video/audio
23 recording of Malika Harris, we have -- this is in evidence
24 so that the jury can hear that at a later date if they
25 wanted to.

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1 MS. COLLINS: No objection to that coming in.

2 THE COURT: Without objection.

3 MR. GRIER: At this time we would play portions of
4 that video audio.

5 (At this time the DVD was played.)

6 MR. GRIER: Were you unable to understand it, Your
7 Honor?

8 THE COURT: That's not the point.

9 MR. GRIER: I understand.

10 BY MR. GRIER:

11 Q All right. Ms. Harris, were you able to understand
12 and hear that video?

13 A Yes.

14 Q What did you hear?

15 A Myself.

16 Q What questions were you asked?

17 A Did I see the gun.

18 Q And what was your response?

19 A No.

20 Q So you responded that you did not see the gun on
21 October 13th of 2013 --

22 A Right.

23 Q -- immediately after this incident happened.

24 A Right.

25 Q Okay. Thank you.

MALIKA HARRIS - REDIRECT

1 MR. GRIER: That's all, Your Honor.

2 THE COURT: Redirect?

3 MR. EDGERTON: Yes, Your Honor, just a few questions.

4 I'm going to enter these previously marked pictures into
5 evidence.

6 REDIRECT EXAMINATION

7 BY MR. EDGERTON:

8 Q Ms. Harris, I'll show you a couple of pictures just
9 that were taken of the house that evening primarily just to
10 cover the layout of the house. May I approach?

11 A Yes, sir.

12 Q What is that a picture of?

13 A My hallway.

14 Q That is your house, in fact?

15 A Uh-huh.

16 Q It is an accurate description?

17 A Yes.

18 Q That picture is looking into the --

19 A Front door.

20 Q To the front door. Okay. This next picture I believe
21 is looking -- would be from maybe the bathroom looking into
22 the kitchen; is that correct?

23 A Right.

24 Q And I'm going to give you two more pictures. Is that
25 the kitchen looking into the --

MALIKA HARRIS - REDIRECT

1 A Living room.

2 Q And this picture right here?

3 MR. EDGERTON: Beg the Court's indulgence for just a
4 moment.

5 (Break in proceedings.)

6 Q Ms. Harris, I apologize. Can we go back through that
7 real quick? That first picture that I gave you, it is
8 marked as State's Exhibit Number 9, I believe. I just need
9 the record to reflect that the witness is referring to
10 State's Exhibit Number 9 as a picture looking into the
11 home. That State's Exhibit Number 10 -- I'm going to give
12 this back to you I just want to clarify this for the
13 record, that's it. State's Exhibit Number 10, can you
14 describe that?

15 A My kitchen.

16 Q And that's from the bathroom looking into the kitchen?

17 A Right.

18 Q Thank you, Ms. Harris. State's Exhibit Number 11 is a
19 picture. Can you please describe that one?

20 A This is inside my kitchen looking into the living
21 room.

22 Q And lastly, State's Exhibit Number 12, can you please
23 describe that?

24 A This is my living room looking into the kitchen.

25 Q Mr. Grier asked you a lot of questions, I'm just going

MALIKA HARRIS - REDIRECT

1 to go back over a few. When you walked out of the bathroom
2 you could see in the kitchen?

3 A Right.

4 Q ~~You could see them fighting?~~

5 A Right.

6 Q Nothing was obstructing your view.

7 A No.

8 Q Can you tell the jury, just refresh how far away they
9 were from you?

10 A Maybe like five feet.

11 Q It's not far?

12 A Not far at all.

13 Q Ms. Harris, was this a traumatic event?

14 A Yes.

15 Q You saw your brother-in-law get shot?

16 A Yeah.

17 Q Good friend?

18 A Yeah.

19 Q It was late that night?

20 A Uh-huh.

21 MR. EDGERTON: Beg the Court's indulgence one moment.

22 (Break in proceedings.)

23 MR. EDGERTON: No further questions.

24 MR. GRIER: No questions, Your Honor.

25 THE COURT: May this witness be excused?

SHONETTIA HUNTER - DIRECT

1 MS. COLLINS: We would ask that she be excused, Your
2 Honor.

3 THE COURT: Any objection?

4 MR. GRIER: No objection, Your Honor.

5 THE COURT: You are free to go, ma'am, thank you.

6 Call your next witness.

7 MS. COLLINS: State calls Shonettia Hunter.

8 The witness, SHONETTIA HUNTER, was first duly sworn

9 and testified as follows:

10 DIRECT EXAMINATION

11 BY MS. COLLINS:

12 Q Would you please state your name?

13 A Shonettia Hunter.

14 Q If you will speak into the microphone and speak up

15 nice and loud so everybody can hear what you have to say.

16 How do you spell Shonettia, please, for the court reporter?

17 A S-h-o-n-e-t-t-i-a.

18 Q Very good. In October of 2013 where were you living?

19 A City Avenue.

20 Q Was that [REDACTED] City Avenue?

21 A Yes, ma'am.

22 Q Who did you live with at the time?

23 A Me and Malika Harris.

24 Q Did y'all have children living with you then?

25 A Yes.

SHONETTIA HUNTER - DIRECT

1 Q Whose children were they?

2 A Malika's.

3 Q How old were they approximately?

4 A I think four and seven, I think.

5 Q Two children?

6 A Uh-huh.

7 Q Girl and boy or both girls or?

8 A Boy-girl.

9 Q All right. Other than you and Malika and Malika's two
10 children ages four and seven as you indicated
11 approximately, did anyone else live there?

12 A No.

13 Q Y'all were renting this residence?

14 A Yes, ma'am.

15 Q Whose name was the lease in?

16 A Me and Malika's.

17 Q Okay. Both of you. In October of 2013, how long had
18 y'all been living there at that residence?

19 A I want to say about eight months, close to a year.

20 Q I'm sorry?

21 A Maybe close to a year.

22 Q Did you know Demarcus Robinson?

23 A Yes, ma'am.

24 Q How did you know him?

25 A He was Malika's sister's boyfriend.

SHONETTIA HUNTER - DIRECT

- 1 Q And do you know the defendant, Allen Wesley Massey?
- 2 A Yes.
- 3 Q And how long have you known him?
- 4 A Couple of years.
- 5 Q And did the defendant have a nickname back in October
- 6 of 2013?
- 7 A Yes, ma'am.
- 8 Q What was that?
- 9 A Urk.
- 10 Q Do you know why he was called Urk?
- 11 A I have heard people say because he was a nerd.
- 12 Q Okay. Is the defendant related to Malika?
- 13 A Yes.
- 14 Q And do you know how close that relationship is?
- 15 A No, ma'am.
- 16 Q Okay. But are they brother and sister or aunt and
- 17 uncle or cousins, or do you know?
- 18 A Cousins.
- 19 Q Were you present on October 12th of 2013 when Demarcus
- 20 was killed in your home?
- 21 A Yes, ma'am.
- 22 Q That was early in the morning of October 13th of 2013;
- 23 is that right?
- 24 A Yes, ma'am.
- 25 Q About 3:30 in the morning?

SHONETTIA HUNTER - DIRECT

1 A Yes, ma'am.

2 Q A little bit before 4:00.

3 A Around that time.

4 Q I want to back up a minute and ask you about the

5 events leading up to that. In the evening, the night

6 before October 11th 2013, did you go to any parties?

7 A Yes, ma'am.

8 Q Where were those parties?

9 A It was one by the ball field.

10 Q Did you go to one party or two?

11 A I went to one.

12 Q That was by the ball field?

13 A Yes, ma'am.

14 Q Is that near 16th Street or is that over there near

15 Jackson and Wiley Street?

16 A Jackson.

17 Q How long were you there?

18 A Maybe a little over an hour.

19 Q Who were you there with?

20 A I was with my cousin Navoney, Malika and -- all of us

21 we were together, but I was with my cousin.

22 Q Was Demarcus Robinson there?

23 A Yes.

24 Q Was Ebonie Harris there?

25 A Yes.

SHONETTIA HUNTER - DIRECT

- 1 Q Was the defendant, Allen Wesley Massey there?
- 2 A I didn't see him.
- 3 Q And you were there about an hour or so?
- 4 A Yes, ma'am.
- 5 Q When you left there where did you go?
- 6 A We went home.
- 7 Q Who went with you?
- 8 A Me and Malika.
- 9 Q Back to City Avenue?
- 10 A Yes.
- 11 Q In Lancaster, South Carolina?
- 12 A Yes.
- 13 Q When you got back to your home, who was there?
- 14 A First it was just me and Malika, then my cousin,
- 15 Navoney, pulled up and we sat and waited on Ebonie and
- 16 Marcus.
- 17 Q All right. You said your cousin Navoney, is that
- 18 Navoney Curry?
- 19 A Yes.
- 20 Q So it was you and Malika, Navoney pulled up, then
- 21 Ebonie and Demarcus came?
- 22 A Yes.
- 23 Q Anybody else come up?
- 24 A Yeah.
- 25 Q Who?

SHONETTIA HUNTER - DIRECT

- 1 A Ten-Ten ended up coming.
- 2 Q Do you know Ten-Ten's real name?
- 3 A No, ma'am.
- 4 Q Anybody else end up coming?
- 5 A No, ma'am.
- 6 Q Had y'all invited these people to come by your house?
- 7 A Yes, ma'am.
- 8 Q When they came over, what did y'all do?
- 9 A Played cards.
- 10 Q Where were you playing cards?
- 11 A At the kitchen table.
- 12 Q What game were you playing?
- 13 A Spades.
- 14 Q Is the kitchen away from the front door?
- 15 A Yes.
- 16 Q Was the front door itself, the wooden door, open or
- 17 closed?
- 18 A I think it was open.
- 19 Q Okay. Do you know if the screen door was open or
- 20 closed?
- 21 A I'm pretty sure that it was closed.
- 22 Q Was there a way to lock the screen door, do you
- 23 remember?
- 24 A I don't think we could lock the screen door.
- 25 Q Didn't have a working lock on it that you remember?

SHONETTIA HUNTER - DIRECT

1 A No, ma'am.

2 Q When did you first see the defendant at your home that
3 night?

4 A Maybe about 30 minutes after we got there.

5 Q Had he ever been a guest to your home there at City
6 Avenue before?

7 A Not there.

8 Q Had he been a guest over at your home that you lived
9 in before that?

10 A Yes, ma'am.

11 Q Was that on Elm Street?

12 A Yes, ma'am.

13 Q Who let him into your house this night or early
14 morning hours of October 12th, do you know?

15 A He let himself in.

16 Q Did you hear him knock before he came in?

17 A No, ma'am.

18 Q When you first saw him, what room did you first see
19 him in?

20 A He came through the living room into the kitchen.

21 Q But you didn't ask him to leave, did you?

22 A No.

23 Q You allowed him to stay?

24 A Yes, ma'am.

25 Q What knowledge did you have at that time that the

SHONETTIA HUNTER - DIRECT

1 defendant had a loaded gun in his pocket?

2 A None whatsoever.

3 Q Had you known -- if you had known that the defendant

4 had a loaded the gun in his pocket at that time, would you

5 have allowed him to stay in your home?

6 A No, ma'am.

7 Q Would you have asked him to leave your home?

8 A Yes.

9 Q At the very least would you have asked him to go put

10 the gun somewhere else before he came back in your home, or

11 would you just have asked him to leave?

12 A I would ask him to leave.

13 Q Were there any guns kept in your home?

14 A No, ma'am.

15 Q How did you feel about guns being in your home?

16 A I don't like guns at all, we have too many kids

17 around for that.

18 Q Tell us what happened then. The defendant comes into

19 the kitchen, correct?

20 A Yes, ma'am.

21 Q And what happens then? Just tell us.

22 A We started rapping, was playing cards, taking shots,

23 drinking. That's basically all we was doing.

24 Q Was everybody being sociable at that point?

25 A Yes.

SHONETTIA HUNTER - DIRECT

- 1 Q No arguments?
- 2 A No.
- 3 Q Between anyone?
- 4 A No.
- 5 Q Let's talk about drinking a little bit. You had been
- 6 at a party earlier that night, and up to the point that
- 7 you've described playing cards how much had you had to
- 8 drink?
- 9 A Maybe three beers there, but drunk a little more when
- 10 we got home.
- 11 Q Up to the point -- and we're getting there, that
- 12 Demarcus is shot, how much had you had to drink
- 13 approximately?
- 14 A You mean at the other party?
- 15 Q I just mean the entire evening.
- 16 A The entire night?
- 17 Q Up until the point of the incident.
- 18 A I don't know, maybe six beers, couple of shots.
- 19 Q --- Okay. Were you drunk at that time or intoxicated --
- 20 I'm sorry to use the word -- but were you feeling the
- 21 affects of the alcohol?
- 22 A Yeah. I was feeling the effects but I wasn't drunk,
- 23 I was aware.
- 24 Q That's my question. You were able to observe the
- 25 events of the evening to relate them to this jury today; is

SHONETTIA HUNTER - DIRECT

1 that right?

2 A Yes, ma'am.

3 Q Did Mr. Massey have some drinks with you or there at

4 your house, do you remember, alcoholic drinks, beer or

5 otherwise?

6 A I'm not sure, I don't remember. I didn't see him

7 drink none.

8 Q Did he appear to be intoxicated in any way when he

9 came in or under the influence?

10 A Not that I can recall, no.

11 Q You'd been around Demarcus earlier that evening?

12 A Yes, ma'am.

13 Q Both at the other party you described at and at your

14 house?

15 A Uh-huh.

16 Q And how much had Demarcus had to drink if you know?

17 A I wasn't really around him at the party like I said

18 last time. Me and Navoney was at his car so I'm not sure

19 what he drunk there, but we started drinking when we got

20 back to my place.

21 Q Okay. Did you see Demarcus at any point in the

22 evening have -- up until the point of y'all's house have

23 any interaction in a negative interaction like words or

24 otherwise with anyone?

25 A No, ma'am.

SHONETTIA HUNTER - DIRECT

1 Q And you said you hadn't seen Mr. Massey up to the
2 point he comes in your house; is that right?

3 A No, ma'am.

4 Q Didn't see him at the other party?

5 A No.

6 Q Now, you said y'all had been playing cards and rapping
7 a little bit. Tell us what happened then.

8 A Me and Malika got up to go to the bathroom, we both
9 used the restroom and then we heard the shot. Malika was
10 ahead of me, she walked out before me so I think she saw
11 more than me. I saw Marcus standing and I heard Malika
12 say "Don't fall, don't fall," and he hit the ground.

13 Q He being Marcus?

14 A Yes.

15 Q Okay. Ms. Hunter. When you came out the bathroom,
16 was Malika in front of you?

17 A Yes.

18 Q And y'all went into the kitchen?

19 A Yes.

20 Q Malika still in front of you?

21 A Yes.

22 Q And what did you see when you went in the kitchen?

23 A My only focus was on Marcus, and I ran to Marcus and
24 I tried to grab him.

25 Q But you say you heard the shot while you were still in

SHONETTIA HUNTER - DIRECT

1 the bathroom?

2 A Yes.

3 Q How many shots?

4 A One.

5 Q Was it loud or soft?

6 A It was soft.

7 Q Did you know immediately it was a gunshot?

8 A I mean, I knew it had to be a gun, but to me it

9 sounded like a balloon pop, but I knew it had to be a gun.

10 Q Was that shocking to you because you --

11 A Yeah, it was shocking.

12 Q Because you weren't aware there was any gun in your
13 home, right?

14 A Right.

15 Q Where were the kids that night? Were they at a
16 babysitters?

17 A We had took them to babysitter that night.

18 Q So they were in another home.

19 A Right, we usually have them.

20 Q They're usually there?

21 A They're usually there, my nieces and nephews, too.

22 Q Did Mr. Massey ask you when he walked in your house
23 with that loaded gun in his pocket, did he say, "Hey
24 Shonettia, where are the kids?"

25 A No.

SHONETTIA HUNTER - DIRECT

- 1 Q When you were in the bathroom and you heard the low
2 pop that you thought was a gunshot, just before that did
3 you hear any raised voices?
- 4 A No.
- 5 Q Any arguing at all?
- 6 A No.
- 7 Q So you come out the bathroom and you said you
8 immediately see Marcus and he's still standing?
- 9 A Right.
- 10 Q And is he starting to fall?
- 11 A Yes.
- 12 Q And was he in the kitchen?
- 13 A Yes.
- 14 Q And which way was he facing? Was he facing toward the
15 living room or toward the back of the kitchen with his back
16 toward the living room? Do you recall?
- 17 A He was facing towards the living room, his back was
18 towards the kitchen.
- 19 Q Was his side towards you?
- 20 A Yes.
- 21 Q Where was the defendant, Mr. Massey?
- 22 A I didn't see him, he had ran.
- 23 Q You didn't see him?
- 24 A No.
- 25 Q He'd already left?

SHONETTIA HUNTER - DIRECT

1 A Uh-huh.

2 Q When you come in the kitchen and you see Marcus, Mr.

3 Massey had already left; is that right?

4 A Yes.

5 Q Tell us who else was in the kitchen.

6 A Ten-ten, Malika, Ebonie was outside; Navoney was

7 outside. It was only us.

8 Q So Ten-ten and Malika and you and that was it?

9 A Yes.

10 Q Is Ten-ten the man that later tries to give CPR to

11 Demarcus?

12 A Yes.

13 Q So you said the defendant ran out of the house but you

14 stayed, right?

15 A Yes.

16 Q Malika stayed, right?

17 A Yes.

18 Q Sindarous stayed, right?

19 A Yes.

20 Q Did you call 911?

21 A He called 911.

22 Q He being Ten-ten?

23 A Yes, ma'am.

24 Q Okay. Ms. Hunter, was Demarcus still breathing then?

25 A No.

SHONETTIA HUNTER - DIRECT

1 Q Do you remember?

2 A No. I remember him falling and I was laying over

3 him. I was trying to talk to him holding his hand. He

4 was aware right then because he was squeezing my hand and

5 I was like, "If you hear me squeeze my hand." I was

6 trying to talk to him and I was telling Ten-ten to call

7 911 and I was trying to keep him well, and he just

8 stopped -- his eyes rolled back and he just stopped

9 breathing. And Ten-ten pushed everybody out of the way

10 and he was like, "I know CPR," and he did it and he

11 started back breathing.

12 Q When he started back breathing or before did he say

13 anything -- did Demarcus say anything?

14 A No, he couldn't. It was like a loud snore.

15 Q His breathing was like a loud snore?

16 A And he was like moaning so I knew he was like in

17 pain.

18 Q Was there much blood?

19 A None at all.

20 Q Could you see on his shirt where the bullet had gone

21 in?

22 A No. I lifted his shirt.

23 Q You could see where the bullet had gone in?

24 A It was just like a little small hole, it wasn't no

25 blood.

SHONETTIA HUNTER - DIRECT

1 Q Do you recall what Demarcus was wearing?

2 A No, ma'am.

3 Q Did the ambulance come to help Demarcus?

4 A Yes.

5 Q Did the police come?

6 A Yes.

7 Q And when the police came, did you ultimately talk to
8 one of them in his patrol car?

9 A Yes, ma'am.

10 Q Do you recall if you talked to Sergeant Brian Hall?

11 A Yes.

12 Q And did you tell him what you saw happen that evening?

13 A Yes, ma'am.

14 Q At any point during the evening, had you seen Demarcus
15 and the defendant arguing?

16 A No, ma'am.

17 Q Had you ever seen Demarcus and the defendant together
18 before?

19 A No, ma'am.

20 Q What sort of mood was Demarcus in that evening?

21 A Happy. We was having a good time.

22 Q He wasn't trying to fight anyone?

23 A No, ma'am.

24 Q He wasn't arguing with anyone?

25 A No, not that I know of.

SHONETTIA HUNTER - DIRECT

1 Q Y'all were just playing cards and having a good time?

2 A Yes, ma'am.

3 Q After Mr. Massey ran out of your home did he ever come

4 back to check on Demarcus?

5 A No, ma'am.

6 Q Did he ever call you to check and see how he was?

7 A No, ma'am.

8 Q At what point did you find out, Ms. Hunter, that

9 Demarcus had passed away?

10 A Maybe -- I think maybe an hour after that. We were

11 all just standing around.

12 Q I want to show you just a few pictures. I want to

13 show you what has been marked as State's Exhibit 8. Is

14 that the front of your home on City Avenue?

15 A Yes.

16 Q Whose car is that?

17 A Mine.

18 Q I want to show you -- I'll take these in order --

19 State's Exhibit 9. What's that a picture of?

20 A Front door.

21 Q And you're looking down the hall; is that right?

22 A Yes, ma'am.

23 Q Down the hall you can see there's a fire extinguisher

24 on the wall; is that right?

25 A Yes, ma'am.

SHONETTIA HUNTER - DIRECT

1 Q What room is that in?

2 A That's the kitchen.

3 Q Is the bathroom directly across from the kitchen or is
4 it over a little bit?

5 A To the left directly across.

6 Q State's Exhibit 10, what's that a picture of?

7 A Kitchen.

8 Q All right. Is that a picture of the kitchen when
9 you're coming from the bathroom or from another?

10 A From the bathroom.

11 Q State's Exhibit 11, what's that a picture.

12 A Kitchen.

13 Q All right. That's where y'all were playing cards?

14 A Right.

15 Q And when you came in the kitchen, where did you see
16 Demarcus standing? Was it --

17 A Not there, it was further back.

18 Q I show you back this other picture, picture 10.

19 A Over here (indicating.)

20 Q Come step down, let's show the jury. We'll do it in
21 two parts so everybody can see. Show the jury when he came
22 out of -- turn this way. We'll do this side first and then
23 that side. When you came out of the bathroom show the jury
24 where Demarcus was standing.

25 A Here (indicating.)

SHONETTIA HUNTER - DIRECT

1 Q Okay. If you could show them, too.

2 A Here (indicating.)

3 Q Finally I want to show you one more picture, State's

4 Exhibit 12. Is that a picture from the living room going
5 into the kitchen?

6 A Yes.

7 Q Are all of these fair and accurate depictions of your
8 home on City Avenue?

9 A Yes, ma'am.

10 Q On October 12th of 2013?

11 A Yes.

12 MS. COLLINS: I move all of those exhibits into
13 evidence, Your Honor, that's Exhibits 8, 9, 10, 11 and 12.

14 MR. GRIER: Without objection.

15 (The photos were received as State's 8-12.)

16 MS. COLLINS: Thank you, Ms. Hunter, for coming here
17 today. Please answer any questions Mr. Grier may have.

18 THE COURT: Cross?

19 MR. GRIER: Thank you. May it please the Court?

20 CROSS EXAMINATION

21 BY MR. GRIER:

22 Q Ms. Hunter, on October 12th of 2013, you and Malika
23 Harris were living together at [REDACTED] City Avenue, correct?

24 A Yes.

25 Q On the evening of -- and when I say evening, there

SHONETTIA HUNTER - CROSS

1 were three parties, including one at y'all's house, that
2 was kind of a party, wasn't it, playing cards -- it was a
3 get-together?

4 A It was a get-together.

5 Q There were three get-togethers that night that you are
6 socializing at, correct?

7 A No.

8 Q Okay. Where did you go on --

9 A I only went to my house and one over by the ball
10 field.

11 Q Okay. So you didn't go to -- you didn't go to
12 Wylie -- I mean, you didn't go to 16th Street?

13 A Oh yes, I did.

14 Q All right. I thought that's what you said. So who
15 did you go to 16th Street with?

16 A Me and Malika.

17 Q Okay. Now, when you say 16th Street. That's right.
18 off Brooklyn.

19 A Right.

20 Q All of these, 16th Street, Brooklyn, Jackson Road,
21 Wiley, those are two different parties.

22 A Right.

23 Q Now, which of those two parties did you go to first?

24 A The one on Brooklyn.

25 Q So you went to Brooklyn, which is 16th Street first

SHONETTIA HUNTER - CROSS

1 and you left there and you went to Wiley Street.

2 A Right.

3 Q And you were with Malika the whole time at both

4 parties, or you went to the parties with her?

5 A 16th Street wasn't a party.

6 Q Okay. Get-together?

7 A Yes.

8 Q How many folks were getting together there, was that a

9 family thing?

10 A It was family.

11 Q Whose family?

12 A Malika's.

13 Q Now, Wiley Street -- well, that was kind of a family

14 thing, too.

15 A No, that was a party.

16 Q Okay. But it was at her family's house, right, her

17 cousin's house?

18 A No, Marcus's family.

19 Q All right. But you and Malika were together at both

20 of them.

21 A Yes.

22 Q All right. Now, at the Wiley Street, what broke up

23 the Wiley Street get-together as far as y'all were

24 concerned?

25 A I really don't know about that. Because like I said,

SHONETTIA HUNTER - CROSS

1 me and my cousin were at his car, we was parked off the
2 road, I didn't really go in there. I didn't go in there -
3 at all.

4 Q You didn't know anything about a fight?

5 A No.

6 Q You didn't?

7 A No.

8 Q Okay. But did you know anything about a shooting?

9 A At my place, yeah.

10 Q No, at Wiley Street.

11 A No.

12 Q So you didn't know anything about a fight. You didn't
13 know nothing about a shooting --

14 A No. I wasn't even up there.

15 Q -- at Wiley?

16 A Right.

17 Q Well, do you recall a motions hearing earlier this
18 year back in late March?

19 A Yes.

20 Q Or maybe the last day of March, I think, where you
21 testified?

22 A Right.

23 Q Sat right there at that stand?

24 A Right.

25 Q Do you recall Ms. Collins asking you questions about

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1 Wiley Street?

2 A Yes.

3 Q Do you recall her saying so at the second house, the
4 one near the ball field, that would be Wylie Street?

5 A Right.

6 Q When you got there you said you and Malika were there
7 and Navoney may or may not have gotten there with y'all; is
8 that right?

9 A Right. He didn't ride with us but he was there.

10 Q Okay. All right. Do you recall that when discussing
11 Wiley Street she said, 'So you actually got out of the car
12 at that house and you were mingling; is that right?'

13 A Yes. But I wasn't at that house, I didn't see a
14 fight at that house.

15 Q Okay. Well, do you recall that she asked you when
16 y'all left two or two and a half hours what caused you all
17 to leave?

18 A A fight, but I didn't see the fight.

19 Q Okay.

20 A I wasn't even up there.

21 Q I didn't ask you if you saw it, I asked you why you
22 left.

23 A Oh, it was a fight, but I didn't see a fight.

24 Q Well, you left Wiley Street. Where did you go?

25 A To my place.

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1 Q All right. How did you get there?

2 A We drove my car.

3 Q Who drove?

4 A Me.

5 Q Just by yourself?

6 A No, me and Malika.

7 Q Okay. So you and Malika left Wiley together. All
8 right. --Malika didn't go with Ebonie over to 16th Street?

9 A No, we went together.

10 Q Okay. So y'all left Wiley and went straight to the
11 house?

12 A Yes.

13 Q Okay. And how did it come about that Marcus and
14 Ebonie came to come over to your place?

15 A We told them to.

16 Q Okay. And when they got there did they come -- how
17 did they come? Did they come together or did they come --
18 as far as Marcus and Ebonie, they were together?

19 A Uh-huh.

20 Q Now, how long did they stay?

21 A It wasn't long, maybe -- I think it was probably
22 maybe about 30 minutes or so before Urk came.

23 Q Okay. So were Marcus and Ebonie there throughout the
24 time until Urk came?

25 A Uh-huh.

SHONETTIA HUNTER - CROSS

- 1 Q So she never left?
- 2 A No.
- 3 Q But other people that were there earlier were in and
- 4 out and left?
- 5 A Right.
- 6 Q So now Urk, Allen, you said that he got that name your
- 7 understanding of it because he's a nerd?
- 8 A That's what I heard, I don't know.
- 9 Q What is a nerd?
- 10 A I mean a book-smart person who just stay in books all
- 11 of the time.
- 12 Q All right. Now Urk was a nickname?
- 13 A Right.
- 14 Q How about Demarcus, Marcus, did he have a nickname?
- 15 A Mark.
- 16 Q How about knockout king? Did you ever hear him
- 17 referred to as knockout king?
- 18 A I've heard it but I ain't never called him that.
- 19 Q Never thought what?
- 20 A I said I had heard it but I ain't never called him
- 21 that.
- 22 Q Well, were you familiar with incidents of him getting
- 23 involved in fights and such, being aggressive?
- 24 A No.
- 25 Q Are you aware of him knocking anybody out?

SHONETTIA HUNTER - CROSS

1 A No.

2 Q Did you know anything about his relationship with
3 Allen?

4 A No.

5 Q Ever seen them together?

6 A No.

7 Q You had seen Allen frequently on Elm Street --

8 A Right.

9 Q -- where you and Malika had lived previously.

10 A Right.

11 Q And where were you when you first saw Allen?

12 A I was sitting at the kitchen table.

13 Q Now, if you're -- okay. So if you're sitting at the
14 kitchen table, how do you know how he got in? You said he
15 let himself in, how did you know that if you were sitting
16 in the kitchen?

17 A Because you could see the door through the living
18 room, I saw him walk in through the living room.

19 Q Okay. All right. Now, Marcus brought a bottle of
20 liquor over --

21 A Yes.

22 Q -- and y'all were doing shots. And when Allen came in
23 everything seemed fine, didn't it?

24 A Yes.

25 Q You know, continued to have a good time.

SHONETTIA HUNTER - CROSS

- 1 A Yes.
- 2 Q Did Allen ever play cards that you recall?
- 3 A No, not there.
- 4 Q Okay. Well, do you know whether he was wanting to get
5 in the game or not?
- 6 A I'm pretty sure he did, everyone wanted to play
7 cards.
- 8 Q Okay. But how many people are able to play the card
9 game, or play --
- 10 A Four.
- 11 Q So was it fair to say he was waiting to play cards
12 kind of as far as you thought what he was doing, your
13 impression was?
- 14 A I don't know, I can't answer that.
- 15 Q Okay.
- 16 A Maybe, maybe not, I don't know.
- 17 Q All right. Well, I think at some point you get a
18 phone call, that you get up from the table because of that
19 phone call, is that what it is? Do you recall getting a
20 phone call is how you got up from the table?
- 21 A I got up from the table because I had to go to the
22 bathroom.
- 23 Q Okay. So you didn't go to the bathroom kind of to
24 take a call?
- 25 A No, not that I can remember.

SHONETTIA HUNTER - CROSS

1 Q Well, at any rate, do you recall at the previous
2 motion hearing where you testified?

3 A Yes.

4 Q ~~And do you recall starting at lines five through~~
5 seven, would you just read starting behind the slash?

6 A "Just got up pouring everybody shots, sliding them
7 across the table. I got a phone call, stepped out the
8 living room to take my call, then I had to go to the
9 bathroom so Malika followed me to the bathroom."

10 Q Well, you may not remember it, but --

11 A Maybe.

12 Q -- at the time you mentioned you had a phone call and
13 I just wondered if the phone call was of any -- if you
14 could remember it now and if it was of any significance.

15 A It wasn't important, I still don't remember.

16 Q I understand. I don't see where it's important either
17 really, I wanted to know if you thought that it was,
18 though. All right. So you -- okay. You went to the
19 bathroom and Malika followed you to the bathroom.

20 A Right.

21 Q And how long do you suppose you were in the bathroom
22 before -- what's the -- you get to the bathroom. You use
23 the bathroom, Malika is going to use the bathroom.

24 A Right.

25 Q I don't mean to get into your private business as far

SHONETTIA HUNTER - CROSS

1 as that goes, but who ended up being first into the
2 bathroom and using it?

3 A I think she did.

4 Q And then were y'all both in the bathroom?

5 A Yes.

6 Q Now, what brought you out of the bathroom?

7 A The shot.

8 Q So you heard the shot while you were in the bathroom.

9 A Right.

10 Q All right. Now, where is Malika?

11 A Ahead of me.

12 Q Well, you're in the bathroom?

13 A Right.

14 Q And she's ahead of you in the bathroom? What do you
15 mean by that?

16 A She used the bathroom first, I used it, she walked
17 ahead of me to go out of the bathroom.

18 Q So she used the bathroom, you're in the bathroom and
19 you hear the shot.

20 A Right.

21 Q And Malika is where when you know you hear the shot?
22 Y'all leave together?

23 A We're in the bathroom together, we hear the shot, we
24 leave out of the bathroom together. She was just walking
25 ahead of me.

SHONETTIA HUNTER - CROSS

1 Q Okay. But if you heard the shot in the bathroom
2 nobody was in the hall facing the kitchen when the shot was
3 fired, correct?

4 A Right.

5 Q Okay. Because, in fact, the bathroom to get to the
6 hallway to look into the kitchen, you've got to go past the
7 vanity, the sink and all of that, right?

8 A Uh-huh.

9 Q But y'all are in the bathroom when the shots were
10 fired.

11 A Right.

12 Q But when you come out of the bathroom Malika is ahead
13 of you and -- so Malika couldn't have seen the gunshot then
14 if she was in the bathroom, could she?

15 A No.

16 Q But do you recall hearing earlier this year, a motion
17 hearing being questioned about that?

18 A Uh-huh.

19 Q Do you recall what you testified to back in late
20 March?

21 A I'm pretty sure I will say the same thing I'm saying
22 now, we didn't see the gunshot, we heard it.

23 Q Okay. Well, would you read the highlighted area on
24 page 12, line two through five of your transcript?

25 A "So Malika walked ahead of me and she's like, 'You

SHONETTIA HUNTER - CROSS

1 hear that?' And I was like, 'Yeah.' So she actually heard,
2 I mean, saw the gunshot but I didn't hurry but I didn't
3 see it."

4 Q So on that occasion you said she saw the gunshot.

5 A She didn't see the gunshot. We was in the bathroom,
6 she couldn't have saw the gunshot.

7- Q Well, on this day did you say she saw it according to
8 the transcript of your testimony, certified transcript?

9 A She didn't see the gunshot, neither did I.

10 Q Okay.

11 A I wouldn't have never said we saw the gunshot if we
12 was in the bathroom, or maybe I meant to say we heard it,
13 but we didn't see the gunshot.

14 Q Okay. Well --

15 MR. GRIER: Court's indulgence one second. Wrapping
16 it up.

17 (Break in proceedings.)

18 Q When you described the gunshot -- the noise of the
19 -- gunshot, you say it's soft?

20 A Yes.

21 Q And, you know, is there some sound that you can
22 compare that to or have you compared it to a sound in your
23 testimony already?

24 A Yes.

25 Q What did it sound like?

SHONETTIA HUNTER - CROSS

1 A I said it sounded like balloon pop.

2 Q I thought that's what you said. But a soft balloon?

3 You used the term soft, you said the sound was soft.

4 A I mean, it wasn't loud to me because the music was up

5 and we was in the bathroom with the door shut.

6 Q Right. Okay. But, you know, so could you -- but you

7 could distinctly hear it?

8 A Yes.

9 Q No question about it.

10 A Yeah.

11 Q Do you recall when we were back here on a motions

12 hearing back in late March?

13 A Uh-huh.

14 Q And you recall being sequestered on that day, right?

15 A Uh-huh.

16 Q Well, can you tell me, did you make a comment that she

17 had to testify the same way you did about what happened in

18 the bathroom? Did you tell her that in the hallway?

19 A What you mean?

20 Q Did you make a statement to Malika that "you have to

21 testify the same way I did about what happened in the

22 bathroom?"

23 A Probably.

24 Q Okay.

25 MR. GRIER: Thank you.

SHONETTIA HUNTER - REDIRECT

1 THE COURT: Redirect?

2 REDIRECT EXAMINATION

3 BY MS. COLLINS:

4 Q Why would you do that? Why would you tell another
5 witness that they have to testify a certain way as you do?
6 Why would you do that?

7 A Because it would be the truth.

8 Q Because all you have told the jury today has been the
9 truth?

10 A Right.

11 Q And all you would ask another witness to do would be
12 to tell the truth?

13 A Right.

14 Q Do you remember, you said you did, being interviewed
15 by Sergeant Brian Small that night?

16 A Yes, ma'am.

17 Q You sat in his patrol car, correct?

18 A Yes, ma'am.

19 Q He asked you questions and you gave him answers.

20 A Yes, ma'am.

21 Q Do you remember you told them -- and it had just
22 happened, right?

23 A Right.

24 Q About an hour or so before, right?

25 A Yes, ma'am.

SHONETTIA HUNTER - REDIRECT

1 Q Do you recall that at that time you told Sergeant
2 Small that you went to the bathroom and heard the shot, do
3 you remember that?

4 A Yes, ma'am.

5 Q And do you recall that you told Sergeant Small at that
6 time you came out and said, "What happened?" And Malika
7 said, "He shot Marcus?"

8 A Yes, ma'am.

9 Q And then you said, "Who?" And Malika said, "Marcus?"

10 A Yes, ma'am.

11 Q And then you look and you see Marcus on the floor,
12 right?

13 A Yes.

14 Q So why would you ask Malika -- I'm just trying to
15 understand here -- why would you ask Malika what happened
16 if she was in the bathroom with you when you heard the
17 shots?

18 A I wanted to see if we saw the same thing.

19 Q Okay. But you asked Malika what happened and she told
20 you he shot Marcus.

21 A Right.

22 Q And you said who and she said Marcus?

23 A Right. And with her being ahead of me I thought
24 maybe she saw a little more than what I saw. Like I said,
25 she ran towards the living room and I ran towards Marcus

SHONETTIA HUNTER - REDIRECT

1 so I didn't see what was going on out that way and I
2 didn't see the gunshot or gun or none of that, my focus
3 was on Marcus.

4 Q This all happened very quickly?

5 A Right.

6 Q Have you ever seen somebody get shot before?

7 A No, ma'am.

8 Q Anybody ever get shot in your house before?

9 A No, ma'am.

10 Q Was this very upsetting?

11 A Yes.

12 Q Have you testified as truthfully as you can recall
13 today?

14 A Yes, ma'am.

15 Q And at the earlier hearing when you testified you were
16 still under oath, right?

17 A Yes, ma'am.

18 Q And you testified then as truthfully as you can
19 recall, right?----

20 A Yes..

21 MS. COLLINS: Thank you.

22 MR. GRIER: One question.

23 RECROSS EXAMINATION

24 BY MR. GRIER:

25 Q Maybe there's some confusion, but did you just say

SHONETTIA HUNTER - RECROSS

1 that Malika ran towards the living room?

2 A Yeah.. She came out of the bathroom to the kitchen,

3 she was walking towards the living room, I was walking

4 towards Marcus which was by the refrigerator.

5 Q Did Malika run through the kitchen to the living room?

6 A Yes.

7 Q But that was after the shot was fired?

8 A Uh-huh.

9 Q And so Marcus is in the kitchen.

10 A Yeah.

11 Q So she runs by Marcus and into the living room?

12 A No. She stopped and she's shocked but went towards

13 the living room.

14 MR. GRIER: Okay. Thank you.

15 THE COURT: Okay. Ma'am, you may come down, thank you

16 very much. Is the witness free to go?

17 MS. COLLINS: We would ask that this witness be

18 excused.

19 MR. GRIER: No objection.

20 THE COURT: Ladies and gentlemen of the jury, we will

21 take a lunch break at this time. I would ask that you be

22 back in the jury room at 2:00. I ask that you do not

23 discuss the case among yourselves when you return from your

24 lunch hour or with anyone else from your lunch hour, I hope

25 you will respect my instructions in that regard. Thank you

SHONETTIA HUNTER - RECROSS

1 very much, you are now excused until 2:00.

2 (The jury left the courtroom.)

3 THE COURT: Anything else to come before the Court?

4 MS. COLLINS: No, Your Honor.

5 THE COURT: Anything to come before the Court?

6 MR. GRIER: No, Your Honor.

7 THE COURT: Stand at ease until 2:00.

8 (A lunch break was taken.)

9 THE COURT: State ready to proceed?

10 MS. COLLINS: Yes, Your Honor.

11 THE COURT: Defense ready to proceed?

12 MR. GRIER: Yes, sir, Your Honor.

13 THE COURT: Bring the jury, please.

14 (The jury returned to the courtroom.)

15 THE COURT: All right, ladies and gentlemen, we are
16 now ready to continue the trial. I hope you had a pleasant
17 lunch. You may continue, Solicitor, call your next
18 witness.

19 MR. GRIER:—The State's next witness is Sindarous
20 Wells.

21 The witness, SINDAROUS WELLS, was first duly sworn and
22 testified as follows:

23 DIRECT EXAMINATION

24 BY MS. COLLINS:

25 Q Will you please tell the jury your name?

SINDAROUS WELLS - DIRECT

1 A Sindarous Wells.

2 Q And can you spell Sindarous for the court reporter?

3 A S-i-n-d-a-r-o-u-s.

4 Q Okay. And Mr. Wells, I'm going to want you to tip

5 that microphone a little bit more towards your mouth and

6 try to speak into it just so everybody can hear you. Did

7 you know the victim, Demarcus Robinson?

8 A Yes.

9 Q And how did you know him?

10 A Uh, just a friend of the family.

11 Q And how long had you known him before he died?

12 A Years.

13 Q Do you know the defendant, Allen Wesley Massey?

14 A Yes.

15 Q How long have you known him?

16 A I don't really know him like that, but I have seen

17 him around.

18 Q To your knowledge, does he have a nickname, the

19 defendant?

20 A Yeah, I heard people call him Urk.

21 Q Do you know what that stands for? Do you have a

22 nickname. I'm sorry, we need to answer out loud for the

23 court reporter and you shook your head. Do you know what

24 Urk stands for?

25 A No.

SINDAROUS WELLS - DIRECT

1 Q Do you have a nickname?

2 A Yes.

3 Q What is your nickname?

4 A Ten.

5 Q Ten, or Ten-ten sometimes?

6 A Uh-huh.

7 Q On the late evening of October 11th of 2013, did you
8 go to the home of Malika Harris and Shonettia Hunter?

9 A Yes.

10 Q Do you recall about approximately what time you got
11 there?

12 A Not exactly.

13 Q Had it yet reached midnight, do you remember?

14 A No, it wasn't that late.

15 Q All right. This was their home at ■ City Avenue in
16 Lancaster?

17 A Yes.

18 Q Had you ever been there before that night?

19 A No.

20 Q That was your first time?

21 A Uh-huh.

22 Q So you don't think it was quite midnight when you got
23 there?

24 A No.

25 Q When you got there to Malika and Shonettia's home, can

SINDAROUS WELLS - DIRECT

1 you tell us who was there?

2 A It was me, Malika, Shonettia, there was two other
3 guys that was there as well but I don't recall their
4 names.

5 Q Could you have met them before?

6 A Yeah, I seen them around before.

7 Q But you don't remember their names?

8 A No.

9 Q Was the defendant there yet when you got there?

10 A No.

11 Q What had you been doing earlier that evening? Had you
12 been anywhere else?

13 A Yes. I actually had a play earlier that day.

14 Q What play?

15 A It was To Kill a Mocking Bird with the Community
16 Playhouse.

17 Q So you acted in that play that night?

18 A Yes.

19 Q What was your role?

20 A Mister -- I forgot his name. I think it was The
21 Badger.

22 Q Okay. About what time did the play finish?

23 A I would say almost 10:00.

24 Q All right. Did you leave straight from the theater
25 and go to Malika's or did you go somewhere first?

SINDAROUS WELLS -- DIRECT

- 1 A I went to Carolina Court.
- 2 Q What's at Carolina Court?
- 3 A I have a cousin that stays over there.
- 4 Q And did you stay there for awhile?
- 5 A Yeah, maybe an hour.
- 6 Q While you were there at Carolina Court, did you have
- 7 anything alcoholic to drink?
- 8 A No.
- 9 Q Okay. When you left Carolina Court where did you go?
- 10 A We went to a party that was -- I don't know the name
- 11 of that road but it was immediately down by the baseball
- 12 field.
- 13 Q You said we, who went with you?
- 14 A Me and my cousin and this other girl that was with
- 15 her.
- 16 Q And who is your cousin?
- 17 A Jimalaya (phonetically) Wells.
- 18 Q And did you know the name of the other girl?
- 19 A I think her name was Ivory. I don't know her last
- 20 name, but I think her first name was Ivory.
- 21 Q Did either of those two ladies later go with you to
- 22 City Avenue to Malika's?
- 23 A Yeah. But they didn't stay long, they left.
- 24 Q All right. So y'all went to this other party. What,
- 25 if anything, did you have to drink at the other party?

SINDAROUS WELLS - DIRECT

- 1 A Maybe a beer.
- 2 Q How long were y'all there?
- 3 A Probably 20 minutes, we wasn't even there long.
- 4 Q And when you left from there, where did you go?
- 5 A To Malika's house.
- 6 Q Now, at this other party, did you say where that was?
- 7 A It was in Midway down by the baseball field.
- 8 Q Was Allen Massey there at that party?
- 9 A I didn't see him.
- 10 Q Was Demarcus Robinson there at that party?
- 11 A Yes.
- 12 Q Was Ebonie Harris there at that party?
- 13 A I don't recall seeing her either.
- 14 Q Did you talk to Demarcus there at that party?
- 15 A Yes.
- 16 Q What kind of mood did he seem to be in?
- 17 A He was in a good mood. He was actually asking me to
- 18 sing something for him.
- 19 Q Did you? Did you sing?
- 20 A Yes.
- 21 Q And did you see Demarcus get in any quarrel or upset
- 22 with anybody there at that party?
- 23 A No.
- 24 Q And so when y'all left that party you said, did y'all
- 25 go to City Avenue [REDACTED] Malika and Shonettia's house?

SINDAROUS WELLS - DIRECT

- 1 A Yes.
- 2 Q And you said the two ladies went with you but then
- 3 they left?
- 4 A Yes.
- 5 Q And you've already told us who was there, I think it
- 6 was you, Malika and Shonettia, right?
- 7 A Yes. And it was two other guys that was there.
- 8 Q And what were y'all playing?
- 9 A We were playing spades.
- 10 Q And -- the card game?
- 11 A Yes.
- 12 Q And four people can play; is that right?
- 13 A Yes.
- 14 Q And did you later see Demarcus and Ebonie?
- 15 A Yes.
- 16 Q Did they come there for awhile?
- 17 A Yes.
- 18 Q Did they then leave for awhile, do you remember?
- 19 A I remember seeing Ebonie leave out but Marcus was
- 20 still there.
- 21 Q All right. At what point, if any point, did you later
- 22 see the defendant enter the home at [REDACTED] City Avenue?
- 23 A Yes.
- 24 Q And how long was that after Demarcus got there?
- 25 A Maybe 45 minutes.

SINDAROUS WELLS - DIRECT

1 Q All right. And when Mr. Massey came into the home,
2 where were you?

3 A In the kitchen.

4 Q And from where you were in the kitchen could you see
5 the front door?

6 A No. Not where I was at first when he first came in
7 the house.

8 Q Did you hear anyone knock on the door prior to Mr.
9 Massey coming in?

10 A No.

11 Q When Mr. Massey came in, did he come on into the
12 kitchen?

13 A Yes.

14 Q Was there a reaction among the members of the group
15 there?

16 A Everybody was just wondering where he came from, like
17 no one was expecting him to show up.

18 Q But everybody was nice, no one asked him to leave,
19 right?

20 A Say again.

21 Q Everyone was nice to him and didn't ask him to leave;
22 is that right?

23 A Correct.

24 Q Even though you said no one was expecting him to show
25 up, right?

SINDAROUS WELLS - DIRECT

1 A Correct.

2 Q When Mr. Massey came into the kitchen, did you know,

3 Mr. Wells, that at that moment he had a loaded gun in his

4 pocket?

5 A No.

6 Q Did he make anyone aware in the kitchen in your

7 presence that he had a loaded gun?

8 A No, not on him.

9 Q Did he -- had he made you aware of that as you were a

10 guest in that home -- you had been invited there, right?

11 A Yes.

12 Q Had he made you aware of that, what would have been

13 your feelings toward that?

14 A I probably would have left.

15 Q And after Mr. Massey came in did he say hello to

16 everyone?

17 A Yes.

18 Q And at that point was Demarcus in the kitchen?

19 A Yes.

20 Q And did Demarcus and Mr. Massey at that point seem

21 friendly to each other?

22 A Yeah. They didn't seem like it was any

23 confrontation.

24 Q Tell the jury, if you will, what happened from that

25 point to the best of your memory?

SINDAROUS WELLS - DIRECT

1 A We was all standing around in the kitchen, and then
2 Mr. Massey started telling us about an altercation that
3 happened from the party that he was previously at, and
4 that him and someone got into it, and he pulled out a gun
5 on the other guy and he left from there and came to where
6 we was. He was telling us about that.

7 Q Okay. I want to ask you a few questions about that.
8 You said he pulled out a gun on the other guy. He being
9 who?

10 A Mr. Massey.

11 Q So Mr. Massey told the people there that he had gotten
12 in an altercation with someone at another party?

13 A Yes.

14 Q Did he say who that someone was?

15 A I think it was -- I think his name was Shawd.

16 Q Okay. If you remember. But it wasn't anyone that was
17 still in the party at City Avenue, right?

18 A No.

19 Q And you said Mr. Massey told y'all that he, Mr.
20 Massey, had pulled out a gun on the other person?

21 A Yes.

22 Q And what did he say had happened after that?

23 A He said he left from there. Somebody was trying to
24 jump on him or something and that he left from that party
25 and came to where we was.

SINDAROUS WELLS - DIRECT

1 Q All right. Now, did Mr. Massey tell y'all at that
2 point, "Well hey, in fact, I've still got the gun on me?"

3 A No.

4 Q And what happened after Mr. Massey shared this with
5 y'all in the kitchen?

6 A After that out of nowhere that's when Demarcus struck
7 Mr. Massey.

8 Q And where were they standing at the time that Demarcus
9 struck Mr. Massey?

10 A In the kitchen.

11 Q And how many times did Demarcus strike Mr. Massey?

12 A Once.

13 Q And did you see where on Mr. Massey's body did
14 Demarcus strike him?

15 A Not exactly, because we wasn't expecting it, so --

16 Q Could you tell, was it his stomach or his leg or his
17 head, or could you tell?

18 A I think it might have been his face but I wasn't
19 really sure.

20 Q But you're not really sure.

21 A No.

22 Q And how many times total did you see Demarcus hit Mr.
23 Massey?

24 A Once.

25 Q And after Demarcus hit Mr. Massey, what happened?

SINDAROUS WELLS - DIRECT

1 A Mr. Massey fell back into the living room area and
2 Demarcus was walking towards him and then that's when the
3 gun went off.

4 Q Okay. I want to back up just a little bit. So when
5 Demarcus hit Mr. Massey -- I'll show you a picture. I want
6 to show you what has been marked as State's Exhibit 10 and
7 ask you, do you recognize what that's a picture of?

8 A Yes.

9 Q Is that the kitchen at [REDACTED] City Avenue?

10 A Yes.

11 Q Does that appear to be a fair and accurate
12 representation of how it looked that evening after the
13 incident?

14 A Well, I think the table was more to the right.

15 Q Okay. Other than that, does it appear to be pretty
16 accurate?

17 A Uh-huh.

18 Q And can you step down here and show us -- I would like
19 you to show us where you were and then where Mr. Massey was
20 and the victim were?

21 A From the picture?

22 Q Yes. If you could step down and show us. And just so
23 everybody can see let's do it with this group first and
24 then this group. If you could -- I'm thinking you're the
25 last citizen witness so I am going to ask you to mark, that

SINDAROUS WELLS - DIRECT

1 might be helpful. If you will for you, Sindarous, if you
2 would put for Mr. Wells, if you would put a W where you
3 were.

4 A When it happened or --

5 Q At the moment you saw Demarcus hit Mr. Massey.

6 A (Witness complies.)

7 Q And will you put a circle around there just so it's
8 clear to see?

9 A (Witness indicates.)

10 Q And where was Demarcus, the victim?

11 A (Witness indicates.)

12 Q And where was the defendant?

13 A (Witness indicates.)

14 Q And let's show the jury that. So will you point
15 to where you were?

16 A (Witness indicates.)

17 Q Okay. And point to where you showed where Mr. Massey
18 is.

19 A (Witness indicates.)

20 Q And point where Demarcus was.

21 A (Witness indicates.)

22 Q And this is where they're standing when you saw
23 Demarcus hit Mr. Massey?

24 A Yes.

25 Q Let's step down here. And if you will show us one

SINDAROUS WELLS - DIRECT

1 more time, Mr. Wells, where were you?

2 A Here.

3 Q And there's a W there?

4 A Uh-huh.

5 Q And where was Mr. Massey?

6 A Here.

7 Q And there's an M there?

8 A Yes.

9 Q Where was Demarcus?

10 A Here.

11 Q And there is a D there, right?

12 A Yes.

13 Q Thank you, please step back up. Just leave that for

14 your reference if you need it. When you saw Demarcus swing

15 at Mr. Massey you said there was some type of contact,

16 right?

17 A Uh-huh.

18 Q And you said Mr. Massey fell backward; is that right?

19 A Yeah. He went backwards into the living room area.

20 Q Did he actually fall in the floor?

21 A I'm not 100 percent sure about that.

22 Q Did you hear him fall on the floor?

23 A No.

24 Q So from where you were, did he move out of your range

25 of vision into the living room?

SINDAROUS WELLS - DIRECT

1 A Yes. Because it was actually dark, there wasn't no
2 lights or anything on in the living room.

3 Q Okay. So he kind of falls backward but you didn't
4 hear him fall on the floor.

5 A Correct.

6 Q And he moves totally out of your range of vision, you
7 couldn't even see his feet; is that right?

8 A I seen like his shoes but I couldn't actually see
9 him.

10 Q Could you tell if his shoes were as if someone was
11 lying down or if someone was standing up?

12 A When I seen them he was standing up.

13 Q Okay. And Demarcus when he swung and hit Mr. Massey,
14 what happened to Demarcus? Where did he go?

15 A He stumbled back for a moment, then he went back
16 towards Mr. Massey.

17 Q Okay. And did he actually go out of your sight into
18 the living room where Mr. Massey was?

19 A All I couldn't see on him was his back area.

20 Q So you could still see Demarcus's back?

21 A Yes.

22 Q At any time was Demarcus's back bent over or was it
23 standing straight?

24 A Standing straight.

25 Q The whole time you could see him?

SINDAROUS WELLS - DIRECT

1 A Uh-huh.

2 Q And then you heard the gunshot?

3 A Yes.

4 Q And then what did you see?

5 A Demarcus falling back in the kitchen.

6 Q And did he fall back in the floor?

7 A Yes.

8 Q And where did Mr. Massey go?

9 A He ran out the front door.

10 Q There was just one gunshot?

11 A Yes.

12 Q How much time passed between when you saw Demarcus
13 going into the living room and when you hear the gunshot?

14 A Couple of seconds.

15 Q And when you saw Demarcus going into the living room
16 after -- where Mr. Massey was, did Demarcus have a gun in
17 his hand?

18 A I didn't see one.

19 Q Did you see any type of weapon in his hand?

20 A No.

21 Q Were his hands relaxed or tensed or actually in a
22 fist, do you remember?

23 A I don't recall.

24 Q Okay. Were there any words between the two men?

25 A No.

SINDAROUS WELLS - DIRECT

1 Q So after Demarcus -- you said Mr. Massey had told
2 everybody about what had happened, and then you said
3 Demarcus took a swing at Mr. Massey and actually made
4 contact, right?

5 A Uh-huh.

6 Q Demarcus didn't say anything right after that?

7 A Not to my knowledge.

8 Q And Mr. Massey didn't say anything; is that right?

9 You need to answer out loud.

10 A Correct.

11 Q And when Mr. Massey fell back into the living room and
12 Demarcus was going toward him, did Mr. Massey cry out for
13 help?

14 A I don't recall hearing it.

15 Q If he had, would you have gone in there to help?

16 A Say again?

17 Q If Mr. Massey had called out help when he fell back
18 into the living room, would you have gone in there and
19 tried to stop whatever was about to happen with these two
20 men?

21 A Yes.

22 Q But Mr. Massey didn't cry out help, did he?

23 A I didn't hear him.

24 Q Did you call 911?

25 A I did.

SINDAROUS WELLS - DIRECT

1 Q Did you have an opportunity earlier today to hear that
2 call?

3 A Yes.

4 Q Was that a true and accurate representation of that
5 call in its entirety as you recall it?

6 A Yes.

7 MS. COLLINS: Your Honor, at this time I move State's
8 Exhibit 13 into evidence, the 911 call disc.

9 MR. GRIER: Without objection, we stipulated to that.

10 THE COURT: Okay.

11 (The disc was received as State's 13.)

12 MS. COLLINS: And I would ask to play it, it's very
13 brief and it's already cued up and saved on here. Any
14 objection?

15 MR. GRIER: No objection.

16 (The 911 disc was played.)

17 Q -- Is that your voice that we hear, Mr. Wells?

18 A Yes.

19 Q And the 911 operator was confused at first when she
20 said ma'am?

21 A Yes.

22 Q But that was you the whole time.

23 A Yes.

24 Q After you placed that call to 911 for help to come for
25 Demarcus, for an ambulance to come, did you yourself try to

SINDAROUS WELLS - DIRECT

- 1 give Demarcus CPR?
- 2 A Yes.
- 3 Q Was he bleeding very much at that point?
- 4 A He wasn't bleeding -- well, on the outside he wasn't,
- 5 we couldn't see any blood.
- 6 Q Do you recall what Demarcus was wearing?
- 7 A I think he had on a black shirt or -- it was black or
- 8 white.
- 9 Q Do you recall if he had on a top shirt and an
- 10 undershirt, or do you remember?
- 11 A I don't remember.
- 12 Q When you did CPR on him, had you been trained in CPR?
- 13 A No, but I have a mother as well as aunt who are
- 14 CNA's.
- 15 Q And did you lift his shirt when you tried to do chest
- 16 compressions for CPR?
- 17 A Yes.
- 18 Q Did you see the bullet wound?
- 19 A Yes.
- 20 Q Where was it?
- 21 A It was on this side somewhere, I'm not exactly sure,
- 22 but I know it was on this side somewhere.
- 23 Q Did you get any blood on your hands that you recall?
- 24 A No.
- 25 Q I think I asked you this but I will back up. Did you

SINDAROUS WELLS - DIRECT

1 ever see the gun?

2 A No.

3 Q Was it a loud bang or softer shot, do you recall?

4 A ~~It was kind of --- it wasn't too loud, it wasn't a~~
5 loud, loud gunshot, but it wasn't a soft one either.

6 Q Did you know instantly when you heard it that that was
7 a gunshot?

8 A Yes.

9 Q Did Mr. Massey say anything as he was running out of
10 the house?

11 A No.

12 Q You stayed.

13 A Yes.

14 Q You stayed to help Demarcus?

15 A Yes.

16 Q And you stayed to talk to the police?

17 A Yes.

18 Q Do you recall you spoke to Lieutenant Phillip Hall of
19 the police department?

20 A Yes.

21 Q You talked to him that night in his car, correct?

22 A Yes.

23 Q Were you still there at the house when you learned
24 that Demarcus had passed away?

25 A No.

SINDAROUS WELLS - DIRECT

1 Q You heard that later?

2 A Uh-huh, the next day.

3 MR. GRIER: I'm sorry, Ms. Collins, I couldn't

4 understand the question.

5 MS. COLLINS: I said you heard that later. Did you
6 hear the first one?

7 MR. GRIER: No.

8 MS. COLLINS: I said were you still at the house when
9 you heard Demarcus had passed away.

10 Q And your answer was?

11 A No.

12 Q And then I said you heard that he had passed away
13 later?

14 A Yes.

15 MR. GRIER: Thank you.

16 Q As Demarcus was going into the living room toward

17 where Mr. Massey was, did you hear him say anything at all

18 to Mr. Massey such as, "I'm going to hurt you," or anything

19 at all?

20 A I didn't hear anything.

21 Q Did you see or hear anyone -- the expression I don't
22 know what it's called, egging on Demarcus to hurt Mr.
23 Massey?

24 A No.

25 Q I know this has been a long time ago, Mr. Wells, but

SINDAROUS WELLS - DIRECT

1 do you recall that when you spoke to Lieutenant Phillip
2 Hall in his car that you didn't tell him at that moment or
3 during that interview in the car that you ever saw Demarcus
4 ~~hit Mr. Massey? Do you recall that?~~

5 A You said do I recall telling him or not telling him?

6 Q Yeah. Do you remember if you told Lieutenant Hall in
7 the car whether or not you saw Demarcus hit Mr. Massey?

8 A I don't think I told him.

9 Q Was there a special reason why you didn't tell him at
10 that time?

11 A No. It was just -- I don't -- my mind was just
12 everywhere.

13 Q Had you ever seen anybody shot?

14 A No.

15 Q And so it was something later you realized that you
16 hadn't told him?

17 A Yes.

18 Q But it did happen.

19 A Yes.

20 Q But you only saw him hit him one time.

21 A Yes.

22 MS. COLLINS: Mr. Wells, thank you for coming here
23 today to tell us what you saw and heard.

24 THE COURT: Cross examination?

25 MR. GRIER: Thank you, Your Honor.

SINDAROUS WELLS - DIRECT

1 CROSS EXAMINATION

2 BY MR. GRIER:

3 Q Mr. Wells, you and I have something in common:

4 Theater. I played Boo Radley one time.

5 A Oh, okay.

6 Q Mr. Wells, how old are you now?

7 A Twenty-one.

8 Q And you were about 19 at the time this happened?

9 A Yes.

10 Q Now, you've said that you had known Mr. Robinson,
11 Demarcus, for a long, long time through the family, you
12 said you had known the family, or through the family or --

13 A Yeah.

14 Q When you say that, what do you mean, what family?

15 A The Robinson family.

16 Q Are you related at all?

17 A No.

18 Q Did you meet Mr. Robinson through -- did you know
19 Ebonie too?

20 A Yes.

21 Q Because you knew Malika and Shonettia.

22 A Yes.

23 Q And so your connection to Mr. Robinson came through
24 them?

25 A No.

SINDAROUS WELLS - CROSS

1 Q So that was just totally coincidental then. Okay.

2 But you said you just had known him a long time. Now, how

3 did you know Shonettia and Malika?

4 A -- Well, Malika's mother and -- Ebonie and Malika's

5 mother were real close friends with my aunt and so they

6 used to be around them a lot, that's how I know Malika and

7 Ebonie.

8 Q Well, Mr. Robinson -- I mean, Mr. Wells, I know it was

9 a difficult experience to witness that. But you didn't

10 know Mr. Allen Massey very well, you just saw him around?

11 A Yeah. Well, he knew my name, and every time -- like

12 I would see him around the hill and he would call me by my

13 name but I didn't really know his name but he knew my

14 name.

15 Q You didn't know his nickname before then?

16 A No.

17 Q How about Marcus, did you know a nickname that he had?

18 A I've heard.

19 Q Knockout king?

20 A Yeah, I've heard that before.

21 Q Do you have any observations of that? Have you ever

22 seen --

23 A I have never called him that but I have heard it.

24 Q Okay. Well, did you -- you saw Marcus earlier in -- I

25 guess we're talking about the ball fields, that's Wiley

SINDAROUS WELLS - CROSS

- 1 Park -- over near Wiley Park ball fields, correct?
- 2 A Yes.
- 3 Q And Jackson Road, Central Avenue, all of those roads
- 4 ~~are right there together, correct, or do you know?~~
- 5 A I don't know the street names.
- 6 Q I understand. I understand. And 16th Street, did you
- 7 go over to 16th street that night at all?
- 8 A 16th Street.
- 9 Q Off of Brooklyn?
- 10 A No.
- 11 Q Okay. All right. Now, when you -- you were over at
- 12 Wiley Park?
- 13 A Yes.
- 14 Q Did you hang out with Malika and Shonettia over there
- 15 at all?
- 16 A I was there maybe 20 minutes, I wasn't there long.
- 17 Q And did you become aware of a shooting there?
- 18 A No.
- 19 Q Did you become aware of a shooting there later, that
- 20 there had been a shooting there?
- 21 A No.
- 22 Q All right. Did you see Marcus Robinson in any kind
- 23 and confrontation with anybody there?
- 24 A No.
- 25 Q You left before the party broke up?

SINDAROUS WELLS - CROSS

1 A Yes.

2 Q And you went to another party for awhile and then you
3 ended up over at Malika and Shonettia's.

4 A -- After I left Wiley Park area.

5 Q All right. Now, when you got to Malika and
6 Shonettia's, how long were you there before you think this
7 shooting happened?

8 A -- Maybe like an hour and a half.

9 Q All right. And Mr. Massey came in, and how long was
10 he there before the shooting if you recall? And if you
11 don't, you don't.

12 A I don't.

13 Q But did you see him walk into the home or just into
14 the --

15 A I seen him come into the kitchen.

16 Q In the kitchen where you're sitting there playing
17 cards. And was there -- as I understand it you -- you
18 know, you ended up standing up -- you ended up at the
19 time -- this document, this photo where you've diagrammed
20 where you were and Demarcus was and where Mr. Massey was,
21 that, I assume, was during a break in the card game?

22 A Yeah, we actually had finished.

23 Q Okay. You had quit playing?

24 A Well, the game was over.

25 Q All right. Now, and the conversation that you

SINDAROUS WELLS - CROSS

1 overheard or you took part in, were you talking to Mr.

2 Massey and Demarcus?

3 A We was all just standing there.

4 Q Kind of the three of you at some point?

5 A Yeah, the other two guys that was there as well.

6 Q All right. So are they in close proximity when all of

7 this is going down, are they close by y'all when the

8 shooting occurred?

9 A No, not when that occurred, but beforehand they were.

10 Q Okay. So you had -- you overheard this conversation

11 that was taking place with you present or you were involved

12 in it where Mr. Massey describes having been over at Wylie

13 Park -- or excuse me, at 16th?

14 A I don't know --

15 Q You don't know where it was at?

16 A I don't recall.

17 Q But he proceeds to tell about some sort of altercation--

18 that happened somewhere earlier with another member of the

19 Robinson family.

20 A Yes.

21 Q And I believe you said that was Rashawd as best you

22 can remember?

23 A Yes.

24 Q Would that be Rashawd Robinson or do you know? Okay.

25 All right. And he says the guy was trying to fight him?

SINDAROUS WELLS - CROSS

1 A Yes. He said some guys were trying to jump him.

2 Q Some guys were?

3 A He said his name and then I guess whoever was with
4 him.

5 Q All right. And was his explanation for pulling a gun
6 was because he was getting jumped on?

7 A Or about to.

8 Q About to. Okay. But he didn't -- your recollection
9 was did he ever talk about having been actually hit?

10 A Say again.

11 Q Did he say anything about having been struck by
12 anyone?

13 A No, not that I recall.

14 Q All right. And did he say anything about the nature
15 of why people were mad at him at this other place?

16 A I don't recall.

17 Q That's fine. But he said he pulled a gun out.

18 A Yes.

19 Q How much earlier in the evening was that apparently?
20 Was that -- he had just come from there, correct?

21 A I'm not sure, he was just telling us about it.

22 Q All right. But from what your understanding of what
23 he was telling you about, had that happened earlier that
24 evening?

25 A Yes.

SINDAROUS WELLS - CROSS

1 Q And so would it not have been a concern that he might
2 have a gun on him if he talked about pulling a gun?

3 A Yeah.

4 Q You said if you had known he had a gun on him or you
5 thought he had a gun on him you probably would have left.

6 A If he knew he had one on him.

7 Q Well, you had good reason to suspect he had one on him
8 because he'd been talking about it, correct?

9 A Correct.

10 Q All right. Now, were there any children in the house
11 that night?

12 A No.

13 Q Do you know where they were?

14 A No.

15 Q But you know there were none there.

16 A To my knowledge, yeah.

17 Q You didn't see any children there.

18 A I didn't see them.

19 Q And you were there an hour to an hour and a half or
20 so?

21 A Uh-huh.

22 Q All right. And do you know that -- Malika has
23 children, right?

24 A Yes.

25 Q Have you, whatever, played with her children or --

SINDAROUS WELLS - CROSS

1 A I have seen them, but --

2 Q All right. Now, you described that just out of
3 nowhere, is that what your words were, out of nowhere

4 ~~Marcus strikes Mr. Massey?~~

5 A Yes.

6 Q And so you can't -- Mr. Massey didn't insult him?

7 A No, not to my knowledge.

8 Q Did Mr. Massey appear to be trying to provoke --
9 somehow provoke Mr. Robinson, make him mad? You know, did
10 he -- you've got to respond yes or no or I don't know.

11 A I don't know.

12 Q You didn't see anything that suggested Mr. Massey was
13 trying to make Mr. Robinson mad, did you?

14 A No.

15 Q And I think Ms. Collins asked you, Mr. Massey wasn't
16 egging on Mr. Robinson.

17 A No.

18 Q Nobody was.

19 A No.

20 Q Just out of nowhere.

21 A Yes.

22 Q You seemed a little -- had some reservation about Mr.
23 Massey got struck. Were you looking at Mr. Massey when he
24 got struck? You said you thought maybe in the face but,
25 you know --

SINDAROUS WELLS - CROSS

1 A Yeah, because I wasn't looking at him. I just know
2 he got hit out of nowhere.

3 Q Right. Okay. And he fell back into the living room.

4 A Yes.

5 Q But you never lost sight of his shoes, is that what
6 you're saying? You saw his shoes?

7 A I saw his shoes, yeah.

8 Q Well now, he's in the living room and you can see his
9 shoes?

10 A Yes.

11 Q Okay. Now, if he's in the living room and you can see
12 his shoes and he's standing, couldn't you see the rest of
13 his body if you could see his shoes? How could you see his
14 shoes?

15 A Because his shoes was a light color.

16 Q Well, was the light on in the --

17 A No.

18 Q Was the light on in the --

19 A Kitchen, yes.

20 Q -- in the kitchen? All right. But the light from the
21 kitchen was shining into the living room. Not lighting it
22 up, but I mean --

23 A Yeah.

24 Q -- if I'm standing in a dark room and I'm standing a
25 couple of feet back from a lit room I'm going to be

SINDAROUS WELLS - CROSS

1 illuminated by that light from the lit room even though I'm
2 in a dark room, is that not --

3 A Yeah. But if somebody was just standing in front of
4 you then I couldn't see you.

5 Q Okay. So, you know, why -- what about his shoes
6 suggested he was standing like you described?

7 A I never said he was standing.

8 Q Oh, okay.

9 A I seen his shoes.

10 Q I thought -- you didn't say that, "I saw his shoes in
11 a way that I thought he was standing?"

12 A Yeah. I thought he was standing, I'm not sure.

13 Q Well, isn't it hard to imagine being able to see his
14 shoes, though, and not be able to see him standing?

15 A You said is it hard?

16 Q Yeah. With a light coming from the kitchen?

17 A It wasn't a bright light.

18 Q Okay. Mr. Wells, could I get you to step down, too,
19 as well? Mr. Wells, this is State's Exhibit 11. And what
20 is that picture of?

21 A The kitchen.

22 Q All right. Now, I believe you said earlier that you
23 believe the table was pushed more into the corner.

24 A Yes.

25 Q But other than that, this -- you know, the stove

SINDAROUS WELLS - CROSS

1 certainly didn't change places, right?

2 A Right.

3 Q And you know, is this the same lighting that -- you
4 know, the way the kitchen was at the time you were in
5 there, Mr. Wells, as best you could tell?

6 A Yeah.

7 Q All right. You can kind of see into the living room,
8 can't you?

9 A Yeah.

10 Q Now, if you saw some shoes in that kind of light, do
11 you think you probably would have seen somebody had they
12 been standing based on what you would see from this
13 exhibit?

14 A Yeah, on the picture.

15 Q I'm going to ask you also if you will, Mr. Wells,
16 would you indicate -- you've made one from another angle,
17 but just to -- would you do the same indications on this
18 exhibit that you have done on the prior photograph?

19 A (Witness complies.)

20 Q Okay. And so the W is for Wells, the D is for
21 Demarcus and the M is for Massey, correct?

22 A Yes.

23 Q Now, Mr. Wells -- that's good. Thank you, you can
24 take the stand. Now, Mr. Wells, those markings show people
25 pretty close together, don't they? Wouldn't that put y'all

SINDAROUS WELLS - CROSS

1 pretty bunched up?

2 A That's a drawing.

3 Q I understand. But now, what was your reaction at

4 --seeing Mr. Massey get struck?-- Did you say --

5 A I was surprised, I mean, shocked. I wasn't expecting
6 it.

7 Q Did you move --

8 A Backwards.

9 Q I believe you previously said you moved back towards
10 the counter. Not today, but --

11 A Yes.

12 Q -- have you given that statement before?

13 A Yes.

14 Q So you actually took some steps back, which would -- I

15 think anybody -- that's a natural reaction when

16 something -- when violence happens in front of you, right?

17 A Yes.

18 Q And so Mr. Massey fell backwards into the living room,

19 towards the living room or -- but you saw his shoes. Now,

20 was in relation -- you know, where the threshold of

21 the door -- do you know what a threshold is between rooms?

22 A Uh-huh.

23 Q Okay. So was he into the living room beyond the

24 threshold or at the threshold?

25 A Beyond.

SINDAROUS WELLS - CROSS

1 Q Okay. But how far would you say where you saw those
2 shoes?

3 A I don't know an exact measurement.

4 Q Well, could you diagram where your best recollection
5 is on here and just put --

6 MS. COLLINS: I've got a red pen if you think that
7 would --

8 MR. GRIER: Okay. Let's change colors.

9 Q All right. Mr. Wells, I think -- shoes. You can make
10 a little --

11 A (Witness complies.)

12 Q Okay. Did you write the word shoes or did you --

13 A I drew circles.

14 Q Oh, okay. All right. So that would appear to be --

15 and I don't think the jury is going to be able to see from
16 this -- so for the record the two little circles side by
17 side represent shoes?

18 A Yes.

19 Q Do you need a break for a minute?

20 A No.

21 Q I saw you grabbing. Okay. Now, when you stepped
22 back, Mr. Wells, the stove began -- obscured your view
23 looking into the living room as well, correct?

24 A Correct.

25 Q But you could still see shoes?

SINDAROUS WELLS - CROSS

1 A I seen them but it's not like the whole time.

2 Q But nobody attached to them. You've got an image of
3 shoes.

4 A Yes.

5 Q All right. Well, Mr. Wells, you see those shoes. And
6 what is Demarcus -- what's Demarcus doing?

7 A He's walking towards Mr. Massey.

8 Q He's walking or running?

9 A He wasn't running.

10 Q He didn't need to run, he was pretty close to him,
11 wasn't he?

12 A Yes.

13 Q When he stepped back, how far did he step back after
14 he hit --

15 A Just a step.

16 Q One step and then walk.

17 A Yes.

18 Q Okay. So there are really only a couple of steps
19 apart to begin with, correct?

20 A Correct.

21 Q And you -- a couple of steps and Marcus was at Mr.
22 Massey's feet basically, right --

23 A Correct.

24 Q -- right in front of him. Did you see them grab each
25 other or anything of that nature?

SINDAROUS WELLS - CROSS

1 A No.

2 Q In fact, there's no time to grab, the shot went just
3 as he stepped through the threshold.

4 A Correct.

5 Q But did you -- what did you think Marcus was getting
6 ready to do?

7 A Hit him again.

8 Q Pardon?

9 A Hit him again.

10 Q That's what it appeared like? Did you see any -- did
11 you see Mr. Robinson or Marcus ball his fist up or --

12 A I wasn't paying attention to his hands.

13 Q Okay. Mr. Wells, did you have a concern that Marcus
14 was going to beat up Mr. Massey?

15 A Yes.

16 Q Mr. Wells, from where you were standing at the time
17 Mr. Robinson hit Mr. Massey, could you see down the hallway
18 towards the bathroom?

19 A Yeah. I couldn't see the bathroom but I could see
20 the hallway.

21 Q Did you see Shonettia or Malika in that hallway at the
22 time?

23 A They were in the bathroom.

24 Q Okay. Now, on the night that this happened you gave a
25 statement to law enforcement and you understood the

SINDAROUS WELLS - CROSS

1 importance of that statement, right?

2 A Yes.

3 Q And that to give them all of the information that you

4 could possibly tell them about what caused this or what

5 happened.

6 A Yes.

7 Q Not about what caused it, but just what you observed.

8 And did you tell them everything that night that you

9 observed?

10 A No.

11 Q Why not?

12 A Like I said earlier was it basically slipped my mind,

13 there was a lot of stuff going on and I really don't know.

14 Q Well, you didn't tell them that Marcus hit Mr. Massey.

15 Is that not really important?

16 A Yes.

17 Q You didn't want Marcus to look bad, did you?

18 A Say that again.

19 Q You didn't want Marcus to look bad, did you?

20 A That's not how I was looking at that.

21 Q You weren't thinking that if you said Marcus struck

22 Mr. Massey it's going to make Marcus look bad and you're

23 friends with his family? That's not what was going through

24 your mind that night, Mr. Wells?

25 A No.

SINDAROUS WELLS - CROSS

1 Q Okay. And you didn't tell law enforcement anything
2 about Mr. Massey saying anything about pulling a gun that
3 night, did you?

4 A No.

5 Q And you didn't think that might be really important?

6 A Yes.

7 MR. GRIER: Beg the Court's indulgence for a moment.

8 (Break in proceedings.)

9 Q Well, Mr. Wells, there were some angered people and
10 upset people after this happened; Malika, Shonettia,
11 Ebonie, there were other people in that room that night
12 when the shooting happened as well, weren't there, that saw
13 it?

14 A I don't recall if the other two guys were there.

15 Q Were Malika or Shonettia or Ebonie or anybody
16 pressuring other people, like Tommy McGriff and Navoney
17 Curry, to give an account of what happened that night that
18 was not true?

19 A No.

20 Q You never heard anybody telling somebody "This is the
21 story we need to tell" while you were there that night?

22 A No.

23 Q And people disagreeing saying, "I'm not going to do
24 that."

25 A No.

SINDAROUS WELLS - REDIRECT

1 MR. GRIER: Thank you, Mr. Wells.

2 THE COURT: Redirect?

3 MS. COLLINS: Briefly.

4 ~~REDIRECT-EXAMINATION~~

5 BY MS. COLLINS:

6 Q Mr. Wells, when those pictures were made at the scene,

7 were you there inside the house at the time that law

8 enforcement was taking those pictures?

9 A I may have been outside, I'm not sure.

10 Q So you don't know personally whether or not a flash

11 was used, do you?

12 A No.

13 Q And just one more question in terms of seeing the

14 shoes. Were the shoes -- look at my feet, I will back up.

15 Were the shoes flat on the ground like this or were they

16 trows up like this, or one way or the other?

17 A Like high and to the side, I couldn't see the bottom

18 of his shoe.

19 Q You could not see the bottom of his shoe?

20 A No.

21 Q And your impression was that Mr. Massey was still

22 standing?

23 A Yeah. Well, when he went back he went -- like maybe

24 caught himself before he hit the ground but he went

25 backwards like he was going to hit the ground.

SINDAROUS WELLS - RECROSS

1 Q But you didn't hear him fall.

2 A No.

3 Q And you didn't see the bottom of the shoes as if he
4 was lying flat on the ground.

5 A No.

6 MS. COLLINS: Thank you for coming here today.

7 THE COURT: Anything else?

8 RECROSS EXAMINATION

9 BY MR. GRIER:

10 Q All right. Mr. Wells, one question, I'm going to do a
11 demonstration. I'm laying on my back with my knees up.
12 Can you see the bottom of my shoes?

13 A No.

14 MR. GRIER: Thank you.

15 THE COURT: Is the witness free to go?

16 MS. COLLINS: We ask that he be excused.

17 MR. GRIER: No objection.

18 THE COURT: You are free to go, thank you very much.

19 Next witness.

20 MR. EDGERTON: Your Honor, the State calls Captain
21 Tony Gainer.

22 The witness, TONY GAINER, was first duly sworn and
23 testified as follows:

24 DIRECT EXAMINATION

25

DWAYNE DAVIS - CROSS

1 morning. Typically when we have crimes of certain caliber
2 we get notification. The city provides us with a
3 cellphone to make sure that we can be notified, let us
4 know to give us a heads-up-if-you-will.

5 Q But you didn't participate in any way in the
6 investigation of the crime scene at the time of the crime.

7 A No, sir.

8 Q Were you monitoring radios or anything that night?

9 A No. Not at my residence, no, sir. I was just
10 notified --

11 Q I understand.

12 MR. GRIER: Thank you.

13 MS. COLLINS: Nothing further. We ask that this
14 witness be excused.

15 MR. GRIER: No objection.

16 THE COURT: You may come down, thank you very much.
17 You may be excused.

18 The witness, DUSTYNN BURLINGAME, was first duly sworn
19 and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. EDGERTON:

22 Q Please state your name for the record.

23 A Dustynn Burlingame.

24 Q What agency are you employed by?

25 A Lancaster City Police Department.

DWAYNE DAVIS - CROSS

1 Q How long have you been with the police department?

2 A About ten years.

3 Q Can you tell us your ranking position?

4 A Detective Sergeant.

5 Q So you're a detective, you're with the special
6 operations?

7 A Yes, sir, I am.

8 Q You all investigate crimes in Lancaster, South
9 Carolina?

10 A Yes, sir.

11 Q Did you receive a call on -- let me back up just a
12 second. Were you the on-call investigator that night?

13 A I was.

14 Q On October 12th of 2013?

15 A Yes, sir.

16 Q And you received a call that a shooting had taken
17 -- place at [REDACTED] City Avenue?

18 A I did, about 4:00 in the morning.

19 Q What did you do when you received that call?

20 A I contacted my supervisor, Captain Grant.

21 Q What did Captain Grant advise you -- what did he
22 assign you to do?

23 A I responded to the hospital.

24 Q And that was where they were bringing the defendant in
25 the ambulance?

DUSTYNN BURLINGAME - DIRECT

1 A Yes, sir.

2 Q Once you arrived there, can you describe the scene to
3 us at the helicopter landing pad?

4 A Yes, sir. As I arrived the ambulance arrived about
5 the same time I did, the helicopter arrived shortly after
6 that, and Lieutenant Hall arrived shortly after that as
7 well.

8 Q Did you and Lieutenant Hall make contact with the
9 victim?

10 A We both did. We stepped up into the stairs that lead
11 up into the ambulance.

12 Q Okay. Were you able to speak with the victim? Was he
13 conscious?

14 A He was.

15 Q Okay. Did you ask him anything?

16 A Yes, sir. Myself and Lieutenant Hall were able to
17 speak with him briefly. He was being worked on by the EMS
18 personnel so we didn't have a whole lot of time with him
19 and the helicopter was landing and they were taking him to
20 CMC Charlotte right away, so we did speak with him
21 briefly.

22 Q Can you describe for the jury the victim's state at
23 this time? Is he in and out of consciousness? Is he able
24 to answer questions?

25 A He was conscious and able to answer questions, he was

DUSTYNN BURLINGAME - DIRECT

- 1 in a lot pain, you know.
- 2 Q So he seemed like he was in a lot of pain?
- 3 A Yeah.
- 4 Q What all did you and Lieutenant Hall ask him?
- 5 A We asked him who shot him.
- 6 Q What did he tell you?
- 7 A Urk, he said it several times.
- 8 Q Did you all record this?
- 9 A We did. Lieutenant Hall recorded it with his
10 cellphone.
- 11 Q Once the flight crew arrived, did they load Marcus
12 onto the helicopter?
- 13 A They did.
- 14 Q And took him to CMC Charlotte?
- 15 A Yes.
- 16 Q What did you do next?
- 17 A -- After that, myself and Lieutenant Hall went to the
18 incident location on City Avenue.
- 19 Q Did you -- was Captain Grant there at that time?
- 20 A He was already there, yes, sir.
- 21 Q Did you make contact with him?
- 22 A I did.
- 23 Q What did he assign you to do?
- 24 A He let us know there were several witnesses in the
25 area that needed to be spoken to. I made contact with a

DUSTYNN BURLINGAME - DIRECT

1 Malika Harris and interviewed her on the scene in my
2 patrol vehicle.

3 Q Let me backup and just clarify real quick. Captain

4 Grant is the commanding officer of the special
5 operations --

6 A He is.

7 Q -- your division. You made contact with him, he
8 assigned you to look for witnesses --

9 A Yes, sir.

10 Q -- and to question them.

11 A Yes, sir.

12 Q And you mentioned Malika Harris.

13 A Yes, sir.

14 Q This was done in your vehicle?

15 A Yes, it was.

16 Q Did you record that?

17 A Yes, sir, I did.

18 Q After you finished interviewing Ms. Harris, what did
19 you do next?

20 A I assisted Captain Grant inside the house for
21 collecting evidence, there wasn't a whole lot to collect.

22 Q What did you do with that evidence?

23 A It was brought back to the police department and
24 placed it in our evidence area.

25 Q Did you place them in bags at the scene?

DUSTYNN BURLINGAME - DIRECT

1 A Yes.

2 Q Mark them and everything and then brought it back to
3 the evidence room at the police department?

4 A Yes, sir.

5 Q Did you have any further involvement in this case?

6 A After that, no, sir.

7 MR. EDGERTON: Beg the Court's indulgence for just a
8 moment.

9 (Break in proceedings.)

10 MR. EDGERTON: I'm going to first ask that these
11 pictures be marked as State's Exhibits 23 and 24. I have
12 shown these to defense counsel.

13 Q Sergeant Burlingame, I'm going to first give you these
14 bags of evidence. Are these bags of evidence that you took
15 that night?

16 A Yes, sir.

17 Q Now,--I'm going to show you a picture and present you a
18 picture of the shirt that the defendant was wearing that
19 night. Are these pictures a fair and accurate
20 representation in your opinion of the shirts you collected
21 that night?

22 A Yes, sir, it is.

23 MR. EDGERTON: I am going to ask that these be moved
24 into evidence.

25 MR. GRIER: No objection.

DUSTYNN BURLINGAME - DIRECT

1 THE COURT: Without objection.

2 (The photos were received as State's 23 and 24.)

3 MR. EDGERTON: We just want to clarify, there were two
4 shirts taken that night, there was a white shirt and a
5 black shirt.

6 THE COURT: Yes, sir.

7 Q Okay. Sergeant Burlingame, I'm going to give you both
8 pictures, these are the white shirt and these are the black
9 shirt. Are these both fair and accurate representations of
10 the shirts that you took into evidence that evening?

11 A Yes, sir, they are.

12 MR. EDGERTON: Your Honor, may I show these to the
13 jury?

14 THE COURT: Absolutely. They're in evidence, you can
15 show them.

16 Q So that evening you go into the house, you collect
17 evidence as you were assigned by Captain Grant.

18 A Yes, sir.

19 Q And these reflect the pictures of the shirts that you
20 took that night.

21 A Yes, sir.

22 MR. EDGERTON: Thank you. Please answer any questions
23 that defense counsel may have.

24 MR. GRIER: Please the court?

25 THE COURT: Yes, sir.

DUSTYNN BURLINGAME - DIRECT

1 CROSS EXAMINATION

2 BY MR. GRIER:

3 Q Investigator, you were on duty, or did you get called
4 in on this at that time?

5 A I got called in.

6 Q Were you monitoring your radio that evening at all?

7 A No, I wasn't. It was about 4:00 in the morning.

8 Q But you did interview Malika Harris that evening.

9 A Yes, I did.

10 Q And based on that interview you came to the conclusion
11 that she had actually witnessed the shooting.

12 A Yes, sir.

13 Q But that's what she told you in the interview is that
14 she actually saw it.

15 A Yes, sir.

16 Q Did she say anything about having been in the
17 bathroom?

18 A She did.

19 Q -- Okay. And so that was certainly one of the
20 contributing -- her statement that she had actually seen
21 the shooting was certainly strong evidence that helped you
22 get a warrant that night against Mr. Massey, isn't that
23 right?

24 A I didn't obtain a warrant, but yes, sir.

25 Q That was certainly some strong evidence that was

DUSTYNN BURLINGAME - CROSS

1 relied on as part of the process of charging Mr. Massey.

2 A Yes, sir.

3 Q You don't know when the warrant was obtained.

4 A I do not.

5 Q I understand. Now, you're familiar with the different

6 areas of the city. The area where this happened, in that

7 neighborhood, if I could use three of the locations that

8 were mentioned -- that have been mentioned in this trial,

9 Wiley Park, 16th Street at Brooklyn and City Avenue, is

10 that considered a high crime area?

11 A I would say moderate.

12 Q Moderate crime area?

13 A Yes, sir.

14 Q Is there a system for ranking that?

15 A No, sir.

16 Q Just experience?

17 A Just experience, yes, sir.

18 Q Okay. You didn't participate in any of the -- are you

19 familiar with any of the ballistics or the gun?

20 A No, sir. I didn't have any involvement with that.

21 MR. GRIER: All right. Thank you.

22 THE COURT: Anything further?

23 MR. EDGERTON: Nothing further, Your Honor.

24 THE COURT: You may come down. Witness be excused?

25 MR. EDGERTON: Yes, sir.

DUSTYNN BURLINGAME - CROSS

1 THE COURT: Without objection?

2 MR. GRIER: No objection.

3 MR. EDGERTON: State calls Sergeant Brian Small.

4 The witness, BRIAN SMALL, was first duly sworn and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. EDGERTON:

8 Q Please state your name for the record.

9 A Brian Small.

10 Q What agency are you employed by?

11 A Lancaster Police Department.

12 Q Sergeant Small, what's your rank and position?

13 A Detective Sergeant.

14 Q How long have you been with the police department?

15 A Ten years and almost three months.

16 Q And we've -- the jury has heard special operations,
17 that's your department?

18 A Yes, sir.

19 Q Same as investigations, detectives, that sort of
20 thing?

21 A Yes, sir. Our primary focus is violent crimes,
22 gangs, narcotics, white collar crimes, financial crimes.

23 Q So you all investigate all sorts of crimes here in the
24 City of Lancaster.

25 A Yes, sir.

BRIAN SMALL - DIRECT

1 Q Thank you. I just wanted to clarify that for the
2 jury. Did you receive a call on October 12th of 2013
3 regarding a shooting that had taken place at [REDACTED] City
4 Avenue?

5 A I did.

6 Q Is that in the city limits of Lancaster?

7 A It is.

8 Q Did you respond to that call?

9 A I did.

10 Q Can you tell the jury approximately what time you
11 responded? If you can't give an exact time that's okay.

12 A I can't give you an exact time I was notified.

13 Q Who is your commanding officer?

14 A Captain Scott Grant.

15 Q Did you make contact with him upon arrival?

16 A I did.

17 Q What did he assign you to do when you first arrived?

18 A Upon arrival I started taking photographs of the
19 outside, and he told me that he would be handling the
20 photographs, that he wanted me to speak with a couple of
21 witnesses, and I first spoke to Shonettia Hunter, then
22 spoke with Ebonie Harris. That was the extent of what I
23 did while I was there.

24 Q Did you interview those witnesses?

25 A I did.

BRIAN SMALL - DIRECT

1 Q In your vehicle?

2 A I did.

3 Q Did you record those interviews?

4 A They were.

5 Q Upon arrival were you made aware if the shooter was
6 still at the scene or had he fled?

7 A I was unsure.

8 Q Okay. Was the victim still there when you went into
9 the house?

10 A He was not, no, sir.

11 Q At this point did you know the victim's name?

12 A Just after arrival.

13 Q Okay. You found out. What did they tell you his name
14 was?

15 A Demarcus Robinson.

16 Q Sergeant Small, did Captain Grant assign you as the
17 lead investigator on this case?

18 A He did, yes, sir.

19 Q Can you just explain to the jury what that involves?

20 A Lead investigator is basically compiles all of the
21 information it's going to take for the case, which
22 includes copies of any Miranda forms, copies of any
23 videos, copies of statements, and copies of supplements
24 from other officers, as well as any copies evidence maybe
25 was sent to SLED which they send back to us in the version

BRIAN SMALL - DIRECT

1 of an email that tells us that information is ready. We
2 just hold on to that to let proper individuals know that
3 evidence is ready to be picked up, which is picked up by
4 our evidence technician, Sabrina Gulp, and she stores that
5 until which time if it does come to court. She handles
6 the evidence on that part and I handle all of the
7 paperwork, put it in one folder and anything that's done
8 on this case gets put in that folder as long as it's been
9 made a true supplement turned in to records.

10 Q So it's sort of an administrative role, you oversee
11 the case sort of in its entirety.

12 A Yes, sir.

13 Q When you left the scene that evening from [REDACTED] City
14 Avenue, what did you do? Did you prepare a BOLO?

15 A I did not.

16 Q Well, let me ask you this: After you left the scene,
17 had the shooter been apprehended?

18 A No, sir.

19 Q So there's sort of a community wide search going on?

20 A Yes, sir.

21 Q Did that cause you concern?

22 A It did.

23 Q As a member of the community?

24 A Yes.

25 Q And as a police officer?

BRIAN SMALL - DIRECT

1 A I guess what -- well, what bothered me the most was
2 he had been identified, we knew who he was but I had to
3 stay at the scene instead of be out there to catch this
4 person.

5 Q You said that you did not prepare the BOLO. Was a
6 BOLO put out?

7 A I believe -- it was, but I can't say specifically
8 which one did it, whether it was Lieutenant Hall or
9 Captain Grant.

10 Q Can you describe to the jury what that is.

11 A We give information to our central dispatch being
12 name, date of birth, social security number, any
13 identifying information we have on a person, we relay it
14 to our central dispatch and they can enter it into the

15 computer, and anybody in the surrounding areas or however
16 far they can send it gets that message about the person.

17 Q Can you tell us what that acronym stands for?

18 A I'm sorry?

19 Q Can you tell us what that acronym stands for, what a
20 BOLO stands for?

21 A It's be on the lookout.

22 Q Did you enter anything into NCIC?

23 A I did not.

24 Q Okay. Do you know if something was entered into NCIC?

25 A I do not.

BRIAN SMALL - DIRECT

1 Q That's okay. Okay, Sergeant Small, just a few more
2 questions. Was a wanted poster prepared for the defendant?

3 A It was prepared but I'm not sure -- I don't think it
4 was distributed.

5 Q Was it put on the website? Do you know?

6 A I don't.

7 Q Regarding the 16th Street shooting, did you have any
8 involvement in that, in investigating that?

9 A No, sir, that's in the county jurisdiction.

10 Q So that's why you would not have had any involvement,
11 because it would have been in the county?

12 A No, sir. Unless there was something extreme enough
13 for the Lancaster County Sheriff's Department to ask for
14 our assistance, we have no jurisdiction at or around 16th
15 Street.

16 Q Did you ever receive any information that Demarcus was
17 a suspect in a shooting at 16th Street?

18 A No, sir.

19 Q You never received any information that what happened
20 at 16th Street was related to this case.

21 A No, sir. I was not made aware of any shooting on
22 16th Street that night.

23 MR. EDGERTON: Please answer any questions that
24 defense counsel may have.

25 CROSS EXAMINATION

BRIAN SMALL - DIRECT

- 1 BY MR. GRIER:
- 2 Q Investigator Small, how about Wiley Park? Is Wiley
- 3 Park in the city?
- 4 A Maybe two or three homes that start off of West
- 5 Meeting Street in front of the hospital. When it turns
- 6 into Central Avenue, there's a home right there at the
- 7 stop sign, from there all the way out to where it ties
- 8 back into Robertson -- not Robertson, I'm sorry, Jackson
- 9 Road, it's in the county jurisdiction.
- 10 Q Okay. But there had been a report -- the city
- 11 actually responded to a call of a reported shooting in the
- 12 Wiley Park area that evening that turned out to be in the
- 13 county, correct?
- 14 A I'm not sure, we get a lot of those. But callers
- 15 could come from anywhere and if someone called 911 on a
- 16 cellphone it's not going to tell you an exact spot either.
- 17 Q Okay. So you were unaware of any shooting?
- 18 A Not until a later time, which was a lot later time.
- 19 Q But you were unaware that there was any allegation of
- 20 a shooting down at Wiley Park in that Wiley Park area
- 21 earlier in that evening?
- 22 A I wasn't made aware of one that night, no, sir.
- 23 Q Okay. Mr. Massey turned himself in. Were you present
- 24 when he turned himself in?
- 25 A I was not, no, sir.

BRIAN SMALL - CROSS

1 Q But it was really about 12 hours after the shooting,
2 correct?

3 A I'm not sure of the exact documented time.

4 ~~Q Well, would you just look at this narrative and see if~~
5 that is an account of him turning himself in?

6 A This was done by a different officer.

7 Q Okay. But is that an account of the Lancaster Police
8 Department, an account of him turning himself?

9 A This is that officer's account of him turning himself
10 in, yes, sir.

11 Q What does the account say at the time that he turned
12 himself in at, what day and what time?

13 A I don't see a time in there, only a narrative in the
14 block above.

15 ~~Q Is that not a time and a date right there at the very~~
16 top for that narrative?

17 A This is a supplement to the original report date and
18 time, which was October 12th of 2013 at 3:53 a.m.

19 Q Okay. So that doesn't reflect the time that he turned
20 himself in?

21 A This reflects the date and the time of the original
22 report.

23 Q Okay. Fair enough. Thank you very much for
24 clarifying that then. Now, you're the lead investigator,
25 you're taking all kinds of information in. What was

BRIAN SMALL -- CROSS

1 your -- were you on call at the time that you responded to
2 [REDACTED] City Avenue or were you on duty? Were you on duty or
3 were you on call?

4 A I was not on call nor on duty. Sergeant Burlingame
5 was on call.

6 Q Well, you responded.

7 A Yes, sir.

8 Q Are you always kind of on call?

9 A Yes, sir... It's required that all available members
10 respond to any shooting scene.

11 Q All right. Okay. Now, when did you get the
12 assignment of being the lead investigating officer?

13 A Probably the following Monday. This was on a -- I
14 think this was an early Saturday morning, the 12th was an
15 early Saturday morning, probably Captain Grant assigned it
16 to me Monday morning.

17 Q But were you acting in an investigating capacity after
18 you had left the crime scene?

19 A Just the extent of getting information and putting it
20 together.

21 Q Well, did you prepare notes about that as you --

22 A Not that night.

23 Q But at some point did you prepare notes?

24 A I did.

25 Q Would this be a copy of some of your notes?

BRIAN SMALL - CROSS

1 A Yes, sir, that's written notes.

2 MR. GRIER: I would ask that this be marked for
3 identification purposes, Defense 3, I believe -- 4.

4 Q ~~Will you take a look at those. Do you recognize those~~
5 notes?

6 A Yes, sir.

7 Q Whose notes are those?

8 A Those are mine.

9 Q All right. And what was the purpose of those notes?

10 A This information was passed on to me to follow-up
11 with.

12 Q Okay. All right. So is it stuff that you did
13 follow-up on?

14 A I attempted, yes, sir.

15 Q And was this information that you used to investigate
16 the allegations in the case?

17 A I tried to, yes, sir.

18 Q Okay.

19 MR. GRIER: Your Honor, I would offer Defense Exhibit
20 4 into evidence.

21 MS. COLLINS: No objection.

22 (The notes were received as Defendant's 4.)

23 Q All right. Investigator Small, first I see kind of
24 four semi paragraphs on here, would that be accurate to say
25 that there are?

BRIAN SMALL - CROSS

- 1 A Yes, sir.
- 2 Q And the first paragraph it says Navoney Curry --
- 3 Navoney?
- 4 A Navoney.
- 5 Q They pronounce is with a T though. Navoney Quantay
- 6 (phonetically) Curry, [REDACTED] Springdale Road,
- 7 Lancaster, 803-[REDACTED]. And it has got a squiggle beside
- 8 it and it says, "Talked to Lieutenant Hall/supported
- 9 Massey's statement." Now, what was -- how did you come to
- 10 make that note?
- 11 A That information was left on a message on our main
- 12 line of [REDACTED].
- 13 Q Okay. All right. And then it has Larry Jamar
- 14 Truesdale, [REDACTED], it has his address -- I'm not going to
- 15 waste the Court's time with that. And then --
- 16 A Yes, sir.
- 17 Q But it does, doesn't it, it has his address, or
- 18 presumably what you were told was his address.
- 19 A Yes.
- 20 Q And it has another squiggle and it says, "Talked to
- 21 Allen after the shooting, same night of shooting, Allen
- 22 called him on cellphone." Is that all correct?
- 23 A That's what this says, yes, sir.
- 24 Q Was that prepared simultaneous with the other note,
- 25 the note about Navoney Curry?

BRIAN SMALL - CROSS

1 A It was written down to follow-up on, yes, sir.

2 Q And the third paragraph says, "Rashawd threatening he
3 is going to get revenge on anybody talking to Allen." Was
4 that written contemporaneously with the other two notes?

5 A Yes, sir.

6 Q And then it says, "Did not want to give a video
7 recorded statement, wanted to remain anonymous." Is that
8 accurate? Is that what it says at the bottom of the last
9 note?

10 A Yes, sir.

11 Q And that was prepared contemporaneous with the others?

12 A Yes, sir.

13 Q At the same time as the others?

14 A Yes, sir.

15 Q All right. So you said this was information that was
16 left on a cellphone?

17 A Left a message on the Lancaster Police Department
18 phone number, 283-1174.

19 Q So this name, Navoney Curry, and a little squiggle, it
20 says, "Talked to Lieutenant Hall/supported Massey's
21 statement." That note was left -- that message was left on
22 the phone?

23 A No. Lieutenant Hall passed this information on to me
24 and told me to followup on it, he supposedly supported
25 Massey's statement.

BRIAN SMALL - CROSS

1 Q All right. It doesn't purport to say that Navoney
2 Curry talked to Lieutenant Hall and he supported Massey's
3 statement?

4 A No. That's me saying I talked to Lieutenant Hall.

5 Q It says what?

6 A That's where it says I talked to Lieutenant Hall,
7 that's where I gained this information from, referring to
8 myself.

9 Q So you talked to Lieutenant Hall and Lieutenant Hall
10 supported Massey's statement.

11 A No, sir. He said Navoney Curry did according to the
12 message.

13 Q Well, Lieutenant Hall talked to Navoney Curry, didn't
14 he?

15 A He attempted.

16 Q Okay. He asked Navoney Hall (sic) to give a
17 statement, didn't he?

18 A He asked him to come meet with me.

19 Q To meet with you.

20 A Yes, sir.

21 Q All right. So you deny that that note indicates that
22 Lieutenant Hall talked to Curry and Curry supported
23 Massey's statement?

24 A The way it's worded it could be assumed to be that.

25 Q Okay.

BRIAN SMALL - CROSS

1 A That's not its intent because it's my writing.

2 Q Okay. Now, how about the note that Rashawd is
3 threatening he's going to get revenge on anybody talking to
4 him, who passed that information to you?

5 A I don't know where that came from, it was also passed
6 onto me to follow-up on.

7 Q Did you follow-up on that?

8 A I cannot find Rashawd.

9 Q Pardon?

10 A I cannot find Rashawd.

11 Q You cannot?

12 A No, sir.

13 Q Have you checked the Lancaster County Detention
14 Center?

15 A Not lately, no, sir.

16 Q Okay. All right. Now, how about, "Did not want to
17 give a video recorded statement, wanted to remain
18 anonymous." Why is that note made?

19 A That was information regarding Navoney Curry and
20 Larry Truesdale.

21 Q Okay. That was information given to you by who?

22 A I attempted to speak to him, that was from my own
23 notes.

24 Q Okay. You attempted to speak to Truesdale and to
25 Curry?

BRIAN SMALL - CROSS

1 A To Navoney Curry and Larry Truesdale, yes, sir.

2 Q The two names that are given here?

3 A Yes, sir.

4 Q You attempted to. Did you make contact with them?

5 A Yes, sir.

6 Q And what was the result of that?

7 A They came to our office.

8 Q And what was result of that?

9 A I asked to speak to them, they first agree and I told
10 them that our interview would be recorded and they
11 refused.

12 Q Okay. The interview would be recorded and they
13 refused. Okay. Is that recording available that came to
14 the Lancaster Police Department?

15 A I can't hear you, say again, please.

16 Q The recording that this note purports to -- the
17 recording, is that recording available?

18 A You would have to ask Lieutenant Hall, he took the
19 original message, because my phone is not on the same
20 recording on the same line as theirs.

21 Q Okay. Are calls kept by the Lancaster Police
22 Department for any particular period of time?

23 A I don't know, I'm not sure.

24 MR. GRIER: Thank you.

25 THE COURT: Redirect?

BRIAN SMALL - CROSS

1 REDIRECT EXAMINATION

2 BY MR. EDGERTON:

3 Q Sergeant Small, with a crime scene like this, is there

4 a lot going on?

5 A Yes, sir.

6 Q A lot of witnesses?

7 A Yes, sir.

8 Q A lot of people gathered around?

9 A Yes, sir.

10 Q A lot it put on detectives, isn't it? A lot of people

11 to follow-up with?

12 A Yes, sir.

13 Q This happened in the early morning hours.

14 A It did.

15 Q When you arrived on scene, was Navoney Curry still

16 there?

17 A No, sir.

18 Q He was not at the scene?

19 A No, sir.

20 Q To be interviewed that night?

21 A No, sir.

22 Q To your knowledge, Navoney Curry never gave a

23 statement, did he?

24 A No, sir.

25 Q And you testified when you were asked by Mr. Grier,

BRIAN SMALL - REDIRECT

1 "He came in, once he was informed that it would be recorded
2 he declined."

3 A That's correct, yes, sir, he did.

4 MR. EDGERTON: Nothing further.

5 RECROSS EXAMINATION

6 BY MR. GRIER:

7 Q You did an interview that night, right?

8 A I did two.

9 Q Who did you interview?

10 A Shonettia Hunter and Ebonie Harris.

11 Q Do you recall, asking them about the shooting at Wiley
12 Park that night?

13 A I do not recall.

14 Q Do you deny that you did?

15 A I don't deny but I don't recall.

16 Q But you don't recall any conversation about --

17 A I do not, no, sir.

18 Q Or any prior knowledge of any other shooting in the
19 city that night except the one at [REDACTED] City Avenue?

20 A Not any other ones in the city, no, sir.

21 MR. GRIER: Thank you.

22 THE COURT: You may come down. Can the witness be
23 excused?

24 MS. COLLINS: He's sitting in with us as case agent.

25 THE COURT: Yes, that's fine.

BRIAN SMALL - RECROSS

1 MR. GRIER: But we have no objection if he's ready to
2 go.

3 THE COURT: Judge, prior to calling the next witness I
4 would like to have this marked as the next State's Exhibit,
5 25. We would recall the evidence technician just to put in
6 the technician form for all of the evidence collected and I
7 asked Mr. Grier if he would require the witness being
8 recalled and he told me he does not object to this coming
9 into evidence at this time.

10 MR. GRIER: Correct, Your Honor, no objection.

11 MS. COLLINS: Thank you. I will put that into
12 evidence.

13 (The evidence report was received as State's 25.)

14 The witness, BOBBY HILDRETH, was first duly sworn and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. COLLINS:

18 Q Good morning.

19 A Good morning.

20 Q Would you please state your name for the jury?

21 A Bobby Hildreth.

22 Q And would you spell your last name, Officer, for the
23 court reporter?

24 A H-i-l-d-r-e-t-h.

25 Q What is your occupation?

BRIAN SMALL - RECROSS

- 1 A I'm a patrol officer.
- 2 Q Where are you currently employed?
- 3 A The Town of Fort Mill, South Carolina.
- 4 Q How long have you been with Fort Mill?
- 5 A About 13 months now.
- 6 Q Prior to working with the Town of Fort Mill for the
- 7 last 13 months, where were you employed?
- 8 A The City of Lancaster.
- 9 Q And were you a law enforcement officer with the City
- 10 of Lancaster Police department?
- 11 A Yes, ma'am, I was.
- 12 Q How many years were you there?
- 13 A A little over seven years.
- 14 Q Have you served as law enforcement with any other
- 15 agency besides those two?
- 16 A Mecklenburg County Sheriff's Office.
- 17 Q So what's your total amount of time you have been a
- 18 law enforcement officer?
- 19 A Just a tad bit over 14 years.
- 20 Q But you were working with the Lancaster Police
- 21 Department in October of 2013; is that correct?
- 22 A That's correct.
- 23 Q Were you on duty on October 12th of 2013?
- 24 A I was.
- 25 Q Did you work day shift that day, do you remember, or

BOBBY HILDRETH - DIRECT

1 had you worked evening shift the night before?

2 A It was day shift.

3 Q And that means you would come on at approximately 6:00

4 a.m. in the morning?

5 A That's correct.

6 Q And work a 12 hour shift to 6:00 p.m.?

7 A Yes, ma'am.

8 Q On October 12th of 2013, was your title then shift

9 sergeant?

10 A It was.

11 Q And what role did you have as shift sergeant?

12 A I was directly under the lieutenant who oversaw the

13 shift, or was overseeing the shift. I was direct line

14 supervisor of the corporal and the lower ranking officers

15 below myself.

16 Q Those being the patrol officers?

17 A That's correct.

18 Q That worked that day shift?

19 A That's right.

20 Q Did you go to the scene at [REDACTED] City Avenue, Lancaster,

21 South Carolina?

22 A I did not.

23 Q Were you involved in the investigation into the

24 allegations against Allen Massey for the murder of Demarcus

25 Robinson?

BOBBY HILDRETH - DIRECT

1 A No, ma'am.

2 Q Did you do any part of the later investigation in an
3 attempt to apprehend Mr. Massey?

4 A I did.

5 Q Tell us about that.

6 A On the 12th of October, 2013, I was on patrol with
7 our shift and we received information that Mr. Massey was
8 at his sister's home at [REDACTED] Gooch Street.

9 Q Gooch?

10 A Gooch, correct.

11 Q Okay. Go ahead.

12 A We received information that he was located at Gooch
13 Street. Myself, Lieutenant Greenlee and -- I believe the
14 two of us were the only ones who went to the residence at

15 [REDACTED], knocked on the door, made contact with his sister --

16 Q Was that Leanna Massey?

17 A That's correct, Leanna Massey, she identified herself
18 as his sister. I advised her for the reason that we were
19 there, or the reason we were there, she stated that her
20 brother was not in the home. She did give us permission
21 to walk through to check the residence to ensure that he
22 was not there, we did that. Once we completed that, we
23 spoke further with her, expressed the importance of her if
24 she's able to get in touch with him, how important it was
25 for him to contact the police department. I left her my

BOBBY HILDRETH - DIRECT

1 city issued cellphone number and told her if she has any
2 contact with him to let us know. She stated prior to
3 that -- prior to the cellphone she stated she had not seen
4 him, however she had talked with him on the phone, and
5 then I advised her of the importance of dealing with us,
6 gave her my city issued cellphone number and then we left
7 the scene.

8 Q Did you ask her if she knew where he was at that
9 moment?

10 A We spoke briefly about it. She told me -- Ms. Massey
11 stated she hasn't seen -- referring to her brother, I
12 identified him as Mr. Massey, that's when she told me she
13 spoke to him by telephone earlier in the day on the 13th.
14 Correction, on the 12th.

15 Q On the 12th.

16 A That's correct.

17 Q Are you aware whether, or at that point when you were
18 talking to Leanna Massey, the arrest warrants had been
19 issued yet on Mr. Massey?

20 A We were aware.

21 Q So they had been issued?

22 A That's correct.

23 Q So two warrants had been issued for the defendant at
24 this time, one for murder and one for possession of a
25 firearm during the commission of a violent crime?

BOBBY HILDRETH - DIRECT

- 1 A I know for sure the murder warrant for sure.
- 2 Q At least that one.
- 3 A That's correct.
- 4 Q And so you did more than simply tell Ms. Massey to
- 5 have him get in touch with y'all, you actually instructed
- 6 her that he needed to come turn himself in, correct?
- 7 A That's correct.
- 8 Q And so she was aware that, you made her aware of that
- 9 before you left her residence, correct?
- 10 A I did.
- 11 Q Did the defendant, in fact, turn himself in the next
- 12 day, the following day, October 13th, 2013?
- 13 A He did.
- 14 Q So not the 12th but the following day; is that
- 15 correct?
- 16 A That's correct.
- 17 Q And you were on duty again at that time, correct?
- 18 A Yes, ma'am.
- 19 Q You and Lieutenant Greenlee?
- 20 A That's correct.
- 21 Q And did you receive a call from a family member of Mr.
- 22 Massey telling y'all that, in fact, he was coming in with
- 23 family members to turn himself in and bringing the firearm
- 24 with him?
- 25 A I did.

BOBBY HILDRETH - DIRECT

1 Q And do you recall who that call was from? And if you
2 don't it's okay.

3 A Ms. Leanna called me the following day on that same
4 city issued cellphone number that I gave her and advised
5 me that Mr. Massey was with her at that time and that they
6 were in route to the police department.

7 Q And they were bringing the gun with them.

8 A That's correct.

9 Q And what time did they reach the -- were you there
10 when they reached the police department?

11 A I was there, yes, ma'am.

12 Q What time did they reach the police department?

13 A Approximately 12:25 in the afternoon.

14 Q And that is the afternoon of October 13th of 2013,
15 correct?

16 A That's correct.

17 Q So just to back up, to your knowledge and
18 understanding the shooting was at 4:00 a.m. on 10/12,
19 correct?

20 A Now I'm not privy to the shooting part of it.

21 Q That's fine, I'll cover that with another officer.

22 Bottom line is he turned himself in about 12:25 on 10/13 of
23 '13, correct?

24 A That's correct?

25 Q And you and Greenlee were there at that time.

BOBBY HILDRETH -- DIRECT

1 A We were.

2 Q And did y'all instruct them to come to the front of
3 the department or to the back or to the side?

4 A I initially received a phone call from Ms. Massey,
5 she stated that she was in a park directly beside the
6 police department. From that point I instructed her to
7 pull around to the fence, the gated fence that we have,
8 that the police department has, and then we opened it and
9 allowed her to pull in, and she pulled into the back area
10 of the police department.

11 Q Did y'all close the gate behind them at that time?

12 A The gate automatically closes.

13 Q All right. And then when they parked, who all was in
14 the car?

15 A It was Leanna Massey, her mother and then Mr. Massey
16 was in the rear seat.

17 Q So his sister, Leanna, his mother and then he was in
18 the rear seat?

19 A That's correct.

20 Q And when they pulled in, what did Mr. Massey do to
21 indicate to you that he himself was not armed at that time,
22 do you recall?

23 A Mr. Massey raised his arms up. He was seated in the
24 rear passenger seat and raised both arms up in the air.

25 Q And you opened the door and got him out I believe at

BOBBY HILDRETH - DIRECT

1 that time, correct?

2 A I did.

3 Q You searched him for any firearms and he didn't have

4 any on him, correct?

5 A That's correct.

6 Q No weapons of any kind on him at that point?

7 A That's correct.

8 Q And you put him in handcuffs, I believe, at that

9 point?

10 A I did.

11 Q And I believe per your report you allowed his mother

12 and sister to hug him.

13 A I did.

14 Q And then you took him into the station?

15 A That's correct.

16 Q Lieutenant Greenlee, did he secure the firearm from

17 the trunk?

18 A He did, yes, ma'am.

19 Q They indicated to y'all it was in the trunk?

20 A Yes.

21 Q After you got Mr. Massey into the station at that

22 time, did you book him in on the warrants that were pending

23 at that time?

24 A I did.

25 Q Do you have a copy of the booking report with you?

BOBBY HILDRETH - DIRECT

1 A I do.

2 Q I show you what's been marked as State's 26. Is that
3 a copy of the booking report?

4 A Yes, ma'am, it is.

5 Q That's a form you fill out when someone is booked in
6 or processed in after they've been arrested; is that
7 correct?

8 A That's correct.

9 Q And you take certain information from the defendant,
10 correct?

11 A We do.

12 Q And you, in fact, are listed as the booking officer
13 for Mr. Massey; is that correct?

14 A Yes, ma'am.

15 Q And again, that was on 10/13. What time does the
16 booking say?

17 A The booking was at 12 -- the time of arrest which
18 would indicate -- basically the time of arrest is when we
19 transported him in, so it would have been several minutes
20 after the arrest time.

21 Q And on that form do you list the date of birth of the
22 defendant? Does he give you that?

23 A We do, yes.

24 Q What was -- and he also gives you his age?

25 A That's correct.

BOBBY HILDRETH - DIRECT

1 Q And what was his age at that time?

2 A Twenty-six.

3 Q And did you confirm with Mr. Massey his height?

4 A I did.

5 Q What did he confirm his height was?

6 A 5-11.

7 Q And did you confirm with him his weight?

8 A Yes, ma'am.

9 Q And what did he confirm his weight was?

10 A 210.

11 Q Did he also confirm for you his residential address?

12 A He did.

13 Q What did he indicate his residential address was?

14 A [REDACTED] Elm Street.

15 Q In Lancaster, South Carolina?

16 A That's correct.

17 Q There are listed two warrants on that. So at that

18 time the two warrants served on him were the murder warrant

19 and the possession of a firearm during the commission of a

20 violent crime; is that correct?

21 A Yes, ma'am.

22 MS. COLLINS: I would moved that form into evidence.

23 THE COURT: Without objection?

24 MR. GRIER: No objection.

25 (The booking form was received as State's 26.)

BOBBY HILDRETH - DIRECT

1 Q You also completed another form when you booked
2 someone into the detention -- well, actually to the jail
3 there at the police department, not the detention center,
4 right?

5 A That's correct.

6 Q And that form is a medical screening form; is that
7 right?

8 A Yes, ma'am.

9 MS. COLLINS: I would ask this be marked as State's
10 Exhibit 27.

11 MR. GRIER: No objection to it being entered into
12 evidence.

13 MS. COLLINS: And I do move it into evidence at this
14 time.

15 THE COURT: Without objection.

16 (Medical form was received as State's 27.)

17 Q I'll show you what has been marked as State's Exhibit
18 Number 27 and ask you if that's a true copy of your medical
19 screening form that you completed when you booked Mr.

20 Massey into the police station?

21 A It is.

22 Q And tell us the purpose of that. When you're booking
23 someone in you want to make sure they're in good health,
24 that they don't need immediate medical attention; is that
25 right?

BOBBY HILDRETH - DIRECT

1 A That's correct.

2 Q And there are certain questions, first of all, that

3 are directed to you that you're supposed to look at for

4 your own observation, is that correct, and then you ask him

5 some questions; is that right?

6 A That's correct.

7 Q So let's just walk through that. You first asked --

8 --well, first for your visual observations you're supposed to

9 look at him and ascertain is he conscious, right?

10 A Yes, ma'am.

11 Q And of course he was, right?

12 A Yes.

13 Q And then you look at him and you ascertain based upon

14 your observations did he have any obvious pain or other

15 signs and symptoms suggesting that he needed emergency

16 medical services; is that right?

17 A That's right.

18 Q And based upon your observation of him you put no,

19 correct?

20 A That's correct.

21 Q Then you have to check and see based on your

22 observation was there any obvious fever, swollen lymph

23 nodes, jaundice or any evidence of any infection which

24 might spread through the jail; is that right?

25 A Yes, ma'am.

BOBBY HILDRETH - DIRECT

1 Q And you said no, correct?

2 A That's correct.

3 Q Next question, was the skin in good condition and free
4 of vermin, and you put yes; is that correct?

5 A Yes, ma'am.

6 Q Now, let's talk about that, skin in good condition.

7 Does that include not having any abrasions or lacerations
8 or anything, or is it just basically there's no clear

9 indication of something like, I don't know, poison oak or
10 poison ivy, something that would be of concern that might
11 spread?

12 A It would be both.

13 Q So you didn't see any indication that he had any
14 abrasions or lacerations at that point, correct?

15 A That's correct.

16 Q Next question, does the inmate appear to be under the
17 influence of alcohol or drugs? That's important when
18 you're booking someone in, correct?

19 A Yes, ma'am.

20 Q And you are supposed to observe that and you checked
21 no, correct?

22 A Yes, ma'am.

23 Q And, of course, you've had many years experience in
24 that and you did not feel he was under the influence of
25 anything at the time that you saw him, correct?

BOBBY HILDRETH - DIRECT

1 A Correct.

2 Q Next question, "Are there any signs of alcohol
3 withdrawal?" Those are things you are also trained to
4 check for, correct?

5 A Correct.

6 Q Such as maybe DT's or tremors or that type of thing?

7 A Yes, ma'am.

8 Q And you did not observe any alcohol withdrawal of the
9 defendant, correct?

10 A I did not.

11 Q So you put no, right?

12 A Yes, ma'am.

13 Q Next question, important question, "Does the behavior
14 suggest the risk of suicide?" That someone might commit

15 self-harm while in your care, that's an important thing for
16 you to assess as an officer, correct?

17 A It is.

18 Q And you assessed Mr. Massey and you put no, correct?

19 A Correct.

20 Q Next question, "Does the behavior suggest the risk of
21 assault to other inmates or to staff?" And of course,
22 that's an important question too, isn't it?

23 A Yes, it is.

24 Q And you said no, because at that point he was
25 certainly being very cooperative and complacent, correct?

BOBBY HILDRETH - DIRECT

1 A Yes, correct.

2 Q And finally the last for your visual observation is

3 whether or not the inmate is carrying medicine or

4 medication or a report needing medication, which should be

5 available, and if yes then that you would allow the

6 prisoner to contact someone to make his medicine available

7 for him; is that right?

8 A That's right.

9 Q And you checked no, correct?

10 A Correct.

11 Q All right. So at that part for the medical screening

12 form you move on to the officer inmate questions; is that

13 right?

14 A Yes, ma'am.

15 Q And this is where you're asking him questions as to

16 his feelings about his condition, correct?

17 A Correct.

18 Q And do you have him just read it and circle it or do

19 you say it out loud to him and you record what he tells you

20 verbally?

21 A I read the questions to him and record what he tells

22 me.

23 Q So the first thing you ask him was, "Are you presently

24 taking medication for diabetes, heart disease, seizures,

25 arthritis, asthma, ulcers, high blood pressure or

BOBBY HILDRETH - DIRECT

1 psychiatric disorders?" And he said no, correct?

2 A Correct.

3 Q Next question, kind of a personal question, you asked

4 him, "Do you have venereal disease?" And he said no,

5 correct?

6 A Correct.

7 Q Next question, "Have you been hospitalized or treated

8 by a doctor recently?" And you asked that and he responded

9 no, correct?

10 A Correct.

11 Q Next question, question four, "Have you recently

12 fainted or had a head injury?" You asked him that

13 question, correct?

14 A Correct.

15 Q And he responded no, correct?

16 A Correct.

17 Q Next question, "Do you have epilepsy, tuberculosis,

18 hepatitis, diabetes, HIV or any contagious disease? And he

19 responded no, correct?

20 A Correct.

21 Q Next question, "Do you have a painful dental

22 condition," correct?

23 A Correct.

24 Q You asked him that and he said no, correct?

25 A Correct.

BOBBY HILDRETH - DIRECT

1 Q He didn't indicate to you his teeth were sore in any
2 way, correct?

3 A Correct.

4 Q Finally, "Do you have any other medical problem you
5 should be aware of at all?" And he said no to you,
6 correct?

7 A Correct.

8 Q And if he had answered there's a space for appropriate
9 notes on the back, but you made no notes on the back

10 because he did not elaborate on anything, correct?

11 A Correct.

12 Q Did you take a booking photo of the defendant?

13 A I did.

14 Q Does this appear to be a fair and accurate

15 representation of the booking photo at the time he turned

16 himself in?

17 A Yes, ma'am.

18 MS. COLLINS: I would move that into evidence at this

19 time as well.

20 THE COURT: Without objection?

21 MR. GRIER: No objection.

22 (The booking photo was received as State's 28.)

23 Q After you finished processing Mr. Massey and booking
24 him and medically screening him, did you then place him in
25 a jail cell?

BOBBY HILDRETH - DIRECT

1 A Yes.

2 Q And did you contact the investigators with the special
3 operations unit that he was now available to come and speak
4 with them if they wished to question him and if he wished
5 to waive his rights and answer any questions, correct?

6 A I believe it was Lieutenant Greenlee who contacted.

7 Q But in any event, to your knowledge they did come in a
8 little bit to talk to him, correct?

9 A Correct.

10 Q Officer, was this the extent of your involvement in
11 this case?

12 A Yes, it was.

13 MS. COLLINS: Thank you for coming from your duties at
14 Fort Mill, thank them for sharing you with us today, and
15 please answer any questions of Mr. Grier.

16 CROSS EXAMINATION

17 BY MR. GRIER:

18 Q Officer Hildreth, you took Mr. Massey into custody.
19 When they pulled up, he put his hands out without being
20 ordered to do it, right?

21 A He did.

22 Q He was sitting in the back seat. And did he just
23 remain there until instructed to get out of the car or --

24 A He did.

25 Q So you put cuffs on him as he stepped out?

BOBBY HILDRETH - DIRECT

- 1 A I did, yes.
- 2 Q Allowed him to hug his family, thank you for that.
- 3 A Yes, sir.
- 4 Q Did he -- was his demeanor aggressive towards you or
- 5 in any way hostile towards going into custody or towards
- 6 you?
- 7 A It was not.
- 8 Q He was totally cooperative.
- 9 A Yes, sir.
- 10 Q Have you got a copy of the police report?
- 11 A I do not.
- 12 Q Just to clarify, I misinterpreted it earlier I think,
- 13 but the line across the top that I asked earlier about,
- 14 that's simply the date and the time of the incident and
- 15 then your supplement has the date that you took him into --
- 16 which was the following day.
- 17 A Correct.
- 18 Q And that was on the 13th, but that was around
- 19 lunchtime, do you recall?
- 20 A It was, right. According to this it was, yes.
- 21 Q The booking report has it around lunchtime?
- 22 A That's correct.
- 23 Q Were you working the night of the incident? Were you
- 24 working the night that --
- 25 A I was not.

BOBBY HILDRETH - CROSS

1 Q -- at [REDACTED] City Avenue? You didn't work that at all?

2 A I did not.

3 Q Were you aware of what was going on there at all that
4 night?

5 A The night I was not, no.

6 Q Anything else that was going in the city as far as the
7 investigations or calls that were coming to the city about
8 other shootings, were you aware of any of that?

9 A In regards to this?

10 Q In regard to anything in addition to this.

11 A Not that I recall.

12 MR. GRIER: Thank you.

13 THE COURT: Anything further?

14 MS. COLLINS: No further questions, we ask that this
15 witness be excused.

16 THE COURT: You are excused.

17 MS. COLLINS: Your Honor, our next three witnesses are
18 all scientists from SLED, I don't expect any of them to be
19 lengthy and after that we would suggest that we take a
20 break, but I just wanted to make you aware of that.

21 THE COURT: Approach the bench.

22 (A bench conference was held.)

23 THE COURT: Let's take our morning break at this time,
24 we will take our break for about ten minutes. Again, don't
25 discuss the case while you're in the jury room, just relax

BOBBY HILDRETH - CROSS

1 for a few minutes and we'll call you when we're ready.

2 (The jury left the courtroom and a recess was taken.)

3 THE COURT: State ready to proceed?

4 MS. COLLINS: State is ready.

5 THE COURT: Defense?

6 MR. GRIER: We're ready, Your Honor.

7 THE COURT: Bring in the jury.

8 (The jury returned to the courtroom.)

9 THE COURT: All right. Continue with the trial.

10 MS. COLLINS: Thank you, Your Honor. The State's next
11 witness is Jennifer Bartman from SLED.

12 The witness, JENNIFER BARTMAN, was first duly sworn
13 and testified as follows:

14 DIRECT EXAMINATION

15 BY MS. COLLINS:

16 Q Good morning.

17 A Good morning.

18 Q Would you please state your name?

19 A Jennifer Bartman.

20 Q What is your occupation?

21 A I work in the DNA case work department at the South
22 Carolina Law Enforcement Division commonly known as SLED.

23 Q How long have you been employed by SLED?

24 A Approximately two and a half years.

25 Q Have you been with the DNA unit that entire time?

JENNIFER BARTMAN - DIRECT

1 A Yes, I have.

2 Q What is your role there in the DNA unit?

3 A We receive evidence from crimes that occur across

4 South Carolina, we generate DNA profiles from the evidence

5 and then compare them to known DNA standards.

6 Q What is your title?

7 A Forensic scientist.

8 Q Now, Ms. Bartman, as a forensic scientist, tells us

9 what education is necessary to be a forensic scientist?

10 A I have a Bachelor's Degree in Biology, and I also

11 have a Master's Degree in Forensic Science with a

12 concentration in Forensic Biology.

13 Q And you receive additional training through SLED

14 before you perform your duties as a forensic scientist?

15 A Yes, I have. I completed about a year of on-the-job

16 training at SLED with a court qualified analyst in the

17 proper techniques and procedures of the SLED laboratory.

18 Q How many -- what number of DNA analysis have you

19 performed during your years at SLED?

20 A It's really hard to estimate, but I've worked

21 probably 100 cases.

22 Q And have you ever been qualified in a court of law to

23 testify as an expert witness in the field of DNA analysis?

24 A Yes, I have.

25 Q Your report also indicates serology analysis, is that

JENNIFER BARTMAN - DIRECT

1 pretty much the same thing or is it a little bit different?

2 A It's a little bit different. Serology analysis is
3 testing for body fluids, so if blood or semen or saliva is
4 present on evidence items.

5 Q So you're also trained to do that?

6 A Yes, I am.

7 Q And have you ever been qualified in a court of law to
8 testify in that field?

9 A Serology, no, I haven't.

10 MS. COLLINS: Your Honor, at this time I would offer
11 Ms. Barton --

12 Q Well, I asked you if you had been qualified as an
13 expert how many times?

14 A Seven times.

15 Q In the field of DNA analysis?

16 A DNA analysis.

17 MS. COLLINS: Your Honor, at this time I offer Ms.
18 Bartman as an expert in the field of DNA analysis?

19 THE COURT: Any voir dire or any objection?

20 MR. GRIER: No voir dire, no objections.

21 Q Ms. Bartman, did you receive certain items in this
22 case, the case before the court, to test from the Lancaster
23 Police Department or the coroner's office of Lancaster
24 County?

25 A Yes, I have.

JENNIFER BARTMAN - DIRECT

1 Q And were those items, in fact, from the police
2 department?

3 A I'll refer to our verified chain of custody to see
4 ~~where that evidence originated. Yes. These items were~~
5 submitted by the Lancaster Police Department.

6 Q Thank you. And since you referred to that I will ask
7 that this copy of the verified chain of custody from SLED
8 be marked as the State's next exhibit, 29. State's Exhibit
9 29, is that a copy of what you just referred to?

10 A Yes, it is.

11 Q Thank you. What items did you receive in this case to
12 test?

13 A I received a dried blood standard from Demarcus
14 Robinson, and I received a swab from stain on the front
15 door.

16 Q I show you what's been marked for identification
17 purposes as State's Exhibit 21. Does that appear to be the
18 swab from the stain on the front door that you received to
19 compare to the standard of Demarcus Robinson?

20 A Yes, it does.

21 Q And State's Exhibit 22 is a standard of Demarcus
22 Robinson; is that correct?

23 A That's correct.

24 Q And when you performed your DNA analysis on these
25 items, what did you determine?

JENNIFER BARTMAN - DIRECT

1 A The DNA profile developed from the stain on the front
2 door was a mixture of at least two individuals. The DNA
3 profile of the major contributor to that mixture matched
4 the DNA profile of Demarcus Robinson.

5 Q How about the minor contributor?

6 A The DNA contributor of the minor contributor is
7 insufficient for interpretation.

8 Q So it was so little, the minor contributor, that you
9 could not even interpret as to who that would belong to?

10 A That's correct.

11 Q So the DNA, the majority of it from the blood stain on
12 the door was from the victim, Demarcus Robinson?

13 A That's correct.

14 Q And that's your expert opinion to a reasonable degree
15 of scientific certainty?

16 A That's correct.

17 Q And you prepared two reports; is that correct?

18 A That is correct.

19 Q You prepared an initial report in March of 2013 and a
20 supplemental report in July of 2013; is that correct?

21 A Of 2015.

22 Q I'm sorry, of 2015. Is that correct?

23 A Yes, that's correct.

24 Q In fact, both of those are 2015.

25 A That's correct.

JENNIFER BARTMAN - DIRECT

1 Q Y'all have quite a lot of samples to examine at SLED,
2 don't you?

3 MR. GRIER: No objection to it going into evidence.

4 MS. COLLINS: ~~State's Exhibit 30 and 31.~~

5 (The reports were received as State's 30 and 31.)

6 Q I show you what's been marked as State's Exhibit 31.

7 Is that your original analysis report?

8 A Yes, it is.

9 Q And State's Exhibit 30, is that your supplemental
10 analysis report?

11 A Yes, it is.

12 Q Do they both conclude the same thing, that the blood
13 from the door of the major contributor was the victim,
14 Demarcus Robinson?

15 A Yes, they do.

16 Q The statistics are just a little different?

17 A That is correct.

18 Q Is that because of an adjustment from the FBI base as
19 to their statistics that your statistics then would have
20 been adjusted?

21 A Yes, that's correct. We use a database that the FBI
22 has published and they released an amended video database,
23 so we updated to use that amended database.

24 Q But the probability was huge. What was the
25 probability of it being incorrect.

JENNIFER BARTMAN - DIRECT

1 A The probability of randomly selecting an unrelated
2 individual having a DNA profile matching that major
3 contributor is a approximately one in 7.2 quadrillion.

4 Q So originally it might have been 7.3 and it was just
5 adjusted to 7.2, right?

6 A That is correct.

7 Q So the odds of that being wrong is one in 7.3 or two
8 quadrillion, correct?

9 A That is a chance in a population of 7.2 quadrillion
10 you would expect to see that profile once.

11 Q That anybody else would match other than Demarcus,
12 right?

13 A That's correct.

14 MS. COLLINS: Thank you for coming today, please
15 answer any questions Mr. Grier has.

16 MR. GRIER: No questions. Thank you for coming.

17 MS. COLLINS: Thank you. May this witness be excused?

18 THE COURT: This witness be may be excused without
19 objection.

20 MS. COLLINS: And Your Honor, I do move those items,
21 all of those items into evidence that I just referenced.

22 THE COURT: Without objection.

23 MS. COLLINS: The next witness is Jennifer Brown from
24 SLED.

25 The witness, JENNIFER BROWN, was first duly sworn and

JENNIFER BARTMAN - DIRECT

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MS. COLLINS:

4 ~~Q Would you please state your name for the record?~~

5 A Jennifer Brown.

6 Q What is your occupations?

7 A A forensic toxicologist.

8 Q And how long have you been a forensic toxicologist?

9 A For about eight and a half years.

10 Q Where are you employed?

11 A With the South Carolina Law Enforcement Division

12 commonly known as SLED.

13 Q Have you been with SLED for eight and a half years?

14 A Correct.

15 ~~Q For all of those years you've served as a forensic~~

16 ~~toxicologist?~~

17 A Correct.

18 Q What is toxicology?

19 A Toxicology is a field where basically we're going to
20 analyze body samples, so if it's blood, ocular or tissues
21 for the presence or absence of drugs, including toxins and
22 poisons.

23 Q What type of education do you need to be a forensic
24 toxicologist?

25 A I have a Bachelor of Science in Chemistry at the

JENNIFER BROWN - DIRECT

1 University of South Carolina, and then we also have an
2 extensive in-house program for training.

3 Q At SLED?

4 A Yes.

5 Q And you've been through that training as well as your
6 other education?

7 A Correct.

8 Q What number of toxicology analysis would you say
9 you've performed during your eight and a half years at
10 SLED, just approximately?

11 A I couldn't even think, it was probably way over
12 1,000, it's --

13 Q Have you ever been qualified to testify in a court of
14 law as an expert witness in the field of forensic

15 toxicology?

16 A Yes.

17 Q How many times?

18 A At least ten.

19 MS. COLLINS: Your Honor, at this time we would offer
20 Ms. Brown as an expert witness in the field of forensic
21 toxicology.

22 THE COURT: Any voir dire or objection?

23 MR. GRIER: Very briefly, Your Honor.

24 VOIR DIRE EXAMINATION

25

JENNIFER BROWN - DIRECT

1 BY MR. GRIER:

2 Q Ms. Brown, do your qualifications include any training
3 in translating toxicology into human behavior?

4 A ~~Yes. We interpret and analyze and report all of our~~
5 results.

6 Q So you're able to review a toxicology of an individual
7 and interpret that into the behavior of that toxicology
8 that you have found may imply?

9 A Yes.

10 MR. GRIER: Okay. Thank you.

11 CONTINUED DIRECT EXAMINATION

12 BY MS. COLLINS:

13 Q Well, if I may on at that point, would that behavior
14 include how someone might act as a result of having been
15 embodied with alcohol or drugs, or are you talking about
16 the behavior reflecting that they consumed alcohol or
17 drugs?

18 A Can you explain what you're saying?

19 Q Well, I'll ask you that in the course of your
20 questioning. I'll just again renew my offer to offer her
21 as an expert witness.

22 THE COURT: I admit her.

23 MS. COLLINS: Thank you.

24 MR. GRIER: I have no --

25 THE COURT: Right, I understand.

JENNIFER BROWN - DIRECT

1 Q So just backing up to that since that's been raised by
2 Mr. Grier, your education is not in psychiatry, correct?

3 A No.

4 Q It's not in psychology, correct?

5 A No.

6 Q Have you ever been licensed as a counselor in
7 psychiatry or psychology?

8 A No.

9 Q And never worked in that field at all; is that right?

10 A No.

11 Q So Mr. Grier asked you in terms of the behavior of
12 someone, and what I'm asking you is your assessment of
13 someone's behavior simply that if I've got .10 blood
14 alcohol in my blood sample that goes to you that I must

15 have had the behavior of either consuming or have someone
16 make me consume alcohol, is that basically the behavior
17 we're talking about?

18 A Kind of. I can tell you at a certain blood alcohol
19 the effects that will most likely be seen. I can't say
20 definitely these are the affects, but in the sense of
21 here, these drug can cause these effects.

22 Q You can talk generally in terms of behavior, correct?

23 A Yes. But I can't actually say this person had
24 definitely these exact effects.

25 Q Right. You might say generally someone that has three

JENNIFER BROWN - DIRECT

1 glasses of wine might be a little flirty, but you wouldn't
2 know that since I have high blood that after one glass of
3 wine I fall asleep, you wouldn't know that, would you,
4 because you don't know me, right?

5 A I can tell you that certain affects are going to
6 happen at certain blood levels.

7 Q As a general level.

8 A As a general thing, yes.

9 Q Moving back to this case then. What items did you
10 receive for testing in this case?

11 A I received blood, occular, gastric and urine samples.

12 Q I know what blood is and occular has to do with the
13 eye; is that correct?

14 A Correct.

15 Q They actually draw fluid out of the eye?

16 A Correct.

17 Q Gastric from the intestine or stomach?

18 A Correct.

19 Q And what was the other one?

20 A Urine.

21 Q Urine sample, I know what that one is too. All right.
22 So you received all four of these types of samples. Was it
23 from the coroner's office after the autopsy or the
24 pathologist's office after the autopsy, or actually from
25 the police department?

JENNIFER BROWN - DIRECT

1 A Give me one second to look. It looks like it was
2 submitted to us through the police department.

3 Q All right. And you received those samples for testing
4 and they were identified as having been with the case
5 before the Court, the Lancaster case 201314869, subject
6 Allen Massey, incident date 10/12 of '13, is that correct,
7 with the victim Demarcus Robinson?

8 A If you can give me that again because we have it as
9 SLED numbers, that's how we track it.

10 Q Do you have it on your report?

11 A Can you say the case number one more time?

12 Q Case number 201314869.

13 A Correct.

14 Q And that would be incident date 10/12 of '13, victim
15 Demarcus Robinson, subject Allen Wesley Massey, correct?

16 A Correct.

17 Q Then a SLED lab number is assigned, L13-13425; is that
18 correct?

19 A Correct.

20 Q So you've told us the four items that you received and
21 those were all samples taken from the body of Demarcus
22 Robinson after his body underwent an autopsy, correct?

23 A Correct.

24 Q What tests did you perform on those items?

25 A On items for the blood was a blood alcohol, drug

JENNIFER BROWN - DIRECT

1 screen, and confirming anything that was positive in the
2 drug screen. We did not analyze the urine or the gastric,
3 and in the ocular we did an alcohol test.

4 Q So you did not analyze the urine or gastric?

5 A Correct.

6 Q And why is that?

7 A It's something we just don't typically do for death
8 cases.

9 Q If I were to die right now, would my body stop
10 oxidating the blood such that whatever level of alcohol I
11 have with me right now, which hopefully since it's 11:30 in
12 the morning is none, but would it stop effervescing or
13 whatever to where that blood level would stay constant
14 until it could be drawn out and submitted to you for
15 analysis?

16 A If you're saying that at the time of death basically
17 you are not metabolizing anything anymore?

18 Q Yes.

19 A That would be correct, or at least in this case.

20 Q So your test would show at the time of death the
21 levels that were in the system of the victim, correct?

22 A Correct.

23 Q And you tested as you said the blood alcohol and drug
24 screen, correct?

25 A Uh-huh.

JENNIFER BROWN - DIRECT

1 Q And what were the results of those tests as to blood
2 alcohol first of all?

3 A Right. So when you're thinking of alcohol it's
4 considered ethanol, and so the ethanol in the blood was a
5 .159 percent. And then you said the drug screen too, or
6 you just want the alcohol?

7 Q Yes, but let's stay with ethanol for a minute. That
8 was from the blood sample, correct?

9 A Yes.

10 Q From the ocular blood sample what was the ethanol
11 level?

12 A The ethanol was 0.168 percent.

13 Q What is the ocular level higher than the blood
14 sample?

15 A Generally because your ocular is going to lag a
16 little bit behind, and it also kind of shows me that the
17 person was in more of an elimination phase than an
18 absorption phase of drinking, so they most likely had
19 their last drink before death.

20 Q Okay. So what does that reflect here? Was Mr.
21 Robinson in an elimination phase?

22 A Correct.

23 Q So he had stopped drinking some time before death?

24 A Right.

25 Q He was no longer in an absorption phase.

JENNIFER BROWN - DIRECT

1 A Right, not actively drinking.

2 Q And I see the threshold level is .010 for both of
3 those, the occular and the boot ethanol levels; is that
4 correct?

5 A Correct.

6 Q And the threshold level, is that just the sensitivity
7 of the machine at what point it can first pick up some
8 signs of ethanol?

9 A Not necessarily.

10 Q What is it?

11 A For us it means if anything is below that level we
12 will consider it negative.

13 Q So it might pick up something below but it's just what
14 you just start tracking and testing, correct?

15 A No, we can see it lower. It can pick up stuff, it's
16 just if it's lower than that we consider it a negative.

17 Q You don't report it.

18 A Right.

19 Q You consider it a negative.

20 A Correct.

21 Q And the .010 being the threshold level, I just want to
22 compare that to like if I'm stopped for a DUI and you might
23 have heard the expression years ago when it was 10, I blew
24 a ten, that's .10 versus .010. Do you know that or you
25 don't know?

JENNIFER BROWN - DIRECT

1 A Sorry, I would need to know the units. If I'm
2 thinking what you're talking about it would be like a one.

3 Q Right. It would be a one as opposed to a .010, which
4 is the small threshold level that y'all look for, correct?

5 A Correct.

6 Q All right. Let's talk about drugs now. You tested
7 for many, many drugs, correct?

8 A Correct.

9 Q And all of those drugs came back negative, correct,
10 except for one and that was THC level metabolite indicating
11 at some point that Mr. Robinson had used marijuana; is that
12 correct?

13 A Correct.

14 Q So it was negative for cocaine, negative for
15 amphetamine -- just tell us everything it was negative for.

16 A Negative for amphetamine, for benzodiazepines, which
17 is like Xanax; sertraline, which is commonly known as
18 Zoloft; for cocaine metabolite, for methadone, for
19 methamphetamine, opiates, which is like your hydrocodone,
20 and pain relievers. Oxycodone, which is also a opiate,
21 Tramadol and Sepedon.

22 Q And on the prior page I think we had a few negatives
23 there too, what were they?

24 A Yes. When we look for volatiles and samples relating
25 to alcohol we also look for ethanol, acetone and

JENNIFER BROWN - DIRECT

1 isopropanol.

2 Q So all of those were negative for the blood of the
3 victim, correct?

4 A -- Right.

5 Q So the only drug that you show as shown up in the
6 victim was a THC metabolite for marijuana, correct?

7 A Well, ethanol is also a drug as far as --

8 Q As far as a liquid alcohol versus a pill or something,
9 correct?

10 A A pill or --

11 Q So we've got ethanol and alcohol and marijuana, right?

12 A Correct.

13 Q Tell us about the level for marijuana.

14 A THC is the active component of marijuana, and what we

15 have here is the 11 carboxy tetrahydrocannabinol, that's

16 the long word for THC. And so the metabolite reported as

17 7.2 micrograms.

18 Q And what's the threshold level for that?

19 A Two.

20 Q Now, do you have any way to know the timeframe that
21 someone would have taken or used marijuana to have that
22 level?

23 A No, ma'am. Generally we need the parent or the THC
24 tetrahydrocannabinol level to be able to reference that
25 back to find a time of use.

JENNIFER BROWN - DIRECT

1 Q Is 7.2 considered a small amount?

2 A It's definitely not a high amount, it's kind of an
3 in-between.

4 Q And so as you've testified to a reasonable degree of
5 scientific certainty, these were the results of your
6 analysis on the blood and ocular fluid of the victim
7 Demarcus Robinson, correct?

8 A Correct.

9 Q You sent your report to the Newberry Pathologist,
10 correct? I think that's referenced at the end of your
11 report.

12 A Correct.

13 Q As well as to I think the coroner, it's written there
14 at the top, right?

15 A Correct.

16 Q So you can keep your original, I want to move this
17 copy into evidence.

18 MS. COLLINS: I ask that this be marked as State's
19 Exhibit 32.

20 Q Is that a fair and complete and accurate copy of your
21 report as you prepared it after your analysis of these
22 items?

23 A Yes, minus your notes and it says copy.

24 Q I have now removed the sticky note to remind me what I
25 wanted to ask you. Is that now a fair and complete report,

JENNIFER BROWN - DIRECT

1 no notes on it?

2 A Yes.

3 Q Other than the copy.

4 A Yes.

5 MS. COLLINS: I'll move this into evidence at this
6 time.

7 THE COURT: Without objection.

8 (The report was received as State's 32.)

9 MS. COLLINS: Ms. Brown, thank you for coming today,
10 please answer any questions of Mr. Grier.

11 THE WITNESS: No problem.

12 CROSS EXAMINATION

13 BY MR. GRIER:

14 Q Thank you, Ms. Brown. So you determined that Mr.
15 Robinson had a 0.159 ethanol level, correct?

16 A Yes.

17 Q Now, generally speaking what you said that you could
18 opine or you had training in interpreting that into
19 behavior generally?

20 A At that level what affects would we see.

21 Q And what would that be?

22 A Well, you will see increased inhibitions -- I'm
23 sorry, decreased inhibitions, increased self confidence,
24 so you're more likely to do something that you would not
25 otherwise. You're going to have problems with walking and

JENNIFER BROWN - CROSS

1 with your vision such as your peripheral will not be up
2 here, it will start diminishing, you can have problems
3 with double vision. You're going to have increased
4 reaction time. You're going to have a staggered walk so
5 you will not walk as you normally would, and like that.

6 Q How about the tetrahydrocannabinol?

7 A I can't really tell you because it's not an active
8 component.

9 Q It's not a what?

10 A It's not the active component of marijuana so I
11 really can't.

12 Q Okay. So is there anything in your analysis that
13 would tell us anything about the potential affects of --
14 the THC wasn't measured or --

15 A Yes. We would have looked for it and it wouldn't
16 have been above our threshold so it isn't reported as
17 positive.

18 Q I'm still curious, that's the first time I've heard of
19 it so I would like to learn and understand that and see
20 about the elimination phase? I didn't quite follow that,
21 would you explain that again?

22 A So as you're drinking you start absorbing it meaning
23 your alcohol levels will increase, and then you do start
24 eliminating as you're drinking. But you're going to get
25 to a point where once you stop drinking you're going to

JENNIFER BROWN - CROSS

1 increase and then you will get to a peak and then you will
2 be basically fully in elimination. So at the peak point
3 you're going to get your highest level and then you're
4 going to start losing your alcohol over time.

5 Q So based on what you found in your examination of
6 this -- your forensic examination of Mr. Robinson's blood,
7 you could infer that he had had a higher ethanol level
8 then, at the time of his death, prior to earlier in that
9 evening?

10 A If you can tell me that he had -- he was let's say
11 shot at a certain time and then died X amount of time
12 later, I can theoretically tell you it could be higher,
13 but also with having a higher ocular level I can tell you
14 he would have been in the elimination phase.

15 Q So in a hypothetical if he died approximately an hour
16 after he was shot, you know, would that be sufficient
17 information to opine about that, to give an opinion about
18 that?

19 A Yes and no. It would also depend if the person had
20 an empty stomach or had a heavy meal.

21 Q Okay. Just not enough information to be able to give
22 an opinion about whether the blood alcohol level would have
23 been higher earlier in the evening.

24 A Not without knowing if the last drink and then he had
25 an --

JENNIFER BROWN - CROSS

1 MR. GRIER: Thank you. No further questions, thank
2 you.

3 REDIRECT EXAMINATION

4 BY MS. COLLINS:

5 Q I would like to ask you just a couple of more
6 questions about what Mr. Grier had asked you about in
7 responding -- and correct me if I'm wrong -- was it your
8 testimony then in response to Mr. Grier that someone at
9 that level would generally, based upon your training, have
10 a decreased inhibition?

11 A Correct.

12 Q And increased reaction time?

13 A Uh-huh.

14 Q A staggered walk, correct?

15 A Yes. You're going to have some decrease in your
16 motor coordination.

17 Q Some vision problems, or double vision, correct?

18 A Yes, you can.

19 Q So would you say that someone with -- a victim, Mr. --
20 Robinson, having that blood alcohol level, having an
21 increased reaction time, a staggered walk, problems
22 walking, that he's not in top form at that moment?

23 A No.

24 Q He's not in top form; is that right?

25 A No.

JENNIFER BROWN - REDIRECT

1 Q Is that correct?

2 A Correct.

3 Q Thank you. I just wanted to be clear on that. If ten

4 people consume the same amount of alcohol, would they be

5 impaired or affected the same way you've talked to us

6 already about, having something to eat or not? What about

7 otherwise? Are there other habits or something that can

8 affect or how I am affected by alcohol versus someone else?

9 A Meaning generally you're going to see all of the

10 similar effects. People can mask them in the sense of

11 let's say your motor skills are coordinated so now you're

12 going to be more likely to stumble, you might be more

13 likely to lean on something, or if your speech isn't as

14 well, you might slow down your speech.

15 Q And those were all the samples you received for this

16 test. Of course, you didn't have any samples of Mr.

17 Massey's from the day in question to test, correct?

18 A Correct.

19 Q Is that level of ethanol close at all to a lethal

20 range of content? How high would a blood alcohol level

21 have to be to be lethal?

22 A Generally you could start seeing what could be seen

23 as depression, problems breathing, possibly coma or death

24 at .3.

25 Q All right. So this is well below that.

JENNIFER BROWN - REDIRECT

1 A Sure...

2 MS. COLLINS: Thank you.

3 RECROSS EXAMINATION

4 BY MR. GRIER:

5 Q Generally, could you interpret that blood alcohol
6 level in terms of the aggressiveness or passiveness of an
7 individual?

8 A I mean, it's seen as a depressant so you will be more
9 likely to be drowsy, have problems walking. But as far as
10 depression, no, I can't tell you.

11 MR. GRIER: Okay. No further questions.

12 THE COURT: You may come down, thank you very much.

13 May the witness be excused?

14 MS. COLLINS: Yes. We would ask that she be excused.

15 MR. GRIER: Without objection.

16 MS. COLLINS: Your Honor, our last went from SLED this
17 morning is Chad Smith of the firearms department.

18 The witness, CHAD SMITH, was first duly sworn and
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MS. COLLINS:

22 Q What is your name, please?

23 A My name is Chad Smith.

24 Q What is your occupation?

25 A I'm a firearms examiner at SLED's forensic services

JENNIFER BROWN - RECROSS

1 laboratories in Columbia.

2 Q How long have you worked in that capacity?

3 A It will be seven years in November.

4 Q What type of education do you need to be a firearms
5 examiner?

6 A Well, I have a Bachelor's of Science Degree in
7 Biological Science from Clemson University. All of the
8 training is actually taught in-house at the firearms
9 department. The training program lasts between three and
10 five years, it is supervised by the court qualified
11 examiners of firearms department. It involves extensive
12 reading, studying, there are multiple examinations and
13 tests given at this time, also I attend various seminars
14 and classes. And in the later part of my training I was
15 able to help prepare case work for other examiners. At
16 the end of my training I received a comprehensive
17 multipart examination, which I successfully passed and I
18 then began to receive my case work.

19 Q Now that you've completed your training and passed
20 those exams, do you assist with training other officers?

21 A Pardon?

22 Q Do you assist with training new officers?

23 A I do help. I don't have a trainee actually assigned
24 to me at this time, but I do help the trainees that are in
25 our department with some things.

CHAD SMITH - DIRECT

1 Q Can you tell us the number of firearms you've tested
2 during your years at SLED?

3 A It would probably be in the hundreds throughout my
4 training and since I received my own case work.

5 Q Mr. Smith, have you ever been qualified in a court of
6 law to testify as an expert witness in the firearms
7 identification?

8 A Yes, ma'am.

9 Q How many times?

10 A Sixteen times.

11 Q And if you'll just tell us in terms of firearms
12 identification, what does that entail specifically,
13 identification?

14 A Well, my main responsibility is the examination of
15 firearms, ammunition and ammunition components. This is a
16 part of forensic science which is firearms identification.
17 A lot of times you will hear or see the terms ballistics
18 used especially on TV, what we do in our department is not
19 ballistics. Ballistics is actually science of projectile
20 motion. What we're interested in are the markings that
21 are created on cartridge cases and bullets and other
22 ammunition components as they're fired from the firearm,
23 that we can try to match those components back to the
24 firearm to fire it.

25 Q So you're trying to identify the firearm that shot a

CHAD SMITH - DIRECT

1 projectile or bullet.

2 A That's correct.

3 Q Not identifying, "Oh, that's a Smith and Wesson or a

4 .32 or whatever, you're identifying which firearm shot

5 which bullet, correct?

6 A Yes, ma'am.

7 Q Thank you.

8 MS. COLLINS: Your Honor, at this time I would like to

9 offer the witness as an expert witness in the field of

10 firearms identification.

11 THE COURT: Any voir dire?

12 MR. GRIER: No voir dire, no objection.

13 MS. COLLINS: Thank you.

14 Q In this case, Mr. Smith, did you have occasion to test

15 items that had been submitted to you by law enforcement for

16 the Lancaster Police Department?

17 A Yes, ma'am.

18 Q In referencing your report, did you ultimately prepare

19 a report for that?

20 A I did.

21 Q And the lab number assigned was L13-13425, is that

22 right?

23 A That's right.

24 Q And that was for the case before the Court, incident

25 date 10/12/13, victim Demarcus Robinson, subject Allen

CHAD SMITH - DIRECT

1 Massey, Lancaster case number 201314869?

2 A Correct.

3 Q What items did you receive?

4 A I received a revolver, which was my item five in this
5 case. And I also received a fired bullet which was said
6 to have come from autopsy, and that was my item seven.

7 Q Once you received those items, what tests did you
8 perform on them?

9 A When I receive a firearm I opened up the box, the
10 container, and I take overall photographs of it. Then I
11 examined it to see if there's any signs of obvious damage
12 or defects that would cause issues with the firearm
13 functioning. In this particular instance I found that the
14 firearm was missing a part on it, which actually helps
15 open and close the actual firearm itself, but it did not
16 interfere with any test firing of it. So I ended up test
17 firing the firearm so that I could get test fires to
18 compare with the actual evidence that was submitted, the
19 bullet that was submitted. And how we do our test firing
20 is we have a tank, a stainless steel tank that -- our
21 department is located on the second floor laboratory, this
22 tank goes all the way from the second floor down to the
23 first floor and it's filled with water. What we do is
24 shoot into this tank and the water actually slows down the
25 bullet and it also doesn't add or take away any of the

CHAD SMITH - DIRECT

1 markings that we need for identification purposes. So we
2 were able to retrieve those bullets, and sometimes the
3 cartridge cases depending on the type of firearm it is.

4 ~~And then we actually use a piece of equipment called a~~
5 comparison microscope. And this is basically -- it's two
6 microscopes that are connected by an optical grip system,
7 so we're able to compare two samples simultaneously. So
8 we look at our test fires and see if the marks that we're
9 looking for are reproducing and if they're individual in

10 nature to say that those marks could be used to match
11 those particular test fires back to the firearm itself.

12 Once we determine that we're able to use a comparison
13 microscope and compare the test fires with the actual
14 evidence submitted. And in this case I was able to

15 determine that the bullet that was submitted was fired by
16 the particular firearm that was submitted.

17 Q And that's your expert opinion to a reasonable degree
18 of scientific certainty that the bullet submitted was, in
19 fact, fired by the firearm submitted?

20 A Yes, ma'am.

21 Q I would like to show you what's been marked as State's
22 Exhibit 20 for the purposes of this trial and ask you, is
23 that the item, the bullet that you received to test?

24 A Yes. This is the bullet, my item seven, which is
25 State's Exhibit 20 that I received for examination. And

CHAD SMITH - DIRECT

1 how I know this is that actually on the bullet itself we
2 use a little scriber and we put the SLED lab number, the
3 item number and also our initials on it, and also on the
4 packaging itself. The package has been sealed with my
5 date, the date that I sealed it and my initials, and it
6 appears intact.

7 Q Thank you. And the other item that I've handed you to
8 look at it is State's Exhibit 16? I ask you to look at the
9 external markings of that box as to chain of custody, et
10 cetera, and ultimately open up the box and tell us, is that
11 the firearm that you tested, that you received for testing
12 in this case?

13 A Ladies and gentlemen, as I'm handling this firearm I
14 examined it and wanted to make sure it was safe to handle.

15 It is. This is the firearm that was submitted for
16 examination. And again, I can see my lab case number, the
17 lab item number, which was my item five, and my initials.
18 As I was alluding to earlier, this firearm was missing the
19 part that's called the crane drain. It's actually like a
20 little hinge system that holds the actual cylinder,
21 connects it to the frame itself so it can swing it out and
22 swing it back in for loading and unloading. But it can
23 still be locked in without that, and I didn't inhibit test
24 firing at all.

25 Q So it's still able to be fired, but the crane is like

CHAD SMITH - DIRECT

1 a hinge that just more easily open and close it; is that
2 right?

3 A Yes, ma'am.

4 Q But once it's closed it's closed and functional,
5 correct?

6 A Right.

7 Q And how many bullets does this gun hold?

8 A It has a capacity of five cartridges, they're called
9 chambers, there's five holds or chambers, so it holds five
10 cartridges.

11 Q And that's a .32?

12 A Yes, ma'am.

13 Q What does that mean to those of you that aren't
14 familiar with firearms?

15 A The actual caliber itself, for what the firearm is
16 chambered for is 32 H and R Magnum, that's the cartridge
17 designation. The .32 alludes to the fact that it's the
18 diameter of the bore of the barrel itself, basically
19 approximately .32 of an inch. But the actual cartridge
20 itself with the bullet and cartridge case it is supposed
21 to fire is called a 32 H and R Magnum. So 32 H and R
22 Magnum cartridge would actually fit into the cylinder,
23 into one of the chambers of the cylinder.

24 Q So when you're testing when a bullet is fired from a
25 firearm, do they leave particularized markings on the

CHAD SMITH - DIRECT

1 bullet as you said, sort of like we have fingerprints, it
2 would leave certain markings to show you that that bullet
3 was fired from that weapon?

4 A Yes, ma'am. On the case of a bullet, what we're
5 looking for is the markings that are created from the
6 rifling of the barrel. Rifling is a process that
7 manufacturers use to put a spin on the actual projectile
8 that's traveling through the barrel so that it stabilizes
9 the bullet as it enters or exits the barrel, so that
10 rifling impressions actually mark the bullet. And through
11 a microscope we can look at those tiny marks or tiny lines
12 or what we call striations, and that's what we use to make
13 our identification.

14 Q All right. Before we talked a little bit about the
15 gun. I'll show you what has been marked as State's
16 Exhibits 33 through 36 and ask you, do those appear to be
17 fair and accurate photographs of that firearm that you have
18 in front of you?

19 A Yes, ma'am.

20 Q Thank you. Now, can you step down with the firearm if
21 you will. I want to ask you a couple of questions about
22 how it shoots. Tell me, if you will, what's the difference
23 between a single action or a double action?

24 A Right. This revolver first is a double action
25 revolver, it actually has two modes of firing it. There

CHAD SMITH -- DIRECT

1 is single action, which have you ever watched like old
2 cowboy movies, it's uses a single action revolver. You
3 actually have to manually cock the hammer back before
4 firing it, and then all the trigger does is actually
5 release the hammer, that's single action. This actually
6 has what's known as a double action as well, so you can
7 pull the trigger back and then release the hammer in one
8 stroke of the trigger movement, so it has got two ways of
9 actually manipulating the trigger.

10 Q So you can either cock it and pull the trigger to fire
11 it or you can simply pull the trigger; is that right?

12 A Correct.

13 Q Does it take more pressure to just pull the trigger if
14 you haven't cocked it?

15 A Right. The single action, all you're doing is
16 releasing the hammer so it just takes a lot less pressure
17 or weight on the trigger or the hammer to fall than it
18 would to actually pull the hammer back using the trigger.

19 So it takes a lot more weight to having double action.

20 Q Have you ever heard the term hair trigger?

21 A Yes, ma'am.

22 Q What does that mean?

23 A That really refers to like an ultralight trigger
24 pull, if it was a couple of ounces maybe a pound or so in
25 weight. And that's kind of referred to like if the

CHAD SMITH - DIRECT

1 firearm happens to go off a lot of people say that it's
2 hair trigger or something like that, the slightest touch
3 of a trigger would cause it to go off, that would be what
4 a hair trigger is.

5 Q Did you test this firearm to see how much pressure is
6 necessary to actually pull the trigger on this firearm,
7 whether or not it had a hair trigger?

8 A Yes, ma'am.

9 Q And what did you conclude?

10 A I would have to look at my notes actually. I
11 concluded that the amount of weight that it takes to fire
12 this firearm in single actions -- remember, you have to
13 cock the handle first and then pull the trigger, it was
14 around six and a quarter to of and a half point of
15 pressure. And double action which again, you're just
16 pulling the trigger, or pulling the trigger back to
17 release the hammer in one motion, in takes around 13 and a
18 half pounds. So if you put that in perspective that a
19 gallon of water weighs around eight pounds, so if you had
20 a gallon jug filled with water and you're hanging it from
21 the end of your index finger or trigger finger, then
22 that's how much eight pounds would weigh. So again, it
23 would be six and a quarter to six and a half pounds in
24 single action, and around 13 and a half pounds in double
25 action.

CHAD SMITH - DIRECT

1 Q So it takes more effort and strength to pull the
2 trigger when it had not been cocked, because cocking it
3 does some of the work; is that right?

4 A Right.

5 Q Even if you cock it, to pull that trigger takes six
6 and a fourth to six and a half pounds and comparing that to
7 me holding a gallon of water is eight pounds by my finger;
8 is that right?

9 A Yes, ma'am.

10 Q And then it would take more than me holding a gallon
11 of water by one finger or index finger to actually pull it
12 if I hadn't cocked it, as you said, the double action,
13 right?

14 A Right. It would roughly take a little more than
15 double the amount of pressure.

16 Q So it took double the amount. So would you say in
17 your expert opinion it takes some effort and strength to
18 pull that trigger?

19 A Yes, ma'am.

20 Q It is not a hair trigger?

21 A No, ma'am.

22 Q It doesn't just easily go off, correct?

23 A Correct.

24 Q You prepared a report at the conclusion of your
25 analysis, correct?

CHAD SMITH - DIRECT

1 A Yes, ma'am.

2 Q I would like to show you what's been marked as State's
3 Exhibit 37 and ask you, is that a complete and accurate
4 copy of your report?

5 A What I'm doing right now is just comparing this
6 report to the copy that I printed out. Yes, ma'am.

7 MS. COLLINS: Thank you. I would move this exhibit
8 into evidence at this time.

9 MR. GRIER: No objection.

10 (The firearms report was received as State's 37.)

11 MS. COLLINS: I would also move in as an exhibit the
12 bullet referenced earlier and the firearm, State's Exhibit
13 16 into evidence at this time.

14 MR. GRIER: No objection.

15 (The firearm was received as State's 16.)

16 Q And all of your testimony today regarding the amount
17 of force that would be necessary and the fact that that
18 bullet came from that firearm, all is your expert opinion
19 to a reasonable degree of scientific certainty; is that
20 correct?

21 A Yes, ma'am.

22 MS. COLLINS: Thank you for coming. Please answer any
23 questions that the defense has.

24 CROSS EXAMINATION

25

CHAD SMITH - DIRECT

1 BY MR. GRIER:

2 Q What type of gun is that again?

3 A What type exactly? It's a double action revolver.

4 Q All right. Now, that type of revolver, is that
5 considered a big gun?

6 A By what definition?

7 Q Just in layman's terms or professional terms, what --
8 you know, what is the range of the size of guns and
9 ammunition?

10 A Well, it could all depend. This is a .32 caliber, so
11 it can go all of way up to .50 caliber, which would be
12 considered a large bore caliber.

13 Q And down to --

14 A A .22 is typical?

15 Q Okay.

16 A In my opinion I wouldn't say this is a large gun
17 compared to other ones that I've seen.

18 Q Okay. Do you have expertise in interpreting distances
19 at all by observing clothing or anything that a gun may
20 have been fired from?

21 A No, sir. The only kind of distance determination
22 that we do would be with shotgun pellets, that's the only
23 training and procedures that we have for any sort of
24 distance determination.

25 Q Okay. How would one go about observing your work to

CHAD SMITH - CROSS

1 see you test a gun, to see the shot into the tank and all
2 of that? Is that ever made available to the public?

3 A You would have to schedule a tour perhaps, I'm not
4 sure if they just -- we do have --

5 Q I'm asking out of personal curiosity.

6 A We do have personal tours that would come through and
7 then you would have to call the laboratory and see if they
8 could schedule.

9 MR. GRIER: Thank you. Nothing further.

10 MS. COLLINS: Nothing further. We would ask that this
11 witness be excused.

12 THE COURT: Thank you very much. The witness is
13 excused.

14 MS. COLLINS: Your Honor, we have two remaining
15 witnesses but I do anticipate they will be a little
16 lengthy.

17 THE COURT: Approach the bench.

18 (A bench conference was held.)

19 MS. COLLINS: Call Phillip Hall.

20 The witness, PHILLIP HALL, was first duly sworn and
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MS. COLLINS:

24 Q Lieutenant Hall, can you tell us your name for the
25 record?

CHAD SMITH - CROSS

1 A Phillip Lee Hall.

2 Q And what is your occupation?

3 A I'm a lieutenant over special operations for the City
4 of Lancaster Police Department.

5 Q How long have you been a law enforcement officer?

6 A Started my career with the sheriff's office back in
7 1996, joined the city back in June of 2000 and currently
8 in investigations now.

9 Q How long have you been in the investigative unit
10 called the special operations unit with the Lancaster
11 Police Department?

12 A I would say a little over ten years.

13 Q And how many murder cases have you worked on in your
14 years at the Lancaster Police Department?

15 A As lead investigator I probably worked probably ten.

16 Q How many just as assisting, not lead investigator?

17 A Murders or attempted murders?

18 Q Murders first.

19 A Probably about 15.

20 Q And how many attempted murders where someone was shot
21 but does not die?

22 A I would say right close to 100.

23 Q Were you with the investigation unit, the special ops
24 unit for the Lancaster Police Department on October 12th of
25 2013?

PHILLIP HALL - DIRECT

1 A Yes, ma'am, I was.

2 Q Were you on duty, the on-call investigator that night
3 on 10/12 of 2013?

4 A I was not the on-call investigator.

5 Q But you responded to the scene?

6 A Right. Anytime we have a shooting pretty much the
7 whole division is activated and we go out.

8 Q So you went to the scene at [REDACTED] City Avenue?

9 A I went to the LZ first.

10 Q Tell us about that. What is the LZ?

11 A The landing zone at the hospital.

12 Q So that was where you first went?

13 A Yes, ma'am.

14 Q Did you know immediately that this individual was not
15 to be treated at Springs, that with a gunshot they were
16 going to be flown to CMC?

17 A Normally what I do is when I go out to the call I'll
18 cut my radio on scan so I can hear city, fire, EMS to find
19 out what's going on, that way I can keep track with where
20 the patient or patients have been transported. This
21 particular time -- morning I heard them say that they were
22 going to setup the landing zone at the Springs Memorial
23 Hospital. When Sergeant Burlingame called me, he was the
24 primary on-call investigator, I told him to go straight to
25 the landing zone because I sleep with a scanner on so I

PHILLIP HALL - DIRECT

1 pretty much know what's going on before we even got the
2 phone call. So I called him to go straight to the LZ and
3 talk with the victim and find out what you can. I says,

4 ~~"I'll meet you there, I'll have another investigator go to~~
5 the scene," because I knew patrol pretty much had it
6 contained until one of us got there.

7 Q And when you went to the LZ, or landing zone, did you
8 see the victim in the ambulance?

9 A I did.

10 Q And was he still conscious?

11 A He was.

12 Q You spoke with him?

13 A I did.

14 Q Did you ask him questions?

15 A I did.

16 Q And what did you ask him?

17 A I asked him who shot him?

18 Q And what did he say?

19 A He replied Urk. And I thought I misunderstood him
20 and I asked him to say it again and he said, "Urk, Urk,
21 Urk, Urk."

22 Q Did you ask him if that was a street name?

23 A Yes.

24 Q And what did he respond?

25 A He didn't respond to that. He just said -- the only

PHILLIP HALL - DIRECT.

1 words came out of his mouth was Urk, Urk, Urk, Urk, and
2 then he started complaining about not being able to
3 breath, wanted me to raise his legs, but the paramedics
4 were already in there working on him as well.

5 Q And at that point did the helicopter squad come in to
6 fly him in Charlotte?

7 A The flight crew came in and because the back of the
8 ambulance was pretty tight, myself and Sergeant Burlingame
9 was in the back of the ambulance plus three medics were in
10 the back, so that put five of us in there, and if we would
11 have put seven in there we would have on top of each
12 other. Because of his critical condition -- let me back
13 up, I did ask them if he had had a exit wound, they rolled
14 Mr. Robinson over, I didn't see an exit wound. Once I
15 confirm there wasn't no exit wound we backed out because
16 the flight crew came in.

17 Q Lieutenant Hall, you were standing there right beside
18 the victim at that time, or you were in the ambulance right
19 beside him, correct?

20 A Yes, ma'am.

21 Q Can you describe to us in your opinion what size body
22 build did he have as you observed it that evening?

23 A I would say he probably weighs right at 200 pounds, I
24 couldn't tell his height, because again, they had the
25 stuff covering him up on the lower end so I really

PHILLIP HALL - DIRECT

1 couldn't tell. I think the stretchers were I think 6 foot
2 and he had a little bit, he was on the a back board as
3 well, so --

4 Q Would you describe his build as small, medium or
5 large?

6 A I would say medium.

7 Q And was he, as the young people say, ripped and
8 muscular or did he have some abdominal fat as some of us
9 do?

10 A He had some table muscle, what we call it.

11 Q Some table muscle. Is that from kitchen kindness?

12 A Yeah. I would say he's pretty thick, yeah.

13 Q After you left Mr. Robinson and the flight crew was
14 taking him to Charlotte, what did you do, Lieutenant?

15 A I went back to the scene. There I met with
16 Lieutenant Short, who was the patrol supervisor, he
17 briefed me on what he had, at that time the scene was
18 turned over to me. I knew that we had some witnesses that
19 was on scene that needed to be interviewed before they
20 actually left because we wanted to get to them before they
21 left so we could get what happened inside the house. So
22 Sergeant Burlingame and Sergeant Small got on scene, I
23 briefed them what we had, told them that we needed to
24 interview some of the witnesses. As they were doing that
25 Lieutenant Short walked me inside and showed me the actual

PHILLIP HALL - DIRECT

1 interior of the house where the incident took place, and
2 the scene, what I had in there. Because that wasn't a
3 priority right then, I knew we still had other witnesses
4 out there in the yard that we needed to talk to, so I went
5 outside, and when I did Captain Grant, my supervisor,
6 pulled up. I briefed him on what was going on, told him
7 that we had a crime scene inside the house, nothing has
8 been touched, that we were interviewing witnesses right
9 now. Captain Grant advised that he would take care of the
10 photographs and evidence.

11 Q And he instructed you to go ahead and speak to the
12 witnesses?

13 A Right. I went and spoke to Mr. Wells.

14 Q You speak with Sindarous Wells?

15 A Yes, ma'am.

16 Q You talked to him in your patrol car?

17 A Yes, ma'am.

18 Q You interviewed him there?

19 A Yes, ma'am.

20 Q And at that time he didn't tell you anything in regard
21 to seeing Demarcus Robinson ever hit Mr. Massey; is that
22 right?

23 A He didn't in the primary -- or in that interview.

24 Q And he didn't tell you anything at that time about Mr.
25 Massey telling Demarcus Robinson right before Demarcus hit

PHILLIP HALL - DIRECT

1 Mr. Massey, anything about Mr. Massey pulling a gun out on

2 Rashawd, he didn't say anything about that, did he?

3 A No, ma'am.

4 Q But he told you what he observed, correct?

5 A Yes, ma'am.

6 Q He told you that he observed Mr. Massey shoot Mr.

7 Wells -- I mean -- Mr. Wells is who you were

8 interviewing -- Mr. Wells shoot Mr. Robinson?

9 A He didn't say he actually shot him. He said that

10 when he walked into the living room he heard the shot, and

11 then Robinson fell back into the kitchen area where he

12 was, which is right beside him.

13 Q But he had seen Mr. Massey go into the living room.

14 A Right. Only people that were in the living room was

15 Massey and Robinson.

16 Q Did you ultimately see the victim's shirt -- did you

17 observe that?

18 A Yes, ma'am. After I got through speaking with Mr.

19 Wells I went back into the house and I seen if Captain

20 Grant needed any further assistance as far as photographs

21 or evidence.

22 Q And we have them in the bag, but did you -- I want to

23 show you, did you look at both the undershirt, the white

24 shirt and black shirt?

25 A Yes, ma'am. When EMS got there they pretty much cut

PHILLIP HALL - DIRECT

1 them straight off of him and laid all of his property on
2 the kitchen floor in somewhat of a pile.

3 Q I'll show you what's been marked as State's Exhibit

4 10. It's a picture of the kitchen, and you can see some
5 white and black cloth on the floor. Was that the white
6 undershirt and black shirt of the victim?

7 A Yes, ma'am.

8 Q And they had been cut off by EMS?

9 A Yes, ma'am.

10 Q And I'm going to show you what's been marked as
11 Defendant's Exhibits 1 and 2. Are those pictures of the
12 undershirt that the victim had on showing the bullet hole?

13 A Yes, ma'am.

14 Q And also the exterior black shirt, State's Exhibits 23
15 and 24, are these also photographs of the exterior shirt
16 showing one bullet hole?

17 A Yes, ma'am.

18 Q Did you observe any gunshot residue or what some call
19 stippling?

20 A Yes, ma'am.

21 Q Tell us what that is.

22 A That is the actual front of the gunpowder that comes
23 out the front end of the muzzle when you shoot a gun. If
24 you shoot guns often you'll see a flash come out, well,
25 that is the gunpowder itself and some of the actual -- I

PHILLIP HALL - DIRECT

1 don't know what you call it -- bites of dust that will
2 stick to the shirt itself, which tells me this was, you
3 know, pretty close range.

4 Q But you can't tell if it was actually a contact
5 touching, it was just within close range?

6 A I can't -- normally on contact you'll have burn
7 marks.

8 Q Were there any burn marks that you observed when you
9 looked at the shirt itself?

10 A No, ma'am.

11 Q And when you say pretty close range, do you have any
12 experience in that to say, what we're talking about, inches
13 or feet?

14 A I would say within a couple of feet.

15 Q Let me ask you, did you talk to any other witnesses at
16 the scene?

17 A No, ma'am, I did not.

18 Q Was Navoney Curry still at the scene?

19 A No, ma'am. The only people that were at the scene --
20 the only people that were interviewed at the scene were
21 the people that stayed there after the shooting. I
22 understood that there were -- I understand there were more
23 people there but they left prior to the investigators
24 arriving.

25 Q So the ones that stayed to speak to law enforcement

PHILLIP HALL - DIRECT

1 were Malika Harris, Shonettia Hunter, Sindarous Wells, and
2 Ebony Harris, the fiance of the victim. Those four?

3 A Yes, ma'am.

4 Q None others who people had said may or may not have
5 been there that night stayed to talk to y'all, correct?

6 A Correct.

7 Q Did y'all know at that time where the defendant was?

8 A We did not.

9 Q Did y'all know where the firearm was?

10 A We did not.

11 Q Was that a concern to you?

12 A It was.

13 Q What efforts did you make yourself to locate the
14 defendant?

15 A While we were on scene we knew through investigations
16 by order of the witnesses that the suspect lived close in
17 the area, or his mother lived close to the area on Elm
18 Street, which was maybe one block over from where we were
19 on City Avenue. Patrol units had went to the house to set
20 up a perimeter on the house to try to make contact. I
21 think Lieutenant Short, again the patrol supervisor, made
22 contact with Ms. Massey. Ms. Massey -- Lieutenant Short
23 I'm assuming asked Ms. Massey if he and some of his guys
24 could go in the house and look for Mr. Massey, at that
25 time she declined. Captain Grant informed me and Captain

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1 Davis to go over there and talk with Ms. Massey. We were
2 able -- myself and Captain Davis went up to the front
3 porch, spoke with Ms. Massey, told her what was going on,
4 ~~told her that her son had been named as a suspect in the~~
5 shooting and that he's running around here with a gun and
6 we needed to get in the house to see if he's in there and
7 she said, "He's not in here." I said, "Okay. I know
8 you're saying that but for us to feel comfortable we need
9 to go in there and physically look ourselves." Her answer
10 to that was, "You're not bringing this whole police
11 department in here." I said, "No, ma'am. Myself and
12 Captain Davis will come in and we'll check the house."
13 She said, "That's fine." So Captain Davis and I went in
14 the house and cleared it ourselves and he was not there.

15 Q And when you determined that he was not there, did you
16 give any instructions to his mother at that time?

17 A Yes. I told her that he was a person of interest and
18 that we were going to be looking for him and if she knew
19 his whereabouts that she needed to make contact with him
20 and have him turn himself in, or bring him to the station
21 herself. But he will be sought for this, at that time,
22 attempted murder.

23 Q At that time you didn't know if the victim was still
24 alive or not, correct?

25 A No, ma'am, I didn't.

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1 Q And what time was the shooting approximately, do you
2 have it there?

3 A The call came in at 3:53 -- 3:56, so some time
4 between 3:50 and 3:56.

5 Q In the morning?

6 A Yes, ma'am.

7 Q Of October 12, 2013, right?

8 A Yes, ma'am.

9 Q And you talked to her an hour or so later at her home
10 that same morning.

11 A It was right breaking daylight so we'll say right at
12 6:00.

13 Q And then after you talked with her and instructed her
14 she indicated she understood, right?

15 A Yes.

16 Q And did you then go back to the scene, or what did you
17 do after that, Lieutenant?

18 A I went back to the scene. Captain Davis and I, we
19 rode together back to the scene where Captain Grant was
20 still on scene.

21 Q And then what did you do?

22 A Once we arrived on scene, as soon as I got out of the
23 vehicle I heard a female screaming to the top of her
24 lungs, "He's gone." So I'm like, "Did I miss something?"
25 Because like I said, when I first pulled up a female is

PHILLIP HALL - DIRECT

1 screaming he's gone, I didn't know what she was referring
2 to, and then one of the family members come over and said
3 that his brother was up at CMC and had called in and
4 notified him that he had passed. So in order for me to
5 confirm that I called up to CMC and spoke to one of the
6 charge nurses and confirmed that he had passed.

7 Q What did you then do, Lieutenant, in this case?

8 A Once we got everything secured on the scene as far as
9 City Avenue, my guys went back to the office and processed
10 everything that we had to get it ready to be put into
11 evidence. I worked on a warrant affidavit for Mr. Massey
12 for the -- now would be murder and the possession of a
13 firearm during the commission of a violent crime
14 affidavits. We knew the judges would be coming in
15 probably an hour -- judges get there on Saturday mornings
16 about 8:00 -- between 8:00 and 8:30, so I went ahead and
17 filled out the warrant affidavit request.

18 MS. COLLINS: I ask that these be marked as the
19 State's next two exhibits.

20 Q So at this point you yourself had interviewed
21 Sindarous Wells, correct?

22 A Yes.

23 Q He told you that the only two people in the living
24 room when Demarcus was shot was Demarcus and Mr. Massey,
25 right?

PHILLIP HALL - DIRECT

- 1 A He knew him as Urk.
- 2 Q He told you that they were the only two people in the
- 3 living room, right?
- 4 A Yes, ma'am.
- 5 Q And that he heard a gunshot, right?
- 6 A Yes, ma'am.
- 7 Q And that the victim fell back into the kitchen, right?
- 8 A Yes, ma'am.
- 9 Q And that the defendant fled, right?
- 10 A Yes, ma'am.
- 11 Q I'm going to show you what's been marked now as
- 12 State's Exhibits 38 and 39, and ask you, are those copies
- 13 of the warrants that you requested in this case?
- 14 A Yes, ma'am.
- 15 Q And, in fact, you yourself signed as affiant on those,
- 16 correct?
- 17 A Yes, ma'am, I did.
- 18 Q And one was for murder and one was for possession of a
- 19 firearm during the commission of a violent crime?
- 20 A Yes, ma'am, they were.
- 21 Q Were you involved at all with putting out a BOLO or be
- 22 on the lookout for Mr. Massey?
- 23 A Yes. Normally when we have a fresh case like that
- 24 we'll do a wanted poster with the suspect's name,
- 25 information, date of birth, last known address, any other

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1 contacts, friends that he may be associated with. In that
2 process we sent it out through the -- to the sheriff's
3 office, highway patrol and the surrounding counties.

4 Q And did you put it on the NCIC?

5 A Put it on NCIC.

6 Q What is that, the National Crime Information Center
7 computer?

8 A Yes, ma'am.

9 Q Like if somebody is stopped in a traffic stop it will
10 pull up?

11 A If he got pulled over in North Carolina, if they
12 would have ran his driver's license number or his name and
13 date of birth it would have showed up that he had an
14 active warrant here in Lancaster City inside Lancaster

15 County for a murder and the possession of a firearm during
16 the commission of a violent crime.

17 Q Was the warrant poster posted on the city's website,
18 the city police department website?

19 A I believe it was.

20 Q Y'all were making every effort to locate Mr. Massey,
21 correct?

22 A We were.

23 Q And this was well into that same day, early shooting,
24 just before 4:00. Up to lunchtime had you located Mr.
25 Massey?

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- 1 A Not at that time.
- 2 Q By suppertime had you located Mr. Massey?
- 3 A No.
- 4 Q By midnight had you located Mr. Massey?
- 5 A No, ma'am.
- 6 Q And then you went into the next day, correct?
- 7 A Yes, ma'am.
- 8 Q The next day, October 13th of 2013, did the defendant
- 9 ultimately turn himself in?
- 10 A He did.
- 11 Q Did you do anything else -- am I leaving anything out
- 12 between where you just ended doing the NCIC, BOLO, wanted,
- 13 up to the next day?
- 14 A No, ma'am, I didn't.
- 15 Q Next day is Sunday, right?
- 16 A Yes, ma'am.
- 17 Q You go to church, right?
- 18 A Yes, ma'am.
- 19 Q Did you receive a call that the defendant was turning
- 20 himself in?
- 21 A I received a call from his mom.
- 22 Q Tell me about that.
- 23 A Ms. Massey had called me -- I believe it was right
- 24 after church she called me, I was walking out the door and
- 25 said that she had located Allen and that he wanted to --

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1 and that they were on their way to the police department
2 to turn himself in. I had a function to do after church
3 with the church and told her that I would be there
4 shortly. I said, "I will call my captain and let them
5 know he is on the way up there and I appreciated her for
6 what she did to help us get him off the street.

7 Q And you told her you would personally interview him,
8 right?

9 A Yes, ma'am.

10 Q You wanted her to know that since she helped to get
11 him to you, correct?

12 A Yes, ma'am.

13 Q So church ends like just at noon, is that correct,
14 right around?

15 A Right around.

16 Q And then later on after your function with the church
17 you went on into the station?

18 A I called Captain Grant and told him that Mr. Massey
19 had turned himself in, and he also was doing something and
20 we had come up with a time to meet at the police
21 department at 3:00.

22 Q So you went to the police department at 3:00?

23 A Yes, ma'am.

24 Q Mr. Massey was already booked in and processed, had
25 been served with the warrants, was in a cell?

PHILLIP HALL - DIRECT

1 A Yes, ma'am, I believe so.

2 Q Did you have him brought out of the cell there at the
3 jail?

4 A We went back, myself and Captain Grant went and got
5 him.

6 Q And that's right there at the station, he's not yet at
7 the detention center, right?

8 A No, he was still in our facility.

9 Q And when you brought him out from where he was, did
10 you speak with him?

11 A I did. I brought him to my office, which is in the
12 same building, pretty much a straight shot from the jail
13 area down the hall was in our office, brought him in my
14 office, asked him if he needed anything as far as anything

15 to drink or anything like that, he stated no. I advised
16 him that we were video recording this interview and
17 advised him of his Miranda rights.

18 Q Tell us, what is Miranda rights?

19 A Miranda rights is the rights as a suspect, it tells
20 you you can remain silent if you want to, you can have a
21 lawyer present with you while you're being questioned.
22 You can stop talking at anytime you want to, and that we
23 can't use any kind of pressure or coercion to make you say
24 this or that.

25 Q And when you go through those rights with a suspect,

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1 do you go through a certain form and have him initial?

2 A Yes, ma'am. We have a Miranda form that we fill out.

3 Q I show you now what's been marked as State's 40, and

4 ask you, is that the original Miranda form?

5 A Yes, ma'am.

6 MS. COLLINS: By the way, I move in the two warrants.

7 MR. GRIER: Your Honor, I would have to have a bar

8 conference about that.

9 MS. COLLINS: Okay. About the warrants?

10 MR. GRIER: About the warrants.

11 (A bench conference was held.)

12 THE COURT: Are you offering?

13 MS. COLLINS: Yes, Your Honor. I'm offering State's

14 Exhibits 38 and 39 into evidence at this time, the two

15 arrest warrants.

16 MR. GRIER: Your Honor, I have no objection with them

17 going in with that agreement that there be some explanation

18 as the reason they're going in.

19 (The warrants were received as State's 38 and 39.)

20 THE COURT: All right. Ladies and gentlemen, arrest

21 warrants are documents that have to be approved by a Court

22 in terms of their form, and there has to be on the part of

23 law enforcement some what's generally known as probable

24 cause for a magistrate or a city judge to issue an arrest

25 warrant to have somebody arrested, and that's as far as it

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1 goes. I'm telling you this because you're going to have
2 those -- you're going to have all of this evidence when you
3 go to the jury room. This is not just a procedural
4 exercise that the attorneys are going through, this is
5 evidence that's going to be brought to you and you're going
6 to be able to look at everything and analyze it and give it
7 such weight as you determine it's entitled to. But in the
8 case -- specific case of arrest warrants -- I haven't read
9 them -- a lot of times they contain a lot of things that
10 the officer believes are true, which may not work out to be
11 true in the long run, but are simply given to the -- put on
12 the paper, given to the magistrate or city judge to give
13 him a basis for issuing a warrant to arrest a member of the
14 public.. So what I want to caution you is that the facts
15 that are contained in the -- alleged facts that are
16 contained in these affidavits are not any evidence of this
17 defendant's guilt or innocence. They are the beliefs of--
18 the officer, whether it's this officer or some other
19 officer, as to what took place or to serve as a basis for
20 an arrest of a citizen, but they're not to be used or
21 interpreted but you as any evidence of guilt. You can't --
22 I'm going to instruct you later, you're not to take the
23 arrest warrant and say "I know he is guilty because it says
24 so in this arrest warrant," so that's what defense counsel
25 has asked me to convey to you. They are just one of many,

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1 many documents that are being introduced into evidence in
2 this case, all of which you are to consider during your
3 deliberations. But only an arrest warrant -- in the case
4 of an arrest warrant, they're only to be understood by you
5 in the way I have explained it as the basis for issuing an
6 arrest warrant, what the officer believes that the facts
7 would support the arrest of a citizen. All right, you may
8 continue.

9 Q Thank you. You have before you State's Exhibit 40, is
10 it?

11 A Yes, ma'am.

12 Q Is that the Miranda rights form?

13 A Yes, ma'am.

14 Q Did you bring your reading glasses today?

15 A I didn't. I'm good.

16 Q Reviewing that form then, is that the original Miranda
17 rights form?

18 A Yes, ma'am, because it's in blue.

19 Q And did you read to him his rights?

20 A Yes, ma'am, I did.

21 Q And what rights did you tell him he has?

22 A I advised him that he had the right to remain silent,
23 that anything he said can and will be used against him in
24 a court of law. That he had a right to talk with a lawyer
25 and have him present with him while he was being

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1 questioned. If he could not afford to hire a lawyer one
2 will be appointed to represent him before any questioning
3 if he wished, and that he could decide at anytime to
4 exercise these rights and not answer any questions or make
5 any statements. And then I asked him if he understood --
6 the question is do you understand each of these rights
7 I've explained to you? And having these rights in mind
8 are you willing to talk to us at this time? And here at
9 the bottom of the waiver -- here at the bottom of the form
10 is a waiver of his rights and it reads, "I have read this
11 statement of my rights and I understand what my rights
12 are. I am willing to make a statement and answer
13 questions. I do not want a lawyer at this time, I
14 understand and know what I'm doing. No promises or
15 threats have been made to me and no pressure or coercion
16 of any kind has been used against me."

17 Q And he signed and initialed all of those, that he
18 understood his rights and he was waiving those rights to
19 give a statement to you?

20 A He initialed each Miranda and then he signed the
21 waiver down at the bottom where the signature is.

22 Q What was his education that he told you he had?

23 A These were some pre-questions that we asked him, what
24 was the last grade completed in school was 12th grade. I
25 asked him was he under the influence of any drugs or

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1 alcohol and he replied no. I asked him if he could read
2 and write the english language and he said yes.

3 Q And you and Captain Grant were there in your office
4 when you interviewed him?

5 A Yes, ma'am.

6 Q And you put that on videotape?

7 A Yes, ma'am.

8 Q And audio, correct?

9 A Huh?

10 Q Audio and video, correct?

11 A Yes, ma'am.

12 Q Prior to the video or audio starting, was there any
13 questioning of the defendant at all?

14 A Other than maybe if he wanted something to drink,
15 nothing in regard to the case itself.

16 Q And as reflected on there, you didn't promise him
17 anything in order to induce him to give a statement, you
18 didn't threaten him in any way in order to coerce him to
19 give a statement; is that right?

20 A No, ma'am.

21 Q And neither did Captain Grant, correct?

22 A No, ma'am.

23 Q It was just the two of y'all in there, correct?

24 A Yes, ma'am.

25 Q And after the defendant -- when he signed you noted

PHILLIP HALL - DIRECT

1 that he was left-handed; is that correct?

2 A Yes, ma'am.

3 Q And his entire statement was then on videotape,

4 correct?

5 A Yes, ma'am.

6 Q And after that videotape stopped at the conclusion

7 there's nothing further that we need to know about, no

8 further statements that we found in the videotape; is that

9 correct?

10 A No, ma'am. Everything as far as the case itself was

11 on video.

12 Q At the end I think y'all even asked -- and we'll see

13 this shortly that -- was there anything further, anything

14 further he wanted to say, you gave him that opportunity

15 before you ended the tape, correct?

16 A Yes, ma'am.

17 Q Now, at the time that the defendant turned himself in,

18 was his gun brought into the department too?

19 A Yes, ma'am. Ms. Massey brought it with her when they

20 brought Mr. Massey.

21 Q The exhibit in front of you, I think it's 16, is that

22 the firearm that was brought in with the defendant?

23 A Yes, ma'am.

24 Q And his mother?

25 A Yes, ma'am.

PHILLIP HALL - DIRECT

1 Q And did Lieutenant Greenlee get that and give that to
2 you?

3 A He brought it to our division and put it in our
4 office.

5 Q And ultimately you or Captain Grant put it into
6 evidence?

7 A Captain Grant did.

8 Q Were there any bullets with it? Was it loaded at the
9 time y'all received it?

10 A When we got it the only thing that was in the actual
11 cylinder was a fired cartridge.

12 Q And a fired cartridge means like a shell that's -- a
13 residue that is left behind when a bullet is fired?

14 A It's the actual part of the bullet that houses the
15 primer, gunpowder and lead.

16 Q But no other bullets were in it?

17 A No, ma'am.

18 Q How about the defendant's clothing from the incident,
19 did he bring you the clothing that he had on at the time
20 the incident happened?

21 A Not to my knowledge.

22 Q So you weren't able to see how much he bled from his
23 mouth wound?

24 A No, ma'am.

25 Q You weren't able to see if it bled on his clothing

PHILLIP HALL - DIRECT

1 that he had on that night?

2 A No, ma'am.

3 Q And you weren't able to see if there was any stippling
4 on his shirt; is that right?

5 A No, I wasn't.

6 Q Stippling being that gunshot residue you spoke about,
7 right?

8 A Yes, ma'am.

9 Q Did you assist in taking photographs of the defendant
10 at his request of a mouth injury?

11 A Yes, ma'am, I did.

12 Q Did you, in fact, take those?

13 A Yes, ma'am.

14 MS. COLLINS: Ask that these be marked as the State's
15 next three exhibits. I offer at this time since he's not
16 objecting State's Exhibits 41, 42 and 43 into evidence at
17 this time.

18 THE COURT: Without objection?

19 MR. GRIER: No objection.

20 (The photos were received as State's 41-43.)

21 Q Are these fair and correct copies of the photographs
22 that you took of Mr. Massey at that time of -- I guess you
23 said it was about 3:00 that you got there on October 13th
24 of 2013?

25 A Yes, ma'am.

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1 Q And that was at his request when he made you aware of
2 a lip injury?

3 A Yes, ma'am.

4 Q And did he make you aware of any other injury that he
5 wanted you to take a picture of?

6 A The only thing he made mention of during his
7 statement was he got punched in the mouth, or punched in
8 the face.

9 Q I'm sorry?

10 A He got punched in the face.

11 Q He never mentioned any other injury from falling or
12 hitting his head?

13 A Never.

14 Q He didn't ask you to take a picture of anything else?

15 A The only thing he wanted us to take a picture of was
16 his lip. And I stand corrected, this is the department
17 camera, not my phone because it's time-stamped.

18 Q So you don't know if you actually took it. But are
19 those fair and accurate photos --

20 A No, I took these pictures. I'm saying I thought I
21 did it on my work phone but it was the camera because the
22 times are off on it.

23 Q But they're fair and accurate?

24 A Yes.

25 Q Is the time off on it? What does it say on the time?

PHILLIP HALL - DIRECT

- 1 A It's saying 2:57.
- 2 Q Would that be about an hour then off?
- 3 A Yeah.. Like I said, this was at the end of the
- 4 statement and we started the interview at 3:15.
- 5 Q Okay.
- 6 A So I know the camera time was off.
- 7 Q Maybe by daylight savings time?
- 8 A Yeah.
- 9 Q But is the date right?
- 10 A The date is correct, yes.
- 11 Q 10/13 of '13?
- 12 A Yes, ma'am.
- 13 Q Now, because Mr. Massey was no longer at the scene
- 14 when y'all went there and because he didn't immediately
- 15 turn himself in the early morning of the shooting, you
- 16 don't personally know whether or not that lip injury
- 17 occurred at the time of any interaction with Demarcus
- 18 Robinson or later as he fled and ran away, do you?
- 19 A I do not.
- 20 Q All you know is that when he turned himself in at that
- 21 time he had an injury and he asked y'all to photograph it,
- 22 correct?
- 23 A Right.
- 24 Q One moment.
- 25 (Break in proceedings.)

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1 MS. COLLINS: Thank you, Lieutenant Hall, please
2 answer any questions of Mr. Grier.

3 MR. GRIER: Give me one minute, I think I can cut my
4 time in half.

5 THE COURT: All right.

6 (Break in proceedings.)

7 CROSS EXAMINATION

8 BY MR. GRIER:

9 Q All right. Lieutenant, how are you doing this
10 afternoon?

11 A Doing pretty good.

12 Q Are you familiar with what that would be, Lieutenant?

13 A It's the SLED report.

14 Q And it's a SLED report of what?

15 A From the toxicology department.

16 Q All right. And you've seen many of those, have you
17 not?

18 A I've seen a few, yes, sir.

19 Q And so you see the ethanol level on that?

20 A Yes.

21 Q If you were -- determined that somebody's blood
22 alcohol level was .159, what would be your response to
23 that?

24 A If he was driving he would be been going to jail for
25 DUI.

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1 Q And, in fact, the presumption of impairment is now --
2 what is the presumption of impairment, the blood alcohol
3 level?

4 A .08.

5 Q Okay. And so that number is about twice that.

6 A Correct.

7 Q Okay. Now, you shoot a lot of firearms, you've got to
8 practice and you are very knowledgeable -- now, are you
9 right-handed or left-handed?

10 A I'm right-handed.

11 Q Can you shoot with both hands?

12 A Yes.

13 Q Do you practice with that?

14 A Yes.

15 Q All right... So do you ever in an emergency situation
16 or, you know, when you're actively involved in a case, do
17 you ever use your left hand? When would you use your left
18 hand?

19 A If my strong hand was wounded or broke or something.

20 Q Okay. But other than that ordinarily you are going to
21 use your right hand, you're not going to use your left
22 hand.

23 A Right.

24 Q Okay. You got called in that night, too, or you were
25 on call the night of --

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1 A I'm on call 24/7, but I'm not the primary detective.

2 I have two investigators covering and --

3 Q You're never off duty particularly on a homicide.

4 A Correct. Like I said, if we have a shooting or a

5 major case the whole division comes.

6 Q Okay. Now, did you say that you listened to your

7 radio when you're off duty typically?

8 A Yeah. Because I'm a fire fighter too, so it stays on

9 24/7.

10 Q Now, were you listening to your radio earlier in the

11 evening before the [REDACTED] City Avenue call? Do you recall

12 hearing of another shooting that the city responded to

13 earlier in that evening?

14 A I don't recall.

15 Q Have you become familiar with the city responding to

16 another shooting earlier in that evening at Wiley Park

17 Road? During the course of this investigation and our

18 proceedings have you become --

19 A If it would have happened in the city we would have

20 been notified so it must have been a county case.

21 Q Yeah. If it ultimately ended up being in the county,

22 that gets confusing sometimes. Y'all gets calls that end

23 up in the county and --

24 A Right.

25 Q -- firefighters, you know, have the same issues

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1 sometimes, don't they?

2 A Yes.

3 Q But you don't recall having knowledge of a shooting
4 prior in the evening.

5 A I do not.

6 Q Fair enough.

7 MR. GRIER: Thank you, Lieutenant. Have a good
8 afternoon.

9 REDIRECT EXAMINATION

10 BY MS. COLLINS:

11 Q In regard to the BA you said for operating a motor
12 vehicle it's .08 now but it used to be .10 for the
13 inference that you're impaired and can't operate a motor
14 vehicle, right?

15 A I don't deal with DUI's.

16 Q But bottom line is earlier Mr. Grier had asked a
17 witness about an ethanol level of .159 being 16 times a
18 threshold level. It's not 16 times --

19 A If you drink one beer you'll blow a .08 as far as a
20 DUI, so that tells me he probably had two beers.

21 MS. COLLINS: Thank you, Lieutenant.

22 MR. GRIER: And for the record, Your Honor, I call it
23 presumption and she correctly called it an inference, it
24 makes no difference, but --

25 THE COURT: All right. You may step down, thank you,

PHILLIP HALL - CROSS

1 sir.

2 MS. COLLINS: We ask that this witness be excused.

3 MR. GRIER: No objection.

4 THE COURT: ~~He's excused, you're free to go. All~~
5 right, ladies and gentlemen, we're going to take our lunch
6 break at this time. I will ask you to be back in the jury
7 room at 2:00 and we will continue the trial. Again, don't
8 discuss the case among yourselves when you return to the
9 jury room or with anyone else over the lunch hour. Have a
10 pleasant lunch, we'll see you at 2:00. Thank you very
11 much.

12 (The jury left the courtroom and a lunch break was
13 Taken.)

14 MS. COLLINS: At this time we want to make you aware,
15 I had previously asked the family to ask Rashawd Robinson
16 to get in touch with me and I never heard and never
17 received word from him or been able to talk to him. When
18 Mr. Grier brought up that he is now in the detention center
19 I asked that they bring him over and he spoke with Mr.
20 Edgerton. He is facing pending charges and awkwardness is
21 what I need to make you aware of --

22 THE COURT: What?

23 MS. COLLINS: Why I need to make you aware of the
24 awkwardness is that Mr. Grier represents him on those new
25 charges. I asked him what we were going to do about that

1 and he said --

2 MR. GRIER: Judge, I had not discussed it with him
3 because quite frankly I didn't recognize that he was the
4 same person.

5 THE COURT: Is he on your witness list?

6 MS. COLLINS: He was on the defense witness list so he
7 has been listed as a witness, and we would call him at this
8 time briefly to ask about that incident with Mr. Massey
9 earlier in the evening. He's listed -- I had him on my
10 witness list originally and Mr. Grier has him on his list
11 too.

12 MR. GRIER: I have him on my witness list, Your Honor,
13 but she did not have him on her witness list.

14 MS. COLLINS: I didn't initially?

15 MR. GRIER: She did, I'm sorry. I had the potential
16 for calling him as a witness, Your Honor, but I never
17 discussed this matter with him. I met with him very
18 briefly at the jail right after I was appointed to
19 represent him.

20 THE COURT: What's his name, Renee Robinson?

21 MR. GRIER: Rashawd. Your Honor, I would conflict out
22 as far as Rashad Robinson goes. In my opinion I would
23 conflict out on that case obviously.

24 THE COURT: On his pending charges?

25 MR. GRIER: It is pending charges.

1 THE COURT: You're suggesting you would conflict out
2 on his pending charges, is that what you're saying?

3 MR. GRIER: Yes, sir.

4 THE COURT: -- Of course, they have nothing to do with
5 this case, does it?

6 MR. GRIER: They don't. And I might not have a true
7 conflict, but if he's got some true issues with it being a
8 conflict then I would conflict out.

9 THE COURT: In which case he would need counsel, or I
10 would advise him -- I would strongly suggest that he had
11 counsel because I don't know what's going to be asked of
12 him. What's he charged with now?

13 MS. COLLINS: Assault and battery.

14 MR. GRIER: Yeah, some kind of assault.

15 THE COURT: What's the relationship between he and
16 your client?

17 MR. GRIER: It would be none, Your Honor. It's
18 alleged that -- Sindarous Wells testified --

19 THE COURT: I know that, but other than that.

20 MR. GRIER: They're not related, they just know each
21 other from the neighborhood. Judge, in the Jackson versus
22 Denno my client turned States evidence in a case that
23 resulted in him going to prison.

24 THE COURT: That's the one where he said he thought he
25 deserved --

1 MR. GRIER: He was a snitch and --

2 THE COURT: -- whatever it was.

3 MR. GRIER: Yes, sir.

4 THE COURT: I'll let you call him but I would have to
5 give him fair warning.

6 MS. COLLINS: Certainly. And I don't know if you
7 wanted to inquire with him outside of the jury's presence
8 in terms of --

9 THE COURT: Oh yeah.

10 MS. COLLINS: If he's invoking his right to counsel --
11 he may have told Mr. Grier something as his attorney as to
12 prior perjury or something like that that he would know
13 because of being his attorney.

14 MR. GRIER: Your Honor, all I can tell you is that I
15 recall that he maintained his innocence on the pending
16 charges, I do recall that.

17 THE COURT: Everybody does. I'm just kidding.

18 MR. GRIER: So that's really the only thing that
19 comes --

20 THE COURT: Bring him in.

21 MS. COLLINS: He would be my first witness.

22 THE COURT: All right. You're calling Rashawd
23 Robinson.

24 MS. COLLINS: Yes, sir.

25 The witness, RASHAWD ROBINSON, was first duly sworn

1 And testified as follows:

2 EXAMINATION

3 BY THE COURT:

4 Q How are you doing?

5 A I'm doing all right.

6 Q You Rashawd Robinson?

7 A Yes, sir.

8 Q And I understand that you're in custody now for some

9 charge of assault and battery or something like that; is

10 that correct?

11 A Yes, sir.

12 Q All right. Do you know Allen Wesley Massey?

13 A Yes, sir.

14 Q Are you related to him or kin to him?

15 A No.

16 Q How do you know him? From school?

17 A I know him from the same neighborhood.

18 Q Well, he's on trial for a shooting that occurred back

19 in 2013, do you know anything about that?

20 A I know he shot my cousin.

21 Q Okay. Your cousin is --

22 A Demarcus Robinson.

23 Q -- was Demarcus. All right. Now, Mr. Grier here, do
24 you know him?

25 A Yeah.

RASHAWD ROBINSON - COURT EXAMINATION

1 Q He represents Mr. Massey and he represents you?

2 A Yes, sir.

3 Q The State, the solicitor wants to ask you some

4 questions about what you know about this case from back in

5 2013. Now, Mr. Grier can't represent both of you if

6 there's any kind of conflict, you may have just told me

7 because it was your cousin that it might -- in other words,

8 you have a right not to talk to these people, or you can

9 talk to them. But you also have a right to have an

10 attorney because anything you say might be used against

11 you. Now, the charges you have don't have anything to do

12 with this, do they?

13 A No.

14 Q So I can't tell you whether or not you should answer

15 their questions.

16 A So are you telling me he can't represent my cases

17 or --

18 Q No. I'm saying he can't -- well, that's going to

19 be -- if it's a conflict between you and Mr. Massey he's

20 got to represent one or the other. Now, he's representing

21 Mr. Massey at this time.

22 A Right.

23 Q When this case is over -- and it's going to be over

24 this week --

25 A Uh-huh.

RASHAWD ROBINSON - COURT EXAMINATION

1 Q -- if you still want him to represent you he can
2 represent you, won't be any conflict, this case will be
3 over with and he can represent you.

4 A Right.

5 Q But I'm not telling you you have to answer this lady's
6 questions, you can or you can just say "I'm not going to do
7 it." The problem is without Mr. Grier advising you -- he
8 can't advise you what to do right now.

9 A Right.

10 Q He's got to look after Mr. Massey, he doesn't know --
11 he probably doesn't know what you know about this case. He
12 thinks he knows about what you know about this case but
13 he's not sure.

14 A Right.

15 MR. GRIER: Judge, can I interject? We have not
16 discussed this case at all, I was unaware of if at the
17 time.

18 Q Never discussed this case.

19 A No, I never discussed this case.

20 Q Well, how old are you?

21 A Thirty.

22 Q How far did you go in school?

23 A Tenth.

24 Q You understand what I'm telling you.

25 A Yes, sir.

RASHAWD ROBINSON - COURT EXAMINATION

1 Q Do you want to answer their questions?

2 A Yes, sir.

3 Q Okay. I've told you everything I know about it and

4 what your, you know --

5 A Don't have nothing to do with my cases, sir.

6 Q No, it doesn't as far as I know.

7 A It ain't got nothing to do with my cases.

8 Q All right.

9 THE COURT: Are you satisfied, Mr. Grier?

10 MR. GRIER: Your Honor, let me make sure my client
11 understands where we're at now.

12 (Break in proceedings.)

13 MR. GRIER: Thank you, Your Honor. I think that's
14 very appropriate that you do that line of questioning.

15 MS. COLLINS: And I would not ask him anything about
16 his pending charges, or frankly anything about his prior
17 time in-the department of corrections. But he does have
18 something that Mr. Grier could impeach him with if you want
19 to make him aware of that as to his prior-convictions, just
20 to ask him about but I'm not going to ask him.

21 BY THE COURT:

22 Q Have you got a record?

23 A I don't know if it's considered bad.

24 MR. GRIER: Well, Your Honor, I think I would have an
25 obligation to impeach him with his record, so --

RASHAWD ROBINSON - COURT EXAMINATION

1 THE COURT: We're not in front of the jury. You want
2 this testimony in front of the jury?

3 MS. COLLINS: I do.

4 THE COURT: Well, we're going to proffer it right now.

5 MS. COLLINS: I'll do it right now if you want me.

6 BY THE COURT:

7 Q If you've got a prior record they can -- because the
8 jury is going to come in in a little bit, not now, and if
9 you've got a record they can tell them that you have a
10 record.

11 A Yeah. Well, I've got a record.

12 Q You don't deny it.

13 A No, I don't deny it. I've got a record.

14 Q That's all he's saying, he can tell the jury about
15 your record.

16 A He can tell them about my record.

17 MR. GRIER: Well, I have a duty to ask him. I believe
18 that I would have a duty for Mr. Massey to ask him about it
19 to impeach him about his record, Your Honor.

20 THE COURT: Well, what is it?

21 MR. GRIER: Assault and battery of a high and
22 aggravated nature.

23 THE COURT: That's the only one?

24 MR. GRIER: That's the only impeachable offense.

25

RASHAWD ROBINSON - COURT EXAMINATION.

1 BY THE COURT:

2 Q In other words he wants to be able to tell the jury
3 that you have a record for assault and battery of a high
4 and aggravated nature.

5 MR. GRIER: That's right.

6 A He want to tell them that.

7 Q Not the whole record, I don't know what else is on the
8 record but that's the only one he can bring up.

9 A Oh, okay.

10 Q Are you ready to go?

11 A Let's go.

12 THE COURT: All right. Proffer.

13 EXAMINATION

14 BY MS. COLLINS:

15 Q Will you please state your name?

16 A Rashawd Robinson.

17 Q And do you know Allen Massey?

18 A Yes.

19 Q And do you know -- did you know Demarcus Robinson?

20 A Yes.

21 Q Were you related to Demarcus Robinson?

22 A Yes.

23 Q Did you have any interaction with Allen Massey during
24 the evening hours of October 11th of 2013?

25 A Yes.

RASHAWD ROBINSON - COURT EXAMINATION

1 Q The night before Demarcus died?

2 A Yes.

3 Q Okay. And where did you see Allen Massey?

4 A At a party at 16th Street.

5 Q Here in Lancaster?

6 A Yes.

7 Q Did anything happen between you and Allen Massey at
8 that party?

9 A Yes. Allen followed me around asking me for a
10 beverage and I would tell him no, so he kept walking up on
11 me asking for it and I held my arm to get back, and when
12 he didn't I slapped him. Then he pulled out a gun on me
13 and I slapped him again and my people's -- my cousin
14 stepped in front of us it was and was like, "You need to
15 go ahead and leave," and so I left.

16 Q So you left?

17 A Yeah, I left.

18 Q And who was your cousin that stepped in front of
19 y'all?

20 A Scooter Craig.

21 Q What was his name?

22 A It's a girl, Scooter.

23 Q It was a girl?

24 A Uh-huh.

25 Q And let me just ask you, back then were you about the

RASHAWD ROBINSON - COURT EXAMINATION

1 same size you are now?

2 A Yeah, probably a little smaller.

3 Q Okay. How tall are you?

4 A 5-10 or 5-11.

5 Q I'm sorry if it's rude, but how much do you weigh, or
6 did you weigh back then?

7 A About 220.

8 MS. COLLINS: Okay. All right. Thank you. Nothing
9 further.

10 EXAMINATION

11 BY MR. GRIER:

12 Q Mr. Robinson, are you aware that you have a criminal
13 record that you were convicted of an assault and battery of
14 a high and aggravated nature back in August of 2006?

15 A Yes.

16 MR. GRIER: I would -- as far as that goes, Your
17 Honor, I need to ask a few other questions.

18 Q Did you go to City Avenue ever on October 13th of
19 2013?

20 A Yes.

21 Q You went to City Avenue?

22 A Yeah. I wasn't standing over there on City Avenue at
23 that time.

24 Q Did you go over to the house of Malika and Shonettia's
25 on the night?

RASHAWD ROBINSON - COURT EXAMINATION

1 A No.

2 Q Okay. So you were not present on the night that

3 Demarcus got shot.

4 A No.

5 Q You didn't have any observations about what happened

6 that night.

7 A No.

8 MR. GRIER: Okay. That's all, Your Honor.

9 THE COURT: All right. How do you want to do this?

10 MS. COLLINS: I have nothing further, that would be

11 the extent of what I'm asking.

12 THE COURT: I'm saying procedurally, do you want him

13 to stay here?

14 MS. COLLINS: I would just have him stay there.

15 THE COURT: Bring the jury.

16 (The jury returned to the courtroom.)

17 MS. COLLINS: Thank, Your Honor. May it please the

18 Court? Your Honor, the State's next witnesses is Mr.

19 Rashawd Robinson.

20 The witness, RASHAWD ROBINSON, remained under oath and

21 testified as follows:

22 DIRECT EXAMINATION

23 BY MS. COLLINS:

24 Q Mr. Robinson, I think you were previously placed under

25 oath; is that correct?

RASHAWD ROBINSON - COURT EXAMINATION

1 A Yes, ma'am.

2 Q And you understand you're obligated to tell the truth
3 here today, correct?

4 A Yes, ma'am.

5 Q And your name is Rashawd Robinson?

6 A Yes, ma'am.

7 Q And how do you spell -- that's an unusual first name,
8 Rashawd?

9 A R-a-s-h-a-w-d.

10 Q Do you know the defendant, Allen Wesley Massey?

11 A Yes, ma'am.

12 Q And how do you know him, from the --

13 A From the same neighborhood.

14 Q So you've known him for many years?

15 A Yes, ma'am.

16 Q And did you know Demarcus Robinson?

17 A Yes, ma'am, my first cousin.

18 Q He was your first cousin?

19 A Yes, ma'am.

20 Q Do you recall the evening before Demarcus got shot on
21 the evening hours of October 11th of 2013?

22 A Yes, ma'am.

23 Q Did you happen to see Allen Massey out that night?

24 A Yes, ma'am.

25 Q Where did you see Allen Massey?

RASHAWD ROBINSON - DIRECT

1 A I seen him at a party in 16th Street.

2 Q And that's here in Lancaster, South Carolina?

3 A Yes, ma'am.

4 Q Did anything happen between you and the defendant at
5 that party?

6 A Yes, ma'am. Allen Massey followed around the party

7 asking me for a beverage and I wouldn't give it to him, I

8 was telling him to get back and when he didn't I slapped

9 him one time. He pulled a gun out on me again -- or once

10 and I slapped him again, then my girl cousin stepped in

11 front of us and I left. She told us we needed to leave so

12 I left.

13 Q So he was following you around asking you for a

14 beverage?

15 A Uh-huh.

16 Q What kind of beverage?

17 A Corona.

18 Q Is that a kind of beer?

19 A Uh-huh, beer.

20 Q And he wouldn't stay back so you slapped him?

21 A Slapped him once.

22 Q And you slapped him here on the face?

23 A Yes, ma'am.

24 Q With your open hand?

25 A Yes, ma'am.

RASHAWD ROBINSON - DIRECT

1 Q And then -- he said -- he did what?

2 A He pulled a gun out on me and I slapped him again.

3 Q You slapped him again even though he was holding a gun

4 on you?

5 A Because I didn't really see it at first until after

6 the second time I slapped him.

7 Q Okay. And then your girl cousin stepped in between

8 y'all and you left?

9 A Uh-huh.

10 Q Let me ask you please, Mr. Robinson, and I don't mean

11 to be overly intrusive, but are you about the same height

12 and weight now that you were back then roughly?

13 A Yes.

14 Q Okay. And what is your height?

15 A 5-10, 5-11.

16 Q And what did you weigh back then?

17 A About 220.

18 Q About 220?

19 MS. COLLINS: Thank you. Please answer any questions

20 of Mr. Grier.

21 MR. GRIER: Your Honor, can I have a conversation with

22 Ms. Collins about --

23 (Break in proceedings.)

24 CROSS EXAMINATION

25

RASHAWD ROBINSON - DIRECT

1 BY MR. GRIER:

2 Q Mr. Robinson, did you ever go over to [REDACTED] City Avenue
3 at the residence of Malika and Shonettia at all that
4 evening?

5 A No.

6 Q Okay. You say you had known Allen from around the
7 neighborhood for years?

8 A Uh-huh.

9 Q Mr. Robinson, you've actually got two convictions for
10 assault and battery of a high and aggravated nature, don't
11 you? Do you have a 2006?

12 A Yeah, I got one in 2006.

13 Q And then you got another one in 2010?

14 A Yeah.

15 Q Is that right?

16 A Yes.

17 Q Okay. So you have two convictions for that. You
18 don't know anything about what happened, you didn't see
19 anything that happened when Demarcus and Mr. Massey had
20 their confrontation.

21 A No.

22 MR. GRIER: Okay. Thank you. Nothing further. Well,
23 I'm sorry. May we approach?

24 (A bench conference was held.)

25

RASHAWD ROBINSON - CROSS

1 BY MR. GRIER:

2 Q All right. Mr. Robinson, back in 2010 you ended up
3 getting a sentence to going to prison as a result of that
4 conviction, didn't you?

5 A Yes.

6 Q And Mr. Massey had given a statement and cooperated
7 with the State in that prosecution against you back in
8 2010; is that right?

9 A Right.

10 Q Is that right?

11 A That's right.

12 MR. GRIER: Okay. Thank you very much.

13 MS. COLLINS: Nothing further.

14 THE COURT: Next witness?

15 MS. COLLINS: Thank you. The State's next witness is
16 Captain Scott Grant.

17 The witness, SCOTT GRANT, was first duly sworn and
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MS. COLLINS:

21 Q Captain Grant, would you please tell us your full
22 name?

23 A Thomas Scott Grant.

24 Q What is your occupation?

25 A I'm a police investigator for the City of Lancaster.

SCOTT GRANT - DIRECT

1 Q How long have you been employed with the Lancaster
2 Police Department?

3 A Since 1997.

4 Q —And is that the same length of time that you've been a
5 law enforcement officer?

6 A No, ma'am.

7 Q Tell us about your experience as a law enforcement
8 officer.

9 A Counting the time as a military policeman I've been a
10 law enforcement officer for 30 years, starting in the Army
11 and then with Salt Lake City, Utah where I worked for five
12 years out there. I then came here to the Lancaster County
13 Sheriff's Office where I worked four years before going to
14 the city.

15 Q What is your current role there with the city?

16 A I'm commander of the special operations.

17 Q And what is special operations?

18 A Special operations is a unit that involves criminal
19 investigations, gangs, narcotics and also SWAT team.

20 Q Would criminal investigations include what some
21 departments call like the detective division?

22 A Yes, ma'am.

23 Q To do a more thorough investigation after the
24 uniformed patrol officers do their first investigation?

25 A That's correct.

SCOTT GRANT - DIRECT

1 Q And you're over that entire unit?

2 A I am.

3 Q Were you over that unit in October of 2013?

4 A Yes.

5 Q Are you familiar with the case currently before the
6 Court, the murder and possession of a firearm charge and
7 commission of a violent crime pending against Allen Massey?

8 A Yes.

9 Q Were you and your unit that you supervised involved in
10 that investigation?

11 A Yes, we were.

12 Q When did you first become involved in that
13 investigation?

14 A That night.

15 Q And that's the early morning hours of October 12,
16 2013?

17 A Yes.

18 Q Did you receive a call about the shooting?

19 A I did.

20 Q And did you respond to that call?

21 A Yes, I did.

22 Q Where did you first go?

23 A To City Avenue, actually not necessarily at the house
24 because we had everything block off at that time, to City
25 Avenue and 15th Street is where I initially responded.

SCOTT GRANT - DIRECT

1 Q And when you got to the scene that was the home of
2 Malika Harris?

3 A Yes.

4 Q And Shonettia Hunter?

5 A Yes.

6 Q And, of course, that's within your jurisdiction.

7 A It is.

8 Q And when you got there, what did you do, Captain?

9 A After getting briefed on the situation I made some
10 assignments, and then went in and actually started
11 photographing and later collecting some evidence.

12 Q So you assessed what had already been done and you
13 directed your men and women to then continue in different
14 various forms of activity to do the investigation?

15 A That's correct.

16 Q And what did you personally do at that point?

17 A After making the assignments and getting then briefed
18 by my investigators, I actually went in, walked through
19 the scene, identified items of evidence, photographed
20 everything, and then Sergeant Burlingame and I actually
21 collected and packaged everything.

22 Q You and Sergeant Burlingame collected a black shirt
23 and a white shirt that were lying on the floor of the
24 kitchen in that residence?

25 A Yes.

SCOTT GRANT - DIRECT

1 Q Both appeared to have a bullet hole in them, correct?

2 A They did.

3 Q And y'all placed them into evidence, correct?

4 A We did.

5 Q There's been a picture introduced of the scene that I

6 want to show you. When you take photographs of the

7 scene -- you said you took photographs of the interior; is

8 that right?

9 A Yes.

10 Q Do you just use -- this happened in the early morning

11 during the evening, the nighttime hours, correct?

12 A That's correct.

13 Q Do you just use the lighting that's available there in

14 the home or do you have a flash?

15 A We have a flash but don't necessarily use it just

16 because we have it.

17 Q I want to show you what has been marked as State's

18 Exhibit 11 and ask you, do you recall if you used the flash

19 to take that photo, or do you recall?

20 A I don't believe I did. Honestly I can't recall, but

21 this picture does not look like I used a flash.

22 Q And you see -- you can't tell whether or not the

23 living room light appears to be off, but you didn't go in

24 the living room before that to -- or talk to a witness to

25 ascertain was this the same lighting as at the time the

SCOTT GRANT - DIRECT

1 incident happened, the lighting that I'm now taking it, did
2 you?

3 A No. When I first walked in the living room I
4 distinctly remember the light being on.

5 Q In the kitchen?

6 A No, in the living room.

7 Q In the living room, too? Okay. And, of course, when
8 you got there was the victim already taken to the
9 ambulance?

10 A Yes. He was already -- actually at the hospital
11 being loaded up into a helicopter.

12 Q So people had come in the house, dealt with the victim
13 and taken him out, right?

14 A Correct, yes.

15 Q And other officers -- your understanding was the
16 defendant was still at large, correct?

17 A Correct.

18 Q And so other officers had a made a protective sweep
19 through the house to make sure everything was secured and
20 no one was staying in the house with a firearm, right?

21 A That's correct.

22 Q So at the time you took it then you don't know, or at
23 the time you walked in and saw the living room light on you
24 don't know if that light was on at the time of the
25 incident, do you?

SCOTT GRANT - DIRECT

1 A No.

2 Q Now, in addition to taking photographs there at the
3 scene and collecting the clothing of the victim there at
4 the scene, did you observe any blood at the scene?

5 A Yes.

6 Q And where was that located?

7 A There was some blood in the kitchen floor, not very
8 much at all but there was some there. And there was a --
9 like a large fairly large blood smear on the door itself,
10 front door.

11 Q Was that on the wooden front door or on the screen
12 door?

13 A There was some on the screen, that was the large
14 part, on the screen.

15 Q And did it appear to be fresh to you or dry?

16 A Yes. It was still wet, it was definitely fresh.

17 Q And what then did you do based upon your training and
18 experience as an officer?

19 A We photographed it and we also took a sample so we
20 could later send it to the SLED lab to try to determine
21 whose blood it was.

22 Q And you did, in fact, submit that to SLED to be
23 tested, correct?

24 A Yes.

25 Q When you take a sample, is that basically using like a

SCOTT GRANT - DIRECT

1 swab, kind of like a Q-tip?

2 A That's correct.

3 Q And you take that and secure it?

4 A Yes.

5 Q I show you what's been marked as State's Exhibit

6 Number 44 and ask you, is that a --

7 MR. GRIER: Your Honor, no objection to it going into
8 evidence.

9 MS. COLLINS: I move this into evidence at this time.

10 THE COURT: All right.

11 (The photograph was received as State's 44.)

12 Q For reference for the jury though I will go ahead and
13 ask you, does that appear to be a picture you took of the
14 blood on the screen door?

15 A It does.

16 Q And was that on the interior of the screen door as
17 you're going out of the residence?

18 A Correct.

19 Q It looks pretty large looking at it there. Can you
20 just tell us approximately how much inches across it was?

21 Was it like the size of my palm or smaller or bigger?

22 A Probably like two inches or something like that.

23 Q Okay. Thank you. Did you direct some of your
24 officers to make efforts to locate the defendant?

25 A I did.

SCOTT GRANT - DIRECT

1 Q You sent them to the home of the defendant's mother?

2 A Yes, I did.

3 Q Did you continue to stay and process the crime scene?

4 A I did.

5 Q When you concluded your work in collecting evidence
6 and processing the crime scene, where did you go?

7 A Well, we stayed at the house until everything -- the
8 scene until everything was done there. And then at some
9 point we left there, I couldn't tell you what time it was,
10 I know it was daylight that morning, and we went back to
11 our division area where we packaged and documented the
12 evidence and got that ready to be submitted to our
13 evidence facility.

14 Q And during that time was word received that the
15 victim, in fact, had passed away?

16 A Actually we knew the victim passed away prior to us
17 leaving the house.

18 Q And the entire time that y'all were there still at the
19 scene processing it until you left, did the defendant ever
20 return to the scene?

21 A He did not.

22 Q Did he ever go to the station and turn himself in that
23 day and say, "I want to talk," or just turn himself in that
24 day?

25 A No.

SCOTT GRANT - DIRECT

1 Q What did you do when you left the scene?

2 A Went back to the station, packaged the evidence,
3 processed that. There's a lot of paperwork that goes
4 along with documenting evidence and submitting it to SLED
5 for analysis, we completed all of that. And then also
6 have supervisory duty as far as seeing what else has been
7 done, what else needs to be done and advising other
8 investigators as far as that stuff goes.

9 Q By noon that day had the defendant turned himself in?

10 A No.

11 Q By 5:00 p.m. had the defendant turned himself in?

12 A I think we're getting close, I don't remember the
13 exact time.

14 Q This is the same day of the shooting.

15 A Oh, no.

16 Q And by that evening hours when you went home to your
17 family had the defendant yet turned himself in?

18 A No, ma'am.

19 Q Did you prepare a press release before you left that
20 day?

21 A I did.

22 Q Y'all were making every effort to bring him in; is
23 that correct?

24 A That's correct.

25 Q The next morning, what time did you report the next.

SCOTT GRANT - DIRECT

1 morning approximately?

2 A The next morning was an off day so I didn't report to
3 work. At some point I did receive a call stating that Mr.
4 Massey had -- that there had been some contact made
5 through some family members and he was indeed going to
6 turn himself in.

7 Q So when you woke up Sunday morning he had not yet
8 turned himself in.

9 A No, ma'am.

10 Q So ultimately Sunday afternoon after receiving that
11 call you received word he had, in fact, turned himself in
12 and you went to the station?

13 A No. I received word that he was going to turn
14 himself in and Lieutenant Hall and I responded to the
15 station to await his arrival if he did indeed do so.

16 Q And he did do so.

17 A Yes, he did.

18 Q And when he did come to the station, did you interview
19 him?

20 A Yes.

21 Q Did you and Lieutenant Hall do that in Lieutenant
22 Hall's office?

23 A Yes.

24 Q And did you ask him questions to make sure that he
25 wasn't under the influence of any alcohol or drugs at that

SCOTT GRANT - DIRECT

1 time?

2 A We did.

3 Q And you told him his Miranda rights, or you were there
4 when Lieutenant Hall went over those.

5 A Yes.

6 Q And you along with Lieutenant Hall never made him any
7 promises of any rewards or any threats to coerce him to get
8 him to give a statement to y'all and waive his rights, did
9 you?

10 A No, ma'am.

11 Q And did he ultimately waive his right to remain silent
12 and waive his right to an attorney at that time and say he
13 wanted to answer your questions?

14 A He did. He seemed very eager to tell his side of
15 what happened.

16 Q And did y'all record that?

17 A Yes.

18 Q And have you had an opportunity to review that DVD?

19 A I have.

20 Q And is it a true and fair and accurate recording of
21 the interview as he gave it that day in y'all's department?

22 A Appears to be, yes.

23 MS. COLLINS: Your Honor, I move State's Exhibit 3
24 into evidence at this time.

25 MR. GRIER: Your Honor, may we have a side bar?

SCOTT GRANT - DIRECT

1 (A bench conference was held.)

2 MR. GRIER: Your Honor, that would be over my
3 objection to that one portion of it.

4 THE COURT: All right. Overruled.

5 MS. COLLINS: Thank you, Your Honor. At this time I
6 would like to publish that statement to the jury and I
7 would like the assistance of Mr. Edgerton. As explained
8 earlier, for some reason with our system here we have to do
9 the audio from here and the video from here, and it's very

10 frustrating, but that's how we have to do it.

11 (The DVD was played.)

12 Q Captain Grant, in the video you were part of that, you
13 were sitting there, we see you come in and sit in the
14 corner, the right corner as the camera was facing Mr.
15 Massey, right?

16 A Yes, ma'am.

17 Q And you asked the defendant several times what was the
18 difference between the incident with Rashawd and the
19 incident with Demarcus Robinson, do you remember that?

20 A Yes.

21 Q You asked him several time why he did not use the gun
22 with Rashawd but he did use the gun with Demarcus, right?

23 A Yes.

24 Q Why was it important to you to know the answer to that
25 question?

SCOTT GRANT - DIRECT

1 A Well, it's to contrast the two incidents. Because it
2 happened -- they were very similar, about as similar as
3 you could make two incidents and they happened at a very
4 close period of time, his situation of being armed was the
5 same during both of them. And just to contrast the two
6 incidents and see why in one incident he chose not to
7 bring a firearm into the situation and in the other
8 incident he did.

9 Q And at the conclusion of that y'all still went forward
10 with the charges, correct?

11 A Yes.

12 Q Did you note at the beginning of the video when he
13 talked about the incident with Rashawd, that he said as to
14 Rashawd "I had been drinking that night and I wasn't in any
15 shape to fight," do you remember that?

16 A Yes.

17 Q And then he used those same words again when he was
18 talking initially about the incident with Marcus, didn't
19 he?

20 A Same exact words, yes.

21 Q And it wasn't until later he mentioned about having
22 testified against Rashawd or having turned State's evidence
23 or been a snitch against Rashawd, that he indicated that,
24 "Well, I felt I deserved that," right?

25 A That's correct.

SCOTT GRANT - DIRECT

1 Q Was that the extent of his statement to law
2 enforcement?

3 A Yes.

4 Q In other words, he didn't say anything else once that
5 tape stopped?

6 A Well, he talked but not in the form of a statement.

7 Q Okay. Y'all took photographs of him, correct?

8 A Yes.

9 Q And you took photographs of his lip area, correct?

10 A Correct.

11 Q I didn't quite hear you.

12 A Yes, that's correct.

13 Q And did he ever indicate to you he had any other
14 injuries whether to his head or anywhere else on his body
15 that he also wanted to show you?

16 A No, ma'am.

17 Q Did he ever indicate to you he wanted you to take
18 pictures of any other area of his body that may have been
19 hurt in the incident with Demarcus?

20 A No.

21 Q Of course, since he didn't turn himself in immediately
22 or didn't stay at the scene when y'all came or turn himself
23 in immediately after the incident, you don't know whether
24 the injury to his mouth happened there at the time with
25 Demarcus or later as he ran, or later as he waited to turn

SCOTT GRANT - DIRECT

1 himself in, do you?

2 A That's correct.

3 Q Did he bring to you the clothing he was wearing at the
4 time?

5 A No.

6 Q So you don't have that to see how much he might have
7 bled after he was supposedly hit in the mouth by Demarcus?

8 A No.

9 Q He said he had a hat on for like Los Angeles Kings was
10 it?

11 A Yes.

12 Q And said that he left it at his mom's before he turned
13 himself in; is that right?

14 A It was my impression that he just left it in the car
15 because he said he left it with his mother. I'm pretty
16 sure his mother came up with him.

17 Q Okay. And he brought up at one time about Navoney
18 Curry and you said -- I think it was your voice that said,
19 "We want to talk to everybody that there is who is willing
20 to talk to us," didn't you?

21 A Yes.

22 Q And at the time when you brought it up again you said
23 again that y'all welcome the opportunity to interview
24 Navoney Curry; is that right?

25 A Absolutely.

SCOTT GRANT - DIRECT

1 Q And to your knowledge, did Navoney Curry ever come in
2 and agree to give a video recorded statement?

3 A He came in one time, not in my presence, to my
4 understanding, and I think he spoke with Sergeant Small
5 but he would not give a statement.

6 Q And do you require as captain of your division that if
7 anybody gives a statement that it be recorded?

8 A Yes.

9 Q And so if someone comes in -- if I were to come in and
10 say, "Hey Captain Grant, I want to talk to you but I don't
11 want it to be recorded," what would your position be about
12 that?

13 A We may choose to talk to them at a later date but we
14 wouldn't be interested in taking a statement from them
15 right then in hopes that they would want to come forth and
16 actually give a statement.

17 Q So it could be memorialized and clear on video what
18 they said?

19 A Yes.

20 Q And at the end of his statement you gave him every
21 opportunity, and I think you or Lieutenant Hall said, "Is
22 there anything else, anything else you want to tell us?"
23 Do you remember that?

24 A Yes, ma'am.

25 Q And the defendant didn't tell you anything then about

SCOTT GRANT - DIRECT

1 Demarcus being supposedly known as the knockout king, did
2 he?

3 A No.

4 Q -- He didn't tell you anything then -- in fact, he never
5 used the word at all "I was scared," did he?

6 A No, ma'am.

7 Q He never once told you, "I was afraid at that moment
8 of Demarcus," did he?

9 A No.

10 Q He never told you he feared that he might be in a
11 situation where his life was threatened, did he?

12 A No, he did not.

13 Q He never said that he feared great bodily injury by --
14 or serious bodily injury by Demarcus, did he?

15 A No.

16 Q He said, "I had been drinking, I didn't feel like
17 fighting, I just was in no shape to fight," right?

18 A Correct.

19 Q He said he was hit one time in the mouth, right?

20 A Yes.

21 Q He said he fell backwards, was on his back, right?

22 A Yes.

23 Q And that Demarcus was coming at him with his fist
24 balled up and he thought it was going to happen again,
25 right?

SCOTT GRANT - DIRECT

1 A That's correct.

2 Q And he never once said he was scared, did he?

3 A No.

4 Q And he told you at that point he pulls out the gun, he

5 pulls the trigger and Demarcus Robinson is shot, right?

6 A Yes.

7 Q And he ran, right?

8 A He did.

9 Q And he ran and he stayed away and he hid away until
10 the next day, hours later, over 24 hours later, right?

11 A Correct.

12 MS. COLLINS: Thank you. Please answer any questions
13 of Mr. Grier.

14 THE COURT: Cross examination?

15 MR. GRIER: Your Honor, I think Ms. Collins and I have
16 a stipulation about some -- the 911 phone log for a call
17 about the Wiley Park.

18 MS. COLLINS: We do have an agreement. We have some
19 phone records from the county because it was in the county
20 about some shots that were fired in the Wiley Park area and
21 we have agreed to those coming in without the custodian.

22 THE COURT: Go ahead and mark them.

23 MS. COLLINS: No objection.

24 MR. GRIER: Your Honor, I would offer it as a
25 defendant's exhibit.

SCOTT GRANT - DIRECT

1 (The record was received as Defendant's Exhibit 5.)

2 MR. GRIER: I sent an email memorializing our

3 stipulation and it's -- we agreed to stipulate that there

4 ~~was a 911 call for a shooting at Wiley Street, the city~~

5 responded, it was a county call and Collins, the officer,

6 didn't find anything, so that's our stipulation.

7 CROSS EXAMINATION

8 BY MR. GRIER:

9 Q Captain Grant, were you working the night of October

10 13th of 2013?

11 A Not prior to this incident, no.

12 Q So you were called in because of that.

13 A Yes, sir.

14 Q Were you monitoring the radio or anything, were you

15 just enjoying the company of your beautiful wife?

16 A I was sleeping.

17 Q Oh, you were sleeping at that time, which you should

18 have been. And so did you learn of the city responding to

19 a call at Wiley Park at any point in your investigation?

20 A I did, yes.

21 Q Did you -- in the course of your investigation, did

22 you learn anything about who the suspects were in the

23 shooting? And when I say shooting, the discharge of a gun,

24 not the actual shooting of a person.

25 A I did not.

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1 Q Okay. You said you took the picture of -- the
2 pictures inside the home yourself?

3 A Yes.

4 Q And do you know whether the table was in the position
5 that it was in at the time of the shooting or had
6 potentially been moved or --

7 A I really don't know. I think from talking with the
8 folks we did talk to it was in the relative same position,
9 but to say it was bumped or pushed out of the way a
10 little it, I couldn't say that.

11 Q But to the best of your knowledge this would have been
12 the lighting at the time of the shooting. You don't know
13 anything contrary to that.

14 A I have no idea what the lighting was at the time of
15 the shooting.

16 Q Well, the lighting that you have here -- and you said
17 you didn't think you used a flash, correct?

18 A I don't think I did, no, sir, not on those pictures.

19 Q Right. But I would ask you to look at this Defense
20 (sic) Exhibit Number 11 and tell me, you know, what that --
21 not the notes on it, but what does that photograph tell you
22 about that crime scene?

23 A This is the kitchen area where, according to Mr.
24 Massey, that the shooting took place.

25 Q Okay. And you haven't been in the courtroom. You

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1 haven't been in the courtroom during these proceedings so
2 you haven't heard any of the testimony, but I would ask the
3 solicitor to agree those two red marks on the evidence in
4 the record is that those two red marks -- any objection.

5 MS. COLLINS: You can go ahead and say it and I will
6 say if I object.

7 Q The two red marks represent what Sindarous Wells said
8 that he saw where the feet of Marcus -- of Allen Massey
9 were at.

10 A Okay.

11 Q Okay. Now, based on what you see in that picture, if
12 someone were standing would the light from the kitchen be
13 illuminating them if someone were standing where those shoe
14 prints were at?

15 A I have no way of knowing that, especially with the
16 lighting that the living room was under.

17 Q The light that we have there -- and you took the
18 picture -- with the lighting that is present there you --
19 the living room -- there's a good bit of light in that
20 living room, isn't there?

21 A Yes.

22 Q Okay. All right. Thank you.

23 MR. GRIER: Beg the Court's indulgence.

24 (Break in proceedings.)

25 Q The pictures of Mr. Massey's -- well, these were the

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1 pictures that were taken of Mr. Massey at the time of the
2 interview as far as you know.

3 A Yes.

4 Q Did you examine his face at the time also?

5 A I did.

6 Q This picture is a little bit blurry, but can you tell
7 me what you observed about his lip?

8 A It definitely has some sort of trauma to it, upper
9 and lower.

10 Q And trauma being what?

11 A It's split.

12 Q Was it to both upper and lower?

13 A Yeah. There's a little bit on the -- I think that
14 one picture you can see a little bit on the upper lip on
15 the inside as well.

16 Q And so was that consistent with Mr. Massey's account
17 of being struck by Demarcus Robinson?

18 A Consistent with being struck in the mouth, by who I
19 can't say.

20 Q Okay. Fair enough. Did you examine Mr. Robinson's
21 clothing as well?

22 A I did, yes.

23 Q What is tattooing in terms of a gunshot?

24 A Like stippling or stippling depending on who
25 pronounces it.

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1 Q Are you familiar with the gun that was used in this?

2 A I am.

3 Q And what type of gun was it?

4 A ~~It was a New-England Firearms .32 revolver.~~

5 Q And did you examine the clothing and the tattooing --

6 are stippling and tattooing the same thing?

7 A Yes.

8 Q ~~That stippling would be indicative of -- would tell~~

9 ~~you what?~~

10 A Stippling is normally indicative of a fairly close

11 range gunshot.

12 Q Okay. And when you say fairly close, do you have any

13 kind of expertise to suggest how close that might be?

14 A It depends on what you were being shot with.

15 ~~Basically the more gunpowder available the longer that~~

16 ~~distance with stippling could occur is, it just depends on~~

17 ~~that.~~

18 Q Well, you're aware of what kind of firearm this is.

19 A Yes.

20 Q It's kind of -- is it a medium size --

21 A It's a relatively low powered weapon.

22 Q And does that tell you anything more about, you know,

23 about the distance that perhaps that your experience tells

24 you that the gun was discharged from?

25 A It was a relatively close distance. I can't say -- I

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1 don't have the ability to say how close.

2 Q You don't have that training. Fair enough. All
3 right. Well, Mr. Allen Massey was cooperative in his
4 interview.

5 A Yes. As far as coming in of his own volition and
6 answered our questions, absolutely.

7 Q Turned himself in after -- on the second day after
8 this event happened.

9 A Yes.

10 Q A little bit over 24 hours, I guess?

11 A Yes, sir.

12 MR. GRIER: Thank you, Captain Grant. That's all of
13 the questions I have for you.

14 MS. COLLINS: No further questions of this witness and
15 we ask that he be excused.

16 THE COURT: All right. You're free to go, thank you
17 very much.

18 MS. COLLINS: I would ask the Court's indulgence while
19 I speak to Mr. Grier for a moment.

20 (Break in proceedings.)

21 MR. GRIER: Your Honor, with regard to our stipulation
22 a few minutes ago about the county log of the phone call
23 concerning the gunshots on Wiley Street, the solicitor has
24 reminded me that we agreed that the county provided those
25 to the city and the city provided those to me at my

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1 request, the city provided me with that information; is
2 that right?

3 MS. COLLINS: Yes. Your Honor, may we approach real
4 briefly?

5 THE COURT: Yes.

6 (A bench conference was held.)

7 MS. COLLINS: Your Honor, at this time a couple of
8 more housekeeping matters. Mr. Grier has agreed to
9 stipulate to the fact, I know that I repeatedly asked
10 witnesses about this address, the scene of the crime, City
11 Avenue, being with the city limits of Lancaster, South
12 Carolina, and we would ask that the defense stipulate --
13 they agreed to stipulate that it is also in Lancaster
14 County, South Carolina.

15 MR. GRIER: Your Honor, it would be silly for me to
16 stipulate to that and make them put more witnesses to prove
17 something, so obviously I agree.

18 THE COURT: Okay.

19 MS. COLLINS: Thank you. And Your Honor, at this time
20 the State rests its case. Thank you.

21 THE COURT: That's it. That's all of the evidence you
22 will hear from the State, ladies and gentlemen. Now, the
23 defendant has the right, as I mentioned in my opening
24 remark, to present a defense if he wishes to do so, but I
25 need to inquire if he wishes to do so at this time and I

1 need to do that outside of your presence. So let's take an
2 afternoon break, take about a ten minute break and I'll be
3 back in touch with you as soon as I can. Again, don't
4 discuss the case among yourselves while you're in the jury
5 room. But we have completed the State's case.

6 (The jury left the courtroom.)

7 MS. COLLINS: And if I may put on the record. At a
8 side bar prior to resting we just asked in terms of Your
9 Honor taking judicial notice that murder is characterized
10 as a violent crime, we didn't feel it necessary to do that
11 in front of the jury at this time. Thank you.

12 THE COURT: I will do so. All right Mr. Grier, if
13 you will have your client stand, I want to advise him of
14 his rights at this point in time.

15 MR. GRIER: Thank you, Your Honor.

16 THE COURT: Mr. Massey, at this time I'm going to
17 explain to you certain of your rights. If you do not
18 understand anything I say please let me know. If you want
19 me to explain anything in more detail, please let me know,
20 do you understand?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: Okay. We've now reached the stage of the
23 trial where you may present your defense. You have the
24 right to claim the protections given to you by the 5th
25 Amendment to the Constitution of the United States. This

1 amendment states in part no person shall be compelled in
2 any criminal case to be a witness against himself. This
3 means that you cannot be required to testify in this case.
4 ~~You have the right to testify on your own behalf, however~~
5 no one can make you testify. This is a personal right and
6 no one can waive this right except you. If you decide to
7 testify you will be subject to the same rules that govern
8 other witnesses and you may be examined and cross examined
9 on any relevant issue in this case. In addition, if you
10 have any convictions involving dishonesty or false
11 statement or for crimes punishable by imprisonment for more
12 than one year and this Court determines that the probative
13 value of admitting this evidence outweighs its prejudicial
14 effect to you, the solicitor will be able to introduce your
15 ~~record to attack your credibility.~~ If you decide to
16 testify this decision on your part must be freely,
17 voluntarily and intelligently made with knowledge of the
18 protections given to you by the 5th Amendment of the
19 Constitution, and the consequences of your decision to
20 testify. If you decide not to testify, I will instruct the
21 jurors that they cannot give the fact that you did not
22 testify any consideration whatsoever and that there is to
23 be absolutely to be absolutely no prejudice to you because
24 you did not testify. It's left entirely up to you whether
25 or not you testified. You may talk with your attorney,

1 your family and friends or anyone else, but the final
2 decision would be left up entirely to you. Do you
3 understand what I have explained to you?

4 ~~THE DEFENDANT:~~ Yes, Your Honor.

5 THE COURT: Do you have any questions about what I
6 have explained to you?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Have you discussed with your lawyer
9 whether or not you should testify?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Do you wish to talk to your lawyer anymore
12 at this time?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: You want to talk to him a little bit more?

15 All right. We're going to take about a ten minute break.

16 MR. GRIER: Judge, I have two witnesses that are both
17 in custody, I have a couple of logistics issues that I need
18 to deal with, it may take me more than ten minutes to get
19 the logistics of everything together to get them in here.

20 And I am also going to review my witness list and I think I
21 can eliminate actually about four witnesses by discussing
22 it and reviewing a few of my notes. I would really like to
23 have 15 and possibly 20 minutes to be prepared to commence.

24 THE COURT: And I need your client's answer about
25 whether he plans to testify. He says he wants to talk to

1 you some more about that.

2 MR. GRIER: I was going to say in addition to that I
3 do have some other issue when we could reconvene if I could
4 ~~tell you what he desires to do in addition to those other~~
5 matters.

6 THE COURT: We'll stand at ease.

7 (Break in proceedings.)

8 (The jury returned to the courtroom.)

9 THE COURT: Ladies and gentlemen, I've been discussing
10 the procedure from here on out with the attorneys. It
11 appears to me that at this hour starting the defendant's
12 case is probably a little bit ambitious, there are a number
13 of things that Mr. Grier has to attend to before he starts
14 his case so I think the best and most sufficient use of our
15 ~~time will be to --~~ would be to go ahead and dismiss you now
16 for the day. It's obvious we were coming back tomorrow
17 anyway so I'll ask you to be back in the jury room at 9:30
18 tomorrow, from what I'm getting from the attorneys we
19 should be able to finish this case tomorrow, but don't make
20 plans to be out of town on Friday, but I think that's just
21 our estimate of the amount of time it's going to take to
22 wind this case up tomorrow. So with that in mind have a
23 pleasant evening, we'll see you tomorrow. Again, don't
24 discuss the case among yourselves when you return to the
25 jury room or with anyone else over the evening hours.

1 Thank you very much.

2 (The jury left the courtroom.)

3 (Court recessed for the evening and resumed at 9:30

4 ~~A.m. on Thursday, August 6, 2015.)~~

5 THE COURT: State ready to proceed?

6 MS. COLLINS: The State is ready.

7 THE COURT: Defense ready to proceed?

8 MR. GRIER: Defense is ready, Your Honor.

9 THE COURT: All right. At the conclusion of

10 yesterday's session I informed the defendant of his
11 constitutional rights to testify or not testify. And Mr.
12 Massey, I asked you yesterday afternoon if you were
13 prepared to testify. Are you prepared to answer that
14 question?

15 THE DEFENDANT: Yes, sir. ,

16 THE COURT: Do you plan to testify?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Fine. Thank you very much.

19 MR. GRIER: Your Honor, I think, you know, it would be
20 appropriate that I make my motion for a directed verdict as
21 well, certainly I maybe should have done that -- maybe I
22 should have brought that up before --

23 THE COURT: Absolutely. Please proceed.

24 MR. GRIER: Okay. Your Honor, I'm going to hand up --
25 and I think actually Ms. Collins originally supplied these

1 copies to me, these copies of the State versus Dickey case
2 which I'm going to -- Your Honor, the defense would argue
3 that Mr. Massey is entitled to a directed verdict at this
4 ~~point because the State did not present enough evidence to~~
5 go to the jury to prove that they -- that the defendant did
6 not act in self-defense. Your Honor, certainly there's all
7 of the evidence in the record was that he was a tolerated
8 guest at the house. Nobody indicates he was an intruder,
9 unwelcome or anything of that nature, I don't think there's
10 any evidence to suggest he was anything but there on the
11 premises lawfully. And at the time of the shooting if
12 there was any surprise in him being there then that was
13 certainly accommodated by them getting to have a good time
14 and to party all together. Your Honor, there's no evidence
15 ~~I submit that he used a gun or words with the intention of~~
16 provoking Robinson. You know, the only evidence of the gun
17 suggests that he carried the weapon only to defend himself,
18 that he armed himself that evening and he did not
19 anticipate a conflict certainly before the harm arose. So
20 in other words, I am submitting that his possession of that
21 gun as said in the Jackson versus Denno hearing in his
22 statement was only because of prior experience. He --
23 THE COURT: Are you suggesting he was lawfully armed?
24 MR. GRIER: I'm suggesting at the time of the shooting
25 that, you know -- well, the law is he had the right to

1 defend himself at the time of the shooting unless the
2 gun -- unless the gun was the proximate cause of the harm
3 to, you know, Mr. Robinson. And I don't believe there's
4 any evidence to suggest that the gun was the proximate
5 cause -- or that the gun was carried with the intention of
6 provoking Mr. Robinson. The State hadn't presented any
7 evidence that Mr. Massey's intent was to provoke Mr.
8 Robinson with the gun. Mr. Robinson was unaware that Mr.
9 Massey even had a gun at that time. And, of course, as
10 Judge Brown said in the immunity hearing that he suggested
11 that the words that Sindarous Wells alluded to could be
12 construed as fault on the part of my client. But I would
13 submit to you the words of Sindarous Wells were that Mr.
14 Massey pulled a gun after being struck and was acting in
15 defense of himself. And the real question, you know, were
16 the words that he used in telling that story intended to
17 provoke Marcus Robinson. The evidence is that there was no
18 fuss, nothing was said, you know, about that, and Sindarous
19 Wells said that there didn't appear to be any intention on
20 the part of Mr. Massey to provoke Marcus Robinson who told
21 him that, that they were fine after -- but that shortly
22 after that I believe when Massey turned away Robinson
23 struck him. So I don't believe there's any evidence that
24 Mr. Massey had any intention of provoking his friend,
25 Marcus Robinson. They had -- Marcus Robinson and him had

1 always been friends. He'd never had any difficulties with
2 Mr. Robinson, and he'd just recounted what had happened
3 earlier in the evening to him. Your Honor, in the Dickey
4 case, of course, it alludes to the fact that -- and the
5 reason I mentioned, there's nothing to suggest that he
6 armed himself that evening in anticipation of the
7 confrontation with Marcus Robinson, the Dickey case has
8 that language in it, that --

9 THE COURT: Well, Dickey carried the gun.

10 MR. GRIER: He had a concealed weapons permit.

11 THE COURT: He was a guard, he was a security officer.

12 MR. GRIER: Right. Nonetheless, you know -- and so
13 there's nothing in the record here that -- you know, the
14 State has shown no evidence that he armed himself that
15 night in anticipation of the confrontation with Mr.
16 Robinson. Your Honor, the credible evidence in the record
17 is that Robinson hit Mr. Massey first and advanced towards
18 him in an aggressive manner, nobody contradicts that. Now,
19 the only evidence contrary to it -- and not contrary to
20 that, but of anyone else that says they saw the encounter
21 was Malika Harris who says that she came out and they were
22 wrapped up and the gun was discharged while they were
23 wrapped up. Now, that doesn't -- that's not evidence of
24 what happened prior to the shooting, and so there's
25 nothing, you know, that would contradict the evidence in

1 the record of Sindarous Wells and Mr. Massey that Robinson
2 advanced towards him in an aggressive manner after he'd
3 already been struck. Your Honor, after what Ms. Malika
4 Harris' testimony is after being so, I would think,
5 thoroughly discredited by her own admission and by her
6 roommate, you know, that she even saw the shooting that
7 just doesn't contradict what happened before the shooting.
8 And I don't think there is any evidence to contradict that
9 Robinson came towards him aggressively because only
10 Sindarous Wells and my client saw that. Your Honor, and so
11 as to being without fault under Dickey, I don't think
12 there's any evidence in the record that Mr. Massey used the
13 gun in any way that would have been the proximate cause of
14 the harm. I don't think there's any evidence that he used
15 words with the intention of proving Mr. Robinson. Your
16 Honor, as far as the fear of serious bodily injury, we had
17 the testimony of Dr. Ross that she has done many autopsies
18 where fists do kill people. We had Mr. Massey's statement
19 not that -- not in his statement, he never alludes to Mr.
20 Robinson as the knockout king, but most certainly the
21 evidence is that he had been aggressive and had that
22 reputation, and even his own girlfriend said that she had
23 seen him knock out other people. And, you know, Mr. Massey
24 doesn't say anything about him being knockout king, he just
25 says that he knew about his reputation for harm to others,

1 so he knew what Mr. Robinson was capable of even though he
2 had never had to experience that himself. Your Honor, Mr.
3 Robinson had already struck him. I don't think there's any
4 evidence --- all evidence in the record of what happened
5 prior to the shooting was from Sindarous Wells and Mr.
6 Massey that Mr. Robinson had struck him, and I think that
7 was bolstered by, of course, the busted lip and other
8 evidence. Your Honor, the third prong of self-defense is
9 whether a reasonably prudent under the same circumstance
10 had reasonably feared serious bodily injury in this
11 particular case. Most certainly under the Dickey case and
12 the analysis posted in that case, I think that prong is not
13 met by the State to show that a reasonably prudent person
14 would not be in fear of similar circumstances -- I
15 apologize, that's not you know -- that's not their burden
16 except by reasonable doubt, but only to present a prima
17 facia case. But I don't think they've presented enough
18 evidence to rebut that a reasonably prudent person under
19 the circumstances of having been struck and having been
20 knocked to the floor, although that might be questionable,
21 but rather -- whether he was knocked to the floor or not is
22 really almost not relevant to the analysis here. If he was
23 being attacked and, you know, I think a reasonably prudent
24 person under the same or similar circumstances most
25 certainly would have been in fear of potentially being

1 seriously harmed, I believe that's common sense under the
2 circumstance. And lastly, duty to retreat. Now, Your
3 Honor, I would assert to you that based on Dr. Ross'
4 testimony, fists can be deadly weapons. She said that she
5 had done many autopsies where people were killed by fists,
6 and so to have them -- so in this particular case where I
7 think the evidence is you had the knockout king is knocking
8 out people, fists could be construed to be a deadly weapon
9 under the circumstances in this case, the evidence in this
10 case shows based on Dr. Ross' testimony. And the
11 significance of that is, there is no duty to retreat if
12 you're being attacked with a deadly weapon. The evidence
13 is that Mr. Massey knew of Mr. Robinson's reputation and
14 that I think it would suggest that he had no duty to
15 retreat, and likewise if you cannot retreat without
16 exposing yourself to additional harm then you have no duty
17 to retreat. Now, the evidence in the case is that when Mr.
18 Massey was standing or whether he had been knocked to the
19 ground or whether he was in between those two positions,
20 regardless of the positions, most certainly he would have
21 been on the ground, the testimony is it happened so quick.
22 Sindarous Wells said it happened within a couple of
23 seconds, there was never more than a few feet between them
24 under any version of the facts, and that had Mr. Massey --
25 after being struck and, you know, it is common sense that

1 after you're struck there is a moment, regardless of
2 whether you're knocked out -- and nobody says he was
3 knocked out, he doesn't say anything about that in his
4 statement -- but regardless, there is some instant of, you
5 know, of lost -- of being stunned or there's some reaction
6 time required to comprehend that you've been struck and
7 what's going on. The evidence in the record is that Mr.
8 Robinson was on top of him and at his feet and even under
9 Sindarous Wells, if the Court would look at that exhibit,
10 it has Mr. Massey's feet just right there by the threshold,
11 it has Mr. Robinson standing only a couple of feet away.
12 The evidence certainly is, you know, could and should be
13 inferred and I think does infer that had Mr. Allen
14 Marcus -- Allen Massey turned to retreat he would have
15 exposed himself to further injury and threat of bodily
16 harm. Your Honor, that is what I believe is -- that's my
17 perception of the evidence in the record. I do not believe
18 that the State has presented enough evidence to go to a
19 jury that would refute a self-defense allegation, or
20 defense allegations that Mr. Massey is making in this case.
21 And I believe that the appropriate thing to do under the
22 circumstances and in deference to Dickey would be to direct
23 a verdict in favor of the defense at this time and let's
24 all go home.

25 THE COURT: All right. What is the State's position?

1 MS. COLLINS: The State's position is that Dickey's
2 fact pattern is markedly different from the present one.
3 There were two men headed toward Dickey after they had been
4 ejected from Cornell Arms, and one of them was muscular and
5 younger than this elderly person who was serving as a guard
6 at Cornell Arms, and that he was reaching under his shirt
7 and ultimately law enforcement did find a broken bottle
8 found at the scene with the -- and it appeared that that's
9 what the victim was reaching for.

10 THE COURT: Well, in Dickey the evidence was
11 overwhelming that it was a self-defense case. I mean, they
12 chased him out of the building, went away, came back, made
13 threatening moves towards him. As you say, the facts are
14 considerably different when dealing with self-defense.

15 It's a pretty unusual case when the supreme court rules on
16 something that should have been ruled on at the trial
17 court. But nevertheless, let me hear your argument.

18 MS. COLLINS: I think the bottom line is that the
19 State is only required to disprove one of the four
20 elements. So apart from the first element focusing on the
21 last three, the middle two I would submit beg for this
22 Court to send the case to the jury. Whether or not the
23 defendant actually had the belief that he, in fact, was in
24 danger of losing his life or sustaining serious bodily
25 injury, his statement on the video is just that he never

1 once said he was afraid, he never once said he was scared,
2 he never once said he thought he might lose his life, he
3 never once on that video said he thought he might sustain
4 serious bodily injury or any lay words equivalent to that
5 legal expression. He just said he wasn't in any shape to
6 fight, he didn't feel like fighting. And then the critical
7 question that I think ultimately the jury -- it needs to go
8 to the jury on is whether or not the third element, whether
9 or not a reasonably prudent man of ordinary firmness and
10 courage would have entertained the same belief after
11 getting hit one time. There's been testimony that Mr.
12 Robinson had a nickname of knockout king, but there sure
13 hasn't been testimony that his nickname was killer, there
14 sure hasn't been testimony that he ever put one person in
15 the hospital. And I would submit to you that a man of
16 reasonable -- a reasonably prudent man of ordinary firmness
17 and courage would not have pulled out a gun and shot
18 someone who had been his friend for years. They've never
19 had any trouble together by the defendant's words, they
20 were always cool together, would reach in his pocket and
21 pull out a gun that the victim had no idea he had and
22 pulled that trigger which the SLED agent said took some
23 effort to do, it wasn't a hair trigger, and killed his
24 friend. I would submit that it should go to the jury on
25 that. Finally on duty to retreat. The testimony has been

1 clear that the defendant had a clear and unobstructed path
2 straight to the front door and he made no effort whatsoever
3 to do that, made no effort just to put up his arms and
4 fight himself. You can see on the video that he has
5 clearly defined biceps in the shirt that he's wearing
6 during the confession. He's a young man, he was able to
7 fight, he didn't make that effort at all, didn't cry out a
8 help to any of the other people to intervene. And I would
9 submit to you, Your Honor, that he had many other
10 alternatives and he didn't stop to -- he just immediately
11 reacted and shot this person and I would submit it should
12 go to the jury. Thank you very much.

13 THE COURT: Anything further?

14 MR. GRIER: Your Honor, you know, the essence of it
15 was that Mr. Massey would have a belief he would suffer
16 bodily injury based on his knowledge of Demarcus Robinson,
17 that was in the record, and certainly the State didn't
18 present evidence that would clarify that that should be
19 something that the jury should consider. All of the
20 evidence is is that -- the pathologist says that what Mr.
21 Robinson did to Mr. Massey with the first hit could have
22 caused him to sustain serious bodily injury, and most
23 certainly the threat of a second serious bodily injury
24 appeared imminent. Whether you believe Mr. Massey was on
25 the floor or whether you believe he was standing up, it

1 happened instantaneously, he didn't have an opportunity to
2 retreat because it happened so quickly. As Mr. Massey says
3 in his statement, "It happened so quick, it happened so
4 quick," you know, and when something happens so quick to
5 retreat would have involved having to turn around and run
6 that unobstructed path to the door, get through the door
7 with someone coming at you as the evidence suggests, coming
8 at you and attacking you from the rear and exposing
9 yourself to greater harm or serious bodily injury.

10 THE COURT: Well, I have been back through Judge
11 Brown's order several times and I keep reminding myself
12 that under -- that was a stand your ground hearing under a
13 separate statute. His findings -- I don't believe because
14 this is a separate hearing that I need to be bound by his
15 findings. But I would comment that his ultimate decision
16 was that this case presented a quintessential jury question
17 on the issue of self-defense and I think there has been
18 proof that it is indeed a self-defense question which could
19 go to the jury, but I don't think what I can do at this
20 point in the proceeding is take the case away from the
21 jury. The defendant has, if he wishes to avail himself of
22 the self-defense defense, he's got to prove it and then the
23 State must disprove it. And there are facts in the record
24 which I believe the jury could find or not find that the
25 State has not proven beyond a reasonable doubt that the

1 self-defense is not available to the defendant. And
2 that's -- there has to be some evidence with which to send
3 it to the jury to make -- give them a choice, a decision to
4 make and I think there is sufficient evidence in the record
5 to do that. I'm not the fact-finder in this case as Judge
6 Brown was in the stand your ground hearing under the
7 16-11-440, we're dealing with a similar but not identical
8 case here. Certainly Mr. Grier, you make an eloquent
9 argument for your client but I'm not a juror and I don't
10 pretend to be. If there are facts in the record from which
11 a jury could logically and reasonably believe that the
12 State has proven or disproven one of the elements of
13 self-defense, I think that's their decision and not mine.
14 So I must respectfully deny your directed verdict motion,
15 respectfully..

16 MR. GRIER: Thank you, Your Honor.

17 THE COURT: How do you wish to proceed?

18 MR. GRIER: Your Honor, I'm prepared to call -- to
19 present testimony.

20 THE COURT: All right. Are you ready for the jury?

21 MR. GRIER: Yes, sir.

22 THE COURT: Bring the jury.

23 (The jury return to the courtroom.)

24 THE COURT: Good morning, ladies and gentlemen. You
25 may continue with the trial.

1 MR. GRIER: Defense would call Dot Massey, Dorothy.
2 The witness, DOROTHY MASSEY, was first duly sworn and
3 testified as follows:

4 ~~-----DIRECT EXAMINATION-----~~

5 BY MR. GRIER:

6 Q Good morning, Ms. Massey.

7 A Good morning.

8 Q State your name for the jury, please.

9 A Dorothy Massey.

10 Q Ms. Massey, do you have any kind of relationship to
11 Allen Massey?

12 A Yes, he's my son.

13 Q Why haven't you been in the courtroom?

14 A I was outside, not allowed in because I was going to
15 testify.

16 Q All right. Have you been here throughout the
17 proceedings though?

18 A I have.

19 Q Have you been in the hallway?

20 A I have.

21 Q Okay. Ms. Massey, how many children do you have?

22 A I have six.

23 Q You have six children, and Allen is which --

24 A He's number three.

25 Q Okay.

DOROTHY MASSEY - DIRECT

1 A There's nine years difference and he's the third one.

2 Q You know, what are your other children doing
3 professionally?

4 A My oldest daughter, Veronica, works in Lancaster at
5 an assisted living for seniors, she writes, she's a pretty
6 good writer. My daughter, Leanna, works with security
7 at -- is it International Security? She works out at
8 Wal-Mart doing security, she's off work now on medical
9 leave. We come down to Nichole, who is sitting out there
10 in the green and white, she's a registered nurse. She
11 works in Columbia. Second daughter, or my fourth
12 daughter, Shonda, works was lab analyst and she lives in
13 Florence. My daughter, Cheryl, is my baby, and she has a
14 love for children so she works with autistic children as a
15 therapist.

16 Q Okay. Ms. Massey, what do you do?

17 A I work at DSS, I've been out there for 19 years. I
18 work with seniors, that's my passion.

19 Q You work with what?

20 A With seniors.

21 Q I guess I'm one because I couldn't hear you.

22 A That's where my heart is.

23 Q Allen is your third oldest?

24 A He is.

25 Q Were you aware of Allen having a nickname?

DOROTHY MASSEY - DIRECT

1 A Yes.

2 Q Do you call him by his nickname?

3 A No.

4 Q Why not?

5 A He's Allen.

6 Q What is his nickname?

7 A It's Urk.

8 Q How did he get that nickname?

9 A He loves books, he's been into books a lot and he's
10 fairly bright. He's kind of quite, kind of like the Urkle
11 character, he is quiet and easy going.

12 Q How about you, do you like books?

13 A I do.

14 Q Did you encourage that in your children?

15 A I did.

16 Q Good for you. Ms. Massey, what were you doing on
17 October 13th of 2013?

18 MS. COLLINS: I'm sorry, I can't hear Mr. Grier. I'm
19 sorry.

20 Q What were you doing on October 12th of 2013?

21 A I was asleep. That Saturday morning I was in bed.

22 Q All right. Did you know where Allen was at?

23 A I didn't.

24 Q What was Allen doing at the time as far as -- not that
25 night, but was he living with you?

DOROTHY MASSEY - DIRECT

1 A He was.

2 Q Okay. Was he working?

3 A Not at a regular job. He would do odd jobs, he would
4 cut grass, do whatever, you know.

5 Q Okay.

6 A Some scrapping, whatever -- he was looking for a job.
7 And at the time he hadn't done that and hadn't gone to
8 school, which we were still encouraging.

9 Q Because -- did he show some aptitude for college?

10 A He did. He did.

11 Q But you really didn't know -- did you know that he'd
12 gone out or anything about his circumstances that day?

13 A No. We had a routine. I knew the light was still on
14 and I always left the light on for him, and his thing was

15 he would come in and he would cut the light off when he
16 got home and that way I would know he was in.

17 Q Okay. And did you notice anything unusual the morning
18 when you got up that next morning?

19 A Well, I got woken.

20 Q You got what?

21 A They woke me up. There were police officers at the
22 door and they were banging on the door kind of loud, and
23 when I roused up I got up and I was startled. So I went
24 to the door and when I opened the doors they were there,
25 there were guns in my face, I didn't know what was going

DOROTHY MASSEY - DIRECT

1 on.

2 Q Well, what did you learn?

3 A I learned -- I think it was when officer -- or when

4 Lieutenant Hall came that there had been a shooting and

5 that they were looking for Allen.

6 Q And what happened after they -- after you learned of

7 that, what did the police do? What did you observe about

8 what the police did?

9 A They wanted to come in -- well, they had ordered me

10 out of the house or asked me to come out to the porch,

11 which I didn't want to do. I was in my night clothes, it

12 was kind of chilly and I told them, "No. I don't want to

13 come out there in my night clothes." They wanted to come

14 in and search, at that point I would not allow it, but

15 when Lieutenant Hall came he talked to me and he just told

16 me we need to look, we need to know if he's in here. I

17 told them that the light is on, I don't think he's in the

18 house but I allowed him and another officer.

19 Q Stop there for a second. You said the lights are on.

20 Again, what does that have to do with it?

21 A When Allen would come in the house he would turn the

22 lights off.

23 Q So the light is still on. So that's the only

24 information you got about is just that he ain't there.

25 A Just that he wasn't there.

DOROTHY MASSEY - DIRECT

1 Q Okay. I'm sorry, go ahead.

2 A But that was it. I allowed them to come in, they
3 searched and he wasn't there. And I think Lieutenant Hall
4 told me a little more about what had happened, because at
5 that point I didn't really know what was going on. But he
6 told me there had been a shooting and they were looking
7 for Allen so I understood then, and I told them that he
8 could look.

9 Q Okay. And did they find Allen in your house?

10 A No, he wasn't there.

11 Q Okay. Well, how long did that take?

12 A Several minutes. It seemed like it took a long time
13 but I'm sure it wasn't that long.

14 Q What did you do after that?

15 A After that I started calling his phone, I started
16 calling my girls' phones to ask them if they had heard
17 from him. At that point I didn't get an answer from
18 everybody and it was later on and I got out -- I got up, I
19 was wide awake. By that time it took me a little while to
20 kind of process what was going on, so I got up and started
21 looking for him, you know, anywhere that I thought he
22 might be I went because I wanted to reach him. I knew the
23 police were looking for him and I wanted to reach him.

24 Q You got in the car and went?

25 A I did.

DOROTHY MASSEY - DIRECT

1 Q Where did you go?

2 A I went -- I drove. I drove through the neighborhood,

3 I drove -- I think I drove by his father's house. I just

4 drove around, through town, anywhere that I thought, you

5 know, I might see him. And I probably -- looking back it

6 probably wasn't realistic but I was just trying to find

7 him so I could take him in.

8 Q Okay. Did you communicate with your daughters?

9 A Later on I did, I did, I let them know what had

10 happened. And I think they started trying to reach him,

11 but we never did get his phone that day, or I never got

12 his phone that day I don't believe. I eventually talked

13 with my second daughter, Leanna, and this was later on in

14 the day, and she told me that she had talked --

15 MS. COLLINS: Objection to hearsay.

16 A Okay, I'm sorry.

17 Q Well, did you learn that there had been some -- what

18 did you learn about -- had somebody in the family had

19 contact with Allen?

20 A Yes, sir.

21 MS. COLLINS: Objection, that's still hearsay.

22 THE COURT: Overruled.

23 Q Well, did you speak with Allen?

24 A I didn't speak with him until later -- I'm trying to

25 think if it was later like early Sunday morning or what,

DOROTHY MASSEY - DIRECT

1 but I did -- I eventually spoke with him and I told him
2 what he had to do.

3 Q Well, what did he say?

4 MS. COLLINS: Objection to hearsay, objection.

5 MR. GRIER: Your Honor, if the State can play his
6 statement, the defendant's --

7 MS. COLLINS: Your Honor, that's a statement of a
8 party opponent with a --

9 THE COURT: I understand that. Sustained.

10 Q Okay. Did you communicate with your son?

11 A I did.

12 Q All right. Did you do anything as a result of that
13 communication with your son?

14 A Contacted the police to let them know that he would
15 be turning himself in.

16 Q All right. Now, when was this as best as you can
17 recollect that you had a communication with Allen?

18 A I believe it was that Sunday.

19 Q Okay.

20 A It was like early, the wee hours of the morning that
21 Sunday. And we decided that I would contact the police to
22 let them know that he would be turning himself in.

23 Q All right. And how much later after your contact with
24 the police was -- or after the contact with the police or
25 your contact with Allen did Allen turn himself in?

DOROTHY MASSEY - DIRECT

1 A We didn't call like 2:00 that morning to the police,
2 but we called early that morning, that Sunday morning and
3 we -- I think it was around 12:00, I'm not sure about the
4 time. But we went later that day and took him to the
5 police department.

6 Q What were the logistics of turning him in? Were you
7 involved in them? Were you present?

8 A I was.

9 Q Where was he? Did y'all pick him up?

10 A We did. He was in the car with my oldest daughter
11 and me, and my second daughter met us there.

12 Q Okay. And --

13 A She had done a lot of the communicating with the
14 police for us.

15 Q Okay. And did you have an opportunity to observe
16 Allen at that time?

17 A I did.

18 Q Okay. And did you observe -- what did you observe
19 about him physically? Did he appear to have any injuries
20 at that time?

21 A He did.

22 Q What injury did you observe?

23 A He had a cut to his lip, his upper lip, and he had a
24 cut inside his lower lip, and he was just, as he put it, a
25 little banged up but he was okay. He had some bruising on

DOROTHY MASSEY - DIRECT

1 his face but he was okay.

2 Q Were you present when any photographs were made of him
3 at that time?

4 A No.

5 Q Okay. All right. Did you learn anything about any
6 other injuries besides that to Allen at that time?

7 A That's the only thing that I saw. I was kind of
8 looking at his face and that got my attention, I was
9 just -- kind of wanted to see how bad it was.

10 Q Okay. All right. What -- y'all went to the police
11 department and turned him in?

12 A We did, uh-huh.

13 Q And was that uneventful other than it would be a
14 horrible event for mom to be going to the -- but did
15 anything of significance happen?

16 A We just took him up, the officers gave us a minute to
17 tell him ---

18 Q I'm sorry?

19 A You know, before they took him inside they gave us a
20 minute with him there in the parking lot and he went on
21 in.

22 Q All right.

23 MR. GRIER: Thank you. Answer any questions that Ms.
24 Collins might have for you.

25 CROSS EXAMINATION

DOROTHY MASSEY - DIRECT

1 BY MS. COLLINS:

2 Q Mrs. Massey, when did you first speak to Allen to know
3 where he was, about what time?

4 A ~~The time?~~ I'm thinking it was the early --- like the
5 early morning hours of Sunday morning, because he hadn't
6 answered my phone calls.

7 Q And so the police came to your house Saturday morning
8 early, right?

9 A They did. They came -- it was early Saturday
10 morning, I'm not sure of the time but I know I was still
11 in bed.

12 Q And then you had been looking for him anywhere a
13 mother could think of to find your son, right?

14 A Yes.

15 Q Did you know at that time that he saw a girl or had a
16 friend who was a girl, I don't know if was a girlfriend or
17 a friend --

18 MR. GRIER: Your Honor, I'm having difficulty hearing
19 too.

20 MS. COLLINS: I'm sorry.

21 Q Did you know at that time that he had a friend who was
22 named Britney that lived in Pageland? Did you know
23 Britney?

24 A I didn't know Britney. I knew another young lady
25 that lived in Pageland but I didn't know Britney.

DOROTHY MASSEY - CROSS

1 Q ... Another girl? Did you go out to Pageland and try to
2 look for him?

3 A No, I didn't go down there. I wouldn't have known
4 where to look down there.

5 Q But he had his phone as far as you knew?

6 A As far as I knew, he just wasn't answering it.

7 Q And you said you also were trying to reach your
8 daughters, of course.

9 A Yes.

10 Q And you said it was like early Sunday morning when you
11 finally did get to speak to your son, Allen?

12 A Yes. Because we -- for several reasons we left home,
13 we didn't stay at home that night.

14 Q You probably had a sleepless night that night I
15 imagine.

16 A It was -- it had its moments.

17 Q I'm sure it was hard for you not to get any rest when
18 you didn't know where Allen was; is that right?

19 A I was just concerned that we find him and that he
20 turn himself in.

21 Q Because the police asked you if you spoke to him to
22 have him turn himself in, right?

23 A They had. Well, they had asked me if I heard from
24 him to have him call, I think that was what they said, to
25 have him call or that he needed to get in touch with them.

DOROTHY MASSEY - CROSS

1 Q And so did you finally reach Allen on his phone, or
2 did you first -- did you first speak to him when you
3 actually got to see him?

4 A ~~I think I first spoke to him on the phone if I'm not~~
5 mistaken.

6 Q Okay. And you said that was some time early Sunday
7 morning?

8 A That was some time early Sunday morning.

9 Q And when did you get to lay eyes on your son? Where
10 did y'all --

11 A It was later that Sunday.

12 Q Okay.

13 A And then we started planning, you know, you need to
14 do this and he said, "I know, I just wanted to see you."

15 Q And so did he come to your house with someone, or
16 where did y'all rendezvous basically is what -- that's not
17 the word I want, but where did you get the first --

18 A Where did we meet up?

19 Q Where did you meet him?

20 A We picked him up in a spot -- we went out 903 and
21 that's where I kind of -- I know we went out 903 and we
22 met him and he got in the car with us.

23 Q Was he by himself at that point at 903?

24 A There was someone with him but I didn't know --
25 someone brought him to where we met him at.

DOROTHY MASSEY - CROSS

1 Q Were they waiting there with him or they had left?

2 A They were waiting there with him as I recall, or they
3 left, or when we came up their car left or something like
4 that.

5 Q And who in your family went with you to go get him
6 where he was?

7 A My oldest daughter, Veronica, she was driving.

8 Q And once Allen got in Veronica's car, she was driving,
9 where did y'all go after that?

10 A We drove, we talked. We just wanted to talk to him.
11 I wanted to look at him to see how he was and he told me
12 he was okay, like I said, he told me he was okay. He
13 said, "I'm just a little banged up but I'm okay, and I
14 just wanted to see you."

15 Q Okay. And about what time was that? I'm just trying
16 to get it in my head --

17 A That was some time in the early morning hours.

18 Q Was it still dark?

19 A It was still -- it was still dark out.

20 Q Okay. So not yet dawn?

21 A Not yet dawn. Because I wasn't going to call and I
22 wanted to do it in the daylight, we wanted to take him in,
23 we wanted to see him.

24 Q I understand. So y'all just drove around and talked,
25 you and Veronica and your son, Allen?

DOROTHY MASSEY - CROSS

1 A (Nods head yes.)

2 Q And then later when you came to the -- I'm sorry, you
3 need to answer out loud.

4 A I'm sorry, yes.

5 Q When you later came to the police department, called
6 the police and said, "He's coming in and we're coming with
7 him," y'all made the police aware that y'all were also
8 bringing the firearm, right?

9 A Yes.

10 Q When y'all met Allen where he was, when you and
11 Veronica picked him up, did he have the firearm at that
12 time or did y'all have to go somewhere and get it?

13 A We got it at a friend of his, and I don't remember
14 his name, I just remember he reminded me of Gummy and I
15 just called him Gummy.

16 Q Gummy? Okay. And so did y'all go to Gummy's house to
17 get the gun?

18 A We met -- I know we met at the park when we decided,
19 you know, we were going to meet right here at the police
20 park, then we would drive around, so we were still on that
21 903 track. And we got it and went on, we went to the
22 police department after that.

23 Q So it was still dark early Sunday morning when you
24 pick Allen up and he turned himself in with y'all there
25 around noon or a little bit afterwards?

DOROTHY MASSEY - CROSS

1 A Some time along there. I know at sometime during
2 that time I think I napped because I hadn't slept, so
3 somewhere in between there.

4 Q Did you nap there in the car or did y'all go home at
5 one point?

6 A I napped in the car.

7 Q Did y'all drive around the whole time from early in
8 the morning until about noon?

9 A We drove around, we stopped, we talked with my
10 daughter, I think we talked with everybody so they could
11 say hello to him. We were on the phone.

12 Q All the other kids?

13 A We talked with everyone. I think we reached
14 everybody so they could say hello, tell him they loved him
15 and we went on.

16 Q When y'all stopped did y'all stop at each of kids'
17 house?

18 A No, we just called.

19 Q You didn't stop anywhere, you drove the whole time
20 or --

21 A No. We stopped several times, we would stop in
22 parking lots. We would stop to talk and we would call so
23 he could speak to his sisters and let them know where we
24 were going, that he just wanted to talk to you but we were
25 going to turn himself in.

DOROTHY MASSEY - CROSS

1 Q All right.

2 MS. COLLINS: Thank you, Ms. Massey.

3 THE WITNESS: Yes, ma'am.

4 ~~THE COURT: Anything further?~~

5 MR. GRIER: Nothing further, Your Honor. We call

6 Allen Massey.

7 The witness, ALLEN WESLEY MASSEY, was first duly sworn

8 and testified as follows:

9 DIRECT EXAMINATION

10 BY MR. GRIER:

11 Q Please state your name.

12 A Allen Massey.

13 Q Mr. Massey, how old are you?

14 A To be honest I'm a little nervous.

15 Q I said how old are you?

16 A How old am I? I'm 28.

17 Q Do you need a drink of water or a break or anything?

18 A No, I'm fine.

19 Q Allen, did you --

20 (Break in proceedings.)

21 Q Your mother just testified and that was accurate about
22 your family, everything she said about your family? Where
23 do you live? What's your address in Lancaster?

24 A [REDACTED] Elm Street.

25 Q And how long -- that's your mother's house?

ALLEN WESLEY MASSEY - DIRECT

- 1 A Yes.
- 2 Q How long has she lived there?
- 3 A We moved there, it was September of '97, I was ten at
4 that time.
- 5 Q Now, has there been any transition in that
6 neighborhood as far as your observations since y'all moved
7 there?
- 8 A What do you mean by that?
- 9 Q As far as crime goes.
- 10 A Well, you know, being that I was young and I wasn't,
11 I guess, exposed to it, she sort of kept us in the house
12 like, you know, the main thing -- the worst thing we could
13 do is come home with bad grades. She kept us focused on
14 schoolwork. So during my younger days I really didn't
15 have much exposure to it, but --
- 16 Q You can back-up from the mic a little bit, it's
17 causing some feedback, I believe. -
- 18 A But as I got older I started, you know, to witness
19 more things.
- 20 Q How would you describe that neighborhood in 2013?
- 21 A It was pretty bad.
- 22 Q Okay. So you lived in the same neighborhood from the
23 time you were ten up until -- your address is the same as
24 it was when you were ten.
- 25 A Yes.

ALLEN WESLEY MASSEY - DIRECT

1 Q So y'all have been stable, you hadn't moved around a
2 lot or anything.

3 A No.

4 Q Well, as you got older, you know, what did you notice
5 about the nature of the neighborhood?

6 A It just things just started to get worse, you know,
7 over time. Actually one point in time -- one particular
8 incident I remember, it was in 2012, March 23rd, and I
9 guess it was little a pool hall right around the corner
10 from my house, we were up there and, you know, two guys
11 ended up getting killed that night and I actually
12 witnessed it happen. You know, they were two people I
13 knew very well, I knew both of them for most of my life,
14 and just watching them take what was coming to be their
15 last breath, you know, seeing that right before my eyes,
16 that sort of -- I don't know, that sort of changes you
17 when you see something like that.

18 Q Did you actually see the incident?

19 A Yeah, I actually saw it.

20 Q Okay. So you were a witness to who did it and all of
21 that.

22 A Yes. But that person had a mask on so --

23 MS. COLLINS: I'm sorry, I couldn't hear the answer to
24 that question.

25 A Yeah, but that person had a mask on.

ALLEN WESLEY MASSEY - DIRECT

1 MS. COLLINS: Oh, okay, thank you.

2 Q And when was that?

3 A March 23, 2012.

4 Q Okay. Now, as the -- you say that changed you. What
5 did you do as a result of that change?

6 A Well, that let me know life was short and it can be
7 taken away at any moment, you never realize when, you
8 never know how. But to see it happen like that -- and
9 being from the area I was from it was a higher probability
10 that it could happen, you know. So that's when I decided
11 to start carrying a gun around with me.

12 Q Now, let's go back to some names. Okay?

13 A Okay.

14 Q Did you know Marcus Robinson?

15 A Yeah, I knew him.

16 Q How did you know Marcus Robinson?

17 A We were like from the same neighborhood, just growing
18 up and seeing him.

19 Q Okay. Did you know Malika Harris?

20 A Yes.

21 Q And how did you know her?

22 A We were in the same grade in school growing up and
23 later on we found out that we were related.

24 Q All right. Shonettia Hunter?

25 A I knew her -- okay. One of my brothers, we had the

ALLEN WESLEY MASSEY - DIRECT

1 same father, we don't have the same mother, and his uncle
2 has been in a long-term relationship with her mother so
3 I've kind of met her through him, through my brother.

4 Q Okay. Ebonie Harris, how about her?

5 A That's Malika's sister, that was my cousin as well.

6 Q So you know through the same way.

7 A Just from being in school and growing up.

8 Q Prior to 2013 what kind of contact did you have with
9 all of those people we just named?

10 A I mean, they stayed literally hundreds of feet from
11 our house. I could stand on my front porch and see the
12 house. We always would -- I would go to their house and
13 play cards with them, play with the kids and drink, have a
14 good time. We was always casual encounters, it was always
15 good encounters between us.

16 Q Okay. Well, were you ever romantically involved with
17 anybody on that list I just named?

18 A No.

19 Q Now, was anybody in that list I just named
20 romantically involved?

21 A Malika and Shonettia are.

22 Q Okay. Now, moving forward to October of 2013, REDACTED
23 City Avenue in Lancaster.

24 A Uh-huh.

25 Q Prior to that, where had Malika and Shonettia lived?

ALLEN WESLEY MASSEY - DIRECT

1 A I think the address is [REDACTED] Elm Street.

2 Q [REDACTED] Okay. All right.

3 A Elm Street.

4 Q And from there they moved to [REDACTED] City Avenue?

5 A Yes.

6 Q How long had they lived on City Avenue in October when
7 this happened, how long had they been there?

8 A I didn't really keep track of the time from -- I
9 thought it was just a couple of months, maybe three months
10 or something like that. I wasn't aware of exactly how
11 long it was.

12 Q All right. But had you ever been to that house before
13 that night that this happened?

14 A Yes, I had.

15 Q Okay. Why would you go there?

16 A Because, you know -- well, that house is a couple
17 hundred feet from the house they had previously lived at,
18 and I had always been there before. There was -- a change
19 of address didn't mean a change of a relationship between
20 us, you know.

21 Q Okay. Well, on October 12th of 2013, were you
22 employed at the time?

23 A I wasn't employed as to say I guess a legal job. I
24 received a paycheck but I had various things that I would
25 do.

ALLEN WESLEY MASSEY - DIRECT

1 Q Like what?

2 A Okay. I cut grass or landscaping jobs, roofing,
3 fences, anything. It was a friend of the family, I only
4 know him by Red, but whenever he needed help he would come
5 get me.

6 Q Okay. And that was basically it, landscaping?

7 A At the time, yes.

8 Q Okay. Had you done anything else prior to that
9 employment wise?

10 A Well, right after I graduated I found a job working
11 for the bleachery, and after that I worked for --

12 Q Why did that job end?

13 A It just -- I found another job --

14 Q Okay.

15 A -- working at McGee Brothers, and I eventually lost
16 that job and I filed taxes before.

17 Q You've done what?

18 A Filed taxes for one year.

19 Q For a job?

20 A Yes, sir, in 2007.

21 Q Okay. Did that job kind of fit with your nickname?

22 A Yes, it does.

23 Q What's your nickname?

24 A Everybody calls me Urk.

25 Q And why?

ALLEN WESLEY MASSEY - DIRECT

- 1 A It's because --
- 2 Q How long has that been going on?
- 3 A For awhile, since I was about 15.
- 4 Q Why were you called that?
- 5 A Because, you know, personally I don't consider myself
- 6 smart because I was taught that you don't have that sort
- 7 of arrogance about yourself, you don't look at yourself as
- 8 better than someone else. If I think that I'm smart that
- 9 I'm in a way saying I'm smarter than you, you know,
- 10 there's nothing I could learn from you, but that's what
- 11 other people learned about me. Other people gave me that
- 12 name, I didn't give myself that name.
- 13 Q Was that a reference to Steve Urkle in Family Matters?
- 14 A Yes, it was.
- 15 Q Okay. Now, Marcus Robinson, were you aware of a
- 16 nickname that he was called?
- 17 A Yes.
- 18 Q What was that?
- 19 A It was knockout king.
- 20 Q Why was he called that?
- 21 A From knocking people out.
- 22 Q How do you know that?
- 23 A I actually witnessed it myself.
- 24 Q Tell us about it.
- 25 A Well, it was -- I witnessed it, you know, more than

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1 one occasion, but there was just this one particular time
2 that it stuck in my memory. It was this nightclub called
3 The Hole in the Wall, he got into it with somebody, I
4 don't know how it started, whatever, but he ended up
5 punching a guy in the mouth, and from him punching him so
6 hard his fist actually got lodged in the guy's tooth and
7 he actually broke his own hand that night from hitting the
8 guy.

9 Q Okay.

10 A And there was another particular incident on this
11 guy, Danny Clyburn, he got killed back in February of
12 2012, he was probably 6-7, 6-8, he was a big guy, and I
13 remember Marcus knocking him out, too.

14 Q Okay. Just those two examples of what you witnessed?

15 A Yes. But there were more than that, though.

16 Q Okay. Well, how about you and him, did he ever knock
17 you out?

18 A No. Because -- okay. Even though I knew what he
19 did, I knew what he was known for, I was always taught
20 that you don't look at a person for what you may think
21 they are, because if you were to look at somebody and
22 judge them just from what you see, you may judge them
23 wrong, you may not see that person for what they really
24 are. But I was just taught to just look for the good --
25 any good qualities you can find in a person and whatever

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1 friendship you have you base that off of those good
2 qualities you find.

3 Q Well, no question he had some good qualities.

4 A Yes, he did.

5 Q Did you have difficulties with anybody in his family,
6 though?

7 A Yes. Okay.

8 Q Well, hold on just a second. Allen, before October of
9 2013, you and Marcus ever have any difficulties?

10 A No. I actually saw him early on that day and he was
11 telling me about the party at his cousin's house and I was
12 telling him about the party at my cousin's house that
13 happened to be going on the same night.

14 Q All right. What party at his cousin's house?

15 A The one in the Wiley Park area.

16 Q Okay. What party was at your cousin's house?

17 A The one on 16th Street.

18 Q All right. Go ahead.

19 A But yeah, I had just seen them early on that day. We
20 talked, I had given him a cigarette, and when somebody
21 smokes half of a cigarette they call that the short, he
22 asked me for the short of the cigarette. So we have
23 always been on good terms with each other.

24 Q Okay. Were you in school with him or he was a couple
25 of years older than you?

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1 A No. He's like four years older than me, he was.

2 Q Did you know him as a child?

3 A Yes. I knew him from around I would say about 13 or

4 14, since then.

5 Q Even though he was older?

6 A Yes.

7 Q All right. Now, did you ever get any education beyond
8 high school?

9 A No, I didn't.

10 Q Did you attempt to?

11 A That was supposed to be the plan but it just turned
12 into a procrastination. I put it off for one semester and
13 it turned into a year, and then turned into never
14 happening.

15 Q Okay. All right. How about -- do you know Rashawd
16 Robinson?

17 A Yes.

18 Q How do you know -- how long have you known Rashawd?

19 A About the same time. We were actually in school
20 together, he was like a grade or two higher than me, but I
21 had known him from the same neighborhood throughout
22 school.

23 Q Okay. And Rashawd, is he related -- how is he
24 related, if he is, to Marcus?

25 A First cousins.

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1 Q All right. Had you ever got in any trouble with
2 Rashawd Robinson?

3 A Yes. I don't think I've ever fully explained it.
4 This is back in October of 2008, October 4th I think, I
5 was approached by him and two other guys, they asked me to
6 drive for them. I had had my license since I was 15 so I
7 didn't really think too much of it so I drove for them.
8 We ended up stopping a couple of places, they all would
9 get out and go in the house or whatever, we stopped
10 somewhere else, they would all get out. And by the last
11 time -- the last place that we stopped at I was actually
12 on the phone, I never got out of the car -- but I actually
13 hear two shots go off and they all run back to the car.
14 And then as we're leaving it comes out that they had been
15 planning to rob a person the whole time, they just never
16 made me aware of what I was driving for. And at that
17 point in time it was like, okay, they identified what they
18 were talking about him actually shooting the guy and he
19 was saying something to the affect of if anyone of you
20 says anything about this, you know, the same thing could
21 happen to you. But one of those three, they ended up
22 getting arrested and they gave my name to the police so I
23 ended up getting arrested too. And Steve Marshall, he was
24 the investigator at that time, he brought me in his office
25 and as soon as I sat down he looked me right in my eyes

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1 and he said, "We know what you did." And I didn't have
2 the heart to lie so I came forth and I told him what
3 happened, and it ended up me told him that he was the one
4 that shot the guy as well. And, you know, after I told
5 him everything he was like, "Okay. Well, I knew that you
6 didn't do anything but driving, I just wanted to see how
7 truthful you were going to be." And so the next morning
8 he actually went to the judge himself and asked that I
9 have a PR bond.

10 MS. COLLINS: Objection to hearsay.

11 Q You can't say what he did or what he said. But as the
12 result of that, did you end up testifying in the courtroom?

13 A No, I didn't testify. He ended up --

14 Q As a result of that was the case resolved?

15 A Yes. He ended up going to prison because of me.

16 Q Okay. And that was actually resolved in 2010 though,
17 wasn't it?

18 A Yes. Because after the incident he actually went on
19 the run for a year, and after he was caught he sat at the
20 detention center for a year before he went to prison.

21 Q All right. Well, what did that do to your -- before
22 that happened, what kind of relationship did you have with
23 Rashawd Robinson?

24 A It was casual. I really didn't interact with him too
25 much, you know, because I kind of stayed away from those

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1 who I don't really see a positive influence on.

2 Q Well, did having access to transportation turn you
3 into a more popular guy back then?

4 A Well, no, I wasn't actually driving. They had the
5 car, they just asked me to drive, I just had a license.

6 Q I've got you. All right. Well, after that happened,
7 what was your relationship with Rashawd Robinson like?

8 A It was, you know -- because most people would
9 consider what I did the right thing, but in some circles
10 it's actually considered a bad thing. That's where the
11 label snitch or the label rat comes from, actually
12 somebody who cooperates with law enforcement, and that
13 really -- that put a strain on my relationship with
14 Rashawd.

15 Q Well, I mean, did you continue to see him, socialize
16 with him or have any kind of interaction with him?

17 A You could tell he was mad about it because, you know,
18 you look a person in the eyes you could tell he was mad
19 about the situation. But I guess being that I was brought --
20 into it and I didn't know what was going on, he sort of --

21 I guess he didn't do anything right about it, but --

22 Q All right. Did you ever had any physical
23 confrontation --

24 A No, I didn't.

25 Q -- you know, prior to October the 12th of 2013 or

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1 possibly earlier that night?

2 A I didn't.--

3 Q Okay. Now, how about your relationship with Demarcus

4 Robinson? Did that suffer as a result of you snitching?

5 A No, it actually didn't. We remained friends. We

6 actually talked about the situation and he was like --

7 basically he understood what was going on and he really

8 didn't take issue with that.

9 Q Okay. Let's go back to you saw Marcus earlier in the

10 day and that would have been on October 11th. When we say

11 the day of the shooting, actually the shooting was in the

12 wee hours of October 12th.

13 A Yes.

14 Q So anything else about your encounter with him that

15 day? Y'all exchanged information about parties?

16 A Yes.

17 Q As a result of y'all exchanging that information on

18 that day, what did you do on October 11, 2013 during the

19 day?

20 A During the day I just basically stayed around the

21 house washing clothes. I didn't leave until later on that

22 night, I actually left probably around 11:00 to midnight.

23 Q Okay. All right. Why did you wait so late to go?

24 A Just preparations, just being at home, seeing if my

25 mother needed anything for me to do, things like that. I

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1 just -- I don't know.

2 Q Okay. Well, ultimately you did go out and left about
3 11:00. Where did you go?

4 A I went to 16th Street.

5 Q Okay. Well, there has been all of this talk about
6 three different locations in this case; 16th Street, Wiley
7 Street --

8 A Wiley Park.

9 Q What? Wiley Park, Wiley Street. And City Avenue.

10 A No. I didn't know anything -- I didn't know anything
11 about that at that time.

12 Q I understand. No, I know. But there's been talk in
13 this case about those three locations.

14 A Oh, yeah.

15 Q You're familiar with all three of those locations.

16 A Yes, yes.

17 Q How close are they together?

18 A Okay. Well --

19 Q Are they close enough to walk between them all?

20 A Yes, they are.

21 Q Did you ultimately end up walking to all of those
22 locations that night?

23 A No, I just went to 16th Street.

24 Q All right. Tell us what you did at 16th Street. Why
25 did you go to 16th Street?

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1 A That was my family's house. I had already known
2 about that party so that's where I had planned to go.

3 Q All right. So what happened at that party?

4 A Well, I went there, it was usual. There was about
5 100 people there, everybody is drinking, having a good
6 time, just a normal party setting.

7 Q Okay.

8 A Later on that night --

9 Q You were drinking?

10 A Yes, I was.

11 Q What were you drinking?

12 A Just beer.

13 Q All right. How much did you have to drink over there?

14 A I maybe had about six or seven beers, something like
15 that.

16 Q Okay.

17 A It doesn't take much.

18 Q All right. Well, did you hear Lieutenant Hall's
19 testimony about what one beer would do?

20 A Yes.

21 Q Okay. At any rate, what happened? Anything of
22 significance happen on 16th Street?

23 A Okay. Later on that night I noticed Rashawd shows
24 up. And being that, you know, at times you can see the
25 anger in a person's face but at times you can see they

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1 ... wasn't too worried about it, but it's like when you know
2 to be wary of this person when they're around because of
3 what happened between y'all. Okay. I actually witnessed
4 him shoot somebody and I actually caused him to go to
5 prison because of that, it's just when I came into contact
6 with him it was like when you feel that sort of -- you get
7 that tightening in your stomach but you try to swallow it
8 and not show any fear because --

9 Q Just tell us what happened.

10 A Okay. Well, he ended up walking up to me that night
11 and he punched me in the face twice before I knew what he
12 was about to do, and that's when several people came in
13 between, I wouldn't say because they actually wanted to
14 stop the fight, but if everybody is having a good time and
15 altercation --

16 Q Well, you don't know why they stopped the fight, but
17 they stopped the fight, right?

18 A Yeah, they stopped the fight. I think it was more of
19 just so the party wouldn't end.

20 Q Okay. Well, but you -- had you spoken to Mr. Rashawd
21 Robinson prior to him striking you?

22 A No, I hadn't.

23 Q Well, did you see him -- how long had he been there
24 before he struck you?

25 A Probably about 20 to 30 minutes.

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1 Q Okay.

2 A I kind of tried to stay a distance away from him.

3 Q How many people were there?

4 A Around 100 people, might have been more, might have
5 been a little less. There were several people out there.

6 Q Okay. Several is 100?

7 A Well, you know, a lot of people. There were a lot of
8 people.

9 Q He struck you. And were you carrying a weapon at that
10 point?

11 A Yes, I was.

12 Q All right. Did you use it?

13 A No, I didn't.

14 Q Did you pull it out?

15 A No, I didn't.

16 Q Did anybody down there ever know you had that weapon
17 on you?

18 A No, they didn't.

19 Q Okay. How about -- where were you getting your
20 alcohol from?

21 A They had it at the house. They had plenty of
22 alcohol, there was more than enough to go around.

23 Q Supplied by who?

24 A The homeowners.

25 Q Who was that?

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- 1 A Her name is Christine Jackson, she's actually, I
2 guess, the Harris side. I'm related to Malika and Ebonie
3 through my father, his last name is Harrison, they are --
4 the homeowners on 16th Street, they're related to us --
5 they are Harris' too, but her last name is just Jackson.
6 But we're all related to the Harris family.
- 7 Q All right. Now, were Malika and Shonettia there?
8 A I didn't see them.
- 9 Q Okay. And did you see Marcus there?
10 A I didn't see anybody.
- 11 Q Ebonie? No?
12 A No.
- 13 Q All right. So did you get into a confrontation with
14 Rashawd about bumming beers off of him?
15 A No. You know --
- 16 Q Well -- whatever, go ahead.
- 17 A No, I didn't. I heard what he testified yesterday
18 but that's not how it went. Actually I tried to keep my
19 distance when I can, because, you know, you just don't
20 want to be in too close interactions with a person knowing
21 what transpired between you like that.
- 22 Q Okay. Understood. But he hit you.
23 A He did.
- 24 Q And you actually did talk to him -- you didn't talk to
25 him before he hit you?

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1 A No.

2 Q But you talked to him after he hit you.

3 A Yes, I did, well, after everybody had broken it up.

4 ~~You know, we personally --- even though I had did what most~~

5 people would consider the right thing as far as

6 cooperating against him, I still kind of felt personally

7 bad because he had went to prison because of what

8 happened. I only served -- I got up the next day and that

9 was --

10 Q What did you tell him?

11 A I told him maybe I owed you that, maybe I deserved

12 that.

13 Q Okay. Did you sustain any injuries as a result of him

14 striking you?

15 A No. Actually when he hit me it didn't have any

16 effect on me at all.

17 Q You didn't get knocked on the ground?

18 A No, I didn't.

19 Q Did you get knocked anywhere?

20 A No, I didn't.

21 Q Was that the extent of the conversation?

22 A Yes, it was.

23 Q And from there what happened?

24 A I just felt like the best thing for me to do was

25 leave, so I just started walking towards home.

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1 Q What time approximately -- do you have any idea what
2 time it was when that happened?

3 A It was after 3:00.

4 Q Okay. Prior to leaving, did you learn of anything
5 that was going on at Wiley Park?

6 A Yes. People actually there, they had gotten calls
7 that there had been a shooting --

8 MS. COLLINS: Objection to hearsay.

9 Q Okay. All right. Well --

10 THE COURT: Sustained.

11 Q Okay. You didn't observe anything at Wiley Park
12 but -- all right. Did you become aware of something at
13 Wiley Park just period without saying what people were
14 saying?

15 A No, I wasn't.

16 Q You didn't know any of the circumstances or anything
17 about anything going on at Wiley Park.

18 A No.

19 Q Just heard that there was an incident.

20 A Yeah.

21 Q All right. You left.

22 A I left.

23 Q Do you know the time?

24 A It was somewhere around 3:30 or somewhere around that
25 time.

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1 Q Okay. You didn't walk over to Wiley Park?

2 A No, I was actually headed home.

3 Q Okay. Now, to get home did you go by anybody's house
4 that you knew?

5 A Yes. See, the 16th Street actually starts from 17th
6 and goes on down into 9th street. But 15th street, it's
7 the longest road of all, it connects Brooklyn Avenue and
8 Elm Street which I live on Elm Street, and as I'm walking
9 down 15th Street, City Avenue was here to the right. So
10 as I walked by I noticed Malika's house and there was a
11 couple of cars out there, so I just stopped right there
12 just to see what was going on with them.

13 Q Okay. And so you stopped by there.

14 A Yes.

15 Q Now, prior to going in, did you see Ebonie and Marcus
16 outside?

17 A No, I didn't.

18 Q So when you -- tell me how you got in the house.

19 A I knocked on the door. I know it's been said that I
20 just walked in, but I've always been raised to be a
21 respectful person, you just don't walk into people's
22 houses like that. But even though we're related it wasn't
23 like a close relationship, it wasn't like we were first or
24 second cousins, so you keep some sort of formal
25 interaction with them. It's not like a brother or sister

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1 where, you know, you can just walk in, you still want to
2 show respect, so I knocked on the door.

3 Q Okay. And did somebody let you in?

4 A Yes.

5 Q Who let you in?

6 A Alecia Stratford.

7 Q So from there what happened, where did you go?

8 A I walked in, walked through the living room to the
9 kitchen, I saw everybody, gave everybody, you know, they
10 call it a dap, it's a handshake.

11 Q You walk into the kitchen. Who's in there?

12 A Okay. Shonettia is in there, Marcus is in there,
13 Sindarous is in there, Thomas McGriff, he's in there,
14 Navoney Curry is in there. There were a couple of people
15 I didn't really know their names, and Alecia was there,
16 she actually led me into the kitchen after letting me in
17 the house.

18 Q And what was the response of the folks to seeing you?

19 A It was nothing out of the ordinary, "Hey, what's
20 going on, how are you doing?" And Malika handed me a beer
21 and I shook everybody's hands.

22 Q Well, from there what did you do?

23 A Okay. I --

24 Q What was the activity going on in there?

25 A They were in there playing cards and just everybody

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1 was just drinking.

2 Q Who was playing cards at the time, do you recall?

3 A I don't recall.

4 Q ~~Okay. Well, what was your intention?~~

5 A I actually asked to play next. And Navoney, I've
6 known him for a long time as well, one of his cousins is a
7 real close friend of mine, his name is Jamar and he was
8 talking about going to Jamar's house later on that night,
9 so I told him, "Okay. Whenever you're ready to go I'll
10 just leave with you." But until then I had intended on
11 playing cards.

12 Q Okay. All right. Well, let's talk about your
13 relationship. We already know what it is with Shonettia --
14 with Marcus and Shonettia and Ebonie and Malika. How about
15 Sindarous?

16 A I actually -- see, I have a really good memory, you
17 know. If I see a person and I see their name I just
18 automatically remember it, and I didn't really have a
19 personal relationship with him, but having seen him before
20 and knowing his family I knew his name.

21 Q Okay. But tell me, was there a relationship? Did you
22 hang out and socialize?

23 A We saw each other around a couple of times but there
24 wasn't any really bond between us.

25 Q Ever see him at Malika and Shonettia's?

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- 1 A No, I hadn't.
- 2 Q How about Thomas McGriff?
- 3 A I've known him for a long time.
- 4 Q A long time say kind of like Marcus?
- 5 A Yes, going to school with him. We actually didn't
- 6 live in the same neighborhood but we went to school
- 7 together.
- 8 Q I think you mentioned about Navoney.
- 9 A Yes. I've known him for a long time.
- 10 Q Same thing?
- 11 A Yes. He actually used to live on 16th Street for a
- 12 long time.
- 13 Q Well, how about the alcohol being consumed there, what
- 14 do you know about that?
- 15 A Well, everybody was drinking, you know. Malika
- 16 handed -- the first thing Malika did was hand me a beer as
- 17 soon as I came in. I didn't notice any liquor or anything
- 18 like that. As soon as I came in the kitchen I was just
- 19 interacting with everybody I came across so I didn't
- 20 really look around and notice what everybody had.
- 21 Q Well, how about -- did you drink anything else?
- 22 A No, that was it.
- 23 Q You didn't drink any liquor?
- 24 A No.
- 25 Q You didn't drink any shots getting passed around or

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1 anything like that?

2 A No.

3 Q Well, what were you doing while you were waiting to
4 play?

5 A Well, I was standing there for a minute and I took
6 the opportunity to tell Marcus about what had just
7 happened. I had just left that incident, there wasn't --
8 I didn't have time -- I didn't go home or anything, I just
9 left, so I figured I would just tell him about it. I knew
10 he would find out about it anyway so I just went ahead and
11 told him while we were there.

12 Q And what did you tell Marcus?

13 A I told him that, you know, "Me and your cousin, we
14 just got into" --

15 Q I'm sorry, let me back up a second. When you were
16 talking to Marcus who was present?

17 A I was right here and Sindarous, he was close by.

18 Q Okay. Where was Tommy McGriff best you recall?

19 A He was off towards -- he was on the other side of the
20 kitchen, like across from where we was standing.

21 Q Okay. Who else do you recall being in there while
22 you're talking to --

23 A While I'm talking to him?

24 Q -- Marcus?

25 A Well, I know -- I actually saw Shonettia walk out of

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1 the bathroom, there was couple of people I didn't really
2 know the names, they were there as well.

3 Q All right. Well, what specifically did you tell

4 Marcus about that event?

5 A I told him how Rashawd had just hit me but, you know,
6 that that bad feeling from him having to go to prison from
7 me actually cooperating, I really didn't -- I wasn't mad
8 about it, I didn't have any hard feelings towards him, you
9 know. I was just telling him, "I know you're probably
10 going to find out about it anyway, and I just came from
11 that situation." But basically I didn't have any hard
12 feelings towards him because of what happened, actually I
13 had let it go before I even left.

14 Q Well, did you tell him what you might do if Rashawd
15 did that again?

16 A No, I didn't.

17 Q Well, you had that conversation. Was that the last
18 bit of conversation you can recall before things went bad,
19 turned bad?

20 A Yes. We shook hands, he was like, "Okay, that's
21 cool," and that just seemed to be the end of it.

22 Q Okay. Prior to that did you make any observations
23 about his appearance of sobriety or notice anything unusual
24 about his behavior or anything?

25 A Well, normally -- well, from my experience, I can't

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1 speak for anybody else, when I happen to drink I happen to
2 be a little more talkative. I'm really not talkative but
3 I had been talking more and he was in a sort of relaxed
4 mood, kind of the same mood of being talkative, I could
5 tell he had been drinking but he didn't just appear to be
6 outright drunk.

7 Q Okay. At the moment that you had that last
8 conversation, how long do you think you had been in the
9 home?

10 A Maybe around 15 minutes.

11 Q Okay. All right. What do you do after y'all shake
12 hands?

13 A Well, he's standing off to the right, and as you're
14 walking into the living room the kitchen table is right
15 here to the left. So my focus kind of goes toward the
16 kitchen table, just thinking and waiting for the game to
17 resume so I could play next.

18 Q All right. And what's the next thing that happened?

19 A The next thing I know is getting punched in the
20 mouth.

21 Q And you say in the mouth. Can you describe -- I mean
22 --

23 A Right square in the lip.

24 Q Do you know if you got hit with the flat or the
25 knuckle part?

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1 A It was right -- the flat part.

2 Q And did you anticipate that coming?

3 A No, I didn't.

4 Q Did you say what you told -- did you tell Mr. Marcus

5 Robinson about Rashawd to try to provoke him?

6 A No, I didn't. You know, being that we both like to
7 laugh, we were both fun -- we liked to have fun, that was
8 like the basis of our friendship. But still, I knew what
9 type of person he was, I knew what he was known for so I
10 wouldn't just go and try to rile up that side of him
11 for --

12 Q Had anything been mentioned about you having a gun at
13 16th Street when you talked to Marcus?

14 A No.

15 Q Did he know you had a gun on him?

16 A He didn't.

17 Q You got punched. Where did you -- what happened?

18 Tell me --

19 A I fall back. And at first it was just like, "Where
20 did that come from? What happened?"

21 Q Okay. Fall back, what do you mean by fall back?

22 A I hit the ground, I fall on my back.

23 Q Okay. Continue.

24 A Okay. As I look up, you know, we locked eyes for a
25 second. And -- okay. I think to better explain this -- a

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1 few years back I had developed this sort of interest in
2 psychology, just the study of the brain and it works at
3 that particular time, that was just fascinating to me so I
4 ~~did my online research and I found a couple of books and~~
5 did some reading. But I learned a lot about the eyes and
6 eye patterns and how eyes tell a lot about who you are.
7 You can tell a lot about a person from looking in their
8 eyes. You can tell if a person likes you, you can tell if
9 a person loves you, you can tell from talking to a person.

10 If you really want to know if this is an honest genuine
11 person, you can tell it by looking the person in their
12 eyes.

13 Q What could you tell by looking in his eyes?

14 A There is a comparison I made back at my immunity
15 hearing to the look I saw in his eyes, I think it may have
16 gotten construed a little bit the wrong way. There's this
17 so-called Big Cat Diary, it comes on at 7:00 and 7:30
18 every morning on Animal Planet, that's channel 233, I
19 think. But basically what it is, like these four I guess
20 you call them journalists, I don't know what their
21 specific title is, but they studied lions and leopards and
22 jaguars and cheetahs, they go out and they film their
23 everyday lives and everything they do. And often times
24 you see them as they're on the hunt, and you know,
25 sometimes while they're hunting they get a front view of

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1 their face as they're hunting, and just that intensity,
2 that determination, you see that they mean -- basically
3 they mean business. You can tell they're intent by
4 ~~looking them in the eyes. I used that comparison to~~
5 describe the look I saw in his eyes, but I think it may
6 have gotten construed as me saying that he was the lion
7 and I was the prey and he was about to come kill me. I
8 didn't mean it to be interpreted like that, it was just
9 the look in his eyes that I was trying to describe.

10 Q Well, I mean, how long did you look in his eyes?

11 A It was like a -- when I get hit I go back and I look
12 up --

13 Q Where is he standing?

14 A He's standing -- he's like four or five feet away
15 from me.

16 Q Okay. All right. So what happens? You said you lock
17 eyes with him. That's when you locked eyes with him?

18 A I locked eyes with him and notice he's balling his
19 fists up, and now he's starting to come back at me.

20 Q Well, how would you describe his speed in coming at
21 you?

22 A He was moving pretty fast, you know. I watched --
23 okay. I watched -- I don't know if anybody watch UFC but
24 I do, and when you see him knock an opponent down it's
25 like, okay, there's a rush to hurry up and finish the

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1 fight as quickly as you can, and he was coming at me to
2 try to finish things before I had a chance to do anything
3 about it.

4 Q Well, when you got hit, what was your first response?

5 You knew you had a gun.

6 A Yes.

7 Q Was that the first thing you thought about?

8 A No. The first thing was where did this come from and
9 just being stunned.

10 Q Do you recall if you made an attempt to stand or not?

11 A I didn't -- I didn't have any time to.

12 Q Do you recall the position of your feet at the time?

13 A I know that they were -- I went straight back, I went
14 straight down, my knees may have been bent, I'm not 100

15 percent sure but they might have been.

16 Q All right. What happened as Mr. Robinson is coming at
17 you?

18 A He's coming at me, and when you know the type of
19 person you're dealing with, you know --

20 Q Well, just tell us what you saw.

21 A I saw him coming at me. I see in his eyes that he's
22 about to try to finish this, so --

23 Q Besides his eyes and everything else, what about his
24 body language told you that it was trouble?

25 A It was like -- it was in a threatening manner, like,

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1 "Okay. I'm coming at you to beat you up."

2 Q Did you have time to think through all of this
3 analysis you just told us?

4 A No. In reality it was within a span of maybe two or
5 three seconds.

6 Q Is that just your recollection of what your response
7 was or is that what you felt at that moment when he was --
8 you know, when he was headed towards you after hitting you?

9 A Could you explain to me like --

10 Q I said -- nevermind. How much time between getting
11 hit and, you know, the time that you shot him?

12 A Around maybe three seconds.

13 Q And what did you think likely was going to happen to
14 you?

15 A I knew that being I was down he was about to try to
16 hurt me as much as he could while he had the opportunity.

17 Q Okay. You had always been friends so why --

18 A We had always been friends.

19 Q Did you believe -- what did you think the result of
20 another attack might be?

21 A I mean, from seeing what he's done to people before I
22 knew it could end up pretty bad for me.

23 Q Okay. Well, by pretty bad, what do you mean?

24 A I mean just getting beat up, getting hurt. You never
25 know what exactly that person -- you don't know what

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1 extent they're going to take it, but you know what they've
2 done before so you know what the possibility is.

3 Q Yeah. Okay. Well, so when you -- where was he
4 located in reference to your body when you shot him?

5 A He was standing right at my feet, standing over me
6 like coming down about to hit me again.

7 Q Okay. How close were you -- I mean, you know, what do
8 you believe the distance between the gun and his body was
9 at the time you fired the shot? What did you observe it to
10 be?

11 A It was around maybe half a foot away.

12 Q Okay. And did he fall on you?

13 A No. He actually -- he didn't fall on me, he just
14 like -- he was kind of stopped for a second. And I was

15 already trying to get away so I didn't -- by the time I
16 had got up and started to run he was following me, he kind
17 of fell forwards a little bit.

18 Q Did you at that point believe that you had shot him?

19 A I seen him stop but I know -- he stopped in his
20 tracks but I didn't see a hole in his shirt, I didn't see
21 any blood.

22 Q Okay. Did you stick around?

23 A No, I didn't.

24 Q Why not?

25 A I mean, in that moment I just panicked, I didn't

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1 think to stay around.

2 Q When you say you panicked, what kind of panic was
3 that? I mean, why?

4 A Just shocked from what happened, and -- you know,
5 what happened -- in a moment like that it's hard to
6 describe, you know, it's just -- everything just happened
7 so fast and it was just a panic type moment.

8 Q Why did you take that gun in the house?

9 A Because I didn't -- okay. I don't go around looking
10 to get into trouble, I don't go around looking to use it.
11 Being that this is a family member's house, this is
12 somebody's house I had been to several times before, I
13 didn't go in there thinking I would need it or I have to
14 use it, so I didn't know that it would be a problem as far
15 as me having it in there.

16 Q Are you right or left-handed?

17 A Left-handed.

18 Q Which hand did you use when you discharged it?

19 A My left hand.

20 Q Did you see any children in there?

21 A No.

22 Q Were there any in there?

23 A No, not to my knowledge.

24 Q You left. Do you know anything that happened when
25 you -- I assume you ran out that same front door you came

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1 in, right?

2 A Yes.

3 Q Where did you go?

4 A ~~I ran towards Elm Street and Cedar Street.~~

5 Q Okay. What did you do with the gun?

6 A I saw a friend of mine and I just asked him to hold
7 on to it for me. Just in that moment being I was shocked,
8 you know, panicking, I just gave it to him to hold for me.

9 Q Did you tell him what happened?

10 A No, I didn't.

11 Q Where did you go from there?

12 A Well, first I called his brother, you know, I let him
13 know --

14 Q Called his brother. Who is he?

15 A Marcus' brother.

16 Q Okay.

17 A And I let him know that I hate what had just happened
18 and I especially hate how it happened, but --

19 Q Well, how were you feeling about that?

20 A I felt bad about it, you know, because that was a
21 friend. I never would have expected something like that
22 to happen, I never saw something like that coming. But
23 still, when you know this person, when you know what this
24 person is known for, your reputation precedes you. You
25 can hear about somebody and not even know them, but

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1 knowing what, you know -- knowing what he did, knowing
2 what he got his name for, I knew that I didn't feel like I
3 could --

4 Q Did you tell his brother about all this?

5 A No. I just told him I didn't feel like I had any
6 other choice.

7 Q Okay. Well, who else did you call?

8 A Later on I called the friend, Britney from Pageland,
9 and she came later on and she picked me up.

10 Q So what was your plan at that point?

11 A See, my plan was --

12 Q Let me ask you this: At that point, did you know
13 anything about Marcus' situation with his injuries or
14 whatever?

15 A No.

16 Q Anything?

17 A No, I didn't.

18 Q But you knew you had shot him.

19 A Yeah. I was pretty sure I did.

20 Q All right. Go ahead. Did you go to Pageland?

21 A Yes.

22 Q Why didn't you turn yourself in right then?

23 A See, at the beginning I really had thought -- I
24 really had hoped that they were going to tell the truth
25 about what really happened, because I know that if the

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1 truth had been told that things wouldn't have come this
2 far, we wouldn't be here today and I seriously doubt
3 charges would have been filed had they told the truth.

~~4 But once I learned that they're lying on me, they're~~
5 saying thing happened this way, being that it was
6 nighttime and from the other day the testimony of the
7 officers and hearing the words shooter in the community,
8 there's a shooter at large, to hear words like that, that
9 kind of puts you on alert, that causes you to be paranoid
10 especially for the officers who are now looking for me.
11 What if one of them sees me and these words are ringing in
12 the back of their mind? They're on high alert, they may
13 be -- I don't want to say trigger happy but their nerves
14 are on end, they point the guns and yell freeze, that can
15 startle a person. And being that this is nighttime and
16 what if they startle me and that movement gets perceived
17 as me making a threatening gesture and that turns into,
18 you know, a dangerous situation.

19 Q Are you worried about what happens to you while you're
20 being arrested at that point?

21 A Yes. I was just worried that because this has been
22 portrayed as just a cold blooded act they would see me as
23 a dangerous person and therefore be paranoid or on high
24 alert or just edgy when they come into contact with me.

25 Q Okay. How long did you stay in Pageland?

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1 A I stayed that day up until the next morning. I had
2 actually got in contact with my sister later on and she
3 had already been telling me that she was talking to some
4 of the officers. She didn't tell me their names at first,
5 but she was saying that she --

6 MS. COLLINS: Objection to hearsay.

7 Q Don't repeat what somebody said.

8 A Okay. Well, we arranged for her to get in contact
9 with the police and let them know that I was coming to
10 turn myself in, because I wanted to be as safe of an
11 encounter as possible. I didn't want them to just run
12 into me and something possibly dangerous happen and I
13 didn't want -- I just wanted them to be at ease about them
14 knowing I'm coming to turn myself in and knowing that I'm
15 giving myself up willingly. She arranged for that to
16 happen then later on, that's when I went to turn myself
17 in.

18 Q Well, you could have gotten somebody to drive you
19 right to the police department, couldn't you? Why didn't
20 you just get the lady to just drive you up to the police
21 department?

22 A I just wanted them to know I was coming.

23 Q And ultimately that's what happened, you did get
24 arranged -- to turn yourself in?

25 A Yes. As soon as we pulled in, the first thing I did

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1 I immediately held my hands up because I didn't want them
2 to not be able to see my hands, because I never intended
3 on running, I never intended on eluding them or evading
4 them or going into hiding. Because me knowing that I was
5 defending myself, why would I want to run from this
6 situation? And that's something -- it makes you look
7 guilty for you just to run like that.

8 Q Well, Mr. Massey, I want to show you what is marked as
9 State's Exhibit 11. And do you recognize that picture?

10 A Yes, I do.

11 Q What's that picture?

12 A This is the kitchen, this shows the area where we was
13 standing at.

14 Q Okay. How about those diagrams? Okay. We've got --
15 the record would reflect that there's a W for -- can I hold
16 it please -- a W for Sindarous Wells, there's a D for
17 Demarcus and there's a M for Massey. Do you agree with
18 Sindarous Wells estimate of where everybody was at?

19 A Yeah. He may have been a little farther back, but he
20 was generally close.

21 Q That's pretty tight there, isn't it, for three human
22 bodies?

23 A Yes.

24 Q But generally -- okay.

25 A That's the general area we were all in.

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1 Q Okay. Now, I believe he said he stepped away, stepped
2 back when you got hit?

3 A Yes.

4 Q He kind of stepped back towards the counter. And so
5 from your understanding -- did you even see what happened
6 to him?

7 A No, I didn't.

8 Q But the counter would be heading away back behind --
9 in the opposite direction from that stove?

10 A Yeah, off to the left of the stove.

11 Q Which if he stepped back his view in the living room
12 would be -- you know, would be obscured by that wall and
13 the stove more?

14 A Yeah. Actually when I went down I couldn't see him
15 anymore because the stove was right there beside me.

16 Q Okay. But you never saw him again.

17 A No, I didn't.

18 Q How about the two red marks, can you see little red
19 marks on that?

20 A Yes.

21 Q Okay. Now, what do you recall about Sindarous'
22 testimony about those marks?

23 A I wasn't that far back.

24 Q Well, I'm asking you, is that --

25 A Yes.

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1 Q -- he indicated that's where your feet were, where he
2 saw your feet.

3 A Yes.

4 Q Okay. So do you agree with that?

5 A No. I was actually right by the living room door but
6 I was still in the kitchen.

7 Q Okay. You were still in the kitchen, your whole body?

8 A I was still in the kitchen.

9 Q Okay. So you didn't end up in the living room?

10 A No, I didn't.

11 Q Okay. So when you fell back you didn't move -- your
12 feet didn't move you into the living room?

13 A No, I didn't go -- it's not like he knocked me back
14 six or seven feet, I went back maybe two or two feet. But

15 I didn't go far -- I didn't go back into the living room,
16 I didn't go far.

17 Q You went towards the living room but you didn't go
18 into it.

19 A No, I didn't.

20 MR. GRIER: Your Honor, may I pass this to the jury
21 just to observe what we've been talking about?

22 THE COURT: You may.

23 Q Okay. Well, Mr. Massey, you got -- we need to talk
24 about your warts now. All right. You do have a criminal
25 record, correct?

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- 1 A Yes.
- 2 Q And you have a conviction for possession of cocaine.
- 3 A Yes.
- 4 Q Was it crack cocaine?
- 5 A Yes.
- 6 Q What was the result of that conviction?
- 7 A I received a year of probation.
- 8 Q When was that?
- 9 A That was in 2012.
- 10 Q Why did you -- did you have a trial on that?
- 11 A No, I didn't have a trial. I actually -- they
- 12 offered me a year probation and I accepted that.
- 13 Q Were you guilty of that?
- 14 A Yes, I was.
- 15 Q Are you guilty of murdering Marcus Robinson?
- 16 A No, I'm not.
- 17 Q Why did you have to take his life?
- 18 A Because in that moment I knew that if I didn't do
- 19 whatever I could to protect myself I knew that he -- I
- 20 knew he was going to hurt me.
- 21 Q All right.
- 22 MR. GRIER: Beg the Court's indulgence.
- 23 (Break in proceedings.)
- 24 Q I don't think I asked you. Where had the gun been
- 25 concealed throughout the time you were in the home at [REDACTED]

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1 A In my pocket.

2 Q And which pocket was it in?

3 A My left pocket.

4 Q And how many shots were fired?

5 A One.

6 Q How many?

7 A One.

8 Q How many bullets did you have in that gun?

9 A There were five in it.

10 Q You didn't fire anymore bullets?

11 A No.

12 MR. GRIER: Okay, Mr. Massey, please answer any
13 questions that Ms. Collins has for you.

14 THE COURT: All right. Mr. Massey, I'll ask you to
15 return to your seat with your lawyer, we'll take a break.

16 All right. Ladies and gentlemen, let's take a short
17 morning break at this time, just go to your jury room, we
18 will call you when we are ready. Don't discuss the case
19 amongst yourselves while you're in the jury room. Thank
20 you very much.

21 (The jury left the courtroom.)

22 THE COURT: All right. Stand at ease for about ten.

23 (A recess was taken.)

24 (The jury returned to the courtroom.)

25 THE COURT: All right. Ms. Collins?

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1 MS. COLLINS: Thank you, Your Honor. May it please
2 the Court?

3 CROSS EXAMINATION

4 BY MR. GRIER:

5 Q How many years did you know Demarcus Robinson?

6 A Since I was like 13 or 14 maybe, 12 or 13 years.

7 Q And you called him Marcus, right?

8 A Yes.

9 Q You need to speak up a little bit.

10 A Yes.

11 Q You didn't call him the knockout king, right?

12 A I didn't call him that, but I was aware of it,
13 though.

14 Q But you didn't call him that, though, did you?

15 A No.

16 Q Because that wasn't your relationship with him, was
17 it?

18 A No.

19 Q Your relationship with Marcus was as a friend, right?

20 A Yes.

21 Q Y'all never had any problems, right?

22 A Correct.

23 Q When you talked to the police you said "We'd always
24 been cool," right?

25 A Yes.

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1 Q In fact, earlier that day you said y'all were hanging
2 out talking about where y'all were going to be going that
3 night, right?

4 A Yes.

5 Q You were going to 16th Street, right?

6 A Yes.

7 Q He was going to Wiley Park; is that right?

8 A Yes.

9 Q And y'all were sharing a cigarette, or he was smoking
10 a short of a cigarette you had previously smoked part of?

11 A Yes.

12 Q That's kind of intimate, isn't it? That's a close
13 friend to frankly put his lips on something that you had
14 smoked earlier, that was a pretty close friendship,

15 wouldn't you say?

16 A It was fairly close, yes.

17 Q So y'all sat together and smoked together and talked
18 together earlier that day, right?

19 A We didn't sit together, I saw him. He was actually
20 driving by and I was walking down the street and he
21 stopped and spoke to me.

22 Q Hung out for a few minutes at least, right?

23 A Yes.

24 Q Talked about the parties, right?

25 A Yes.

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1 Q Did he go ahead and smoke the short while he was
2 standing there with you?

3 A No. I gave it to him and he pulled off.

4 Q Now, with Rashawd -- let's talk about Rashawd. Again,
5 you talk about how y'all's relationship was, that he was a
6 couple of years ahead of you in school, right?

7 A Yes.

8 Q You had a driver's license though you didn't have a
9 car, right?

10 A Yes.

11 Q And they would ask you to drive them around, right?

12 A No, not like on occasion but just on that one
13 particular incident.

14 Q Oh, just that one time?

15 A Yes.

16 Q Okay. And so that one time they asked you if you
17 would drive them around and you did. And you said that you
18 didn't know anything about what was going on, right?

19 A Yes.

20 Q And you said that y'all went to different places and
21 they -- he and who else, two other guys or one?

22 A Two other guys.

23 Q So it was you, Rashawd and two other guys, right, and
24 you were driving?

25 A Yes.

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1 Q And y'all went to one place, all three would go in for
2 a few minutes?

3 A Yes.

4 Q And they would come back out?

5 A Yes.

6 Q And you went to another place and that happened too?

7 A Yes.

8 Q And was it the third place where you heard the shots?

9 A Yes.

10 Q And you're sitting in the car, you didn't go in,
11 right?

12 A No. I never got of the car.

13 Q So you're sitting in the car, right?

14 A Yes.

15 Q And you just hear the shots, right?

16 A Yes.

17 Q You didn't see the shots, did you? You heard the
18 shots.

19 A I didn't see them.

20 Q You heard the shots.

21 A Yes.

22 Q And they came running back out.

23 A Yes.

24 Q Do you remember saying that you cooperated with police
25 and told them that you saw Rashawd shoot somebody?

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1 A No, I didn't say shoot them. If I did I didn't mean
2 to say -- I identified him as the shooter.

3 Q Well, how did you identify him as the shooter if the
4 three men went in and you heard shots, how do you know it
5 wasn't one of the other two guys?

6 A Because after they came back they were actually
7 talking about it and that's when he said, you know, "If
8 any one of y'all says anything about this then the same
9 thing can happen to you."

10 Q And you felt bad that Rashawd had gone to prison and
11 you hadn't had to, right?

12 A Yes.

13 Q And that you had snitched as you said, right?

14 A Yes.

15 Q You didn't feel bad that even though you didn't know
16 about it as you say that you had ended up being used to be
17 a driver in a car for an armed robbery, didn't that make
18 you feel bad?

19 A Well, actually what had happened -- I felt compelled
20 to do the right thing, but as far as just him going to
21 prison I felt bad about that too. Because, you know, just
22 having known him and the fact I got out the next day and
23 he ended up serving several years in prison, I just -- I
24 felt bad about that.

25 Q But certainly not the best moment of your life to be

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1 the driver during an armed robbery even if you didn't know
2 ahead of time, right?

3 A Yes.

4 Q Because when they come running back out and you heard
5 shots, you didn't take off and leave them there and go,
6 "Wo, what's happening." You stayed and let them get in the
7 car, right?

8 A No. I didn't know what was going on, I never knew --

9 Q But you heard shots.

10 A Yeah. I heard two shots, they were off in the
11 distance but I didn't know what was going on, I didn't
12 know that was them.

13 Q And you knew they came running, right?

14 A Yes, they came running back.

15 Q And they jumped in the car, right?

16 A Yes.

17 Q And you heard them talk about it afterwards, right?

18 A Yes.

19 Q And you didn't immediately drop them off and walk back
20 over to the police station and say "Hey, I want to report
21 something, I need to let you know what's going on," did
22 you?

23 A Well, I mean, if a person is threatening to do the
24 same thing to you, if you do that there's a real danger in
25 that. I mean, I know that it's your duty to point that

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1 out, but at the same time, you know, if you just -- if
2 somebody just shot a person and says to you, "If you say
3 something about it I'm going to shoot you too," basically
4 you're a bit apprehensive about immediately just going and
5 telling the police what you know.

6 Q So you charged -- you said you spent one night and got
7 out, right?

8 A Yes.

9 Q And when the police talked to you that's when you told
10 them, "I didn't know anything about it but this is what I
11 know they said afterwards," right?

12 A Yeah. Because the guy who had actually gotten
13 arrested before me, he told them that I didn't know
14 anything about that, I was just driving.

15 Q Don't go into hearsay what somebody else said.

16 A It's not hearsay, he actually made the statement
17 saying that.

18 Q All right. Now, what I'm interested about is you
19 telling Rashawd after he hits you twice -- you said he
20 punched you, you didn't say he slapped you, you said he
21 punched you twice, right?

22 A Yes, he punched me.

23 Q And he punched you in the face twice, right?

24 A Yes.

25 Q And I'm interested that you told him afterwards "I

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1 guess I deserved that," or "I feel like maybe I deserved
2 that," right?

3 A Yes.

4 Q I'm interested that you didn't say to him, "You know
5 what? Not only did I not deserve that, I didn't deserve
6 you dragging you into an armed robbery situation, having me
7 drive and not telling me about it and having me be arrested
8 and turning my whole life around when I was book smart."
9 Didn't that strike you that you didn't deserve that from
10 him?

11 A I mean, in a way that's how I felt. But to say
12 something like that to a person, that can provoke a person
13 to, you know, make them act out of anger. That's like why
14 would you say that if you know it's going to make a person
15 mad?

16 Q So you didn't say it to Rashawd.

17 A I didn't.

18 Q Kind of placated on it saying, "I guess I deserved
19 that."

20 A Yes. And that was kind of my way of letting him know
21 that I'm not worried about it, I don't want any harm, any
22 bad blood between us.

23 Q And you didn't say it to Demarcus. You didn't say,
24 "You know what? I've been thinking it, Rashawd should
25 never put me in that situation." You didn't say any of

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1 that to Demarcus either, right? Because you just told him,

2 "Here is the situation, I'm cool, it's cool," right?

3 A Yes, just keeping peace between us.

4 Q Now, you've been out that night drinking, right?

5 A Yes.

6 Q Six or seven beers, right?

7 A Yes.

8 Q You got a prior possession of crack conviction, right?

9 A Yes.

10 Q You've been out for several hours, and you said after
11 Rashawd incident you're headed home, right?

12 A Yes.

13 Q And that's when you see the get-together over at City
14 Avenue and you stop by, right?

15 A Yeah. I saw a couple of cars out there so I decided
16 to stop by.

17 Q That possession of crack conviction was in June of
18 2012, does that sound right?

19 A Yes.

20 Q Do you remember testifying in a hearing earlier about
21 this case?

22 A Yes.

23 Q Do you remember talking about who you said was in the
24 kitchen at the time this happened with you and Demarcus?

25 A Yes.

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1 Q Do you remember saying that Malika Harris was in the
2 kitchen when this happened?

3 A Yes, I do. I didn't say she was in the kitchen when
4 it happened, she was in the kitchen when I walked into the
5 house.

6 Q I'm sorry it's so bulky but I need to hand you a
7 transcript from that hearing and have you turn to page 26,
8 26 line 21. Tell me when you're there.

9 A All right.

10 Q Are you on page 26?

11 A Yes.

12 Q Okay. Line 21. The question was put to you by Mr.
13 Grier, "When that happened, when the shooting happened who
14 was in that room?" And you told them, "At that point
15 Sindarous was, McGriff and Navoney was," right?

16 A Yes.

17 Q And he said, "Say the last name too, please? And you
18 said, "Navoney Curry," right?

19 A And.

20 Q And he said. Okay. "And Sindarous is who?" And you
21 said, "Sindarous Wells," right?

22 A Yes.

23 Q And he said, "You mentioned somebody else already,
24 Thomas McGriff," you said, "Thomas McGriff," right?

25 A Yes.

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1 Q And Mr. Grier said. "Okay. Those three. Who else?"

2 And you said, "Malika Harris," right?

3 A Yes.

4 Q You said Shonettia had just walked off right before

5 and Ebonie had left a couple of minutes before, right?

6 A Yes.

7 Q And down on line ten Mr. Grier says, "Did you say

8 Malika Harris was in there?" And you said, "Yes."

9 A Yes. But I just assumed that she was still in the

10 kitchen because I didn't actually see her actually walk

11 out.

12 Q That's not what you told Mr. Grier that day that you

13 assumed she was in the kitchen, you told him she was in the

14 kitchen, didn't you?

15 A I know that's what I said. I didn't actually mean to

16 say exactly she was in there because I didn't actually see

17 her walk out so I didn't really know if she had left or

18 not, but I apologize if that's what I said. I see I did

19 say that.

20 Q Let's just back up to October 11th, 2013, the day of

21 the parties. Okay?

22 A Okay.

23 Q You told Mr. Grier that you were preparing to go to

24 the parties and wanted to make sure mom didn't need

25 anything, right?

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1 A Yes.

2 Q So it was around 11:00 or 12:00 that you went out,
3 right?

4 A Yes.

5 Q And you said the streets had gotten rougher since you
6 had been living there since you were ten, right?

7 A Yes.

8 Q And so at one point you started carrying a gun, right?

9 A Yes.

10 Q And you said you remember that very day what caused
11 you to start carrying a gun, right?

12 A Yes, I do. Because just to see something like that
13 that's -- you don't really forget something like that, to
14 watch a friend die in front of you. You remember the date
15 and everything.

16 Q And that date was March 23, 2012, right?

17 A Yes.

18 Q And you saw that right in front of you, right?

19 A Yes.

20 Q And you, of course, reported that to the police,
21 didn't you?

22 A No, I didn't.

23 Q You didn't go --

24 A They came to the scene, they were called to the
25 scene, they were actually there before I left.

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1 Q And did you tell them that you saw it happen right in
2 front of you?

3 A Yes, I did.

4 Q Did you tell them who you saw do it?

5 A I didn't know who did it because the person, he had a
6 mask on.

7 Q So you said it was after that point that you started
8 carrying a gun, right?

9 A Yes.

10 Q But the truth of the matter is, you carried a gun
11 before that, didn't you?

12 A I mean, I had had -- maybe had a gun here or there
13 before, but that really made me feel like, okay, I need to
14 protect myself.

15 Q So at that point you started carrying it basically all
16 the time, is that what you're saying?

17 A Not all of the time, but on a more regular basis.

18 Q Okay. But you do concede -- you do admit that you had
19 carried it on your person before that, right?

20 A Not necessarily carried it before, but I've had
21 gun -- I've had a gun before.

22 Q Do you deny that in 2011 you carried a firearm on you,
23 a pistol on you? Do you deny that?

24 A I don't deny that.

25 Q And that was before the March incident, March 23rd of

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1 2012 incident, right?

2 A Yes.

3 Q But in any event that was very upsetting to you and

4 very startling to witness that, right?

5 A Yes.

6 Q And so as you said more frequently you would start

7 carrying a gun in your pocket, right?

8 A Yes.

9 Q And yet you would walk the neighborhood at night to go

10 places, right?

11 A Yes.

12 Q And, in fact, this night, October 11, 2013, you didn't

13 stay at home, did you?

14 A I didn't.

15 Q And you didn't call anybody up on your phone -- did

16 you have a cellphone at that time?

17 A Yes.

18 Q You didn't call anybody up on your cellphone and say,

19 "You know what, I'm kind of not cool with walking in the

20 dark, can you come by and get me?" You didn't say that,

21 did you?

22 A I didn't. Because where I was going to was -- it was

23 like five minutes walking distance, you know. I didn't

24 feel the need to have somebody pick me up because that's

25 the route I took, I walked through there a lot.

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1 Q But you felt the need to carry a gun, right?

2 A Yes. Not exactly for that particular night, but just

3 being where I'm from, you know that -- you never know what

4 may happen, you know. You know that maybe something could

5 happen, you don't go out -- it wasn't like, "Okay. I

6 don't need my gun, I'll go out with the knife because I

7 feel like something was going to happen." But it was just

8 more -- you don't know what can happen.

9 Q Don't know what can happen. Things happen, right?

10 A Yes.

11 Q Things can happen during the day, right?

12 A Yes.

13 Q Things can happen at night, right?

14 A Yes.

15 Q And things can happen with guns, right?

16 A Yes.

17 Q A gun in a pocket can be used or not used, right?

18 A Right.

19 Q And so you carried a gun. And you simply didn't just

20 carry a gun, you carried a loaded gun, didn't you?

21 A Yes, I did.

22 Q Loaded with five bullets, right?

23 A Yes.

24 Q All of the bullets that it would hold, right?

25 A Yes.

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1 Q And when did you load it? Did you load it right
2 before you went out or was it always loaded?

3 A It had always been loaded.

4 Q And so you put the gun in your pocket, your left front
5 pants pocket because you're left-handed, right?

6 A Yes.

7 Q And you left your mother's home and you went out in
8 the dark to go to the party, right?

9 A Yes.

10 Q The party on 16th Street, right?

11 A Yes.

12 Q And the gun was in your pocket, right?

13 A Yes.

14 Q And you saw people as you went to that party, right?

15 A Not as I went, I saw people as I got there.

16 Q When you got to the party you saw people, right?

17 A Yes.

18 Q You interacted with people right?

19 A Yes.

20 Q You talked with people, right?

21 A Yes.

22 Q You had a beer, right?

23 A I had --

24 Q Seven beers? Six beers? Six or seven beers?

25 A Yes.

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1 Q You had several, six or seven beers, right?

2 A Yes.

3 Q And that whole time that loaded gun was in your

4 pocket, right?

5 A Yes.

6 Q You didn't tell anybody you had it in your pocket, did
7 you?

8 A No, I didn't.

9 Q At that point it was your secret, wasn't it?

10 A I mean, in the context you can say -- because people
11 didn't know I had it you can say it was a secret. But
12 it's a secret as if I'm holding this from you just to -- I
13 don't know. I guess I don't know if the meaning of
14 secret -- I guess you're trying to portray it's like okay,
15 if someone has a fatal illness and I have the secret cure
16 but I don't tell them I have it, it wasn't that type of
17 secret. It was just I had it but I didn't feel the need
18 to go around and telling everybody "Hey, I have a gun on
19 me."

20 Q But it was something you knew and they did not know,
21 right?

22 A Yes.

23 Q Because you didn't tell anybody at the 16th Street
24 party, right?

25 A Right.

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1 Q And you saw Rashawd, right?

2 A Right.

3 Q And you didn't immediately leave and go, "Time for me

4 to go," did you?

5 A I didn't leave, I kept my distance from him.

6 Q Kept your distance. But he came up to you you say,

7 right?

8 A Right.

9 Q He came up to you you say and he punched you, right?

10 A Right.

11 Q He punched you twice in your face, right?

12 A Right.

13 Q And that you didn't at that point pull the gun, right?

14 A I didn't because people stepped in between.

15 Q Now, this is a man that had been to prison, right?

16 A Yes.

17 Q Prison is a tough place, isn't it?

18 A Yes.

19 Q And he'd been to prison you say because of you, right?

20 A Yes.

21 Q And so when he punched you that first time you didn't

22 immediately go for that gun?

23 A No, I didn't. It was -- the two punches, they were

24 in quick succession, he punched me once and then punched

25 me again.

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- 1 Q Where did he punch you?
- 2 A Right here.
- 3 Q On your left cheek bone up there?
- 4 A Yes.
- 5 Q Twice in the same place?
- 6 A Yes.
- 7 Q And you say somebody stepped between you?
- 8 A Yeah. It was a couple of people step between us.
- 9 Q Did you hear them say the other day that it was a girl
- 10 that stepped between y'all?
- 11 A Yeah, I heard him say that it was a girl.
- 12 Q Was one of the people that stepped between you a girl?
- 13 A I don't know. I just remember the couple of people
- 14 who grabbed me.
- 15 Q And they did what, they grabbed you or grabbed him?
- 16 A Not necessarily grabbed me but they stepped in
- 17 between and separated us.
- 18 Q Stepped in between?
- 19 A Yes.
- 20 Q Tense situation, right?
- 21 A Sort of, yes.
- 22 Q Sort of? Not scarry situation that somebody is
- 23 punching you that you say you helped send to prison, that's
- 24 not scarry?
- 25 A I wouldn't necessarily say scarry, you know. It

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1 wasn't a casual situation but it wasn't just, oh -- it
2 didn't -- it wasn't that scary, it wasn't a really scary
3 situation, but --

4 Q It was enough to make you leave.

5 A Yes.

6 Q Definitely time to leave, right?

7 A Yes.

8 Q Definitely time to not just leave and go to another

9 party, but definitely time -- at that point your idea was

10 time to go home, right?

11 A Yes, that was my plan.

12 Q Time to take this gun and go home, right?

13 A Yes.

14 Q Because home is safe, right?

15 A Well, yes.

16 Q And so you're heading home, you're walking home, you

17 see there's some cars out at Malika and Shonettia's house

18 on City Avenue and you decide you want to swing in there

19 and see what's up, right?

20 A Yes.

21 Q And you say because you were raised as respectful that

22 even though y'all were relatives, you and Malika, and even

23 though you'd been over there a good bit before that you

24 knocked on the door, right?

25 A I did.

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1 Q Because you said it was their house, right?

2 A Yes. And I was raised to be respectful.

3 Q And you were raised to be respectful that it was their
4 house, right?

5 A Yes.

6 Q That they should decide who comes in their house,
7 right?

8 A Yes.

9 Q And they should decide what comes in their house,
10 right?

11 A I guess you could say that.

12 Q But you didn't respect them enough when you came in to
13 say, "Hey, I've got a gun in my pocket, is that okay?" You
14 didn't respect them enough to say that to Malika, did you?

15 A Well, I didn't go there with the intent of using it
16 so I just didn't think to say, "I have a gun." I just
17 don't go around saying that everywhere I go.

18 Q Did you not understand that when you carry a firearm
19 and you enter someone's home you're supposed to tell them
20 that you have a firearm? Did you not know that's required?

21 A I didn't.

22 Q But apart from it being required, again, talking about
23 respectfulness, even though you didn't intend to use it,
24 you ultimately did use it, right?

25 A Yes, I did.

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1 Q So you didn't have respect enough for Malika to go
2 "Hey, by the way, I've got a gun in my pocket, do you want
3 me to leave?" You didn't ask her that, did you?

4 A ~~I didn't feel that it was necessary.~~

5 Q And you didn't ask her, "Hey, I've got a gun in my
6 pocket. Do you want to like maybe me put it outside or put
7 it in your car before I come in or keep it somewhere?" You
8 didn't ask her that, did you? Didn't feel it was
9 necessary, did you?

10 A I didn't feel it was necessary because I didn't go in
11 there feeling like I was going into a situation where it
12 would have to come into use.

13 Q And you didn't ask Shonettia that either, did you?

14 A No, I didn't.

15 Q And you saw Navoney Curry there, right?

16 A Yes.

17 Q And you said you knew Navoney Curry for many years,
18 right?

19 A Yes.

20 Q And since you knew Navoney Curry for many years, you
21 that he'd had some tragedy in his life, didn't you?

22 A Yes, I know.

23 Q You knew that Navoney Curry's brother, Eric, had been
24 shot and killed earlier, right?

25 A Yes.

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1 Q And you knew at that same incident that Navoney Curry
2 had also been shot, but thankfully he survived. You knew
3 that, didn't you?

4 A Yes.

5 Q Because you knew Navoney Curry, right?

6 A Yes.

7 Q And you didn't think, "You know what, Navoney Curry
8 may not be cool being around firearms, it might make him
9 nervous, it might make him upset, it might bring bad
10 memories." You didn't think to tell your friend, Navoney
11 Curry, "Navoney, I've got a gun in my pocket, is that okay
12 with you?"

13 A No, I didn't think that. Because the reality is,
14 guns are going to be around. I understand what you're
15 saying what he went through and how someone -- a gun being
16 around may be a traumatic experience. But if I'm his
17 friend and we've known each other for many years, the fact
18 that I have a gun, I don't think that that would really
19 trigger one of those traumatic experiences. Maybe if he
20 were to see a member of the suspect's family or something
21 like that with a gun, maybe, but with just me having a
22 gun, I don't think that that would cause him to feel that
23 way.

24 Q Because he knew you were his friend, right?

25 A Yes.

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1 Q And so just the fact you're saying that you had a gun
2 he shouldn't be upset by that, right?

3 A I didn't think he would.

4 Q ~~Just like Demarcus was your friend, right?~~

5 A Yes.

6 Q So you wouldn't necessarily feel threatened by
7 Demarcus, right?

8 A Right.

9 Q Even though he's knockout king for other people,
10 that's not what you called him because he's your friend and
11 you're not threatened by him at that point, am I right?

12 A Yes. I wasn't threatened, because like I said, when
13 you base a friendship off something it was based off of
14 the good I saw in him, we liked to laugh, we liked to have

15 a good time. But that doesn't change the fact that you
16 know this about this person, that doesn't change the fact
17 that you know this person has this side to him. And so
18 it's when you know that about a person you kind of try to
19 stay on that person's good side, you don't try to invoke
20 that side of him. So in that sense, no, I didn't feel
21 threatened by him.

22 Q All right. Let's go back to the gun. You knew that
23 Shonettia and Malika had children that lived in that home
24 with them, right?

25 A Yes.

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1 Q And when you came in that house you didn't know if
2 those kids were there in bed or if they were at somebody
3 else's house, you didn't know that, did you?

4 A I didn't know, but usually they're not there that
5 often. I'm not saying that they're never there, but some
6 times they have babysitters quite a bit.

7 Q You walked up -- I'm sorry, go ahead and finish,
8 please.

9 A They have babysitters quite a bit. I didn't know for
10 sure they weren't there, but I had a good idea that if
11 they had all of these people at their house and it's after
12 3:00 at night and everybody is drinking and partying and
13 making noise, that if the babies were asleep in their room
14 they probably wouldn't have that going on.

15 Q But you didn't ask, didn't ask Malika and Shonettia,
16 "Hey, are the girls here? Are the kids here?" You didn't
17 ask, did you?

18 A No, I didn't.

19 Q In fact, looking at State's Exhibit 8, you walked
20 right by a pink bicycle with training wheels to go up in
21 the front porch with the gun in your pocket, didn't you?

22 A I didn't notice it but I guess it was there.

23 MR. GRIER: I apologize, I didn't hear the question.

24 MS. COLLINS: I said, "You walked right by a pink
25 bicycle with training wheels on it right in front of the

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1 front porch to go in that house, didn't you?" And he said
2 he notice it.

3 Q When you're carrying a loaded gun in your pocket and
4 you're walking around, wouldn't you agree it's important to
5 notice things?

6 A I mean, something such as a bicycle I wouldn't say
7 that that's important to know because -- just because that
8 bike is there, that doesn't necessarily mean that the kids
9 was there, you know. They lived there, that's her bike so
10 why wouldn't her bike be there?

11 Q Forget about the bike a minute, again, going back to
12 the people that are there. Wouldn't you agree that the
13 responsibility of carrying a loaded gun in your pocket that
14 nobody else knows about carries with it that you're
15 responsible for it, right?

16 A Yes. I'm responsible for it, yes.

17 Q And you're responsible whether or not it stays in your
18 pocket or you pull it out, right?

19 A Yes.

20 Q And you're responsible for whether or not the trigger
21 is pulled or if the gun goes off, right?

22 A Yes, I'm responsible for that.

23 Q You're in control.

24 A Yes.

25 Q And you don't think it was right to tell the other

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1 people in the party whose -- guns go off sometimes, right?

2 A Yes, they do, if they're handled in an unsafe manner.

3 Q And so you didn't think it was a kindness if not

4 respectfulness to tell other people in that party, "Hey, --

5 are y'all okay with this? I've got a gun, and by the way

6 it's loaded." You didn't think it was necessary?

7 A See, just the fact with me having a gun, it's -- I

8 think there's a difference between when a person has a gun

9 in order to protect themselves or keep themselves safe, and,

10 of course, there's people who have guns who go out to

11 cause people harm to use that gun in negative ways. But

12 just the fact that me having the gun, I didn't go into

13 that situation with the anticipation of, "Okay. I'm going

14 in this house to use the gun." So if I did then maybe I

15 would have felt it necessary to say, "I'm coming to your

16 house, I'm about to use this gun, you may need to get away

17 from this situation," it wasn't something like that. So

18 the thought really didn't cross my mind, Okay. I need to

19 make everybody aware that I had a gun, because it just

20 didn't seem important to me.

21 Q You felt you weren't going to be using it so why tell

22 people, right?

23 A Yes.

24 Q You felt welcomed there, right?

25 A I always felt welcome there.

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1 Q You felt these are all friends, right?

2 A Yes.

3 Q Rashawd is not here, he's back there, right?

4 A Yes.

5 Q Comfortable with everybody in there, right?

6 A Yes.

7 Q Why didn't you just leave the gun outside?

8 A Because, I mean, I had it with me when I went there,

9 I had it with me when I left so those types of thoughts,

10 they just don't cross your mind. I didn't think, "Maybe I

11 need to put this down because something may happen, maybe

12 I need to put this down because it may go off." I

13 considered myself a responsible person, so like you said,

14 it's my responsibility, if that gun goes off it's my

15 responsibility and I knew that I'm responsible enough that

16 that gun wasn't just going to go off or cause anybody

17 danger or put anybody in harms way. So I guess, no, I

18 didn't feel like I needed to put it on the porch.

19 Q But you put it in your pocket before you went out that

20 night because the neighborhood is rough, the times are

21 rough and you thought, "I'd better put it in, who knows

22 what might happen, I might need it," right?

23 A Yes.

24 Q But when you're going in a house where you feel

25 welcome where everybody is friends, you didn't stop to go,

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1 "I'm not going to need this here so I'm going to secure it
2 somewhere, whether it's in a car somewhere." The
3 situation, you would agree, had changed in terms of you
4 needing a loaded gun in your pocket, am I right?

5 A Yes. I didn't feel like I needed it at that
6 particular place or at that particular time. But the
7 nature of me even having it is not knowing what can
8 happen, not knowing whether something is going to happen,
9 not knowing when something is going to happen. That
10 experience is going back to seeing those two guys get
11 killed. I didn't know that was going to happen there, I
12 didn't know when it was going to happen, I didn't know who
13 that was going to happen to. That was a place that I had
14 been to basically everyday, a place that I felt safe, a
15 place that I felt comfortable at, but yet still for
16 something like that to happen at that place where you say
17 that you don't know when it's going to happen, you don't
18 know where it's going to happen. You may feel safe at a
19 particular place but that doesn't change the fact that
20 things happen, and things happen unexpectedly, things
21 happen in unexpected places.

22 Q So when you get home at night after carrying the gun I
23 imagine then you keep it on you? When you walk in the
24 house -- to your mother's house, do you keep that gun on
25 you?

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1 A No. When I get home I put it up.

2 Q But things happen. Things happen in unexpected
3 places, don't they?

4 A They do.

5 Q People can be intruders, right?

6 A They can.

7 Q But you feel safe enough there, you feel welcome
8 enough there, you feel comfortable enough there to take it
9 out of your pocket and put it somewhere, right?

10 A Yes. Because when -- I think anybody would feel
11 secure and safe at home as to where you wouldn't feel the
12 need to have your gun directly on you. But even if you
13 are in a place where you feel safe, you can't control who
14 comes in and out of that place, you can't control what
15 comes in and out of that place. So even if you feel safe
16 there you don't know what's going to happen because that's
17 not your house, you don't control the circumstances of,
18 you know, who and what comes into the house. But being at
19 home, I'm sure anybody would feel safe enough as to where,
20 "I can put this up." But still, an intruder may come, but
21 you feel more safe at home.

22 Q You said you had had six or seven beers that night,
23 right?

24 A Yes.

25 Q I think you said -- correct me if I'm wrong, please --

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1 that it didn't take that much for you, is that what you
2 said?

3 A Yeah. I didn't really drink to excess that night.

4 Q But you were feeling the affects though, right?

5 A Yes, to a certain degree.

6 Q Do you remember testifying in an earlier hearing that
7 you were impaired?

8 A Yes. And see, actually I learned that impaired and
9 drunk are two different -- there's a separation between
10 the two. See, I had always thought that impaired means
11 drunk and that was the same thing, same circumstances
12 between the two, but actually to be impaired is the point
13 where alcohol starts to take its effects. When you're
14 drunk it's when you're past the threshold of being able to
15 control the effects of that alcohol.

16 Q Let's talk about the term, talked about impaired,
17 talked about drunk. Let's talk about the term under the
18 influence of alcohol or drugs. Did you know that
19 discharging a firearm while under the influence of alcohol
20 or drugs is against the law? Did you know that?

21 A I didn't know that.

22 Q And can't you imagine that someone carrying -- someone
23 who has the responsibility to carry a firearm, to carry a
24 loaded gun really shouldn't be drinking six or seven beers,
25 would you agree with me?

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1 A I honestly can't say I would agree with that, because
2 even though it doesn't take too much for me to get drunk I
3 wasn't drunk. And drinking to excess, yes, that would
4 ~~definitely mean that I shouldn't have a gun with me. But~~
5 knowing that I do -- I know that I shouldn't be out just
6 getting drunk to the point where I can't control myself or
7 my actions or what I do with having a gun on me.

8 Q So you were in control, you agree?

9 A Yes.

10 Q You were in control of that gun, right?

11 A Yes.

12 Q The gun didn't just go off because it doesn't have a
13 hair trigger because it's not that easy to fire, right?

14 A Yes.

15 Q Because if it had had a hair trigger, certainly you
16 wouldn't have had it in your pocket where it could easily
17 go off around these people that you loved, right?

18 A No, I wouldn't have. That would have definitely made
19 me feel like I don't need to have it around people,
20 because now it can be off at anytime.

21 Q So that gun takes an effort to pull the trigger,
22 right?

23 A Yes.

24 Q So let's back up to the incident. You say that you're
25 in the kitchen, right?

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- 1 A Yes.
- 2 Q And you're waiting to play cards, right?
- 3 A Yes.
- 4 Q And you told Demarcus what had happened earlier with
- 5 Rashawd, right?
- 6 A Yes.
- 7 Q You'd seen Demarcus had been drinking, right?
- 8 A Yes.
- 9 Q But you're comfortable enough with your friendship to
- 10 go ahead and tell him because you think he's going to hear
- 11 about it later, right?
- 12 A Yes. I already know he's going to find out about it.
- 13 The conversation is out of friendship as well, so I didn't
- 14 feel any harm in just going ahead and letting him know
- 15 about it.
- 16 Q And what you told him basically was Rashawd just hit
- 17 me twice, right?
- 18 A Yes.
- 19 Q You didn't say anything to him about anything you did
- 20 to Rashawd, right?
- 21 A Because I didn't do anything.
- 22 Q Because you didn't. You didn't provoke Rashawd with
- 23 words, right?
- 24 A Correct.
- 25 Q And so you didn't tell Demarcus that, right, because

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1 that didn't happen, right?

2 A Can you say that again?

3 Q I'm just saying, you didn't do anything to provoke

4 Rashad is your testimony, right?

5 A Yes.

6 Q So, of course, you didn't tell Demarcus you had

7 because that hadn't happened, do you see what I'm saying?

8 All you told Demarcus was, "Hey, Rashad saw me and he hit

9 me twice and I'm okay with it."

10 A Yeah. I'm not worried about it due to me feeling bad

11 about the whole prior incident between us.

12 Q And you said that Marcus then at that point shook your

13 hand or however, indicated that he was cool with it too,

14 right?

15 A Yes.

16 Q And then you turned to watch the card game because

17 you're planning on playing next, right?

18 A Yes.

19 Q So you're standing there. This is the kitchen table,

20 direct me to where you would be standing. If this is the

21 kitchen table, were you standing right -- and this is the

22 living room door and the stove is back here, where were you

23 standing after you just told Demarcus you were watching the

24 card game?

25 A Can you show me the picture so I can --

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1 Q Absolutely. I'm showing you what Mr. Grier showed
2 you, State's Exhibit 11. Can you point out, where were you
3 standing to watch the card game after you told Demarcus?

4 A I was about right here with -- somewhere in that
5 area, maybe not exactly right there but in that general
6 area where Sindarous indicated.

7 Q Okay. So the general area where M is is where
8 Sindarous indicated you were maybe a little bit closer to
9 the living room and you're standing right there.

10 A Yes.

11 Q And where was Demarcus standing?

12 A He was in front of me. He wasn't directly in front
13 of me but he was maybe around this area. He was close by,
14 though.

15 Q And he was in front of you -- you're standing watching
16 it, he's standing watching it. You're saying he was in
17 front of you or beside you?

18 A He was off to the side. Because by then I had turned
19 my attention-- if you're coming in the living room --
20 from the living room the card table is to the right -- I
21 mean to the left, excuse me. The stove is right here to
22 the left, and after we got through talking and shook hands
23 I focused my attention towards the kitchen table.

24 Q So you're watching. And this is, as Mr. McGriff said,
25 close quarters, right?

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1 A Yes.

2 Q And you're standing there watching the card game,
3 right?

4 A Yes.

5 Q And Demarcus is over here to your right, right?

6 A Yes. That puts him somewhere to my right somewhere.

7 Q And you're turned like this watching the card game,
8 right?

9 A Yes.

10 Q And you're saying out of the blue he hits you in the
11 mouth, right?

12 A Yes.

13 Q And you said not just in the mouth but he hits you
14 square in the mouth, right?

15 A Yes.

16 Q Meaning head on, front on, right?

17 A Yes.

18 Q But he wasn't front on to you, he was beside you,
19 right?

20 A Yeah. But he walked in front of me and punched me.

21 Q And you said you fell backwards, right?

22 A Yes.

23 Q Now, I want to back up a minute. You said you had
24 just told Demarcus, "Rashawd hit me twice," right?

25 A Yes.

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1 Q Hearing that scenario, it's where your -- and I know
2 you're not really portraying it like this, but you're the
3 victim, you're on the receiving end of that, right?

4 A Yes.

5 Q And you didn't indicate to Demarcus that you had done
6 anything at all because you hadn't brought that on from
7 Rashawd, right?

8 A Yes.

9 Q So why the heck would Demarcus out of the blue hit his
10 friend, his friend of years that had just said, "You know
11 what? Your cousin hit me but I'm cool with it," and he's
12 like, "I'm cool with it?" Why would he out of the blue hit
13 like that you in your mouth?

14 A That's a question I have asked myself when it
15 happened, after it happened, and even, you know, now that
16 you asked me a question, that's a question I ask myself
17 now. I honestly can't give you an answer to that because
18 I don't know. I didn't expect it. If I would have known
19 to expect it maybe I would have known why to expect it,
20 but I can't tell you why.

21 Q You heard Sindarous Wells testify that you told
22 Demarcus there was a little more to it, that after you were
23 hit you had pulled a gun on Rashawd. You heard Sindarous
24 say that?

25 A I heard him say that.

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1 Q But you're saying you didn't do that, right?

2 A I didn't.

3 Q And you're saying you didn't tell Demarcus that you

4 did that, right?

5 A Yes. I wouldn't tell him I did it if I didn't do it.

6 Q At that point you agree with me, Demarcus had no idea

7 because you didn't tell him, you didn't tell anybody that

8 you had a gun in your pocket, right?

9 A Yes.

10 Q And so he comes around, hits you one time square on

11 the lips, correct?

12 A Yes.

13 Q And you fall backward, right?

14 A Yes.

15 Q But not so far that you say you're in the living room

16 across the threshold just right there at the kitchen.

17 A Right there. I was close by, I was in the -- I was

18 right there.

19 Q And you're saying, "At that point I locked eyes with
20 him," right?

21 A Yes.

22 Q "I locked eyes with this friend of mine," right?

23 A Yes.

24 Q "I locked eyes with this friend of mine on the last
25 night of his life at that moment," didn't you?

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1 A Yes.

2 Q And you said, "I'm looking at his eyes," right?

3 A Yes.

4 Q "I'm looking at his eyes," right?

5 A Yes.

6 Q And you shoot him, because you saw at that point as

7 you say an animal with, I don't know, intent on his mind to

8 harm you; is that fair?

9 A See, that's why I didn't mean to call him an animal,

10 I was just describing that situation, describing the look

11 I saw in his eyes. That's not the point when I shot, I

12 shot him after he was right on me, because there was a

13 couple of feet of distance between when me and him locked

14 eyes. But as he got on me and as he was just about to hit

15 me, that's when I shot.

16 Q But as you locked eyes you shot -- if you're locking

17 eyes, you're looking at me and I'm looking at you, and

18 we're how many feet apart would you say? I don't want to

19 get in your space, I don't want to offend you.

20 A Maybe a little --

21 Q A little bit farther?

22 A Maybe -- somewhere -- a little farther back.

23 Q We're locking eyes and we're looking at each other,

24 you say you're looking at my eyes and I'm looking at yours,

25 but then you say he had his fists -- his hand in a fist,

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1 right?

2 A Yes.

3 Q But you do know -- you saw his hands enough to know he
4 didn't have a weapon, right?

5 A Yes, I saw that.

6 Q You saw that. You agree he had no weapon, right?

7 A Yes.

8 Q Demarcus didn't have a gun, right?

9 A Yes.

10 Q Demarcus didn't have a knife, right?

11 A Yes.

12 Q He had one hand you said in a fist, right?

13 A Yes.

14 Q His right hand you say, right?

15 A No, his left.

16 Q It was his left hand?

17 A Yes. He hit me with his right and he was coming at
18 me with his left.

19 Q So he had hit you one time with his right hand, you
20 say his left hand was in a fist?

21 A Yes.

22 Q And Demarcus didn't say anything like, "I'm going to
23 kill you," did he?

24 A No. He didn't say that, but generally people don't
25 say that. If I'm going to just hit you then I'm just

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1 going to hit you, you know. He didn't say that before he
2 hit me so I can't understand why would he say that after
3 he hit me if he was coming at me a second time.

4 Q Do you remember -- and so you're saying today -- let's
5 go back to what you said today. You thought he was coming
6 at you to beat you up, do you remember saying that?

7 A Yes.

8 Q You didn't say "I thought he was coming at me to kill
9 me," right?

10 A I didn't say that.

11 Q You said, "I thought he was coming at me to beat me
12 up," right?

13 A Yes.

14 Q And you said, "I knew Marcus was about to hurt me,"
15 right?

16 A Yes.

17 Q You didn't say, "I thought Marcus was about to kill
18 me," right?

19 A Yes.

20 Q You didn't even say, "I thought Marcus was about to
21 put me in the hospital," did you? You just said "to hurt
22 me," right?

23 A Yes.

24 Q And you said -- Mr. Grier said, "What do you think was
25 going to result of another hit?" You said, "That I might

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1 get hurt pretty bad;" is that right?

2 A Yes.

3 Q Because you knew what he'd done before you said,

4 right?

5 A Yes.

6 Q But it's not -- his nickname was knockout king, not

7 killer, right?

8 A Yes.

9 Q In fact, to your knowledge he'd never put anybody in

10 the hospital, had he?

11 A I didn't know that. You know -- I mean -- you can

12 hit a person hard enough to break your own hand and

13 there's a definite possibility -- I didn't see every

14 incident of him knocking people out.

15 Q The incidents you saw he never put anybody in the

16 hospital that you know of, right?

17 A Not in the incidents that I saw.

18 Q And he certainly never killed anybody, right?

19 A Not that I know of.

20 Q And you knew that. And in that moment, in that

21 moment -- I'm sorry, let me back up. So you said you shot

22 him, he stopped for a second and you got up and he fell,

23 right?

24 A Yes.

25 Q And you ran, right?

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1 A Yes.

2 Q Because nobody was blocking your path to the front
3 door, right?

4 A Yes.

5 Q You ran, you got out of there, right?

6 A Yes.

7 Q Because you said in that moment you panicked, right?

8 A Yes, after.

9 Q After you shot, in that moment you panicked, right?

10 A Yes.

11 Q At that point, right?

12 A Yes.

13 Q Not before?

14 A No. I didn't panic because --

15 Q Because you had a gun.

16 A No. It's just that -- okay. If you stumble and
17 you're about to fall and you know it's about to happen you
18 know you're about to hit your face and possibly, you know,
19 you could break something, you could lose a tooth or maybe
20 even worse depending on what's directly in front of you
21 depending what's on the floor. But in that moment you
22 don't have time to necessarily be scared, you only have
23 time to react because that's not a long amount of time
24 between you falling and -- I mean, the fear is in knowing
25 what's about to happen. The fear is in really knowing

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1 what's about to happen if you don't protect yourself in
2 that incident.

3 Q What about the fear of thinking something is about to
4 happen even if it doesn't?

5 A Yes, that would be the same --

6 Q It would be the same?

7 A -- if you were thinking you were about to get hurt if
8 you're falling.

9 Q So if you thought you were about to get hurt by
10 Demarcus you should be afraid, right?

11 A I mean, to actually sit there and be afraid it's like
12 I have to be scared.

13 Q And you weren't scared of Demarcus at that point,
14 right?

15 A No, I wasn't directly. I didn't feel the need to be
16 scared of him because of what I felt he might do to me,
17 but I was weary of what he was capable of.

18 Q I just want to be clear. At the point that he hit you
19 in your mouth and you fell backward, at that point you
20 didn't say you panicked, right?

21 A No, I didn't panic.

22 Q And at that point you didn't say you were afraid,
23 right?

24 A No, I didn't say it. But, you know, honestly I
25 thought that, okay, if I had to go to such an extreme to

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1 defend myself then I thought they would have understood
2 maybe I would feel I was in danger of what was about to
3 happen.

4 Q You watched your video with all of us, right?

5 A Yes, I watched it.

6 Q You turned yourself in. You had hours before you
7 turned yourself in to think about what you were going to
8 say to the police, right?

9 A Yes. But at that particular time my mind was
10 everywhere. I was going between not believing this was
11 all real, from thinking I was just going to wake up and it
12 would all be over, it was all a dream. But also the fact
13 that this wasn't just some random person who I didn't know
14 or somebody I had never met before, you know, this was
15 somebody I considered a friend. And even though I was
16 defending myself, that was the hardest decision I've had
17 to make in my whole life.

18 Q Was what, to run?

19 A The decision to --

20 Q To run?

21 A No, not to run. The decision to actually shoot, yes.

22 Q So you took the time and made that decision, you took
23 the time and thought about it, right?

24 A No. I didn't take the time to think about it as it
25 was happening, I reacted.

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1 Q Well, wait a minute. A decision was something you
2 think about. You said, "That was the hardest decision I
3 had to make to shoot him," right?

4 A Yes.

5 Q So you decided to shoot him, you made that decision,
6 right?

7 A Yes. In that moment, yes.

8 Q --You watched the DVD with all of us, you didn't once
9 tell the police "I was scared."

10 A Yes, I realize I didn't say that. But, you know,
11 honestly I didn't think that it was important, I didn't
12 know that it was important that I had to specifically
13 express that fear, because like I said, this is a friend
14 we're talking about. Even since this happened I've had to
15 think about that, that my actions have taken another
16 person's life. I've had to think about his family and his
17 children and the fact that they won't see him again or he
18 won't see them again because of what happened, and even me
19 having a part of what happened, that's hard to think
20 about. But in that moment -- what happened when I turned
21 myself in, I didn't know had I to specifically say, "I was
22 scare of him, that's the reason why I shot him." I
23 thought that it would be understood that if I had to go to
24 such an extreme that I would have had to have felt that it
25 was something that I felt I needed to do. But I didn't

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1 specifically -- I didn't know had I to specifically say
2 that. I mean, I apologize if I didn't or if that makes it
3 seem as if I really wasn't in that type of danger, but I
4 still don't think it changes the fact I was defending
5 myself.

6 Q Let's talk about when you ran. You said you panicked,
7 you ran, you ran toward Elm Street; is that right?

8 A Yes.

9 Q Toward the street where you live with your mom, right?

10 A Yes.

11 Q But you didn't run to your home, did you?

12 A No, I didn't.

13 Q You didn't run in your house, did you?

14 A No.

15 Q And you said you saw a friend, I think a friend you at
16 one point called Hemi; is that right?

17 A Yes.

18 Q That maybe your mom said she thinks of as Gummy; is
19 that right?

20 A Yes.

21 Q And you saw Hemi, you ran up to him and asked him to
22 hold your gun for you, right?

23 A Yes, just to hold it for me.

24 Q To hold it for you, right?

25 A Yes.

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1 Q Not "Get rid of that, I never wanted to see it again,
2 I just killed one of my good friends." You didn't say that
3 to him, did you?

4 A ~~No. I didn't know at that point that he'd died, but~~
5 I didn't say that.

6 Q You said, "Hold it for me," right?

7 A No.

8 Q And you didn't tell me, "By the way, what you're
9 holding, the police may be wanting as evidence and it might
10 implicate you if you're holding it, accessory after a
11 felony so I want you to know about it." You didn't tell
12 him anything like that, you just said, "Hold this for me,"
13 right?

14 A Yes.

15 Q And you continued running, right?

16 A Yes.

17 Q And you at some point called Britney, right?

18 A Yes.

19 Q A friend of yours, right?

20 A Yes.

21 Q Girl that lives in Pageland, right?

22 A Yes.

23 Q And you told her to come get you, right?

24 A Yes.

25 Q And she did come get you, right?

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1 A Yes.

2 Q And you didn't tell her, "Hey, by the way, before I
3 get in your car and you take me somewhere, just want to let
4 you know as a friend what just happened, the police may be
5 looking for me, you might be harboring a fugitive. Are you
6 still cool with giving me a ride to Pageland?" You didn't
7 tell her any of that, you just got in the car and y'all
8 drove to Pageland, right?

9 A Yes.

10 Q And y'all sat around I think at one point you
11 testified outside a house, whether her house or some other
12 house in Pageland, right?

13 A Yes.

14 Q And then ultimately you talk on the phone to your mom,
15 right?

16 A Yes.

17 Q You talk on the phone to your sisters, right?

18 A Yes.

19 Q Had the sun come up on the next day by the time you
20 talked on the phone to your mama?

21 A No. It was still -- it was like the sun was -- it
22 was early that morning.

23 Q So the sun was up?

24 A No.

25 Q The sun was not yet up. You talked on the phone with

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1 your mom?

2 A Yes.

3 Q So the shooting happened at about 4:00 a.m. in the
4 morning on October 12th of 2013, right?

5 A Yes.

6 Q About 4:00 a.m. right?

7 A Yes.

8 Q -- Where were you at 5:00 a.m. when Demarcus Robinson was
9 fighting for his life in the helicopter ride to CMC, where
10 were you?

11 A I was waiting on Britney to come pick me up.

12 Q Where were you at 6:00 a.m. after Demarcus Robinson
13 had left this earth, where were you?

14 A I was with her, she had made it there by then. We
15 had rode around for a little while.

16 Q Where were you at 7:00 a.m.?

17 A Around that time I had stopped by my sister's house.

18 Q You stopped by your sister, Leanna's?

19 A Yes.

20 Q At 7:00 a.m. on October 12, 2013, the same day of the
21 shooting, you stopped by Leanna's?

22 A Yes.

23 Q Did you see Leanna?

24 A Yes.

25 Q Did you talk to her?

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1 A Yes.

2 Q Did you tell her what happened?

3 A Yes.

4 Q You didn't go to the police then, right?

5 A I didn't. I was --

6 Q Did you get something -- go ahead.

7 A I was scared at that time.

8 Q You were scared at that time?

9 A I was just -- I had just panicked, my mind was
10 everywhere. I wasn't thinking clearly at that moment,
11 because it really hurt thinking about what had happened.
12 Because I would have never wanted something like that to
13 happen, I would have never expected that, and if there had
14 been any other way to avoid it then I would have taken
15 that.

16 Q Let's talk about that, any other way to avoid it.

17 Sindarous Wells, big guy, friendly guy standing right there
18 in the kitchen, right?

19 A Yes.

20 Q How about saying, "Help." Didn't do that, did you?

21 A He was standing there, he was basically -- he was
22 shocked as well. He froze at that moment so he wouldn't
23 have been able to help me.

24 Q You said you thought Demarcus, he had his left fist
25 this time you said balled up. Why not simply put your arms

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1 up? You're a muscular guy, you've got biceps, we saw it on
2 the video. Why not first defensive just put your arms up?
3 Why not do that?

4 A I mean -- okay. -- Something I've learned is I
5 understand that it's your job to say what I could have
6 done or what I should have done in that moment, but it's
7 hard to really understand what a person is going through
8 at that moment. It's hard to really understand unless you
9 try to put yourself in that person's shoes, look at it
10 from that person's perspective.

11 Q I'm asking you to give you that chance just like Scott
12 Grant and Phillip Hall asked you on that the video, they
13 said, "Is there anything else?" They gave you that chance
14 then, I'm giving you that chance now. If you think I'm
15 doing this today just because of my job you're wrong, I'm
16 giving you that chance. Why didn't you just hold your arms
17 up and deflect this friend of years before you reached in
18 your pocket and took a gun and pulled the trigger that took
19 effort to pull, why didn't you just first block the blow?
20 Why didn't you do that, Mr. Massey?

21 A The reality is that probably wouldn't have stopped
22 him.

23 Q You don't know that, do you? You don't know that
24 because you didn't wait. You don't know that, do you?

25 A You don't know what the extent of what his attack

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1 might have been. I didn't know where he would have

2 stopped, I didn't know what was going to happen.

3 Q And in fact, to this day, to this day you don't know

4 and none of us knows what he would have done to you if you

5 hadn't pulled out that gun and shot him, you don't know if

6 he would have just hit you one time and been like, "That's

7 it. Where is my bottle?" You didn't know if it was going

8 to end there or not, did you?

9 A No. I knew that he wouldn't have taken that

10 opportunity to inflict as much damage as he could.

11 Q You just said you didn't know. You just said you

12 didn't know.

13 A I was referring to him stopping -- just me blocking

14 and stopping. I didn't know that me putting up my arms

15 was just going to stop him at that moment.

16 Q Do you remember telling the police when Rashawd hit

17 you that -- the first part of your video they're talking

18 about what happened with Rashawd you're like -- let me find

19 my notes from that -- "I had been drinking, I wasn't in any

20 shape to fight." Do you remember telling the police that

21 about Rashawd?

22 A Yes, I remember it.

23 Q Do you remember then later -- here we go, four minutes

24 into the video you said "Rashawd hit me two times on the

25 left side of my face," do you remember that?

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1 A Yes.

2 Q You said 4:39 on the video, "I had been drinking that
3 night, I wasn't in no shape to fight so I just left it

4 alone, you know, I just left, I walked down the street."

5 Do you remember that?

6 A Yes, I remember that.

7 Q And then when you're telling him what happened with

8 Marcus, -- your first words were about why you shot -- 17

9 minute mark, Scott Grant questions, "Why did you shot

10 Demarcus? What's different? I had been drinking, I was in

11 no shape to fight."

12 A Yes, I remember that. But I also do say that when

13 Rashawd hit me it really didn't hurt me, it really didn't

14 do anything to me, I think those were my exact words.

15 When Marcus hit me he hit me hard and he knocked me down,

16 you know, and after he knocked me down he was coming at me

17 to hit me again.

18 Q Rashawd testified the other day he's 5-11, 220. Do

19 you remember that?

20 A Yes, I remember.

21 Q He said that's what he was at this night 5-11, 220,

22 right?

23 A Yes.

24 Q And you heard the testimony of Dr. Ross who did the

25 autopsy that Demarcus was about 5-11 and about 220, right?

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1 A Yes.

2 Q And you saw the video, he wasn't ripped like you, he
3 wasn't muscular like you. In fact, he didn't even have
4 muscles in his biceps like you. He had the bulk of his
5 weight in his belly like some of us do as we get older,
6 isn't that true?

7 A Yes, that's true. But also I understand, you know, I
8 understand where you're going with this. But a person's
9 muscularity or how many muscles or how ripped they are,
10 that's not a direct indicator of how hard a person can
11 punch. That deals more with the mechanics of how you move
12 or if you're able to get your whole weight behind that
13 punch. There's boxers, you know, who will -- Butter Bean
14 as a matter of fact, you can't see a muscle on his body
15 but he's knocked several people out. That doesn't
16 necessarily indicate he wasn't muscular so he wouldn't
17 have that ability, you know.

18 Q But he didn't knock you out. Demarcus didn't knock
19 you out that night, did he?

20 A No, he didn't. At that point he didn't.

21 Q In fact, you were wearing a hat that night, weren't
22 you?

23 A Yes.

24 Q You were wearing a LA Kings hat that night, weren't
25 you?

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1 A Yes.

2 Q And you fell backwards, right?

3 A Yes.

4 Q When you got up you fled, right?

5 A Yes.

6 Q When you got up you ran and took your gun and you
7 fled, right?

8 A Yes.

9 Q Hat still on your head.

10 A Yes, it was still on my head.

11 Q Hat was still on your head. Didn't even knock your
12 hat off, did it?

13 A It didn't knock my hat off, but he didn't hit my hat,
14 it didn't cause my hat to come off my head.

15 Q He didn't knock your hat off, your hat was still on
16 your head. You're saying the knockout king hit you such
17 that your hat is still on your head and to you that
18 justified pulling out a gun and killing this man that had
19 been your friend all of these years, is that what you're
20 telling us?

21 A I don't think that -- my hat not coming off doesn't
22 necessarily indicate how hard I was or how hard I wasn't
23 hit.

24 Q Let's talk about that. Let's talk about what you
25 thought was going to happen next. You remember on the

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1 22:15 mark on the DVD with the police that they said, "What
2 did you think was happening?" You said, "I saw him coming
3 with his fist balled up to reach down and hit me again," do
4 you remember saying that?

5 A Yes.

6 Q You didn't say, "I thought he was going to kill me,"
7 right?

8 A No.

9 Q You didn't say, "I thought I was going to end up in
10 the hospital," right?

11 A I didn't say that.

12 Q And let's talk about what you said at your immunity
13 hearing too. First of all on page 31, Mr. Grier is still
14 questioning you at that point, "What happened as a result

15 of that hit to you physically -- I'm sorry, you've still
16 got your stuff there. Turn to page 31, if you will, Mr.
17 Massey. In fact, I'm going to back up to line 19, this is
18 it still questions from Mr. Grier. Are you with me? Have
19 you got it?

20 A Yes.

21 Q Line 19 Mr. Grier, "A couple of things I need to
22 backtrack on and ask you about inside the -- well, did you
23 get any treatment for -- any medical treatment for whenever
24 you got hit, did you get any medical treatment for that?"

25 And you answered?

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1 A No.

2 Q And you answered no.

3 A No, it wasn't that serious.

4 Q It wasn't that scary.

5 A No, it wasn't that serious.

6 Q Thank you. I'm a little hard of hearing, it wasn't

7 that serious. Next question, "So what happened as a result

8 of that hit to you physically?" And on page 32 you said,

9 "A busted up face," right?

10 A Yes.

11 Q Mr. Grier said, "Okay. Well, the whole face?" And

12 you said, "No, just my lip," right?

13 A Yes.

14 Q And he said, "How about your teeth, everything all

15 right with that?" And you said, "Yes, right?"

16 A Yes.

17 Q And he said, "Okay. Did you have any other injuries

18 when you fell or anything?" And you said, "No," right?

19 A Yes.

20 Q So where were you at 9:00 a.m. on October 12, 2013

21 when Demarcus Robinson's body was laying on an autopsy

22 table. Where were you at 9:00 a.m.?

23 A I think I was in Pageland by then.

24 Q Did you have anything to eat?

25 A No.

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- 1 Q Had you had anything to drink?
- 2 A No.
- 3 Q Take a shower?
- 4 A No.
- 5 Q Change clothes?
- 6 A No.
- 7 Q At any point between the incident and turning yourself
- 8 in, did you eat anything?
- 9 A No, I didn't.
- 10 Q Didn't drink anything?
- 11 A No.
- 12 Q Not even water?
- 13 A No. I mean I drank water, but as far as alcohol, no.
- 14 Q Did you ever stop and think what Ms. Robinson was
- 15 doing while you were sitting in Pageland outside of the
- 16 house? Did you ever think about what Renee Robinson was
- 17 doing?
- 18 A Yes. That was the hardest part of all, you know, I
- 19 know his family and his family knows me. That's where I
- 20 know that this is up to you to make this seem like I just
- 21 flat out murdered him when I could have had other
- 22 alternatives, but this was a friend. I wouldn't do this
- 23 without knowing, okay, I could have done this or I should
- 24 have done that. I wouldn't just outright take his life
- 25 like that. I wouldn't just shoot him if I knew that,

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1 okay, this is what's -- knowing the effect that it's going
2 to have on his family, knowing the effect that it's going
3 to have on my family, just the -- even the shame of
4 ~~something like that. Okay. It's hard to look at a person~~
5 knowing that your name is associated with something like
6 this, knowing that your name is tied in with something
7 like this. But being a good person you can't help but
8 thinking, "What does that person think about me? Does
9 that person believe what they seen even though they may
10 not know the whole story, does this person look at me as a
11 murderer?" It's -- I think it's something like -- and
12 this is more prevalent in the Asian culture, how you hear
13 a lot of them say they don't want to bring shame to their
14 family or their family's name. To think about what my
15 ~~mother would go through just by having to explain this to~~
16 her coworkers or other friends, I wouldn't want to put her
17 through something like that, I wouldn't want to have to
18 put his family through something like that. So this
19 wasn't something I wanted to have happen, this wasn't
20 something that I just intended to do. Because I -- even
21 to this day, you know, I hate what happened, I hate it.

22 Q Mr. Massey, on page 88 of that transcript your
23 attorney -- excuse me, I think at this point I'm asking you
24 questions. Page 88, line seven. Tell me when you're with
25 me.

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- 1 A Okay.
- 2 Q All right. Page 88, line seven, this is me asking you
- 3 questions here, "And you said Marcus hit you out of the
- 4 blue-one-time in your mouth, right?"
- 5 A Yes?
- 6 Q And you said, "I just remember being hit once," right?
- 7 A Yes.
- 8 Q And then I asked you, "And then you fell back to the
- 9 ground, right?" And you said yes, correct?
- 10 A Yes.
- 11 Q "And you told your attorney you didn't have any other
- 12 injuries, right?" And you said, "Yes," right?
- 13 A Yes.
- 14 Q And I asked you, "That's what you just told your
- 15 attorney, right?" And you said, "Yes," right?
- 16 A Yes.
- 17 Q And I asked you, "You didn't have any bruises on your
- 18 body, right?" And you said, "Right." Is that correct?
- 19 A Yes.
- 20 Q And line 19 I said, "You didn't hit your head when you
- 21 fell on the ground, right?" And you said, "Yes," right?
- 22 Correct?
- 23 A Yes.
- 24 Q Page 91 of your immunity hearing. Do you remember
- 25 when we were backing up and we were saying why didn't you

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1 just raise your arm and deflect the blow? Let's talk about
2 this. Why didn't you just pull the gun out and say, "I've
3 got a gun?" Why didn't you do that before you pulled the
4 trigger?

5 A Before I pulled the trigger -- okay. There's not
6 like there was just some big pause, some big amount of
7 time for me to have warned him or for me to have said
8 something. As soon as he hits me this -- it happens like
9 that. You know. There wasn't any big pause for me to try
10 to at least let him know I had the gun, because if I had
11 time to do that I would have done that, I wouldn't have
12 just shot him. Because -- okay. I'm sure you remember
13 Dr. Ross' testimony and her saying that I would have
14 had -- the gun would have had to have been inches away
15 from him by the time I shot him. He had made it to me
16 that quick that -- I understand you were explaining what I
17 should have done this or I could have done that, but it's
18 hard to put yourself -- first let me say I hope nobody
19 ever has to go through that, I hope nobody ever has to go
20 through an experience like that, but unless you go through
21 it you won't know what it's like. It's easy to say,
22 "Well, you just should have done that." And that's
23 like -- Okay. A man would never know what it's like to
24 give birth, that's something we'll never experience,
25 that's something we'll never go through. But the only way

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1 we will even attempt to understand it is if we try to
2 empathize with a woman as she's telling us what it's like
3 to go through labor, as she is telling us what it's like
4 to go through birth. But I can be just be insensitive and
5 say that it didn't hurt that much, all you had to do was
6 push. All you had to do was just let the baby come out.

7 Q Mr. Massey, you say you didn't have to time to warn
8 him but you said, "I had time to make a decision, the most
9 difficult decision of my life," correct?

10 A Yes.

11 Q Let's turn to page 91. Let's turn to page 91
12 regarding what you thought was going to happen if you would
13 have waited any longer.

14 A Yes.

15 Q Page 91 on line 14, same question I just asked you
16 today, "Did you just pull the gun out of your pocket and
17 say "Wo, got a gun, stop." Did you just show it to him?
18 And you answered. "No. Because if I had waited any longer
19 I would have been" -- let me back up because I want you to
20 hear every word, I want everybody to hear every word of
21 that, line 14, my question same question as today, "Did you
22 just pull the gun out of your pocket and say "Wo, got a
23 gun, stop." Did you just show it to him? And your answer,
24 line 16. "No. Because if I would have waited any longer I
25 would have been hit again." Wasn't that your answer?

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1 A Yes.

2 Q And then I asked you, line 18, "You would have been
3 hit again if you waited any longer, that's what you're
4 saying, you would have been hit again, right?" And you say
5 "Uh-huh," right?

6 A Yes.

7 Q And I said, "You, had been hit one time," right?

8 A Yes.

9 Q And you said, "That's all I remember," right?

10 A Yes.

11 Q And I said, "You had been hit one time in the lip,
12 correct?" And you said, "That's all I remember," right?

13 A Yes.

14 Q And page 96 -- let's back up to 95, line 21. Are you
15 with me?

16 A Page 96.

17 Q Page 95, I'm sorry, I backed up one, page 95, line 21.
18 Are you with me?

19 A Yes.

20 Q I questioned you, "You say he didn't have a gun,
21 right?" And you said, "Right."

22 A Yes.

23 Q And I said, "You saw he didn't have a knife, right?"
24 And you said, "Right," correct?

25 A Yes.

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1 Q And I said, "And you said 'because I thought I might
2 get hit again,' that was your testimony just now, that you
3 pulled out the gun and shot him. Do you remember that you
4 said that?" And your answer was, "Yes," right?

5 A Yes.

6 Q And I said, "Because you thought you might get hit
7 again, right?" And you said, "Yes," correct?

8 A Yes.

9 Q You thought you might get hit again, right?

10 A Yes.

11 Q Thought you might get hit again. And that's why you
12 shot, that was your testimony, right?

13 A Yes.

14 Q But you don't know, you still don't know to this day
15 whether or not you would have been, right? You don't know.

16 A Yes, I knew. Because the way he was coming at me he
17 was about to hit me again.

18 Q And are you telling us today in hindsight after all of
19 that, after being hit one time in the mouth, are you
20 telling us today that you still would have pulled that
21 loaded gun out of your pocket and shot and killed your
22 friend, Demarcus Robinson, after just one hit in the mouth?
23 Are you saying that's what you would have done?

24 A I'm not saying that's what I would've done, but I
25 would have avoided that. I wouldn't even have went there

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1 if I would have known that was about to happen, I would
2 have just avoided that situation altogether.

3 Q You talked about, "I didn't turn myself in because I
4 thought things might be tense, police might be tense and I
5 didn't want them to overreact and so I waited to turn
6 myself in." Do you remember testifying to that?

7 A Yes.

8 Q ~~And do you remember testifying to, "I heard they were~~
9 ~~talking about it and making it out bad like I was coming in~~
10 ~~shooting. I heard they were talking about it," do you~~
11 ~~remember saying that?~~

12 A Yes.

13 Q And didn't you stop and think, do you remember -- did
14 you ever stop and think, "If the police are tense and they
15 know I've still got the gun and they know I just shot
16 somebody and I'm being portrayed as a shooter that just
17 comes to the house and just shoots, maybe I really don't
18 want my mom in the car when I'm pulling up in case I put
19 her in danger." Did you stop and think that?

20 A Well, being that they called and actually they knew
21 that I was coming and they knew that they were with me, I
22 just wanted me turning myself in to be as safe as
23 possible. I didn't want there to be any potential for
24 them to think that they may have had to take any action.

25 Q You were concerned that people were talking about you

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1 and portraying you as something you weren't, right?

2 A Yes.

3 Q But you talked to people, right?

4 A Yes.

5 Q You talk to Tyzhe Hough. You talked to Tyzhe Hough
6 since this incident, right?

7 A Yes, after I met him.

8 Q And Navoney Curry, you sent him a letter didn't you?

9 MS. COLLINS: Oh, I'm sorry. Mark this please as the

10 State's next Exhibit.

11 Q 45. Do you recognize what that's a copy of?

12 A Yes.

13 Q That's a copy of a letter you wrote, isn't it?

14 A Yes.

15 Q A copy of a letter you wrote to Navoney Curry, right?

16 A Yes.

17 Q - You admit that's your letter?

18 A Yes, I did.

19 Q You admit that you sent that to Navoney Curry?

20 A Yes.

21 Q And you were talking to him about the incident that
22 happened and what he might say about it, right?

23 A No. I wasn't saying anything about what he might say
24 because as I mentioned while I was being interviewed, he
25 had got in contact with my sister and said that he was

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1 willing to go up and make a statement. And after I turned
2 myself in he ended up -- well, I can't say because that
3 might be hearsay, but there was some rumor that he done
4 ~~been started to be threatened. So therefore he didn't~~
5 come up -- well, he didn't come up and make a statement.

6 And I had just wrote him to let him know, look, I'm not
7 mad at you about what happened, you know. Basically I
8 ~~still needed him to come forward and tell the truth.~~

9 Q You wrote this letter to Navoney Curry, it's post
10 dated in July of 2014; is that right?

11 A Yes.

12 Q You wrote that to a witness in this case, right?

13 A Yes.

14 MS. COLLINS: Move that into evidence.

15 THE COURT: Mr. Grier?

16 MR. GRIER: No objection.

17 THE COURT: Thank you.

18 (The letter was received at State's 45.)

19 Q Talked about filing taxes for a year and Mr. Grier
20 said that kind of fits when your nickname of Urk, right?

21 A Yes.

22 Q You did it for one year, right?

23 A Yes.

24 Q Didn't do it again, right?

25 A Yes.

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- 1 Q But you roofed, you were a roofer, right?
- 2 A Yes.
- 3 Q That takes some muscle, right?
- 4 A Some.
- 5 Q Climbing up the ladder?
- 6 A Yes.
- 7 Q Those roofing tiles, they're pretty heavy, aren't
- 8 they?
- 9 A Yeah.
- 10 Q Yeah, they're heavy. You've got to take them up the
- 11 ladder and then you've got to hammer them, right?
- 12 A Yes.
- 13 Q A roof is big, roof of a house is big, right?
- 14 A Yes.
- 15 Q Got a lot to cover, right?
- 16 A Yes.
- 17 Q A lot to carry up and hammer, right?
- 18 A Yes.
- 19 Q Let's talk about brick mason. You were a brick mason
- 20 before, right?
- 21 A Yes.
- 22 Q Was that with McGee Brothers?
- 23 A Yes.
- 24 Q Bricks are heavy, right?
- 25 A No, bricks aren't heavy.

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1 Q Bricks aren't heavy?

2 A No. A brick is --

3 Q Brick are not heavy, is that your testimony?

4 A A brick might be two or three pounds.

5 Q And a brick mason, you're dealing with more than one
6 brick, right?

7 A Yes. I wasn't actually a mason, I was just a
8 laborer, that was my title.

9 Q You were a laborer, you work with your muscles and
10 arms, right?

11 A Yes.

12 Q You weren't sitting there with books filing taxes, you
13 were laboring with your body, right?

14 A Yes.

15 Q What did you do at the bleachery? You did books?

16 A No. I drove what's called a scrubbing machine and it
17 goes around and basically cleans the floors as you drive
18 around.

19 Q Physical labor, didn't have to use your arms but you
20 also weren't doing the books then, right?

21 A Yes.

22 Q You said Danny Clyburn, saw Demarcus knock Danny
23 Clyburn out, you said he was 6-7 or 6-8, right?

24 A Yes.

25 Q Do you know how old Danny Clyburn is?

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- 1 A I think he was in his thirties.
- 2 Q No. He was about the same age as Brian Small.
- 3 A No, I didn't know that.
- 4 Q Didn't know that? Did know they went to school
5 together?
- 6 A No. I didn't know that.
- 7 Q And you're saying he is 6-7 or 6-8? Are you sure
8 about that, that Danny was?
- 9 A He was a pretty big guy.
- 10 Q About 6-2?
- 11 A I don't know his exact height but he's -- I had to
12 look up to him.
- 13 Q And you're what, 5-11 or six feet?
- 14 A Yes.
- 15 Q Six feet?
- 16 A Yes.
- 17 Q So he really could have been more like 6-2, wouldn't
18 you agree, than 6-7?
- 19 A No. 6-2 is not that much taller than me.
- 20 Q You shot and killed your friend because you thought
21 this friend of yours for years might hit you again, right?
- 22 A Yes.
- 23 Q And then you ran and stayed away for hours, 32 hours
24 into the next day, until about noon the next day, right?
- 25 A Yes.

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1 Q And when you come in and talked to the police after
2 all of those hours of thinking about what happened and
3 thinking about what you were going to tell them when you
4 saw them, you never once told them, "I thought I might get
5 killed." You never once used those words with them, did
6 you?

7 A No. I didn't say anything about getting killed.

8 ~~Q In fact, I think earlier at your immunity hearing you~~
9 didn't say you thought you would get killed, you said you
10 thought you would get hurt, right?

11 A Yes.

12 Q So even to this day you didn't think you would get
13 killed, did you? You thought you might get hurt, right?

14 A Getting killed didn't cross my mind. That's not
15 just -- you're not going to think he's about to kill me,
16 but --

17 Q So getting killed you didn't think -- getting killed
18 as you just said, did not cross your mind that you were in
19 danger of that; is that right?

20 A No. I didn't necessarily think about getting killed.

21 Q So you fired a gun one time. You fired a gun after
22 you had had six or seven beers, right?

23 A Yes.

24 Q And you ran without stopping to see the effects of it,
25 right?

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1 A Yes.

2 Q And that you never once told the police, "I was
3 scared."

4 A Yes, but -- okay. Something I realized is that this
5 incident is in a lot of ways, it's sort of similar to
6 this, in that incident I was defending myself. Even now
7 I'm having to defend myself again, I'm having to defend my
8 freedom, I'm having to defend my innocence in this
9 situation. I know who you are, I don't know you
10 personally but I know your name is Lisa Collins.

11 Q It is.

12 A I know your title, I know that you are a solicitor.
13 I know that how you got that title and what it is that you
14 do, it's that you take people to court and you prosecute
15 people and you attempt to convict people of crimes.

16 Q Mr. Massey --

17 A It --

18 Q No, let me say one thing.

19 A This --

20 Q Let me say one thing.

21 MR. GRIER: Your Honor, he's got to --

22 A This hasn't.

23 THE COURT: Ms. Collins --

24 MS. COLLINS: It's a narrative. Yes, sir.

25 THE COURT: Let him reply.

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1 MS. COLLINS: Yes, sir.

2 A In that situation I knew him, I knew him personally,

3 I knew his name, but I knew his title or his nickname, I

4 ~~knew that as well. I knew how he got that title, by what~~

5 how he does, I knew that he knocked people out and that's

6 how he got his title. And going back to this situation, I

7 know it's your intent to convict me but I don't

8 ~~necessarily say, okay, "Well, I'm scared Lisa is going to~~

9 trying to convict me," I know this is happening. In that

10 situation I didn't specifically say I felt he was about to

11 try to hurt me, I knew it was about to happen. Knowing

12 him when -- when you know who you're dealing with and you

13 know what this person is capable of, when you've seen this

14 person in action, you know it's about to happen. And I

15 ~~mean, because I had been -- didn't specifically say that,~~

16 I didn't know it was important. Okay. I didn't know in

17 order for me to having been defending myself I didn't know

18 I had to specifically say I felt this way or I felt that

19 way, I just thought that it would be understood. I

20 thought that a person would have to think, "Well, if he

21 done something like that maybe he really did feel like

22 that he was in danger." I mean, like I said, I apologize

23 if I didn't specifically express that fear but I don't

24 think that means that it didn't exist. I don't think that

25 means that I didn't have that fear because I didn't

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1 specifically say that. And, you know, when I turned
2 myself in, you know, just being in fear of being in shock
3 and everything else that was going through my mind at that
4 time, I had to do this, put all of those emotions aside
5 and tell them what happened. I had to tell them the facts
6 no matter what I was going through, you know. I didn't
7 know that I had to, I guess, dress my story up by saying,
8 "Well, I felt like this and I felt like that." I didn't
9 know that was important, I didn't know I had to say those
10 things. But I just thought that, okay, as people that
11 they would understand that they would understand that I
12 must have had to have felt in danger enough to go to the
13 measure that I did.

14 Q Mr. Massey -- may I please? Are you done?

15 THE COURT: Are you finished?

16 THE WITNESS: I guess so. You can go --

17 THE COURT: She ask questions and you answer
18 questions.

19 THE DEFENDANT: Yes, I'm finished.

20 Q You put your hand on the Bible today and said you
21 would tell the truth, right?

22 A Yes.

23 Q You knew it was just important that you tell the truth
24 to law enforcement officers when you turned yourself in,
25 right?

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1 A Yes.

2 Q And the truth is, the truth is in terms of what you

3 thought was going to happen or whether or not you were

4 scared, you're saying today the truth is you were scared,

5 is that what you're saying?

6 A Yes.

7 Q And you knew you should tell them the truth but you

8 never did, right?

9 A I told them the truth of what happened. I didn't

10 know that I had to, I guess, add specific adjectives to

11 that truth in order for it to be a valid truth to them. I

12 didn't know I had to say this, I didn't know I had to say

13 that. I told them the truth and I told them what

14 happened.

15 Q You told the truth.

16 A Yes.

17 Q And you knew when you put your hand on the Bible

18 during the immunity hearing that you were supposed to tell

19 the true and you did, right?

20 A Yes.

21 Q And never once said -- and you can look through that

22 transcript I just handed to you, it's about 100 pages, you

23 never once said you were scared, did you?

24 A I didn't say I was scared. But knowing what's about

25 to happen, knowing what's going to happen if I didn't do

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1 whatever I could to protect myself, that was the fear. I
2 didn't say I was scared -- well, I didn't say I was scared
3 is in, okay, I was just sitting there scared. But knowing
4 what's about to happen, that's the fear that made me do
5 what I did.

6 Q And knowing that you were about, as you said in the
7 transcript and again today, that you were going to get hit
8 again, right?

9 A Yes.

10 Q And this is all what you said happened because
11 Demarcus Robinson isn't here today to tell us what he says
12 happened, is he?

13 A Correct.

14 MS. COLLINS: Nothing further.

15 THE COURT: Redirect?

16 REDIRECT EXAMINATION

17 BY MR. GRIER:

18 Q Mr. Massey, do you recognize that picture?

19 A Yes.

20 Q What's that a picture of?

21 A A picture my sister took of my face.

22 Q You were obviously present when that happened.

23 A Yes.

24 Q Why was this picture taken, to demonstrate what?

25 A To show how my lip was at the time.

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1 Q When was it taken, how soon after the incident
2 approximately?

3 A A few hours after.

4 Q A few hours after the fact? Okay. And so you say to
5 show the injuries.

6 A Yes.

7 Q That injuries that you sustained from what?

8 A From being punched.

9 MR. GRIER: Publish it to the jury, is that all right?
10 The picture?

11 MS. COLLINS: Is it in evidence? Did you move it into
12 evidence.

13 MR. GRIER: May I admit it?

14 MS. COLLINS: Did he testify that was a fair and
15 accurate representation of how he looked that night?

16 MR. GRIER: I'll ask him that, I essentially did.

17 Q But is that you on that night?

18 A Yes.

19 Q Is that fair and accurate?

20 A Yes.

21 MS. COLLINS: And I'm sorry, I didn't hear the time
22 and date that that was taken.

23 Q Approximately a few hours after the incident; is that
24 correct?

25 A That's when I was stopped by my sister's house.

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1 MS. COLLINS: No objection.

2 (The photo was received as Defendant's 6.)

3 MR. GRIER: Defendants Exhibit 6. Publish it to the
4 jury.

5 Q Mr. Massey, in one word, you said you and Mr. Robinson
6 locked eyes. I want one word, think about it a minute, one
7 word of what you saw in his eyes. Not what you thought
8 about later, but can you describe it in one word?

9 A Menacing.

10 Q All right. Did anybody intervene at City Avenue to
11 assist you?

12 A No. When this happened -- no.

13 Q Did anybody intervene at 16th Street --

14 A Yes.

15 Q -- when something happened?

16 A Yes.

17 Q Is that a difference between those two incidents?

18 A Yes.

19 Q Did you end up getting knocked down by Rashawd
20 Robinson on 16th Street?

21 MS. COLLINS: Objection to leading.

22 THE COURT: Overruled.

23 A No, I didn't.

24 Q How about at City Avenue?

25 A Yes.

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1 Q Is that a difference between those two?

2 A Yes.

3 Q And did Rashawd continue to attack you after hitting
4 you?

5 A After he hit me twice, no.

6 Q Did Marcus continue to attack after he hit you once?

7 A He was coming at me in a manner that, yeah, he was
8 about to.

9 Q Are you an experienced fighter?

10 A No.

11 Q Have you been in some fights before?

12 A A couple, but --

13 Q Did you win them or lose them?

14 A I won a few, I lost some, too.

15 Q Did you ever knock anybody out?

16 A No.

17 Q Mr. Massey, you turned yourself in, waived your right
18 to a lawyer, correct?

19 A Yes.

20 Q Did you have the opportunity to discuss any of the
21 legal ramifications of your statement?

22 A No.

23 Q Was that important to you at that time?

24 A Can you explain what that means?

25 Q Did you consult a lawyer? You didn't turn yourself in

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1 immediately, did you run over and get a lawyer and talk to
2 them about this?

3 A No.

4 Q Did you ever talk to a lawyer before you acquired a
5 lawyer after you were arrested?

6 A No.

7 Q Mr. Massey, if you had known that you would not have
8 been seriously injured by Marcus, would you have shot him?

9 A No.

10 Q Did you know that at that time?

11 A No.

12 Q Were you seriously injured?

13 A No, not by that one punch.

14 Q Well, did you shoot him?

15 A I did, yes.

16 Q Did that prevent you from possibly being seriously
17 injured?

18 A Yes.

19 Q All right. Why did you write this letter to Navoney
20 Curry?

21 A Because like he said, he had actually offered to go
22 and give a statement, but --

23 Q Well, let me ask you this: You've testified he was
24 present when this happened.

25 A Yes.

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1 Q You believed he was present, don't you?

2 A Yes.

3 Q And you believe if he testified and he testified

4 truthfully what do you think---do you think that would be
5 of assistance to your case?

6 A Yes. I know that everybody who was there that night,
7 if they had told the truth about what happened then, you
8 know---then I would have never been charged with this.

9 Because there have been so many different versions of it,
10 but you just have to trust that people are able to see the
11 truth about things, people are able to see that when
12 somebody is lying, when somebody is not just -- you can
13 tell when somebody is trying to make something out to be
14 something that it really wasn't. I just have to trust in
15 that.

16 Q Okay. So --

17 A But like -- as you were saying, if any one of them
18 had come forward with the truth then --

19 Q So you believed when you wrote that letter that if Mr.
20 Curry would just come forward that it would be helpful to
21 your case.

22 A Yes. It was never any attempt to try to make him say
23 anything or coerce him into saying anything, it was, "I
24 need you tell the truth," you know, "I just need to come
25 forward and tell the truth," that's all I needed.

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1 Q You were sitting in the Lancaster County Detention
2 Center at the time, weren't you?

3 A Yes.

4 Q And, you know, were you able to work on your case
5 while you were there and assist your lawyer?

6 A Yes, I was.

7 Q Just through the visits of your lawyer there, correct,
8 at that time?

9 A Yes.

10 Q And you still want him to testify on your behalf,
11 don't you, because you believe he was present?

12 A Yes. I just -- all I want is the truth, because a
13 person can -- people can say it happened a million
14 different ways, you know. And even the version that was
15 published in the newspaper, that was put on the news that
16 I had just walked --

17 MS. COLLINS: Objection to hearsay as to what was in
18 the news.

19 Q You don't need to talk about that.

20 A Can you ask me the question again?

21 Q I don't even recall. I don't think it's important.
22 Whatever you've said --

23 A Basically I just -- all I wanted was for the truth to
24 come out.

25 Q Okay. All right.

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1 MR. GRIER: Thank you, Mr. Massey.

2 MS. COLLINS: No further questions.

3 THE COURT: All right, sir, you may come down. All

4 ~~right. Ladies and gentlemen, we'll talk our lunch break at~~

5 this time. It's my understanding that your lunch is here,

6 and we will reconvene in about 45 minutes. After you --

7 well, let me say this first, even while you're eating your

8 ~~lunch don't discuss the case again among yourselves while~~

9 you're doing that. But when you're finished -- you don't

10 have to admit this, but are there any smokers? Sometimes

11 people want to go take a smoke after they eat so that's not

12 a problem, but if you wish to maybe take a walk and just

13 get some air, if you'll let the bailiffs know I'll make

14 sure that you'll be secure and I don't -- maybe walk up and

15 ~~down the halls or something just to get a little exercise~~

16 because you've been sitting for three days now, into your

17 fourth day. Just let the bailiff know if you want to get

18 out, maybe they can take you outside and let you feel how

19 warm it is if you're concerned. So anyway, have a pleasant

20 lunch, we'll see you in about 45 minutes. Thank you very

21 much.

22 (A lunch break was taken.)

23 THE COURT: State ready to proceed?

24 MS. COLLINS: Yes, Your Honor.

25 THE COURT: Have got your other witnesses available?

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1 MR. GRIER: I do.

2 (The jury returned to the courtroom.)

3 THE COURT: Mr. Grier, you may call your next witness.

4 MR. GRIER: Thank you, Your Honor, Navoney Curry.

5 The witness, NAVONEY CURRY, was first duly sworn and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GRIER:

9 Q Good afternoon, Mr. Curry. State your name.

10 A Navoney Curry.

11 Q Mr. Curry, were you present at City Avenue, Malika and
12 Shonettia's house, on October 12th of 2013?

13 A Yes.

14 Q How did you come to be there?

15 A I was like hanging out with my family that night,
16 Shonettia and Malika, and we was at some -- I think it's
17 Malika's people's house, we started from a trailer, a -
18 trailer we was at.

19 Q Okay. Was that down at Wiley Park?

20 A No.

21 Q Down near the ball fields?

22 A Off of Brooklyn Avenue.

23 Q So that was on 16th Street.

24 A Yes.

25 Q All right. Did you ever go over to Wiley Park that

NAVONEY CURRY - DIRECT

1 night by the ball fields?

2 A Yes.

3 Q Jackson Road?

4 A Yes.

5 Q All of those names -- when we talk about Jackson Road,
6 that's Wiley Park.

7 A Yes.

8 Q Which did you go to first?

9 A We went to Brooklyn, the 16th Street first.

10 Q Okay. Do you remember any times about -- of where you
11 went and what you did that night? Is there any point in me
12 asking that? Do you remember any times?

13 A Are you talking about the times that was happening?

14 Q Yeah, of times of when you went to these places.

15 A Oh no, I don't remember certain times.

16 Q I'm not going to waste time with that then. Mr.

17 Curry, what's your relationship with Shonettia Hunter?

18 A Shonettia? Shonettia is my first cousin.

19 Q Are you close?

20 A Yes.

21 Q Do you socialize with her?

22 A We talk from time to time.

23 Q Well, you went out to a party with her.

24 A Yes, we did.

25 Q Did you do that from time to time?

NAVONEY CURRY - DIRECT

- 1 A Yes.
- 2 Q I mean socialize.
- 3 A We don't see each or everyday, you know.
- 4 Q And also Malika was present as well that night.
- 5 A Yeah.
- 6 Q Did you see Allen there?
- 7 A At the first place that we went to?
- 8 Q Yeah, on 16th Street.
- 9 A No, I didn't.
- 10 Q Did not. Okay. Now -- well, at any rate you left at
- 11 some point.
- 12 A Yes.
- 13 Q Where did you go when you left there?
- 14 A We went to the -- over there by Wiley Park.
- 15 Q Okay. And just -- do you know -- from there you left
- 16 and you went to where?
- 17 A Over to Malika's sister's boyfriend's family's house.
- 18 Q Malika's sister's boyfriends family's house.
- 19 A Yes.
- 20 Q Where is that at?
- 21 A I think that's the residence over by Wiley Park.
- 22 Q Okay. Well, when you left there -- I apologize --
- 23 where did you go?
- 24 A Talking about from --
- 25 Q From Wiley Park. When you left Wiley Park where did

NAVONEY CURRY - DIRECT

1 you go?

2 A We went over to Malika and Shonettia's residence.

3 Q Do you recall how you got there?

4 A Well, we was all --- us three was riding together.

5 Q Okay. And so you all got there at the same time, at

6 Malika and Shonettia's.

7 A Us three, yes.

8 Q Who else was there at that time?

9 A Well --

10 Q When you first got there is all I want to know.

11 A When we first got there it was just us three.

12 Q So there's nobody else in that house at that time?

13 A No.

14 Q There were no children there. They didn't have the

15 children there that night, did they?

16 A Not that I recall, I don't think so.

17 Q Well, if you would have been at a party and you came

18 to the house were the children by themselves?

19 A No. The kids wasn't by themselves, no.

20 Q They were pretty young kids?

21 A Yes.

22 Q All right. Well, Mr. Curry, you worked third shift at

23 Duracell?

24 A Yes.

25 Q Did you work last night?