

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Laurens County

Honorable Frank R. Addy, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CHRISTOPHER JERMAINE WELLS,

APPELLANT

APPELLATE CASE NO 2016-000950

RECORD ON APPEAL

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

ALAN WILSON
Attorney General

RANEE SAUNDERS
Assistant Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

DAVID M. STUMBO
Solicitor, Eighth Judicial Circuit

ATTORNEYS FOR RESPONDENT

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	)	EIGHTH JUDICIAL CIRCUIT
COUNTY OF LAURENS	)	GENERAL SESSIONS COURT
	)	
	)	
	)	
STATE OF SOUTH CAROLINA,	)	
PLAINTIFF,	)	
	)	2015-GS-30-1162
vs.	)	2015-GS-30-503, 504, 505
	)	TRANSCRIPT OF RECORD
CHRISTOPHER JERMAINE WELLS,	)	
DEFENDANT.	)	
	)	

April 25-27, 2016
Laurens, South Carolina

B E F O R E:

THE HONORABLE FRANK R. ADDY, JR., JUDGE.

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

WARREN MOWRY, ESQ.
RUSTON NEELY, ESQ.
Attorney for the Plaintiff

RODNEY RICHEY, ESQ.
Attorney for the Defendant

TARA T. SCOTT
Circuit Court Reporter

I N D E X

(PW) - Denotes Plaintiff's Witness
(DW) - Denotes Defense Witness

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P R O C E E D I N G S

THE COURT: Let me talk briefly with the attorneys in chambers for a few moments.

(WHEREUPON, a short break was taken.)

THE COURT: We're going to go back on the record. If there's any member of the jury panel present in the courtroom, please, stand? Anyone present in the courtroom that's a juror?

(There was no response.)

THE COURT: No one is standing.

I think that the case that we were going to proceed -- or the State was seeking to call is the State of South Carolina vs. Christopher Wells; is that correct?

MR. MOWRY: That's correct.

THE COURT: What's the indictment on that?

MR. MOWRY: There's several of them, Your Honor. And bear with me, I had them. They were right here in front of me, Your Honor. I'm sorry.

THE COURT: While the Solicitor is looking for that, the record should, of course, reflect that Mr. Wells is present with his appointed counsel.

After discussing this case briefly in chambers, Mr. Richey, it's my understanding that there was a matter that needed to be brought to the Court's attention before we move forward, sir?

1 MR. RICHEY: Yes, sir.

2 THE COURT: I'll hear you on that.

3 MR. RICHEY: Your Honor, I have talked to my client.
4 Essentially, he has indicated to me that he does not want
5 me to represent him for various reasons. I will let him
6 explain to the Court, but one of the things is my supposed
7 lack of experience in doing this type of case. My client
8 believes that this is my first criminal trial.

9 Also, he has some issues with the strategy of this
10 case that I don't necessarily agree with, but I'll be more
11 than happy to try the case the way he wants it tried.
12 It's just throughout this representation, Your Honor, it's
13 been that I'm part of this conspiracy to convict him in
14 this case. And he just hasn't shown a willingness to
15 cooperate in the manner that I believe is sufficient for
16 this case.

17 THE COURT: Just so the record is clear on this
18 before I turn to Mr. Wells, that motion -- I think the
19 record should reflect that I think Mr. Wells has had two
20 prior attorneys appointed, Matthew Turner and John
21 Nasrollahi; is that correct, Solicitor?

22 MR. MOWRY: I know Mr. Nasrollahi, I believe Mr.
23 Turner has as well, Your Honor.

24 Part of the common complaint with Mr. Wells, Johnny
25 Lee Saxon, who is a co-defendant, and David Lee Walker,

1 who is also a co-defendant and has been convicted of
2 murder, is that there's collusion between all private
3 attorneys, public defenders and solicitors in the Eighth
4 Judicial Circuit. And that was part of the complaint that
5 each of them has made.

6 Well, each of them ended up with attorneys from
7 outside of the Eighth Circuit. Mr. Richey is in the
8 Thirteenth Circuit, does not have any ties beyond
9 occasional handling of cases in the Eighth Circuit, is not
10 a resident of the Eighth Circuit. So that was part of the
11 attempt, at least, to satisfy Defendant's complaints about
12 his representation.

13 THE COURT: And the Court does recall that Ms. Wiygul
14 represented Mr. Walker. I think she ended up getting
15 appointed after we went through a similar situation with
16 all the lawyers being excused from further representation.

17 Mr. Saxon currently has Mr. Delgato. I think when
18 the State tried to call that earlier this year, Judge
19 Griffith relieved appointed counsel on that. And, I
20 think, at that time, perhaps, the second or third lawyer
21 that Mr. Saxon had had. I think he had had at one point
22 in time Laura Saunders and --

23 MR. MOWRY: Rodney Brown -- Russell Brown --

24 THE COURT: Russell Brown --

25 MR. MOWRY: -- from Columbia.

1 THE COURT: -- was the one that ended up getting
2 relieved last time.

3 MR. MOWRY: That was, actually, last summer, I
4 believe. And Your Honor had already issued an order on
5 Mr. Saxon that if he relieved Mr. Brown that he would have
6 to hire private counsel, that no others would be appointed
7 for him. But Judge Griffith on his own volition appointed
8 Mr. Delgato as Mr. Saxon's attorney.

9 THE COURT: Right.

10 Mr. Wells, I'm happy to hear from you or anything
11 that you want to tell me about why you're seeking to
12 relieve Mr. Richey. In chambers, Mr. Richey did tell me
13 that he's ready to represent you. He's prepared to go
14 forward today. He is comfortable doing so. And Mr.
15 Richey has appeared in front of this Court numerous times,
16 so I'm well familiar -- very familiar with his ability to
17 zealously represent those he is obtained or appointed to
18 represent.

19 But if Mr. Wells, if there's something I need to know
20 about or something you need to tell, now is the time to
21 let me know concerning this motion to fire Mr. Richey.

22 THE DEFENDANT: May I stand?

23 THE COURT: Yes, sir.

24 THE DEFENDANT: Mr. Richey has been assigned to me
25 for over a year now and he done been down here three times

1 to see me. The only time -- every time he done came, he
2 come with a plea from the Solicitor. And I got a motion
3 of discovery that got evidence in it that's clearing me
4 from this case. He don't want to talk about what's going
5 on with my motion. He want to go on a hearsay statement,
6 something that somebody said, done told somebody that's
7 inadmissible in the courtroom anyway. But I got a
8 statement from the eyewitness that was at the scene. He
9 don't want to talk about that, so we get in an argument.
10 I don't trust him. I believe he working with the
11 Solicitor.

12 THE COURT: All right. Well, sir, I really --

13 THE DEFENDANT: I don't trust him.

14 THE COURT: I appreciate your position. I understand
15 you have been through several attorneys already. This is
16 the eleventh hour -- actually, worse than the eleventh
17 hour. This is an extremely last minute motion where
18 you're seeking to relieve counsel that tells me they're
19 ready, willing and able to represent you. Mr. Richey's
20 reputation is excellent. And understand, Mr. Wells,
21 sometimes the obligation of an attorney is to tell the
22 client what they need to hear, but maybe not necessarily
23 what they want to hear.

24 And at this point in time, after you've been through
25 so many attorneys, after you've had so many other lawyers

1 relieved, it just has to stop at some particular in time.
2 I'm hearing that you want to represent yourself. I'm
3 hearing that you want another lawyer. So I'm saying you
4 can't get another lawyer and the case is going to go
5 forward today. That's where we are on that.

6 In terms of any sort of statements from the
7 eyewitness, I'm quite certain that if that statement
8 exist, Mr. Richey will be more than happy to cross-examine
9 that witness on that statement if he has grounds to do so.
10 And that's quite, obviously, where we are.

11 Mr. Richey, you had mentioned differences in opinions
12 you had between Mr. Wells in terms of trial strategy. Is
13 that anything that the Court needs to address outside the
14 presence of the jury or is he discussing something
15 factually that maybe we just better not go into at this
16 point?

17 MR. RICHEY: I would say I don't want to go into with
18 the Solicitor here, but I think it's -- if I'm going to
19 represent him, I will go over it with him again.

20 THE COURT: You will be representing him.
21 You want to say something else, Mr. Wells?

22 THE DEFENDANT: Yes.

23 THE COURT: Yes, sir.

24 THE DEFENDANT: I done gave grounds on why I don't
25 want this gentleman to represent me. I ain't fired -- I

1 done fired one lawyer, that's all. The other dude, the
2 Matt dude, they done that saying there was a conflict of
3 interest.

4 THE COURT: All right.

5 THE DEFENDANT: But if after I done told you I don't
6 trust him and I done told you the grounds on why I want
7 him fired, if you're going to force me to go to trial with
8 him, I ain't got no choice, but I want this to be on
9 record that I was forced, forced into going to trial.

10 THE COURT: Well, for the reasons I've already put on
11 the record, Mr. Wells, Mr. Richey is representing you.
12 You are getting a lawyer paid for by the State of South
13 Carolina, no money out of your pocket, and he is one of
14 the best. So you are in good hands. And I regret that
15 you find yourself unable to trust Mr. Richey. I can
16 assure you that you can trust Mr. Richey.

17 THE DEFENDANT: No, I can't trust him.

18 THE COURT: And, obviously, with appointed counsel,
19 you do not get counsel of your choosing. You just
20 happened to luck out and get a good lawyer, a really good
21 lawyer, who has great criminal experience. So we are
22 going forward. Your objection, however, is noted for the
23 record. For the reasons stated previously, I am denying
24 your motion to fire Mr. Richey.

25 THE DEFENDANT: Okay.

1 THE COURT: I'll need witness list.

2 MR. MOWRY: Yes, sir.

3 And just for the record, Your Honor, we did locate
4 the indictments.

5 THE COURT: Okay.

6 MR. MOWRY: They are indictments 15-1162, charging
7 the Defendant with murder; 15-503, possession of a weapon
8 during the commission of a violent crime; 15-504 for armed
9 robbery; and 15-505 for criminal conspiracy.

10 I'm going to present Your Honor with the -- well,
11 actually, the Clerk with the witness list, the tracking
12 sheets and the originals of the indictments. Mr. Richey
13 has copies of the indictments that we have prepared for
14 him.

15 THE COURT: All right. Very good.

16 It's the Court's intention to take a brief break
17 while we bring the jury panel back in here. Anything we
18 need to take up from either side before we bring the jury
19 panel back in?

20 MR. MOWRY: No, sir. There are a couple of matters,
21 but we can do that after the selection of the jury.

22 THE COURT: Yes, sir.

23 MR. RICHEY: Your Honor, my client filed some motions
24 in relation to these indictments. They have been filed
25 with the Court. I will tell Your Honor, these motions are

1 for speedy trial and these motions are that he has not
2 been properly indicted, and because he was not properly
3 indicted, the cases should be dismissed against him. And
4 the arguments are laid out in these motions.

5 He contends that these indictments are not true
6 billed. I went over it with him, but he contends they are
7 not true billed. So that's what these motions -- and
8 they're in the file. So there's a speedy trial motion
9 and, also, a motion to dismiss because he has not been
10 properly indicted.

11 THE COURT: All right. I've looked and I have all
12 the court indictments in my hand at this point in time.
13 It appears that Mr. Wells -- or each of these indictments
14 for Mr. Wells were true billed by the grand jury.
15 Indictment 1162 charging him with murder was true billed
16 on July the 24th of 2015, signature of the Court versus
17 the grand jury is listed there. The other three
18 indictments were true billed on April the 10th of 2015,
19 Ms. Thompson, Foreperson of the grand jury signed.
20 They're all indicated as true billed. I really would ask
21 if there's something else or some other evidence. I don't
22 see where -- the motion concerning the indictments not
23 being true billed, I don't see where that is accurate.

24 In terms of violation of his motion for a speedy
25 trial, Mr. Richey, at this point in time, can you point to

1 any prejudice that he has suffered? I know that he's been
2 at the detention center probably since October 31st of
3 2013, or sometime after that, close after that when this
4 incident took place. Is there any prejudice that you can
5 show the Court at this point in time in limine concerning
6 that motion?

7 MR. RICHEY: Your Honor, it's his position that he
8 should have been timely indicted prior to the amount of
9 time it's taken for him to get to trial. That is his
10 position.

11 In terms of prejudice, I will tell the Court, we were
12 in front of the Court, I want to say, about four or five
13 months ago where this issue was brought up at a bond
14 hearing. And the Court, basically, said he had to be
15 tried by next month or something. So I would say we got
16 into court and we discussed this issue at a bond hearing.

17 THE COURT: Do you want to speak to that, Mr. --

18 MR. MOWRY: Your Honor, first of all, I never
19 responded to these motions because the Defendant does not
20 have a right to hybrid representation. He either
21 represents himself or allows his attorney to represent
22 him. It is not a combination of the two.

23 So since he has been represented by an attorney the
24 entire time, I have, essentially, ignored these motions.
25 This is something that we get a lot. It is way too

1 confusing to try to do both. So if the Defendant is
2 represented by counsel, we respond to the counsel's
3 motions, not the Defendant's. The Defendant can make the
4 motions through counsel, if he wishes. So at any rate,
5 that explains that.

6 I would submit, also, that speedy trial, if there is
7 an action by the Defendant that delays the trial, then
8 that's on him. And I would submit that the Defendant, by
9 firing Mr. Nasrollahi, has, obviously, delayed his own
10 court action. Mr. Richey was appointed. Mr. Richey has
11 to get up to speed on the case and that takes time.

12 The State tried Mr. Walker, David Walker, the
13 co-defendant, about a year ago. We were prepared to go to
14 trial on Mr. Saxon in January. I would submit that we
15 probably did not need to sever the cases, but out of an
16 abundance of caution, we did. We are trying these
17 defendants individually. And it just simply takes time to
18 get the cases into court. There has been nothing done by
19 the State that unduly delayed these actions. We are
20 simply getting them up as we can based on the court
21 backlog that we're trying to address.

22 THE COURT: Were these three indictments -- I notice
23 that the murder charge was indicted -- or the grand jury
24 acted on the murder charge after the weapons charge, the
25 armed robbery charge and the conspiracy charge. I'm

1 assuming that there was prior presentment or warrants had
2 been issued or something along those lines?

3 MR. MOWRY: We just simply determined to go forward
4 on conspiracy as well based on the way our investigation
5 concluded. It wasn't -- it was done after the other
6 three, but it was quite some time ago.

7 THE COURT: Okay.

8 MR. MOWRY: One other thing, Your Honor, I would
9 point out just to make sure we are all reading off the
10 same page. We have served Mr. Wells with a notice of
11 intent to seek life without parole should he be convicted
12 of murder, for a lesser included offense, like voluntary
13 manslaughter, or of armed robbery.

14 He has a prior -- he was indicted for murder. He
15 pled guilty -- or I think he was found guilty of
16 manslaughter back in 1992 and was sentenced to 25 years in
17 prison for that. Since voluntary manslaughter is a
18 violent crime, murder, manslaughter or armed robbery would
19 be a violent crime. That would be make him eligible for
20 life without parole.

21 THE COURT: All right.

22 MR. MOWRY: Or a most serious, I'm sorry, not
23 violent.

24 THE COURT: And notification of LWOP has been
25 provided to the Defense, at least, 10 days prior to this

1 hearing?

2 MR. MOWRY: Yes, sir, several months ago.

3 THE COURT: And y'all acknowledge receipt of that,
4 Mr. Richey?

5 MR. RICHEY: Yes, sir.

6 THE COURT: Well, based on what has been presented to
7 me, again, the indictments have been true billed. The
8 charges stand as indicted. And in terms of the motion for
9 a speedy trial, the State does have a point, Mr.
10 Nasrollahi had been previously appointed to represent and
11 he was discharged by Mr. Wells.

12 Do you want to chime in on something else, sir?

13 THE DEFENDANT: Yes, about the true billed
14 indictments, sir.

15 THE COURT: Yes, sir.

16 THE DEFENDANT: There's a time limit on how you give
17 indictments and it's through Rule 3(c).

18 THE COURT: I understand, and I'm familiar with Rule
19 3(c), sir, but that does not serve -- it is not fatal to
20 the State's case if Rule 3(c) is not followed strictly,
21 sir.

22 THE DEFENDANT: I done had indictments before. This
23 ain't no true billed indictment. I don't see no grand
24 jury stuff or seal or nothing.

25 THE COURT: All right. I'll be more than happy to

1 have the clerk make copies of these indictments, but I am
2 ruling right now --

3 They have previously received copies?

4 MR. MOWRY: Yes, sir, gave them to them as late as
5 this morning. And I would, also, state for the record,
6 Your Honor, this is exactly what Mr. Saxon said in
7 January.

8 THE COURT: All right.

9 THE DEFENDANT: And I would like to say I been locked
10 up since December the 13th of 2013. These indictments
11 didn't come until the 15th. Ain't there some rule after
12 90 days or two court terms that if you ain't been indicted
13 --

14 THE COURT: The provision of law that you're
15 referring to, sir, gets a little bit technical, but the
16 provision of law that you're referring to is the one that
17 says that if a charge is not brought or a person is not
18 indicted after two terms of court, then the person has to
19 be set free. Is that, basically, the section of law that
20 you're citing from?

21 THE DEFENDANT: It can't be brought to trial for the
22 charges.

23 THE COURT: Well, the section of law that I'm
24 thinking of and that I believe you're referring to, sir,
25 that only applies to the statutory terms of court created

1 under the offices of the general assembly through the
2 code. It does not apply -- those terms were, actually,
3 cancelled. The statutory terms of court were, actually,
4 cancelled by order of the Chief Justice, so that section
5 doesn't apply.

6 There's, actually, a case directly on point that says
7 that that provision of the code of laws does not apply
8 because we're dealing with the terms of court created by
9 the Chief Justice as opposed to those that are expelled
10 out in Title -- I want to say Title 14 of the code of
11 laws.

12 THE DEFENDANT: So --

13 THE COURT: Yes, sir.

14 THE DEFENDANT: So if my memory is right, that don't
15 count for nothing under the Constitution?

16 THE COURT: Which one, sir?

17 THE DEFENDANT: This right here, what I'm speaking
18 of. That's my Fifth Amendment right.

19 THE COURT: All right. Your objection, Mr. Wells, is
20 noted for the record. We're going to move forward with
21 this case, move on with this trial.

22 THE DEFENDANT: Okay. As long as it's on the record.

23 THE COURT: Yes, sir.

24 Solicitor, you've already handed me a witness list.

25 Mr. Richey, do y'all have any additional witnesses?

1 MR. RICHEY: No, sir.

2 THE COURT: Very good.

3 We'll have the jury brought in. I'll take five
4 minutes while they come in. We'll move straight into jury
5 selection. I'll need the when, where, what of the
6 incident, okay?

7 MR. MOWRY: Yes, sir.

8 THE COURT: Bring the jury in, please.

9 (WHEREUPON, the jury venire enters the courtroom
10 at 11:55 a.m.)

11 THE BAILIFF: All jury is present, Your Honor.

12 THE COURT: Thank you very much, sir.

13 Ladies and gentlemen of the jury panel, sorry for the
14 delay in getting you back in here. Things took a little
15 longer than I initially anticipated.

16 We're now about to begin with jury selection in the
17 case of the State of South Carolina vs. Christopher
18 Jermaine Wells. And Mr. Wells is charged with four
19 indictments filed in this court, ladies and gentlemen,
20 with the offenses of murder, possession of a weapon during
21 the commission of a violent crime, armed robbery, and
22 criminal conspiracy.

23 Now, at the get-go, ladies and gentlemen, I want to
24 tell you that the fact that Mr. Wells was charged or
25 indicted in these particular cases is, of course, not

1 evidence of guilt in any way, shape, or form. These
2 indictments are merely the legal method by which a case is
3 brought to this Court. Mr. Wells has pled not guilty to
4 these indictments. And that plea puts the burden of proof
5 firmly on the State of South Carolina to prove each and
6 every element of these charges beyond a reasonable doubt.
7 So, again, the fact that Mr. Wells was indicted or charged
8 with these crimes is, of course, not proof of any of the
9 allegations contained in those indictments.

10 Now, in this case, ladies and gentlemen, the State of
11 South Carolina is being represented by Mr. Mowry and Mr.
12 Neely.

13 Mr. Mowry, if you would care to stand and introduce
14 yourself and anyone else seated at counsel table with you.

15 MR. MOWRY: Thank you, Your Honor.

16 Ladies and gentlemen, my name is Warren Mowry. I'm
17 attorney and deputy solicitor here in Laurens County.
18 With me is Ruston Neely, he's an assistant solicitor here
19 in Laurens. And he and I will be presenting the case for
20 the State. Also, Walter Bentley, who is the investigator
21 for the solicitor's office. And, finally, Lieutenant
22 Bryant Cheek, who was the investigator for the Laurens
23 County Sheriff's Office and chief investigator for this
24 case.

25 THE COURT: Thank you, Mr. Mowry.

1 The Defense in this case, ladies and gentlemen, is
2 being represented by Mr. Richey.

3 Mr. Richey, if you care to introduce yourself and,
4 certainly, your client to the jury.

5 MR. RICHEY: Thank you, Your Honor.

6 I'm Rodney Richey. I practice law in Greenville.
7 This is my client, Christopher Wells. Thank you.

8 THE COURT: Thank you, Mr. Richey.

9 Ladies and gentlemen, I now need to ask you some
10 specific questions that relate to this case in particular.
11 We're going to use the same process that we used earlier.
12 If the question applies to you, unless I tell you
13 otherwise, just stand up and give me that response. So if
14 the question applies to you, just stand and I'll ask you
15 to explain.

16 First question, ladies and gentlemen, is there any
17 member of the jury panel who is currently being
18 represented or has previously been represented by any of
19 the attorneys involved in this case, either Mr. Neely, Mr.
20 Mowry or Mr. Richey? If so, please, stand.

21 Yes, sir, you've previously been represented by some
22 of these lawyers?

23 THE POTENTIAL JUROR: Not represented, I had a case
24 that happened at my home and this guy represented me.

25 THE COURT: How long ago was that, sir?

1 THE POTENTIAL JUROR: A year ago.

2 THE COURT: And what was your name just for the
3 record, please?

4 THE POTENTIAL JUROR: Armando Hinojos.

5 THE COURT: And that was approximately a year ago?
6 It was a criminal case?

7 THE POTENTIAL JUROR: They pleaded guilty.

8 THE COURT: It was prosecuted by this solicitor's
9 office?

10 THE POTENTIAL JUROR: Yes, sir.

11 THE COURT: But it's over and done with?

12 THE POTENTIAL JUROR: Yes, sir.

13 THE COURT: All right. The fact that this
14 solicitor's office handled that case for you, would that
15 affect your ability to be fair and impartial to both
16 sides?

17 THE POTENTIAL JUROR: No, sir.

18 THE COURT: You can be fair to everyone involved
19 then?

20 THE POTENTIAL JUROR: Yes, sir.

21 THE COURT: Very good, sir. Have a seat, please.
22 Anyone else?

23 (There was no response.)

24 THE COURT: No one is standing.

25 Is there any member of the jury panel related by

1 blood or marriage, or has any close business or social
2 relationships with any of the attorneys involved in this
3 case? If so, please, stand.

4 (There was no response.)

5 THE COURT: No one is standing.

6 The Defendant in this case, ladies and gentlemen, is
7 Christopher Jermaine Wells. And the State is alleging
8 that the individual who is deceased or was killed, his
9 name is Johnny Lee Cheeks.

10 Is there any member of the jury panel who is related
11 by blood or marriage to either the Defendant in this case,
12 or Johnny Lee Cheeks, or who has or had any close business
13 or social relationships with either the alleged victim,
14 Mr. Cheeks, or Mr. Wells? If so, please, stand.

15 (There were no response.)

16 THE COURT: No one is standing.

17 I'm going to read a list of potential witnesses in
18 this case, ladies and gentlemen. When I'm done reading
19 this list, I'm going to ask whether there's any member of
20 the jury panel who is related by blood or marriage to any
21 of these folks, or has any close business or social
22 relationship with any of these folks. So, please, pay
23 attention to these names that I'm about to read out.

24 Here are the possible witnesses who may testify in
25 this case: Marty Crain, who works with Laurens Sheriff's

1 Department; Jamison Taylor; Bryant Cheek with Laurens
2 Sheriff's Department; Steven Sweat; Robert Timmons with
3 Laurens Sheriff's Department; Andrew Ashley with Laurens
4 Police Department; Todd Alexander, also, with the
5 sheriff's department; David Craig with the sheriff's
6 department; Jeremy McMahan with the sheriff's department;
7 Kelly Ball; Karon Bridges, who works at Laurens 911; James
8 Green with SLED; Kimberly Mears, M-E-A-R-S, with SLED;
9 Tiffany Hezel, H-E-Z-E-L, also, with SLED; Jennifer
10 Stoner, who, also, works, at SLED; Toris, T-O-R-I-S,
11 Moore; Emily Dawkins; Dr. Michael Ward; Willie Belle
12 Williams; Billy Baines, Jr.; David Walker; Johnny Lee
13 Saxon; and Antonio Morris.

14 Is there any member of the jury panel who is related
15 by blood or marriage to any of those folks, or has any
16 close business or social relationships with any of those
17 possible witnesses?

18 Yes, ma'am, what's your name, please?

19 THE POTENTIAL JUROR: Peggy Nabors.

20 THE COURT: Ms. Nabors, who of those folks do you
21 know?

22 THE POTENTIAL JUROR: Steven Sweat.

23 THE COURT: How do you know Mr. Sweat?

24 THE POTENTIAL JUROR: He is like a very close friend.
25 My brother-in-law is his brother.

1 THE COURT: Your brother-in-law is his?

2 THE POTENTIAL JUROR: Brother.

3 THE COURT: Brother, okay. How long have you known
4 Mr. Sweat?

5 THE POTENTIAL JUROR: Over 10 years.

6 THE COURT: How often do you see him?

7 THE POTENTIAL JUROR: Like a couple a times a year,
8 but our kids are in the same class and they're best
9 friends.

10 THE COURT: Got you.

11 THE POTENTIAL JUROR: My friends call him Uncle
12 Steven.

13 THE COURT: All right. If Mr. Sweat were to testify
14 in this particular case, would that affect your ability to
15 be fair to both the State and the Defense?

16 THE POTENTIAL JUROR: It would.

17 THE COURT: Very good. I'll let you sit this one out
18 then. Do you recall your juror number, ma'am?

19 THE POTENTIAL JUROR: 133.

20 THE COURT: All right. 133 won't serve on this case.
21 Anyone else need to respond to that last question?

22 (There was no response.)

23 THE COURT: No one is standing.

24 Ladies and gentlemen, the State alleges that this
25 incident -- that this offense took place on or about

1 October the 31st of 2013, sometime between 11:30 and
2 midnight. It took place, the State is alleging, in
3 Enoree, at [REDACTED], which is right next to the
4 Enoree River Bridge, just off of 26. I'm told that it's
5 close to the Little Cricket over there in Enoree.

6 Is there any member of the jury panel who thinks they
7 may know anything about the allegations involved in this
8 case or has formed or expressed any opinion concerning the
9 allegations involved in this? In a nutshell, ladies and
10 gentlemen, I'm asking is there any juror who thinks that
11 they may know anything about the allegations or about this
12 particular incident? If so, please, stand.

13 (There was no response.)

14 THE COURT: No one is standing.

15 Is there any member of the jury panel who has any
16 deeply-held moral or religious beliefs which would prevent
17 you from serving on jury duty? In a nutshell, ladies and
18 gentlemen, is there any member of the jury panel who has a
19 religious creed or follows a particular branch of religion
20 which would prevent you from serving on a jury? If so,
21 please, stand.

22 (There was no response.)

23 THE COURT: No one is standing.

24 Is there any member of the jury panel who is a member
25 of any organization, the primary purpose of which is

1 victims' advocacy or victims' rights? An organization
2 along those lines might be something like Mothers' Against
3 Drunk Driving, or CAVE, Citizens Against Violent Crime,
4 that kind of a thing.

5 So is there any member of the jury panel who's a
6 member of any kind of an organization along those lines?
7 If so, please, stand.

8 Yes, ma'am, your name again, please?

9 THE POTENTIAL JUROR: Kimberly Lovejoy.

10 THE COURT: Ms. Lovejoy. And what kind of
11 organization is it, ma'am?

12 THE POTENTIAL JUROR: Victim's rights.

13 THE COURT: Victim's rights organization. How long
14 have you been a member?

15 THE POTENTIAL JUROR: I've been certified in victim
16 advocacy for two years now.

17 THE COURT: Okay. Do you feel that your involvement
18 in that organization or the fact that you're a victim's
19 advocate, would that affect your ability to be fair -- do
20 you appear in court frequently; ma'am?

21 THE POTENTIAL JUROR: I haven't in the last year. I
22 used to all the time, but I haven't in the last year.

23 THE COURT: And I think that you told me you worked
24 for an eye doctor at one point and you're no longer
25 employed there?

1 THE POTENTIAL JUROR: Yes, because of the injury.

2 THE COURT: I understand. Would this involvement
3 that you have affect your ability to be fair and impartial
4 to all concerned?

5 THE POTENTIAL JUROR: I would be fair.

6 THE COURT: You would be fair? Okay. Very good.
7 You can have a seat. Thank you, ma'am.

8 No one else is standing.

9 Is there any member of the jury panel who knows of
10 any reason whatsoever why you cannot give both the State
11 of South Carolina and the Defendant in this case, Mr.
12 Wells, a fair case, judging this case based solely on the
13 evidence and the law as I instruct you? Any reason
14 whatsoever why you feel you can't be fair to both sides?
15 If so, please, stand.

16 (There was no response.)

17 THE COURT: No one is standing.

18 Additional voir dire from the State?

19 MR. MOWRY: Nothing from the State, Your Honor.

20 THE COURT: From the Defense?

21 MR. RICHEY: May we approach?

22 THE COURT: Sure. Come on up, please.

23 (WHEREUPON, a bench conference was held.)

24 THE COURT: Next question, ladies and gentlemen --
25 and the way I usually handle this -- and I meant to ask it

1 earlier, but the way I'll handle this is if you need to
2 respond to this, I'll let you come forward and speak with
3 me privately down here next to my court reporter.

4 Here's the question, is there any member of the jury
5 panel who has been a victim of a violent crime or had a
6 close family member or a very close friend who's ever been
7 a victim of a violent crime, or is there any member of the
8 jury panel who has had a family member or you, yourself,
9 have been charged with a violent or a serious crime? I
10 define serious crime as being something like murder, rape,
11 burglary first degree, things of that nature, okay, things
12 that you would generally consider to be kind of more top
13 shelf violent crimes.

14 First, I'm going to ask that you stand if you have
15 been a victim of a violent crime or had somebody in your
16 family charged with a violent crime? So is there anybody
17 that may apply to? If so, please, stand.

18 (Potential jurors stand.)

19 THE COURT: All right. Very good. If it applies to
20 you, I'm going to let you come forward and you can speak
21 with me down front here next to the court reporter.

22 What was your name again, just for the record?

23 THE POTENTIAL JUROR: Kimberly Lovejoy.

24 THE COURT: Ms. Lovejoy, yes, ma'am. How does that
25 apply to you, Ms. Lovejoy?

1 THE POTENTIAL JUROR: I was raped.

2 THE COURT: How long ago was that, Ms. Lovejoy?

3 THE POTENTIAL JUROR: Let's see, it was in 2008.

4 THE COURT: If I may, not to pry, but was the matter
5 brought to court, was a prosecution initiated?

6 THE POTENTIAL JUROR: It was dropped in court because
7 they couldn't find the guy.

8 THE COURT: Okay. Was that locally here or was that
9 somewhere else?

10 THE POTENTIAL JUROR: It was in Newberry.

11 THE COURT: All right. Ms. Lovejoy, the Defendant in
12 this case is, obviously, charged with murder, armed
13 robbery and a few other charges like that. The fact that
14 you experienced this in 2008, is that affecting -- or
15 would that affect your ability to be fair to the
16 Defendant?

17 THE POTENTIAL JUROR: No. I've dealt with it.

18 THE COURT: Very good. Fair enough, Ms. Lovejoy.
19 Thank you.

20 112 is okay.

21 THE BAILIFF: Juror #88.

22 THE COURT: Yes, sir.

23 THE POTENTIAL JUROR: I've got a nephew that was
24 involved with a murder and he's in prison for three lives.

25 THE COURT: Is he in prison in South Carolina?

1 THE POTENTIAL JUROR: Yes, sir.

2 THE COURT: Was that prosecuted here in Laurens or
3 somewhere else?

4 THE POTENTIAL JUROR: I believe in Greenville.

5 THE COURT: In Greenville, okay. And that's your
6 nephew?

7 THE POTENTIAL JUROR: Yes.

8 THE COURT: All right. The fact that your nephew
9 went through that, sir, would that affect your ability to
10 be fair and impartial to all concerned?

11 THE POTENTIAL JUROR: I've never had the mind to do
12 any kind of thinking of doing anything like that, so it
13 wouldn't affect me at all.

14 THE COURT: Okay. Thank you, sir. You can have a
15 seat.

16 Juror #88 is okay.

17 THE BAILIFF: Juror #75.

18 THE COURT: Ms. Grant, yes, ma'am. How does that
19 question apply to you, ma'am?

20 THE POTENTIAL JUROR: Yeah, I just had a close
21 relative murdered about two weeks ago.

22 THE COURT: You said two weeks ago?

23 THE POTENTIAL JUROR: Yeah, in Newberry County.

24 THE COURT: Was it -- okay. Was it the gentleman who
25 ran the funeral home?

1 THE POTENTIAL JUROR: Yes, sir.

2 THE COURT: Okay. How is he related to you?

3 THE POTENTIAL JUROR: My brother worked for him. He
4 was just a close friend for like 25 years.

5 THE COURT: So he's a close friend?

6 THE POTENTIAL JUROR: Yeah.

7 THE COURT: The Defendant in this case is, also,
8 charged with murder, Ms. Grant. I'm just going to ask you
9 a question. I want you to be honest. This happened two
10 weeks ago, do you -- is this hitting a little bit too
11 close to home? Is this a bit too fresh?

12 THE POTENTIAL JUROR: Yeah, yeah.

13 THE COURT: You feel like maybe you need to sit this
14 one out?

15 THE POTENTIAL JUROR: Yeah.

16 THE COURT: Okay. That's what we're going to do
17 then, Ms. Grant. You can have a seat back out there. You
18 won't serve on this jury. Just have a seat.

19 #75 will not serve on this case.

20 THE BAILIFF: Juror #198.

21 THE COURT: Ms. Yeargin. Yes, ma'am, how did that
22 question apply to you, ma'am?

23 THE POTENTIAL JUROR: I had a first and a second
24 cousin that was murdered in 2014.

25 THE COURT: Is that being prosecuted in the Eighth

1 Circuit or somewhere else?

2 THE POTENTIAL JUROR: Here.

3 THE COURT: In Laurens?

4 THE POTENTIAL JUROR: Yes, sir.

5 THE COURT: And that was in 2014?

6 THE POTENTIAL JUROR: Yes, sir.

7 THE COURT: And these were your first and second
8 cousins who were victims?

9 THE POTENTIAL JUROR: Yes, sir.

10 THE COURT: Ms. Yeargin, you know, 2014 wasn't that
11 long ago. Is this hitting a little bit too close to home
12 for you? Do you feel like what your family's been through
13 the last year and a half, do you feel like that might
14 affect your ability to be fair in this case?

15 THE POTENTIAL JUROR: I don't think so.

16 THE COURT: You've got to be certain. If you think
17 there's the slightest chance that what your family went
18 through in 2014 could affect your judgment in this case, I
19 need you to let me know. But if you're telling me you're
20 okay to serve, I'm good to let you serve.

21 THE POTENTIAL JUROR: I'm okay.

22 THE COURT: Okay. Good enough, Ms. Yeargin. You can
23 have a seat out there. Thank you.

24 #198 is qualified to serve.

25 THE BAILIFF: Juror #162.

1 THE COURT: Ms. Smith, Frank Addy. Yes, ma'am. How
2 does the question apply to you?

3 THE POTENTIAL JUROR: I had a first cousin who was
4 murdered. It's been probably 15, 16 years ago, though.

5 THE COURT: Okay.

6 THE POTENTIAL JUROR: Chris Jones, he was killed by
7 Jimmy Locklear, who will never see the light of day.

8 THE COURT: All right. Was that prosecuted locally
9 here or was that somewhere else?

10 THE POTENTIAL JUROR: I don't think it was, actually,
11 Laurens County.

12 THE COURT: That was a good time ago. Can you put
13 that aside and judge this case based solely on the facts
14 and be fair to everybody, especially Mr. Wells?

15 THE POTENTIAL JUROR: Yeah. I did, also, have a --
16 my second cousin's husband was Deputy Roger Rice, who was
17 killed.

18 THE COURT: Okay.

19 THE POTENTIAL JUROR: But she's my second cousin.
20 You know, it's not close, close family.

21 THE COURT: Can you put both of those incidents aside
22 and try this case fairly?

23 THE POTENTIAL JUROR: I think so.

24 THE COURT: You're sure?

25 THE POTENTIAL JUROR: Yes.

1 THE COURT: You've got to be sure.

2 THE POTENTIAL JUROR: Yes.

3 THE COURT: Thank you, Ms. Smith. Have a seat.

4 Juror #162 will serve.

5 THE BAILIFF: Juror #116.

6 THE COURT: It's Ms. Martin, right?

7 THE POTENTIAL JUROR: That's right.

8 THE COURT: Yes, ma'am, how does that question apply
9 to you?

10 THE POTENTIAL JUROR: The incident happened over four
11 years ago. My mother-in-law was a victim of a home
12 intrusion where she shot and killed the intruder.

13 THE COURT: Okay. And that was your mother-in-law?

14 THE POTENTIAL JUROR: Yes.

15 THE COURT: Okay. The fact that this happened in
16 your family -- obviously, this is a different kind of a
17 case, that was a burglary. Can you put any experience
18 you've had aside as far as that's concerned and judge this
19 case based solely on the evidence and testimony and law?

20 THE POTENTIAL JUROR: I feel like I could, yes.

21 THE COURT: You're certain of it then?

22 THE POTENTIAL JUROR: Yes.

23 THE COURT: Very good, Ms. Martin. Thank you. Have
24 a seat.

25 #116 is okay.

1 THE BAILIFF: Juror #199.

2 THE COURT: Ms. Young, yes, ma'am. How does that
3 question apply to you, ma'am?

4 THE POTENTIAL JUROR: I have couple cousins that's
5 been convicted of murder and killing a dog.

6 THE COURT: All right. The fact that your cousins
7 were convicted of the same kind of offense that the
8 Defendant is charged with, would that affect your ability
9 to be fair and impartial?

10 THE POTENTIAL JUROR: No.

11 THE COURT: You're certain?

12 THE POTENTIAL JUROR: Yeah.

13 THE COURT: Okay. Good enough. Ms. Young, thank
14 you.

15 #199 is okay.

16 THE BAILIFF: #113, Your Honor.

17 THE COURT: Now, you are Ms. Lovelist. Yes, ma'am.
18 How does that --

19 THE POTENTIAL JUROR: I had to come to court for
20 domestic violence.

21 THE COURT: And when did this take place, ma'am?

22 THE POTENTIAL JUROR: Twenty years ago.

23 THE COURT: Obviously, this is not -- I'll tell you
24 that the allegations in this case don't involve domestic
25 violence. Can you put aside the fact that this happened

1 to you 20 years ago and judge this case based solely on
2 the facts and the law?

3 THE POTENTIAL JUROR: Yes.

4 THE COURT: Very good. You can have a seat. Thank
5 you.

6 #113 is okay.

7 THE BAILIFF: Juror #55.

8 THE COURT: It's Ms. Dendy?

9 THE POTENTIAL JUROR: Uh-huh.

10 THE COURT: Ms. Dendy, how does that question apply
11 to you?

12 THE POTENTIAL JUROR: With my son, molestation.

13 THE COURT: How long ago was that?

14 THE POTENTIAL JUROR: 2000, I think it was.

15 THE COURT: This is, obviously, a different kind of
16 crime than what happened to your son. Can you put aside
17 what your family went through when that happened 16 years
18 ago and judge this case based solely on the evidence and
19 the law?

20 THE POTENTIAL JUROR: Yes.

21 THE COURT: Very good. Ms. Dendy, thank you.

22 Any additional voir dire from the State?

23 MR. MOWRY: No, Your Honor.

24 THE COURT: Any from the Defense?

25 MR. RICHEY: None, Your Honor.

1 THE COURT: The strikes are going to be five for the
2 State, 10 for the Defense. We will select one alternate.
3 Strikes on those will be one and two.

4 Ladies and gentlemen, in a moment, the Clerk of Court
5 will generate a list of potential jurors. If your name is
6 called, that means that you have been picked as a possible
7 juror on this particular case. So if your name is called;
8 what I need for you to do is come forward and stand right
9 here where this table is in front of me and then turn
10 around and face towards the back of the courtroom. At
11 that point in time, the State will be given an opportunity
12 to either seat you or to excuse you, and the Defense will
13 have a similar opportunity.

14 Now, ladies and gentlemen, I'm going to tell you what
15 I tell every jury panel. If for some reason, one of the
16 attorneys ask that you not serve on this case or if, for
17 some reason, one of the lawyers excuses you from serving,
18 don't take it personal. There are about 14,000 lawyers in
19 the State of South Carolina and each and every one of them
20 has a different way of picking a jury. So if you're asked
21 not to serve on this case, again, ladies and gentlemen, it
22 ain't personal, I promise you that.

23 (Pause.)

24 THE COURT: Madam Clerk, if you'll give me a jury.

25 THE CLERK: Juror #150, Deborah C. Rogers.

1 (WHEREUPON, Deborah C. Rogers, a white female,
2 came forward.)

3 THE CLERK: What says the State?

4 MR. MOWRY: Please present Ms. Rogers.

5 THE CLERK: What says the Defense?

6 MR. RICHEY: Please present the juror.

7 THE COURT: Did you say please seat her? I'm sorry.

8 MR. RICHEY: Yes, present the juror for the trial of
9 this case.

10 THE COURT: Have a seat over there, ma'am.

11 THE CLERK: Juror #31, Amber M. Butler.

12 (WHEREUPON, Amber M. Butler, a white female,
13 came forward.)

14 THE CLERK: What says the State?

15 MR. MOWRY: Please present the juror.

16 THE CLERK: What says the Defense?

17 MR. RICHEY: Please present the juror for the trial
18 of this case.

19 THE CLERK: Juror #184, Bobby R. Whitten.

20 (WHEREUPON, Bobby R. Whitten, a white male, came
21 forward.)

22 THE CLERK: What says the State?

23 MR. MOWRY: Your Honor, could we approach briefly?

24 THE COURT: Sure.

25 (WHEREUPON, a bench conference was held.)

1 THE COURT: What says the State?

2 MR. MOWRY: Beg the Court's indulgence for just a
3 moment.

4 THE COURT: Yes, sir.

5 MR. MOWRY: We'll excuse the juror from this trial.

6 THE CLERK: Juror #51, Doris E. Eubanks.

7 (WHEREUPON, Doris E. Eubanks, a white female,
8 came forward.)

9 THE CLERK: What says the State?

10 MR. MOWRY: Please present the juror.

11 THE CLERK: What says the Defense?

12 MR. RICHEY: Please strike the juror from the trial
13 of this case.

14 THE CLERK: Juror #71, Treyvious D. Gary.

15 (WHEREUPON, Treyvious D. Gary, a black male,
16 came forward.)

17 THE CLERK: What says the State?

18 MR. MOWRY: We'll excuse the juror from this trial,
19 Your Honor.

20 THE CLERK: Juror #12, Joseph M. Barbrey.

21 (WHEREUPON, Joseph M. Barbrey, a white male,
22 came forward.)

23 THE CLERK: What says the State?

24 MR. MOWRY: We'll excuse Mr. Barbrey.

25 THE CLERK: Juror #196, Robert D. Wooten.

1 (WHEREUPON, Robert D. Wooten, a white male, came
2 forward.)

3 THE CLERK: What says the State?

4 MR. MOWRY: Present the juror.

5 THE CLERK: What says the Defense?

6 MR. RICHEY: Please excuse the juror from the trial
7 of this case.

8 THE CLERK: Juror #200, Richard Young.

9 (WHEREUPON, Richard Young, a black male, came
10 forward.)

11 THE CLERK: What says the State?

12 MR. MOWRY: Please present the juror.

13 THE CLERK: What says the Defense?

14 MR. RICHEY: Please present the juror for the trial
15 of this case.

16 THE CLERK: Juror #113, Teresa Y. Lovelist.

17 (WHEREUPON, Teresa Y. Lovelist, a black female,
18 came forward.)

19 THE CLERK: What says the State?

20 MR. MOWRY: Please present the juror.

21 THE CLERK: What says the Defense?

22 MR. RICHEY: Please present the juror for the trial
23 of this case.

24 THE CLERK: Juror #116, Laura F. Martin.

25 (WHEREUPON, Laura F. Martin, a white female,

1 came forward.)

2 THE CLERK: What says the State?

3 MR. MOWRY: Please present the juror.

4 THE CLERK: What says the Defense?

5 MR. RICHEY: Please excuse the juror.

6 THE CLERK: Juror #159, Robert G. Shirey.

7 (WHEREUPON, Robert G. Shirey, a white male, came
8 forward.)

9 THE CLERK: What says the State?

10 MR. MOWRY: Please present the juror.

11 THE CLERK: What says the Defense?

12 MR. RICHEY: Please present the juror for the trial
13 of this case.

14 THE CLERK: Juror #17, Norman L. Blackwell.

15 (WHEREUPON, Norman L. Blackwell, a white male,
16 came forward.)

17 THE CLERK: What says the State?

18 MR. MOWRY: Please present the juror.

19 THE CLERK: What says the Defense?

20 MR. RICHEY: Please present the juror for the trial
21 of this case.

22 THE CLERK: Juror #162, Angela D. Smith.

23 (WHEREUPON, Angela D. Smith, a white female,
24 came forward.)

25 THE CLERK: What says the State?

1 MR. MOWRY: Please present Ms. Smith.

2 THE CLERK: What says the Defense?

3 MR. RICHEY: Please excuse the juror from the trial
4 of the case.

5 THE CLERK: Juror #58, Jeanna A. Edwards.

6 (WHEREUPON, Jeanna A. Edwards, a white female,
7 came forward.)

8 THE CLERK: What says the State?

9 MR. MOWRY: Please present Ms. Edwards.

10 THE CLERK: What says the Defense?

11 MR. RICHEY: Please excuse the juror.

12 THE CLERK: Juror #96, James E. Johnson:

13 (WHEREUPON, James E. Johnson, a black male, came
14 forward.)

15 THE CLERK: What says the State?

16 MR. MOWRY: Please excuse Mr. Johnson.

17 THE CLERK: Juror #199, Belinda A. Young.

18 (WHEREUPON, Belinda A. Young, a black female,
19 came forward.)

20 THE CLERK: What says the State?

21 MR. MOWRY: Beg the Court's indulgence just one
22 moment.

23 THE COURT: Yes, sir.

24 MR. MOWRY: Please present Ms. Young.

25 THE CLERK: What says the Defense?

1 MR. RICHEY: Please present the juror.

2 THE CLERK: Juror #195, Carl W. Woody.

3 (WHEREUPON, Carl W. Woody, a white male, came
4 forward.)

5 THE CLERK: What says the State?

6 MR. MOWRY: Please present Mr. Woody.

7 THE CLERK: What says the Defense?

8 MR. RICHEY: Please present the juror for the trial
9 of this case.

10 THE CLERK: Juror #77, Phillip A. Gray.

11 (WHEREUPON, Phillip A. Gray, a white male, came
12 forward.)

13 THE CLERK: What says the State?

14 MR. MOWRY: Please present the juror.

15 THE CLERK: What says the Defense?

16 MR. RICHEY: Please excuse the juror.

17 THE CLERK: Juror #70, Richard C. Garrett.

18 (WHEREUPON, Richard C. Garrett, a white male,
19 came forward.)

20 THE CLERK: What says the State?

21 MR. MOWRY: Please present Mr. Garrett.

22 THE CLERK: What says the Defense?

23 MR. RICHEY: Please excuse the juror.

24 THE CLERK: Juror #60, Gwen Smart.

25 (WHEREUPON, Gwen Smart, a white female, came

1 forward.)

2 THE CLERK: What says the State?

3 MR. MOWRY: Please present Ms. Smart.

4 THE CLERK: What says the Defense?

5 MR. RICHEY: Please present the juror.

6 THE CLERK: Juror #192, Kayla L. Windley.

7 (WHEREUPON, Kayla L. Windley, a white female,
8 came forward.)

9 THE CLERK: What says the State?

10 MR. MOWRY: Please present Ms. Windley.

11 THE CLERK: What says the Defense?

12 MR. RICHEY: Please present the juror.

13 THE CLERK: Juror #173, Charles C. Thomas.

14 (WHEREUPON, Charles C. Thomas, a white male,
15 came forward.)

16 THE CLERK: What says the State?

17 MR. MOWRY: Please present the juror.

18 THE CLERK: What says the Defense?

19 MR. RICHEY: Please present the juror.

20 THE CLERK: Juror #18, Justin L. Bodie.

21 (WHEREUPON, Justin L. Bodie, a white male, came
22 forward.)

23 THE CLERK: What says the State?

24 MR. MOWRY: Please present the juror.

25 THE CLERK: What says the Defense?

1 MR. RICHEY: Please present the juror.

2 THE COURT: Okay, that's 12. Let's have one
3 alternate. Strikes are one for the State, two for the
4 Defense.

5 THE CLERK: Juror #9, Thomas G. Arnold.

6 (WHEREUPON, Thomas G. Arnold, a white male, came
7 forward.)

8 THE CLERK: What says the State?

9 MR. MOWRY: Please present Mr. Arnold.

10 THE CLERK: What says the Defense?

11 MR. RICHEY: Please excuse the juror.

12 THE CLERK: Juror #180, Jeffrey F. Verdin.

13 (WHEREUPON, Jeffrey F. Verdin, a white male,
14 came forward.)

15 THE CLERK: What says the State?

16 MR. MOWRY: Please present Mr. Verdin.

17 THE CLERK: What says the Defense?

18 MR. RICHEY: Please present the juror.

19 THE COURT: Any issue with the selection and
20 composition of the jury from the State?

21 MR. MOWRY: Nothing from the State, Your Honor.

22 THE COURT: From the Defense?

23 MR. RICHEY: Nothing, Your Honor.

24 THE COURT: Very good.

25 Ladies and gentlemen who were selected on this

1 particular jury, I need to ask that you step back to the
2 jury room. The bailiff will show you where that is.
3 Don't get too comfortable. I've got to give some
4 instructions to the rest of the jury panel on when to call
5 back, that kind of a thing, and then I'll bring you out
6 here and just give you a few preliminary instructions
7 before we take a break for lunch at 1:00.

8 One comment or refrain that you'll hear me saying
9 over and over again, ladies and gentlemen, is don't
10 discuss the case while we're taking any kind of breaks.
11 Certainly, that goes -- at this point in time, don't talk
12 about the case. That should be basically simply because
13 at this point in time, you know nothing about the case.

14 Adjourn to the back for a moment. We'll have you
15 back here in about five or 10 minutes and I'll excuse you
16 for lunch. Thank you.

17 (WHEREUPON, the jury exits the courtroom at
18 approximately 12:49 p.m.)

19 THE COURT: Solicitor, do you want me to have the
20 jury call back in tomorrow evening or -- is that
21 acceptable?

22 MR. MOWRY: I think that will work, Your Honor.

23 THE COURT: All right.

24 Ladies and gentlemen who were not picked on the first
25 case, I'm going to ask that you call back in tomorrow

1 night to that number that should be on the juror
2 information stuff that you got. Call back tomorrow night
3 any time after 6:00.

4 If we have been -- if we've moved forward
5 sufficiently in this case, I might ask that you come back
6 at a later point in time. But I really have to see how
7 long the presentation of the case is going to take. I
8 need to get a feel for that before I can make an educated
9 guess on whether we can get a second case in this week.

10 Two quick things. First, if we are not able to get a
11 second case in this week, I want to thank you for coming
12 in here and remind you that you will -- or that you are,
13 rather, entitled to that get out of jury service free
14 card. It's not, actually, a card, so you'll just have to
15 remember it. I'm not going to, actually, give you a card.
16 If you get summoned for jury duty for this court any time
17 in the next three years, you can get an automatic
18 exemption just by contacting the clerk's office. You
19 don't even have to show up on the first day. So that's
20 the first thing that I did want to mention.

21 Second thing -- and I meant to do this earlier, but
22 this is a point of personal privilege that I do want to
23 take because I am the Judge and I can do it, so I'm going
24 to do it anyway. You know, even judges need lawyers. My
25 lawyer is sitting to my immediate left. Her name is

1 Hallie Willm. She is from Chapin. And as of Friday, she
2 became a full-fledged member of the South Carolina Bar by
3 passing the South Carolina Bar exam. Having done that 22
4 years ago, ladies and gentlemen, I will tell you it is no
5 small accomplishment. It is no small feat. This year,
6 approximately half the people who took the Bar exam did
7 not pass. She did pass. That just shows how smart I am
8 in hiring such a smart young lady to be my lawyer. So
9 she'll be sworn in as an attorney on May the 23rd. I'm
10 very proud of her and I just felt like throwing that out
11 there and letting y'all know that I am proud of her.

12 (Clapping.)

13 THE COURT: I think she'll make a great addition to
14 the Bar here in South Carolina.

15 Don't forget to call back tomorrow night any time
16 after 6:00, follow whatever those instructions are. Then
17 I'd ask you to call back again Wednesday night. With
18 that, take care. You're free to go for the rest of the
19 day, today and tomorrow. Thank you very much.

20 (WHEREUPON, the jury pool is released at
21 approximately 12:54 p.m.)

22 THE COURT: Let's start getting the jury back out
23 here, please.

24 I'm going to have the jury report back at 2:15.

25 (WHEREUPON, the jury returns to open court at

1 approximately 12:55 p.m.)

2 THE BAILIFF: All the jury is present, Your Honor.

3 THE COURT: Thank you.

4 Ladies and gentlemen of the jury, what we're going to
5 do is take a lunch break now. I talked to the Solicitor
6 and there's, actually, a plea that I need to address at
7 2:15. It's one of the cases that's on the docket for this
8 week, so I'm going to go ahead and get that resolved at
9 2:15. So I'm going to ask that y'all be back in the jury
10 room, if you would, at 2:30. I promise you, I won't keep
11 you waiting too long back there.

12 Once we resume on this particular case, I will
13 appoint a Foreperson, you will take your oath as jurors,
14 and we will go straight into the trial of this case. I
15 will tell you, ladies and gentlemen, sometimes stuff just
16 comes up. If it's necessary for me to keep you waiting
17 longer than I should, I'm going to apologize from the
18 get-go for that. Because I will tell you, very often,
19 just something comes up at the last possible second. And
20 y'all are going to be sitting back there wondering what
21 I'm doing out here. I promise you, I'm not out here
22 twiddling my thumbs. I'm not trying to waste your time.
23 But sometimes, stuff comes up.

24 While you're at break for lunch, please, don't talk
25 about the case with anyone. Don't discuss it -- if you

1 happen to go to lunch with one of your fellow jurors,
2 friend, family member, whatever the case may be, that's
3 fine, that's not a problem, just don't talk about the
4 case. Again, that will be a common refrain.

5 Do keep those juror badges on you. Wear those back
6 to the courtroom when you come back after lunch. You'll
7 take those home tonight, try and remember to wear them
8 back tomorrow because it helps the security people and the
9 bailiffs identify you and help in getting you where you
10 need to be sooner rather than later.

11 With that, enjoy your lunch. Please be back in the
12 jury room at 2:30. At that point in time, we'll start the
13 trial. Thank you very much. Have a great lunch.

14 (WHEREUPON, the jury exits the courtroom at
15 approximately 12:57 p.m.)

16 THE COURT: We'll be at ease on this case until 2:30.
17 We'll resume court at 2:15 with that plea that Mr. Neely
18 has with Ms. Saunders.

19 MR. MOWRY: Your Honor, would you like to -- well,
20 two things. Would you like to go ahead and address some
21 of the matters that Mr. Richey and I spoke to you about
22 earlier?

23 THE COURT: No, quite frankly.

24 MR. MOWRY: I understand. And I also just wanted to
25 inform the Court, I'm going to ask Mr. Richey to get with

1 me and we -- I think we can premark a lot of the exhibits.
2 And we'll get with Tara after lunch and get the stickers
3 on.

4 THE COURT: That's perfectly fine. I'm not going to
5 have her be back --

6 MR. MOWRY: No, sir. No, sir: Not asking her to do
7 that, just wanted to let you know.

8 THE COURT: Not a problem. Thank you, gentlemen.

9 (WHEREUPON, a lunch break was taken.)

10 (WHEREUPON, State's Exhibit Nos. 1 through 30
11 were marked for identification only.)

12 THE COURT: All right. We'll go back on the record
13 on the State vs. Christopher Wells. I am told the jury is
14 back. I know y'all have been diligently marking exhibits.
15 Is there anything that's agreed to that we need to put on
16 the record at this time, Solicitor?

17 MR. MOWRY: Your Honor, basically, all of the
18 exhibits that we plan to introduce during the course of
19 the trial we have premarked. Mr. Richey has seen
20 everything. He says he has no problem with it, subject to
21 tying it in -- not purely the chain witnesses, but the
22 folks that found it and that sort of thing. So that's
23 taken care of.

24 He, also, has said that he wanted to sequester
25 witnesses. That, we really don't have any contest to, so

1 that has been done.

2 Investigator Cheek is here. And Ms. Bridges, who is
3 the first witness is, also, in the courtroom. She is the
4 911 supervisor and would present the 911 video.

5 We still have, Your Honor, the issue of Toris Moore
6 and whether or not the statement that was made to her by
7 Johnny Lee Saxon the day after the event is part of a
8 continuing conspiracy. And we would submit, obviously,
9 that it is, that it was designed -- and she would,
10 actually, say that she assumed he was telling her that to,
11 basically, instruct her to be quiet. And on that basis,
12 we believe that the statement the co-conspirator made to
13 Ms. Moore should be allowed. And I would like to get a
14 ruling on that before we make opening statements because
15 that will, obviously, affect what I'm going to say to the
16 jury.

17 THE COURT: All right. My understanding is she did
18 give a statement to law enforcement, which I assume has
19 been turned over to Mr. Richey.

20 MR. MOWRY: Yes, sir.

21 THE COURT: And I know that she testified in the
22 prior trial. According to my notes, she testified on
23 February the 24th of last year at 11:42 is when she took
24 the stand.

25 Do you want her testimony to be proffered at this

1 particular time, Mr. Richey?

2 MR. RICHEY: Your Honor, I know what her testimony is
3 going to be. It's my position that her testimony is
4 purely hearsay. It's not any furtherance of a conspiracy
5 the way the State has outlined to the Court that they
6 believe that this was -- she interpreted this as being. I
7 don't think -- I think it has to be a statement in
8 furtherance of a conspiracy, not one that we have to say
9 in her mind, she thought. And I believe at that point,
10 the conspiracy was over. The robbery, the murder,
11 everything was over at that point. And there's no
12 evidence that's going to come out that this statement was
13 intended for anybody to hide or anything.

14 I think the State has taken this statement and made
15 all the assumptions about what she believed. And, Your
16 Honor, I just don't think this statement is nowhere near
17 in furtherance of a conspiracy. Because as the State
18 would have it, the conspiracy -- at some point -- these
19 guys are in jail. It has to end. And under the State's
20 logic, it never ends. It's just a perpetual thing.

21 MR. MOWRY: Well, I would submit, Your Honor, this
22 is, perhaps, a day or so later and that it's a truism.
23 It's not the crime, it's the coverup. We saw that with
24 Watergate and a whole bunch of other events in the past.
25 And I would submit that it's the same here.

1 The idea with Saxon was to get somebody that he knew
2 had information that they were seeking a gun -- I mean,
3 that's going to be purely admissible, obviously,
4 admissible under our theory.

5 And the whole idea behind his going to her is not
6 just to confess to her that he took part in the shooting,
7 but there was a purpose behind it. It was to get her to
8 be quiet about it. That's, certainly, the implication
9 that she took from it, the inference that she took from
10 it. And it is something that the jury should be able to
11 consider, Your Honor. It goes to the weight, not the
12 admissibility.

13 MR. RICHEY: Well, Your Honor, if he's characterized
14 this as a confession, I would think, clearly, it's not
15 admissible.

16 MR. MOWRY: No, I'm not characterizing it as a
17 confession.

18 THE COURT: Go ahead, Mr. Richey.

19 MR. RICHEY: His characterization of it, he said he
20 gave her this confession. Okay, that's characterization
21 of it and we know right there it's not admissible. And
22 see, that's what the State is using this for, as a
23 confession. They're not using it as a furtherance of a
24 conspiracy. They're trying to bootstrap the furtherance
25 of a conspiracy onto this alleged confession they have to

1 get the statement in. So I believe it's not admissible.

2 MR. MOWRY: It's quite the opposite, Your Honor. I'm
3 saying it's not a confession. He's not going to her to
4 simply bare his soul and get this off his chest. Mr.
5 Saxon went to her to get her to be quiet. That's the way
6 she, certainly, took it. He never said it out loud, but
7 that's, certainly, what she gleaned from the conversation.

8 THE COURT: Okay. Do we have her available?

9 MR. MOWRY: Yes, sir.

10 THE COURT: I really think that the most prudent
11 thing to do at this point in time is to proffer her
12 testimony briefly and see which way --

13 MR. MOWRY: She was in the courtroom until just a few
14 minutes ago, Your Honor.

15 THE COURT: If you would, just ask her to step in so
16 we can go ahead and proffer her testimony.

17 And, Mr. Neely, I think you had a case on point,
18 State vs. Sims, the case that you cited in support of
19 this.

20 MR. NEELY: Yes, Your Honor. The cite is 377 S.C.
21 598.

22 THE COURT: Do you have a copy of that, by any
23 chance, that I could borrow?

24 MR. NEELY: I do, Your Honor.

25 THE BAILIFF: If you would, place your left hand on

1 the Bible and raise your right.

2 Thereupon;

3 TORIS MOORE, after having been duly
4 sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MOWRY:

7 Q Toris, you testified last year in the case against
8 David Walker; is that right?

9 A Yes, sir.

10 Q And you told about Walker coming to -- or to you
11 seeing Walker with this Defendant, Christopher Wells, and
12 with Johnny Lee Saxon on the night of Johnny Lee Cheeks'
13 shooting; is that right?

14 A Yes, sir.

15 Q I'm not going to ask you about that, but I am going
16 to ask you about seeing Johnny Lee Cheeks [sic] the next
17 day. Did you see him the day after Johnny Lee Cheeks'
18 shooting?

19 A Who?

20 Q Johnny Lee Saxon.

21 A Yes, I did.

22 Q Where did you see him?

23 A At his residence.

24 Q What is his relationship to you?

25 A None.

1 Q None, okay. What were the circumstances that you saw
2 Johnny Lee Cheeks [sic]? Tell us about that.

3 A I was -- I had a relationship with his God sister at
4 the time and she stayed down there, so I spent the night
5 that night.

6 Q Now, is that on Sawmill Road?

7 A Correct.

8 Q Near Gray Court?

9 A Correct.

10 Q Tell us about your meeting with Johnny Lee Cheeks and
11 what happened -- Johnny Lee Saxon, sorry, Johnny Lee
12 Saxon.

13 A Well, as far as why he was talking to me?

14 Q Yeah.

15 A Well, I had got a phone call saying my Uncle Walker
16 had been shot, so I looked over at Saxon and asked him
17 what happened to my uncle.

18 Q Because you knew they had been together the night
19 before; is that right?

20 A Correct.

21 Q Okay.

22 A And at that point, he asked to talk to me outside, so
23 me and him went outside and talked, spoke in the car.

24 Q Was anybody else present in the car?

25 A No, it was just me and him.

1 Q Were there other people present in the residence when
2 he asked you to do that?

3 A Yes.

4 Q So he wanted you to go outside to be alone; is that
5 right?

6 A Yes.

7 Q Is that what it appeared to you?

8 A Yes.

9 Q What did he tell you?

10 A He told me that the last thing he heard from my uncle
11 was that he had broke his collarbone. They had went to
12 Ware Shoals to rob a bank and things went bad and they
13 left David down there.

14 Q Okay. They left David down there?

15 A Uh-huh.

16 Q Was it Ware Shoals or Enoree?

17 A Enoree. I'm not sure.

18 Q Did he go into detail about what happened?

19 A Yeah, he went into detail.

20 Q Did you include that in your statement to Detective
21 Cheek?

22 A Yes, sir.

23 Q I'm not going to ask you to go into that day. You've
24 reviewed your statement; is that right?

25 A Yes, sir.

1 Q Is that consistent with what you would testify to in
2 court?

3 A Yes, sir.

4 Q What then was the purpose in your mind -- how did you
5 perceive Johnny Lee Saxon asking you to go out to the car?
6 What was the purpose in that?

7 A Tell me his side of the story, I guess.

8 Q And was there any other reason that you perceived?
9 Did you believe that he wanted you to keep silent about
10 this?

11 MR. RICHEY: Your Honor, I object. That's leading.

12 MR. MOWRY: This is for Court purposes, Your Honor.

13 THE COURT: I understand it's for Court purposes, but
14 to the extent possible, please, ask an open-ended
15 question.

16 MR. MOWRY: Yes, sir.

17 BY MR. MOWRY:

18 Q Did you perceive any reason behind -- besides just
19 asking you to come out there and tell you the story -- for
20 his doing that?

21 A Yeah, that it was just between me and him.

22 Q Just between me and him. What do you mean by that?

23 A As far as he didn't want me to tell anyone else.

24 Q Not wanting you to tell anyone else.

25 MR. MOWRY: I think that's all I have, Your Honor.

1 THE COURT: Cross.

2 CROSS-EXAMINATION

3 BY MR. RICHEY:

4 Q Ma'am, you had a decent relationship with him,
5 correct?

6 A Yeah.

7 Q So it was the kind of relationship that he, actually,
8 could confide in you and you could confide in him,
9 correct?

10 A I wouldn't say I would confide in him, but he felt he
11 could confide in me.

12 Q Well, let's put it this way, he knew -- or you think
13 he knew what happened to your uncle, right?

14 A Correct.

15 Q And so, he had enough respect for you to when you
16 said let's go outside and talk, he did, correct?

17 A Well, he asked me to go outside and talk and yeah, I
18 did.

19 Q But you didn't have to force him to do anything, he
20 went out there on his own volition, correct?

21 A Correct.

22 Q And you all had this conversation. It was,
23 essentially, him coming clean to you, correct?

24 A Correct.

25 Q And you, actually, saw this as him confessing,

1 correct?

2 A I would guess so.

3 Q Okay. And after he confessed to you, then he didn't
4 say to you don't tell anybody, did he?

5 A No, that wasn't the first thing out of his mouth.

6 Q He didn't tell you to not go to the police of
7 anything, correct?

8 A Correct.

9 Q The basis of this conversation was you and him
10 sitting down, getting to the bottom of what happened,
11 correct?

12 A Correct.

13 Q And he didn't expect anything out of you and you
14 didn't expect anything out of him, correct, from that
15 conversation?

16 A Correct.

17 Q This was just simply a conversation where two people
18 sit down and talk and come clean. And you had no
19 expectation to do anything after this conversation,
20 correct?

21 A Correct.

22 MR.. RICHEY: Thank you.

23 REDIRECT EXAMINATION

24 BY MR. MOWRY:

25 Q You didn't have expectation to do anything after that

1 conversation except for stay quiet, though, right? Isn't
2 that the impression you got from Johnny Lee Saxon?

3 A To stay quiet. I mean, I wasn't going to go tell
4 anyone about the conversation.

5 MR. MOWRY: Thank you.

6 RECROSS EXAMINATION

7 BY MR. RICHEY:

8 Q I'll ask you this again. You talked to him and it
9 was the two of y'all in the conversation, correct?

10 MR. MOWRY: Your Honor, I believe this is asked and
11 answered already. It's not in response to my redirect.

12 THE COURT: I appreciate that. The Court needs
13 clarification on this point.

14 Ask your question.

15 BY MR. RICHEY:

16 Q Ma'am, when you sit down and talk to him, okay, your
17 purpose was to find out what happened to your uncle,
18 correct?

19 A Correct.

20 Q And he answered that purpose, correct?

21 A Correct.

22 Q And when you left -- when that conversation ended,
23 you had no expectations to do anything, did you?

24 A No.

25 MR. RICHEY: Thank you.

EXAMINATION

BY THE COURT:

Q Just so I'm clear in my head, ma'am, you said you were initially in the house and there were other people in the house?

A Yes.

Q And that he asked you to step outside and y'all -- this is after you got word that your uncle had been shot?

A Correct.

Q And you asked him what happened? I think you had been privy -- were you privy to what was about to happen the day before, before this incident took place?

A Yes.

Q He asked you to step outside and you have this conversation in the car. And he related to you what happened to your uncle; is that what happened in the car?

A Yeah, he gave me the story of what happened that night in his words.

Q Okay. And if memory serves from your testimony last year, the day before the day of this -- the day of the shooting itself, they had come to you looking for guns or wanting to borrow a gun?

A My uncle came to me.

Q Your uncle came to you looking for a gun. And that's when they told you what their plan was initially?

1 A That's what my uncle told me that day.

2 Q And your uncle, again, is who?

3 A Walker.

4 Q Mr. Walker, all right.

5 MR. MOWRY: Your Honor, just to make it clear, also,
6 when she had that conversation with Walker, he was
7 accompanied by both Wells and Saxon. So all three of them
8 were together when that went on. She had the conversation
9 with Walker, but all three of them were there.

10 THE COURT: All right.

11 BY THE COURT:

12 Q Did Mr. Walker ever -- he never told you, look, I
13 just need you to keep your mouth shut, he never said
14 anything like that?

15 A No.

16 MR. MOWRY: Your Honor, just a point of
17 clarification. Walker was in jail.

18 THE COURT: Yes, you're right. You're right.

19 BY THE COURT:

20 Q Who was it that came to you the second day, it was
21 Mr. Saxon?

22 A Yes.

23 Q All right. And Mr. Saxon, did he ever give you the
24 impression or did he ever tell you -- did he ever give you
25 the impression that he wanted you to stay quiet about all

1 this or was he simply relating to you what went down?

2 What was your impression of what he was saying to you?

3 A I mean, he gave me his story of what went down. Did
4 I get the impression that he wanted me to tell anybody or
5 say anything, no. But with him wanting me to go outside
6 and talk by myself, you know, other people was in the
7 house. But did he ever say anything, no.

8 Q Okay. I think I know what your testimony is now.

9 THE COURT: Additional followup based on the Court's
10 questions?

11 MR. MOWRY: No, sir, I think that covers it.

12 MR. RICHEY: No, Your Honor.

13 THE COURT: Thank you, ma'am.

14 Let me ask this question before I ask for additional
15 argument or input, her testimony, I think the State would
16 intend to elicit what happened when the three of them came
17 to her house the day of the shooting, October 31st?

18 MR. MOWRY: Yes, sir.

19 THE COURT: So you're looking to get that information
20 in as far as what she observed, what was talked about, who
21 was present, et cetera?

22 MR. MOWRY: Yes, sir. She, actually, says in her
23 statement and she would testify -- she testified last time
24 that they were going to go rob a drug dealer in Enoree,
25 who lived with a white woman, all of which is connected

1 with this case.

2 THE COURT: All right. And then we have the incident
3 taking place the next day where Mr. Saxon comes to her --
4 or she's in the company of Mr. Saxon and they step
5 outside?

6 MR. MOWRY: Right. She gets a message that Walker
7 has been shot and knows that he was -- Saxon was with him
8 the night before and asked him what happened. And that's
9 when they stepped outside, Saxon asked her to step outside
10 and they got in the car.

11 THE COURT: Okay. The motion -- as I understand
12 what's on deck right now or what the Court has to concern
13 itself with relates only to that point after October 31st;
14 am I right?

15 MR. RICHEY: After the part where he tells her the
16 story.

17 THE COURT: Right.

18 MR. MOWRY: I don't think there's any contest that
19 Walker seeking the gun the day before is admissible.

20 THE COURT: Right.

21 (Pause.)

22 THE COURT: All right. The Sims case that the State
23 has handed up is a Court of Appeals decision. The Supreme
24 Court did review the decision that Mr. Neely provided to
25 me and that's what's causing the Court so much hesitation.

1 And it's at note six -- well, just prior to note six, The
2 State urges us to accept the Court of Appeals's view that
3 the co-conspirator's statement was admissible under the
4 co-conspirator exception to the hearsay rule. We agree
5 with the Court of Appeals that the evidence establishes
6 the existence of a conspiracy and that the co-defendant's
7 purported statement to another co-defendant was made
8 during the conspiracy. We part company with the Court of
9 Appeals only as it relates to Rule 801 requirement that
10 the statement be made "in furtherance of the conspiracy".

11 Next paragraph, concerning the in furtherance of
12 prong, our law provides that a statement by a
13 co-conspirator must advance the conspiracy to be
14 admissible under 801(d)(2)(E), cites Gilchrist. And then
15 it cites Gilchrist again, "Where mere conversation or
16 narrative declarations -- while mere conversation or
17 narrative declarations are not admissible under this rule,
18 statements made to induce enlistment, further
19 participation, prompt further action, allay fears, or keep
20 co-conspirators abreast of an ongoing conspiracy's
21 activities are admissible.

22 And then it cites State V. Anderson, which I think
23 Mr. Neely alluded to briefly in chambers. It says in this
24 case, English's statement that Sims had murdered somebody
25 was simply part of her narrative, best described as

1 "spilling the beans". We thus conclude the statement was
2 not admissible under 801. It then goes through a harmless
3 error analysis.

4 As it relates to the statement that took place on
5 November the 1st, the Court is of the opinion in this case
6 that that statement was not made in furtherance of the
7 conspiracy. It was a narrative made to Ms. Moore in
8 response to a question about what happened to one of the
9 co-defendants.

10 I understand that Mr. Sims wanted this discussion --
11 or Mr. Saxon, rather, wanted this discussion to take place
12 in a car, that this seems to fall within the Court's
13 definition -- the Supreme Court's definition in State V.
14 Sims of a "spilling the beans" kind of thing.

15 Obviously, when Mr. Sims -- or Mr. Saxon and Ms.
16 Moore's uncle had approached her the previous day, she
17 already knew, based on that previous day's conversation,
18 what was going to be going down that evening, what was
19 planned, what they anticipated doing. It would be
20 unreasonable for Saxon to try to get her to cover up for
21 it when she was already apprised of what was going to take
22 place.

23 So for that reason, I would conclude that the
24 statement made on November the 1st by Mr. Saxon, that was
25 not a statement made in furtherance of the conspiracy .

1 based upon the information that's been proffered and the
2 testimony that we've had and the Supreme Court holding in
3 State V. Sims, which is at 287 S.C. 557 2010.

4 MR. MOWRY: Your Honor, Mr. Neely just has -- I
5 understand your ruling, he just has something to correct.

6 THE COURT: By all means, if I misunderstood
7 something, please, correct me.

8 Go ahead, Mr. Neely.

9 MR. NEELY: Judge, all I was going to add is we
10 contend that their approaching Ms. Toris before the
11 conspiracy happened to try to bring her into conspiracy.
12 They asked her for a gun to commit the robbery that took
13 place later that night. Obviously, that's not being
14 challenged. But after they tried to enlist her, they came
15 back the day after and told her what had happened. She
16 didn't know it, actually, happened. All she knew at that
17 time was that David Walker had been shot.

18 And Mr. Richey kept harping on no further actions
19 took place. Certainly, advancing the conspiracy can also
20 be defined as keeping a co-conspirator abreast of the
21 activities that took place that night. And that is not an
22 action that took place, that is -- but that, also, covers
23 the -- what we believe took place that night was -- at
24 first, they attempted to bring into the conspiracy, was
25 being kept abreast of what had happened in the conspiracy

1 itself. It doesn't prompt any action, but, certainly, it
2 keeps her abreast of the activities after they induced
3 enlistment the day before.

4 THE COURT: I would agree with you if she, actually,
5 engaged in the conspiracy. My recollection of her
6 testimony from over a year ago was that she did not give
7 them a gun. They told her what was -- they were planning
8 on doing. They told her what they were planning on
9 accomplishing in terms of the conspiracy. Had she
10 furnished the gun, she would have been, by definition, a
11 co-conspirator. A statement made in furtherance of the
12 conspiracy or to keep a co-conspirator abreast of what is
13 taking place, I agree, clearly, if I'm under 801. Her
14 being outside of the conspiracy, though, is, clearly,
15 problematic for the State's theory on why the Court should
16 allow that series of events the next day.

17 MR. NEELY: We understand your ruling, Your Honor. I
18 was just putting it out there because it's a two-prong
19 theory of how it could be a co-conspirator.

20 THE COURT: I understand. I don't believe she was
21 charged with conspiracy, aiding, abetting, misprision of a
22 felony --

23 MR. MOWRY: No, sir.

24 THE COURT: I think that the --

25 MR. MOWRY: She didn't come forward with the

1 information, which it could be said she was doing kind of
2 what Saxon wanted her to do, but she did not give false
3 information to the police that would have led to a
4 misprision. When the police approached her -- when law
5 enforcement approached her, she was fully forthcoming.

6 THE COURT: Right. And --

7 MR. MOWRY: But that was not until January of 2014.

8 THE COURT: Well, my understanding was Walker was the
9 one that initially approached her the previous day. If
10 she's looking to cover for anybody, it would be her uncle,
11 Mr. Walker, as opposed to Mr. Saxon, who she's not related
12 to. Obviously, Walker was in the hospital because he had
13 been shot.

14 MR. MOWRY: Yes, sir.

15 THE COURT: All right. My ruling stands. I do
16 understand y'all's argument and maybe it's a very close
17 call, but as I said before, the tie goes to the runner.

18 MR. MOWRY: That's fine, Your Honor.

19 THE COURT: And that's where we are.

20 MR. MOWRY: Appreciate you making a ruling, Your
21 Honor.

22 THE COURT: Yes, sir.

23 I, also, indicated in chambers the State had hoped to
24 get into the fact that the co-defendant had already been
25 convicted and I just explained in chambers that we just

1 need to stay away from that. Obviously, it's a standard
2 provision of law that every -- the evidence against each
3 defendant must stand on its own. And the fact that a
4 co-defendant has previously been found guilty of murder in
5 this case, obviously, is not evidence that this gentleman
6 did anything wrong. That's simply proof that somebody
7 else in front of a different jury was found guilty of the
8 offense of murder. Obviously, the prejudicial effect to
9 Mr. Wells would outweigh any probative value of allowing
10 the prior conviction.

11 I have kept the jury waiting for about an hour, but I
12 need another brief break. I'm terribly sorry. Gentlemen,
13 we'll take five minutes for ourselves. A genuine
14 five-minute break and then back on the record.

15 (WHEREUPON, a short break was taken.)

16 THE COURT: We will go back on the record. The
17 record should reflect that the Defendant is present with
18 counsel.

19 Mr. Mowry, Mr. Neely is not here. Can I go ahead and
20 bring the jury in nonetheless?

21 MR. MOWRY: Yes, sir.

22 THE COURT: Let's have the jury, please.

23 (WHEREUPON, the jury entered the courtroom at
24 3:32 p.m.)

25 THE COURT: The record should reflect, first of all,

1 that the jury is back. The bailiff informs me that we
2 have one member of the jury panel who may need to test
3 their blood sugar periodically.

4 My son's, actually, a Type I diabetic, so I know the
5 importance of monitoring one's glucose levels. And if you
6 need any sort of candies or crackers or anything like
7 that, feel free to bring those in here. Do you have some
8 with you now?

9 THE JUROR: Yes.

10 THE COURT: Okay. So don't worry about etiquette.
11 If you need to put something in there to get your blood
12 sugar back up, go ahead and take it, okay? Do anything
13 you need to do, ma'am.

14 THE JUROR: Okay.

15 THE COURT: Ladies and gentlemen, I want to thank you
16 for being back here at 2:30. The plea that I took at 2:15
17 took a bit longer than I was expecting. We, also, had a
18 few matters to address in the case that we're about to
19 begin the trial of. The State and the Defense have
20 premarked several exhibits. That should, actually, help
21 expedite the case, move things along. And we, also, went
22 ahead and took the time to deal with a few evidentiary
23 rulings on the case. And, hopefully, that will speed
24 things along and prevent y'all from having to get up and
25 go back there while I take up issues with the attorneys.

1 I say that just as an explanation -- or by way of an
2 explanation of why we've kept you waiting, okay? I
3 apologize for keeping you waiting. I do thank you for
4 being back here on time.

5 The first order of business, the Court needs to
6 appoint a foreperson of the jury. Who is Mr. Young,
7 Richard Young?

8 Mr. Young, I would like to appoint you the foreperson
9 if that's okay. I will tell you, your vote would count no
10 more, no less than any other juror's vote. Your primary
11 job would just be to make sure everybody has their chance
12 to have a fair say once deliberations begin. And, if
13 necessary, you would be the jury spokesperson in court.
14 If you're okay with doing that, I'd like to make you the
15 foreperson, but if you don't want to do it, I won't make
16 you.

17 JUROR YOUNG: I don't want to.

18 THE COURT: I, actually, have some other options
19 here. I've got Norman Blackwell. Who is Mr. Blackwell?

20 How about you? Same deal? I need somebody to do it.

21 JUROR BLACKWELL: I really don't.

22 THE COURT: All right. In that case, let's move down
23 to Belinda Young.

24 Ms. Young? No?

25 We're going to do it this way. What's your name?

1 JUROR THOMAS: Charles Thomas.

2 THE COURT: All right. Mr. Thomas, you're in the
3 lucky seat. That's, actually, where the foreperson would
4 normally sit. How about we let fate decide this and since
5 you got the lucky seat, you'll be the foreperson. Can we
6 do that?

7 What was your name again?

8 JUROR THOMAS: Charles Thomas.

9 THE COURT: All right, Mr. Thomas, you'll be the
10 foreperson.

11 Ma'am, I think you're our alternate; is that correct?

12 ALTERNATE JUROR VERDIN: No, sir.

13 THE COURT: You're the alternate, okay.

14 The two of y'all, if you could, y'all stay in those
15 seats throughout the trial.

16 The rest of you, if need be, can feel free to move
17 around. Usually, the seats on the first row are a little
18 bit easier to hear, so if somebody has difficulty hearing,
19 you might want to have a seat on the front row. If at any
20 point in time, anyone does have any trouble hearing any of
21 the testimony or the lawyers, I want you just to raise
22 your hand. That will be my cue to ask them to speak up
23 and speak a little bit more loudly. So if you can't hear
24 anything or you're having difficulty hearing, hand goes
25 up, they'll speak up. Additionally, if you need a break

1 at any point during this trial, simply raise your hand and
2 we'll take a 10-minute break for our own comfort.

3 Now, ladies and gentlemen, we're about to begin the
4 trial of the case of the State of South Carolina vs.
5 Christopher Jermaine Wells. And before we begin the
6 trial, I want to tell you that this trial is probably
7 going to be a little bit different from what you've come
8 to expect from seeing trials depicted in TV or in the
9 movies or reading about them in books. What we see in
10 popular culture, we often get the impression that trials
11 are filled with intense drama, riveting circumstances and
12 that everything is wrapped up neatly inside of an hour or
13 two hours.

14 I have been involved in cases that took very, very
15 little time, sometimes as little as an hour or two. More
16 often than not, though, obviously, cases take a lot longer
17 than the two hours that we see in the movies.

18 And, ladies and gentlemen, the reason for that is
19 what we're engaged in here is a time-honored practice.
20 It's a method by which dispute is settled between the
21 State of South Carolina and a person facing charges. This
22 case, of course, is very serious. It is not for
23 entertainment. This is very serious to both the State
24 and, of course, to the Defendant in this case, Mr. Wells.

25 I know that none of you volunteered to come in here.

1 I know that none of you wanted to be a juror. I know that
2 none of you asked to be summoned for this case. But I'll
3 tell you that this is similar to paying taxes, which we
4 did earlier this month. This is similar to serving our
5 country in uniform, which maybe some of you have done.
6 This is what we have to do sometimes because we are
7 citizens of a great country. That's a part of the
8 obligation of having the benefits of living in the United
9 States, part of it is the obligation of jury service.

10 So I want to thank you at the get-go for this. I
11 want to apologize again for the inconvenience that we are
12 causing to you. And I assure you there is no other way to
13 get this case resolved other than to have 13 people come
14 in here with absolutely no stake in the outcome of this
15 trial, listen to the evidence, listen to the law, and make
16 a decision based upon the facts and the law. So, again,
17 thank you very much for your attention. Thank you very
18 much for your patience. And, most importantly, thank you
19 very much for your willingness to do what your civic duty
20 requires of you.

21 With that, I'm going to ask you to stand where you
22 are and raise your right hand so the Clerk of Court can
23 administer your oath to you as jurors. So, if you would,
24 just stand up and raise your right hand.

25 Madam Clerk, if you will the jury, please.

1 Now, in order to preserve everyone's rights, I'll
2 give the lawyers an opportunity to object to any of these
3 opening remarks and then we'll proceed with the attorney's
4 opening statements and the trial.

5 Any objections from the State, Mr. Mowry?

6 MR. MOWRY: Nothing from the State, Your Honor.

7 MR. RICHEY: Nothing, Your Honor.

8 THE COURT: Very good. We'll begin the trial.

9 Mr. Mowry, you're recognized for your opening, sir.

10 MR. MOWRY: Thank you very much, Your Honor.

11 Opening Statement by Mr. Mowry

12 MR. MOWRY: Mr. Foreman, ladies and gentlemen of the
13 jury, allow me to reintroduce myself. My name is Warren
14 Mowry. I am the deputy solicitor. I'm the prosecutor
15 here in Laurens County. Now, David Stumbo is your elected
16 circuit solicitor and he has appointed me, along with Mr.
17 Neely, along with Mr. Bentley to work up criminal cases
18 that come before the courts in Laurens County. Bryant
19 Cheek is a deputy sheriff. He's a lieutenant with
20 investigations with the sheriff's office here in Laurens
21 County. And together, we are presenting the case for the
22 State against Christopher Jermaine Wells. Every case that
23 is brought in South Carolina is brought in the name of the
24 people of the State. And that's why cases are entitled
25 State versus whomever, like the State vs. Christopher

1 Jermaine Wells.

2 As His Honor instructed you, Mr. Wells has a number
3 of charges against him. First of all, murder. This
4 indictment charges Mr. Wells with murder of Johnny Lee
5 Cheeks. You will find out that Mr. Johnny Lee Cheeks ran
6 a liquor house. He, basically, sold liquor illegally out
7 of his house. He also sold drugs. You will find out,
8 ladies and gentlemen, from the testimony of the witnesses
9 that will come before you that Christopher Jermaine Wells
10 and Johnny Lee Saxon and David Walker, three individuals,
11 got together on Halloween night, October 31st, 2013, for
12 the purpose of going over to rob Johnny Lee Cheeks.

13 And you can understand, ladies and gentlemen, why
14 they would choose to rip off a drug dealer. Who's going
15 to call law enforcement and say hey, I just had a bunch of
16 guys come over here and steal my drugs, or steal my
17 illegal liquor? So they figured he was an easy target.
18 But instead, the testimony will prove to you that Johnny
19 Lee Cheeks didn't just roll over and give up. He fought
20 back. He drew his own gun on his own property just
21 outside his own residence and opened fire.

22 You will hear, ladies and gentlemen, from a witness
23 at the scene who saw Christopher Jermaine Wells at the
24 scene before he turned and fled. She described the car
25 that Christopher Jermaine Wells got into to drive off.

1 You will hear from a witness that will testify,
2 ladies and gentlemen, that later that evening, David
3 Walker, Christopher Wells and Johnny Lee Saxon came to her
4 looking for a gun. And she was told the purpose was to go
5 and rip off a drug dealer in Enoree.

6 Johnny Lee Cheeks was mortally wounded. David Walker
7 was seriously injured. Both of them were taken to the
8 hospital. Mr. Walker lived, Mr. Cheeks did not.

9 You will, also, hear, ladies and gentlemen, from law
10 enforcement officers. The witness at the scene who called
11 911, she will testify to you as well. And she will tell
12 you that she was able to identify Mr. Wells. Not only
13 that, but she described the car he ran to and fled the
14 scene in.

15 Based on that description, law enforcement officers
16 saw a similar car. It was so similar that the law
17 enforcement officer when he met the car said that looks
18 like the car they just talked about and turned around and
19 followed it. He followed the car to Gray Court, at which
20 time, for a brief period of time, officers lost sight of
21 the vehicle. But they were able to locate Christopher
22 Wells later on that night.

23 All they had on him at that time, ladies and
24 gentlemen, was a description of the car. It may or may
25 not have been connected to the shooting. They weren't

1 sure, but they talked with Mr. Wells that night. And then
2 some time later, ladies and gentlemen, on the same street
3 in Gray Court where law enforcement officers saw Mr.
4 Wells's car driving, they discovered a wallet with a few
5 contents, including a card identifying it as Johnny Lee
6 Cheeks's wallet.

7 So, ladies and gentlemen, Mr. Wells's car is
8 identified in Enoree. Law enforcement officers follow it
9 back to Gray Court. And Mr. Cheeks's wallet is found a
10 short distance away from where Mr. Wells was staying.

11 Now, I said that Mr. Wells is charged with murder.
12 Murder -- let me just give you the definition real quick.
13 It's an unlawful killing of a human being with malice,
14 either expressed or implied, malice aforethought. Let me
15 break that down just a little bit. Some killings by one
16 human being of another are legal. Some of them are
17 excusable. Some of them are just an accident. Sometimes
18 someone can intend to kill another person, but it's legal
19 to do it, it's justifiable to do it. It's self-defense,
20 for example. Or a soldier in war time killing the enemy,
21 that's justified. But murder, ladies and gentlemen, is an
22 unlawful killing. It's against the law. There's no
23 justification or excuse for it. And I submit to you, once
24 we have completed this case, that will be the only
25 conclusion you can reach.

1 It's an unlawful killing with malice. What does that
2 mean? Well, malice, basically, means meanness,
3 wickedness. There's a rather flowery case that describes
4 it as a heart bent fatally on mischief.

5 I want to add one other thing, ladies and gentlemen.
6 There is a point of law in South Carolina called the
7 felony murder rule. And if someone is committing a felony
8 and kills another person in the commission of that felony,
9 you are allowed to infer that there is malice involved.
10 And that, I would submit to you, is what we have here.

11 Now, ladies and gentlemen, there's another point of
12 law that I want to bring up. And I bring that up because
13 we don't know who did the shooting that night. We know
14 that Christopher Wells, David Walker and Johnny Lee Saxon
15 all conspired together to go to Enoree to try to rob
16 Johnny Lee Cheeks and he ended up being killed as a result
17 of it, but we don't know who did the shooting.

18 But does it matter? No, it does not. Because His
19 Honor will instruct you at the close of the case of
20 another point of law. And that is that the hand of one is
21 the hand of all. When two or more people join together to
22 commit a crime, then all of them are responsible for the
23 actions of the individuals. If one person does a
24 shooting, all of them are equally responsible. So it
25 really doesn't matter who pulled the trigger. It doesn't

1 matter if Christopher Jermaine Wells pulled the trigger.
2 He's just as guilty as all of them. He's just as guilty
3 as the one who did.

4 Now, ladies and gentlemen, Mr. Wells is also charged
5 with armed robbery. Robbery is simply stealing. Stealing
6 something from somebody by force. And armed robbery means
7 that he's armed with a deadly weapon.

8 And what we will show, ladies and gentlemen, is that
9 that trio, Wells, Saxon and Walker were armed with this
10 Lorcin semi-automatic handgun. We will prove to you that
11 a bullet from this gun was what killed Johnny Lee Cheeks.
12 We will have a pathologist, a doctor trained in death
13 investigation, come in to testify about that. I will,
14 also, have an examiner from SLED, from the State Law
15 Enforcement Division, who's going to tell you about
16 comparisons of the projectile that was in Mr. Cheeks and
17 the shell casings that were found at the scene that came
18 from this gun.

19 So, ladies and gentlemen, they stole from Johnny Lee
20 Cheeks and they did it with a threat or the use of a
21 deadly weapon. That's armed robbery.

22 We're, also, going to prove to you, ladies and
23 gentlemen, that Christopher Jermaine Wells is also guilty
24 of possession of that pistol during the commission of a
25 violent crime. Again, we don't know if he pulled the

1 trigger. He may well have, we can't say for certain.
2 But, again, it doesn't matter. Why not? Because if he
3 had that gun in his hand, he would be in actual possession
4 of it. But these conspirators, ladies and gentlemen --
5 His Honor will instruct you on constructive possession as
6 well. And I think you'll be satisfied at the end of the
7 trial that the three of them jointly possessed that gun
8 and that Christopher Jermaine Wells is guilty of the
9 crime.

10 Finally, ladies and gentlemen, criminal conspiracy.
11 You've heard conspiracy a lot probably as it relates to
12 crime shows and whatnot. In South Carolina, it's just
13 simple a combination of two or more individuals to do an
14 unlawful act. I don't believe you're going to have any
15 doubt at the end of the day, ladies and gentlemen, at the
16 close of this trial that Christopher Jermaine Wells,
17 Johnny Lee Saxon and David Walker conspired to go over to
18 Johnny Lee Cheeks's residence in Enoree, conspired to go
19 from Gray Court to Enoree to try to rob him, that Johnny
20 Lee Cheeks was killed by this pistol as a result of their
21 actions, and then Johnny Lee Cheeks's wallet is carried by
22 Christopher Wells and Johnny Saxon back to Gray Court
23 where it's pitched when they realize they're being
24 followed by law enforcement officers.

25 That's pretty much the State's case, ladies and

1 gentlemen. That's what we're going to prove to you during
2 the course of this trial.

3 Now, ladies and gentlemen, the State has the burden
4 of proving this case. And it's a burden that we take
5 willingly. As His Honor told you, we have to prove this
6 case beyond a reasonable doubt. You've probably heard
7 that term before. It doesn't mean beyond every doubt,
8 every conceivable doubt. You hear about a shadow of a
9 doubt. That's impossible to prove. You cannot prove
10 something to a one hundred percent certainty. Nothing in
11 human endeavor can be proven like that.

12 What a reasonable doubt means, ladies and gentlemen,
13 or beyond a reasonable doubt means that you are left
14 firmly convinced of the truth and accuracy of the
15 proposition before you. And I submit to you, by the close
16 of the trial, you will be firmly convinced that
17 Christopher Jermaine Wells is guilty of murder, armed
18 robbery, possession of a pistol during the commission of a
19 violent crime, and criminal conspiracy.

20 Now, ladies and gentlemen, I'd like to ask you to do
21 three things during the course of this trial and they're
22 all equally important. The first is to listen very
23 carefully to the testimony that comes off the witness
24 stand. Because it is only that testimony and then
25 whatever exhibits are brought before you and admitted into

1 evidence during the course of the trial that you are to
2 consider as evidence. That's it. So listen very
3 carefully to this testimony and consider that when you're
4 rendering your verdict.

5 The second is to listen very carefully at the close
6 of the trial when His Honor instructs you in the law in
7 this case. Now, as he told you, it may not be the law as
8 you think it is. Frankly, it may not be the law as you
9 think it ought to be. But by your oath, it's the law that
10 you have to take with you back there to the jury room when
11 you're considering your verdict. So listen to the law,
12 listen to the evidence. And do that one last thing.

13 Each and every one of y'all comes from a different
14 background. All of y'all are from Laurens County, yes,
15 but different background, different job, different
16 lifestyle, perhaps. But each and every one of y'all have,
17 at least, one thing in common, and that's common sense. I
18 ask you to use your common sense when you're considering
19 the evidence. Use your common sense when you're applying
20 the law that His Honor gives you to that evidence.

21 And if you do all those three things, ladies and
22 gentlemen, at the close of this trial, you're going to
23 come back with a just, fair and true verdict and that's
24 all any of us ask. Thank you very much.

25 THE COURT: Thank you, Mr. Mowry.

1 Mr. Richey, you're recognized for your opening
2 statement.

3 MR. RICHEY: Thank you, Your Honor. May it please
4 the Court?

5 THE COURT: Yes, sir.

6 Opening Statement by Mr. Richey

7 MR. RICHEY: Christopher Wells is not guilty of these
8 charges. And Mr. Mowry is a great prosecutor, but the
9 story really isn't that long. It's really a short story.
10 I mean, it's not complicated, it's not long. I'm not
11 going to stand up here for 40 minutes.

12 On October 31st, 2013, the victim, Mr. Cheeks, and
13 his girlfriend, Kelly Ball, they were at home. And they
14 hear a knock on the door. And what the evidence will show
15 and what the testimony will be is that Ms. Ball, she
16 thought it was suspicious that Mr. Cheeks didn't invite
17 the people in. He kind of looked back and went inside.
18 That's what's going to be the evidence. And the testimony
19 is going to be after an argument, after an argument, she
20 heard shots. She heard shots. That's the story. That's
21 the story of what happened. It's that simple.

22 But Ms. Ball, she was there. So we know she was
23 there. The evidence and testimony will be that she said
24 it's awful suspicious how he was acting, and then he goes
25 outside. And the testimony is going to be that both

1 gentleman got shot. That's the evidence. It's not that
2 hard who shot who. That's what the testimony will be,
3 that these two gentlemen shot each other and,
4 unfortunately, one lived and one didn't. That's what the
5 evidence will show. That's what it will show.

6 What it, also, will show is that Ms. Ball, she was
7 there that night. And, you know, like a girlfriend would
8 be, she was upset. She heard gunfire and the guy she was
9 dating came in the house. And the evidence will be he
10 told her who shot him. That's what the evidence and
11 testimony will be. He told her. So it's not that
12 complicated. He told her who shot him.

13 And what the evidence will show, also, is Ms. Ball,
14 she saw a guy running off. She saw a guy running off.
15 That's what the evidence will show and the testimony will
16 be, she saw a gentlemen running off. And she described
17 that gentlemen, even gave the police a name of who the
18 gentlemen resembled. That's what the evidence will be.
19 And she told them that this gentlemen that did it, he was
20 dark-skinned. He was very tall, big guy. We believe the
21 evidence will be that they will never make Mr. Wells
22 dark-skinned. We believe the evidence will show and the
23 testimony will be they will never make him dark-skinned.
24 Never do it. But that's what Kelly Ball stated. No
25 question about it.

1 We, also, believe the testimony will be it was a very
2 large guy. We don't believe they're going to be able to
3 make Mr. Wells large. We just don't believe it. We don't
4 believe that the evidence will be produced and the
5 testimony will be that the guy that was there that night
6 was him. We believe that because the witness is going to
7 testify. That's what we believe.

8 And you're going to hear a name Ty from Boyd Street.
9 You're going to hear Ms. Ball get on this witness stand
10 and you're going to hear her say hey, he resembled Ty from
11 Boyd Street. And we believe the testimony shall be and
12 the evidence will be did they go put Ty in a photo lineup?
13 No.

14 This story isn't complicated. It's, actually, really
15 easy to figure out. Really easy. Because we believe the
16 testimony and the evidence, based off that witness that
17 was there that night, we believe that the State, no matter
18 what they say about who shot this and that, that they're
19 going to have to tell us a dark-skinned, large man did
20 this. And we --

21 See, when I first started practicing law, you know,
22 sometimes you get all this education. You know, you think
23 you're a hot shot. You've got seven years of education,
24 you know everything. But that Judge up there, when I was
25 a very young lawyer, he said if you've got a sixth grade

1 education, you can be on the jury. I was like, sixth
2 grade? Sixth grade? I've been to law school all this
3 time. But then I started trying these cases. And I said,
4 you know, it doesn't take a rocket scientist. This is
5 simple stuff. It really is simple stuff. It's simple
6 stuff. It's not complicated. It's not CSI. It is real
7 simple.

8 And we believe the testimony will be he didn't rob
9 anybody. We believe the testimony will be he didn't
10 murder anybody. We know the testimony will be undisputed
11 he didn't shoot anybody. We know that. That's what the
12 testimony is going to be. So we're going to ask you to
13 find him not guilty because we don't -- we submit to you
14 he does not even fit the description the lady gave them
15 that night.

16 And see, that's what we mean when we talk about
17 listening to the witnesses. When the prosecutor says
18 listen to the witnesses and listen to what they're going
19 to say. What he's saying to you is listen to the
20 description they give, listen to the facts they give. You
21 can believe one witness over another. Listen to
22 everything they say. Listen to everything. Listen to
23 everything they say.

24 But my contention is the evidence of who was out
25 there that night, they going to tell us about it. She's

1 going to tell us about it. She's going to tell us who ran
2 away. She's going to tell us who shot and killed him.
3 She's going to tell us. She's going to tell us. She will
4 not tell you Chris shot him. She will not tell you. And
5 you listen to the testimony. She will not tell you that.
6 She will not tell you that.

7 And we believe the testimony and the evidence will be
8 in this case that this is going to be a disturbing case.
9 We believe the evidence and the testimony, it's going to
10 be a very disturbing case. And the reason why from the
11 evidence and the testimony it's going to be a scary case
12 because it's a case, we believe, the lady gave a
13 description of someone else. And this gentlemen who drove
14 this car is not big and is not dark-skinned. And he got
15 arrested. He got arrested. He got arrested. He got
16 arrested. He got arrested. But we're going to put some
17 common sense back in. Thank you.

18 THE COURT: Thank you, Mr. Richey.

19 Solicitor, you may call your first witness, please.

20 MR. NEELY: The State would call Karon Bridges.

21 THE BAILIFF: Put your left hand on the Bible and
22 raise your right.

23 Thereupon;

24 KARON BRIDGES, after having
25 been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. NEELY:

Q Afternoon, Ms. Bridges. If you would, would you please state and spell your name for the record?

A Karon Bridges, K-A-R-O-N, B-R-I-D-G-E-S.

Q Thank you. And where do you currently work, Ms. Bridges?

A Laurens County 911.

Q And where did you work on the night of October 31st, 2013?

A Laurens County 911.

Q And on that date and time, what were the responsibilities of your job?

A We take emergency calls. We, also, take nonemergency calls. We dispatch law enforcement, city, county, EMS, fire.

Q And was that what you were doing that night?

A I was assigned to a specific radio. I think I had EMS and fire that night. We do not what calls come in. We take everything and dispatch appropriately.

Q And that night of October 31st, 2013, did you receive an emergency call about a shooting?

A I did.

Q And I'm going to hand you what's been marked as State's Exhibit No. 24. Do you recognize this CD?

1 A I do.

2 Q And what is it?

3 A It's a recording of the 911 call that I was given
4 that night.

5 Q And how do you know that?

6 A I listened to it.

7 Q And have you marked it in any way to --

8 A I put my initials on it.

9 Q And is that how you know that that's the CD?

10 A Yes.

11 Q Okay. You say you've listened to that call. Is that
12 a true and accurate representation of the call that you
13 received that night?

14 A Yes, it is.

15 MR. NEELY: Your Honor, at this time, I'd like to
16 enter State's 24 into evidence.

17 MR. RICHEY: No objection.

18 THE COURT: Without objection, State's 24 is in
19 evidence.

20 (WHEREUPON, State's Exhibit No. 24 was admitted
21 into evidence.)

22 MR. NEELY: And we'd, also, like to publish it to the
23 jury.

24 THE COURT: You may proceed.

25 MR. NEELY: If anyone has trouble hearing it, either

1 too loud or too soft, just raise your hand.

2 THE COURT: Just so the jury is aware, all the items
3 that are introduced into evidence, you will, also, have
4 the benefit of having them back there in the jury room
5 once you start deliberating the case. So you can play the
6 tape over and over again if need be.

7 Go ahead. I'm sorry.

8 (WHEREUPON, State's Exhibit No. 24, the 911
9 call, was played in open court.)

10 BY MR. NEELY:

11 Q Okay. Ms. Bridges, a couple of follow-up questions
12 for you. Somebody in that video said, I think we have bad
13 signal. Who was that?

14 A The call came in from Spartanburg County. She was
15 right there on the county line. I think that may have
16 been Spartanburg County. When we lost connection with
17 Kelly, she could see on her end that it was an open line.
18 The way she was moving around in the house, it was just a
19 bad signal. And she had moved, I think, from the front of
20 the house, maybe into the center of the room and she was
21 in a bad range, but she thought someone was trying to
22 break in.

23 Q Okay. Some of those blank spaces from Kelly Ball's
24 side of the phone call would have been a bad signal?

25 A There was some blank spaces because what I was doing

1 was dispatching on the radio. And as I'm typing, I'm
2 coordinating with my coworkers to send EMS and we had
3 mobile units going. I have to hit my mute button so
4 they're not hearing other things, you know, things
5 shouting across the room, making sure EMS knows to stand
6 by. And the two roads that were mentioned in the call, it
7 would be the River Road or River Hill. And I think they
8 ended up placing it on River Road.

9 Q And that is in Laurens County?

10 A Yes, it's in Laurens County.

11 Q Okay. Now, Kelly on the phone call was talking in a
12 hysterical manner, a panicked manner. Is that normal or
13 is that the usual thing you hear when you're talking about
14 emergency calls like this?

15 A I think she was -- yeah, he had been shot. You know,
16 she was panicked. And for a moment you could talk to her
17 and kind of talk her down, but it would escalate again.
18 That's why I asked her over and over again her road name.
19 Initially, it come in as one road as Spartanburg was
20 saying and then she kept saying River Hill. And if you
21 have a map, you could see they run right off -- well, they
22 run off of a main road.

23 Q And was that your entire involvement in this case?

24 A I think so.

25 MR. NEELY: Okay. I have no further questions.

1 Please answer any questions Mr. Richey has for you.

2 MR. RICHEY: No questions.

3 THE COURT: Thank you for coming. You can step down
4 and you're free to go.

5 Mr. Mowry, call your next witness.

6 MR. MOWRY: I call Toris Moore.

7 Thereupon;

8 TORIS MOORE, after having been
9 duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MOWRY: :

12 Q You are Toris Moore?

13 A Yes, sir.

14 Q Toris, how old are you?

15 A I'm 33.

16 Q Do you live in Laurens County?

17 A Not at the time.

18 Q Okay. Let me ask you then to think back to Halloween
19 night of 2013. Did you live in Laurens County then?

20 A Yes, sir.

21 Q Where do you work now?

22 A Bausch & Lomb.

23 Q Up in Greenville; is that right?

24 A Yes.

25 Q Let me show you what's been marked as State's Exhibit

1 No. 3. It's got three pictures on there. Do you
2 recognize these guys?

3 A Yes, sir.

4 Q Who are they? Let's start at the upper left-hand
5 corner.

6 A Johnny Lee Saxon.

7 Q Okay. Who is this over here on the right?

8 A David Walker.

9 Q And who's that at the bottom?

10 A Chris Wells.

11 Q And is Chris Wells in the courtroom?

12 A Yes, sir.

13 Q Where is he?

14 A Sitting over to my left.

15 MR. MOWRY: Your Honor, for the record, she has
16 identified the Defendant.

17 THE COURT: The record will reflect the witness has
18 identified Mr. Wells.

19 BY MR. MOWRY:

20 Q What were you doing Halloween night of 2013? Can you
21 tell the jury about that?

22 A I went trick or treating.

23 Q Who all did you go with?

24 A I went with Emily Dawkins and her two little sisters.

25 Q And Emily Dawkins, she, also, goes by Kisha; is that

1 right?

2 A Quisha.

3 Q So you took the children, trick or treating. How late
4 did y'all go out; do you remember?

5 A I know it was dark when we got back in. I'm not sure
6 how long.

7 Q How long were you out?

8 A Maybe a couple of hours.

9 Q When you were finished with trick or treating, where
10 did you go?

11 A We went back to Ellen's house, Ellen Saxon's house.

12 Q Ellen Saxon's house. Whose relative is that? Is
13 that Johnny Lee Saxon's relatives?

14 A Yes, sir.

15 Q Where is that residence?

16 A On Sawmill Road near Gray Court.

17 Q Near Gray Court? Did you see anybody else there
18 later that night?

19 A Yes, sir.

20 Q Who did you see there later that night?

21 A The three of them.

22 Q So you saw Saxon and Walker and Christopher Wells
23 together?

24 A Yes, sir.

25 Q Are you related to any of those three?

1 A Yes, sir.

2 Q Which one?

3 A David Walker.

4 Q What's your relation to David Walker?

5 A He's my uncle.

6 Q Did you have a conversation with David Lee Walker?

7 A I did.

8 Q What did -- what was the gist of the conversation?

9 Tell me about that.

10 A He walked up to me and told me that they was about to

11 go rob somebody and they needed another gun and asked me

12 for my gun.

13 Q Did he describe anything about the target of the

14 robbery?

15 A Yes, sir.

16 Q What did he say?

17 A He said he was about to go rob an old man that stayed

18 with a white lady.

19 Q Did he say what that old man did?

20 A He said he ran a liquor house and sold some drugs.

21 Q Okay. And they were going to go rob him?

22 A Yes, sir.

23 Q So he was looking for another gun; is that right?

24 A Yes, sir.

25 Q Did he indicate whether or not he already had one?

1 A Yes, sir.

2 Q Do you know where that gun came from, whose gun that
3 was?

4 A He said the only gun they had was Chris Wells's gun.

5 Q Okay. What did you -- what was your reaction when
6 you heard that?

7 A I just didn't want nothing to do with it.

8 Q Okay. Did you, in fact, have a gun?

9 A No, sir.

10 Q What did you tell him about the gun?

11 A I told him that my mom had the gun.

12 Q Okay. And did you say that that gun was not
13 available or did you say it was available or what?

14 A I said it wasn't available.

15 Q Wasn't available. Where did you tell him it was?

16 A That my mom had it, I think. Either my mom or my
17 cousin.

18 Q All right.

19 A That somebody had it.

20 Q Did you, in fact, tell him it was in a pawn shop?

21 A Correct.

22 Q And was it in a pawn shop?

23 A No.

24 Q Just didn't want him to have that gun; is that right?

25 A Yeah.

1 Q How did Walker and Saxon and Wells get there? Did
2 they come on foot?

3 A No, they was in Chris Wells's car.

4 Q Let me show you what have been marked as State's
5 Exhibits 28, 29 and 30. Do you recognize anything in
6 those pictures?

7 A Yes, sir.

8 Q What are those?

9 A Pictures of Chris Wells's car.

10 Q Was that the color it was on Halloween night?

11 A No, sir.

12 Q What color was it on Halloween night?

13 A It was like a gray color.

14 Q So it's been repainted; is that right?

15 A That's what it looks like.

16 Q Do you know when it got repainted?

17 A No.

18 Q But it was not that color, it was kind of a dark --
19 you said a gray car?

20 A A gray car.

21 Q On Halloween night, 2013; is that right?

22 A Yes, sir.

23 MR. MOWRY: Beg the Court's indulgence for just one
24 moment.

25 THE COURT: Yes, sir.

1 BY MR. MOWRY:

2 Q Did you know Christopher Wells by Christopher Wells
3 or did you know him by another name?

4 A I knew him by another name.

5 Q What name did you know him by?

6 A Nightmare.

7 Q Nightmare. And this car in 28, 29 and 30 was
8 Nightmare's car; is that right?

9 A Yes, sir.

10 MR. MOWRY: That's all I have. Thank you, ma'am.

11 Answer any of Mr. Richey's questions, please.

12 CROSS-EXAMINATION

13 BY MR. RICHEY:

14 Q Ma'am, you know Chris Wells, right?

15 A Yes, sir.

16 Q He's not dark-skinned, right?

17 A He's not dark-skinned?

18 Q Yes, he's not dark-skinned, right?

19 A No.

20 Q So it would surprise you if someone said he was
21 dark-skinned, correct?

22 A Yes.

23 Q He's not a real big guy, correct? He's not a real
24 big, large guy, correct?

25 A No.

1 Q Okay. So any description describing him as
2 dark-skinned and large would not be an accurate
3 description of him; would it?

4 A No.

5 Q And on the night that this happened -- you know the
6 difference between brown and gray, right?

7 A Brown and gray?

8 Q Brown and gray.

9 A Yes, sir.

10 MR. MOWRY: I'm going to object to that, Your Honor.
11 This is beyond the scope of her knowledge.

12 THE COURT: Overruled. I think she can testify as to
13 the color brown and the color gray, so we'll let that keep
14 rolling.

15 Go ahead.

16 BY MR. RICHEY:

17 Q When you saw that car of Christopher Wells, there was
18 no doubt in your mind that that car was gray, correct?

19 A Yes, sir.

20 Q On October 31st, that car was not brown, correct, his
21 car?

22 A Right.

23 Q His car was gray?

24 A Yes, sir.

25 Q If someone told you that Christopher Wells's car was

1 brown, they wouldn't be telling the truth, would they? On
2 that night, would they?

3 A On that night, no.

4 Q And do you know where Body Street is?

5 A Boyd Street?

6 Q Boyd Street.

7 A You talking about in Gray Court?

8 Q Yeah.

9 A Not off the top of my head.

10 Q David Walker asked you about a gun, right?

11 A Correct.

12 Q You don't know what happened that night of this at
13 Johnny Lee Cheeks's house -- let me say this, you were not
14 present at Johnny Lee Cheeks's house that night, correct?

15 A Correct.

16 MR. RICHEY: Thank you.

17 THE COURT: Redirect?

18 MR. MOWRY: Just a few questions.

19 REDIRECT EXAMINATION

20 BY MR. MOWRY:

21 Q Who was David Walker with?

22 A Chris Wells and Johnny Lee Saxon.

23 Q What did they say they were going to do?

24 A Going to rob somebody.

25 Q Going to rob who?

1 A Cheeks.

2 Q Well, did you know his name at the time?

3 A Old black man who stayed with a white woman.

4 Q In Enoree?

5 A In Enoree.

6 Q Whose car were they in?

7 A Wells.

8 Q Whose gun did they have?

9 A Wells.

10 Q Could you recognize the gun?

11 A No.

12 Q But that's what David Walker told you, that they had

13 Wells's gun, but they wanted another one?

14 A Correct.

15 Q Any doubt that 28, 29 or 30, that that's Chris

16 Wells's car?

17 A It's Chris's.

18 MR. MOWRY: Thank you very much. That's all I have.

19 MR. RICHEY: No further questions.

20 THE COURT: Thank you very much for coming. You may

21 step down and you're free to go.

22 Solicitor, do you have an additional short witness

23 for today?

24 MR. MOWRY: Not a short one, Your Honor.

25 THE COURT: Let me meet with counsel up here very

1 briefly.

2 (WHEREUPON, a bench conference was held.)

3 THE COURT: Ladies and gentlemen, in talking with the
4 attorneys, I anticipate the next witness will probably
5 take about an hour, hour and a half, so we're going to go
6 ahead and take a little bit of an early break for the
7 evening because I don't want to put y'all out. I know
8 y'all have lives. You've got families and things of that
9 nature. So we're going to go ahead and break for the
10 evening.

11 I will ask that you be back in the jury room tomorrow
12 morning at 9:30. I know they'll have some coffee, maybe
13 some crackers, that sort of thing, but not a big breakfast
14 buffet, so you may want to grab something.

15 As I mentioned earlier, ladies and gentlemen, please,
16 don't talk to anybody about this case this evening. I
17 know full well that when you go home tonight, whoever it
18 is you share a roof with, I know that they know you have
19 jury duty, okay. Because, obviously, when you got your
20 jury summons a month ago, you opened it up and you're like
21 oh, honey, wow, exciting, great news, I'm going to be on a
22 jury panel. And, obviously, they knew you had to report
23 to the courthouse this morning and show up here.

24 So what's going to happen when you go home, probably
25 the same thing that happens when I go home. The wife ask

1 me honey, how was your day? And I say, oh, it was fine.
2 And in your case, they're probably going to say after they
3 ask that, well, did you get picked on a jury. Perfectly
4 fine to say yes, honey, I got picked on a jury. What's
5 the next question they're going to ask? Well, what kind
6 of case is it? That's where you've got to draw the line.

7 Ladies and gentlemen, you 13 individuals were the
8 ones that were selected for this jury, not your
9 significant other, not your spouse, not your kids, whoever
10 it is that you share a roof with. This is your decision
11 to make and your decision cannot be influenced by
12 something that somebody else tells you, no matter how
13 well-intentioned their comments might be.

14 So at that point in time when they ask well, what
15 kind of case is it, just say the Judge told me this is
16 going to be my decision to make. I can't talk to you
17 about it. Just blame it on me. Just say the mean old
18 Judge said that you can't talk about it. You'll be at
19 liberty to talk about it at length with them later on once
20 the case is concluded and you've gone home. And,
21 hopefully, your lives are a little bit more interesting
22 and you've got other stuff to talk about than this trial.
23 So again, don't discuss it.

24 Please be back in the jury room tomorrow morning at
25 9:30. I don't intend to keep you waiting. I intend to go

1 straight into the first witness and keep rolling from
2 there. Hope you have a great evening. Take care. See
3 you in the morning at 9:30.

4 (WHEREUPON, the jury exits the courtroom at 4:48
5 p.m.)

6 THE COURT: The jury is out and we will be at ease
7 until 9:30 in the morning. We'll go back on the record at
8 that time.

9 What time would you like to have Mr. Wells here, Mr.
10 Richey? Do you have a preference?

11 MR. RICHEY: Nine is fine.

12 THE COURT: Nine is fine? Nine o'clock?

13 MR. MOWRY: I think they should have him here by
14 8:30, Your Honor, 8:00 or 8:30.

15 THE COURT: Nine at the latest, if you don't mind,
16 please.

17 See y'all in the morning.

18 (WHEREUPON, Court was adjourned for the day to
19 be reconvened on Tuesday, April 26, 2016.)

20 DAY 2 -TUESDAY, APRIL 26, 2016

21 THE COURT: We're back on the record. The Defendant
22 is present, of course, with counsel. We did have a brief
23 meeting in chambers this morning. It's my understanding
24 the Defense is not challenging the photo lineup that the
25 next witness will be testifying about.

1 Is that accurate, gentlemen?

2 MR. RICHEY: Yes, sir.

3 MR. MOWRY: Yes, sir. We had a discussion about
4 whether or not a Neal V. Biggers hearing would be required
5 and it will not.

6 THE COURT: Witnesses, of course, are still
7 sequestered and we have a number of people out there. But
8 just to make sure we have everybody where they need to be,
9 your witness is already in the courtroom, though, correct?

10 MR. MOWRY: Yes, she is right there.

11 THE COURT: Let's have the jury then, please.

12 (WHEREUPON, the jury enters the courtroom at
13 10:03 a.m.)

14 THE BAILIFF: All jurors are present, Your Honor.

15 THE COURT: Ladies and gentlemen of the jury, welcome
16 back. Thank you for being here and thank you for being
17 here this morning on time. I sincerely appreciate that.
18 Again, we did not keep you waiting unnecessarily. It's
19 always a pleasure to work with attorneys who are efficient
20 and competent. We had some discussions and, hopefully, as
21 a result of those discussions, that will help expedite a
22 few things with the trial. So again, we weren't -- we
23 were working. I apologize for keeping y'all waiting back
24 there.

25 We are, of course, still in the State's case in chief

1 in the case of the State of South Carolina vs. Christopher
2 Wells.

3 At this point, Mr. Mowry, if you'll call your next
4 witness, please.

5 MR. MOWRY: Thank you very much, Your Honor.

6 The State would call Kelly Ball to the stand.

7 THE BAILIFF: If you would, place your left hand on
8 the Bible and raise your right.

9 Thereupon;

10 KELLY BALL, after having been
11 duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. MOWRY:

14 Q You are Kelly Ball?

15 A Yes.

16 Q Ms. Ball, did you know the victim in this case,
17 Johnny Lee Cheeks?

18 A Yes.

19 Q How did you know him?

20 A We had been friends for several years. I met him
21 through drug use.

22 Q Through your own drug use; is that right?

23 A Correct.

24 Q Did he sell you drugs?

25 A Yes.

1 Q Did he occasionally sells drugs out of his house?

2 A Yes.

3 Q Did he sell anything else?

4 A Yes.

5 Q What did he sell?

6 A Liquor.

7 Q Liquor? Nontax paid, I guess?

8 A Yes.

9 Q So he would sell drugs occasionally and, also, sell
10 liquor out of the house?

11 A Correct.

12 Q Okay. How would you characterize your relationship
13 with him?

14 A What do you mean by that?

15 Q Friends?

16 A He was my best friend, yes, sir.

17 Q What was his age?

18 A He was 62.

19 Q And you, back in 2013, were how old?

20 A 35.

21 Q Were you with him on Halloween night of 2013?

22 A Yes, I was.

23 Q Describe the events that went on that night,
24 transpired that night?

25 A He came and picked me up from a friend's. From

1 there, we went to Waffle House to pick him up some food.
2 Left from the Waffle House and went directly back to his
3 home.

4 Q Okay. Let me show you this chart that is marked as
5 State's Exhibit No. 2. I'd ask you if you can tell us --
6 I guess I'll flip it up this way. Where is his house in
7 that chart?

8 A This is his residence.

9 Q This is listed as 324 and there's a vacate lot over
10 here that's listed as [REDACTED] We've heard that the address
11 is [REDACTED] Is that -- is this chart not accurate?

12 A It is not.

13 Q So this would be [REDACTED] that is the address that you
14 had listed; is that right?

15 A Correct.

16 Q But this is his residence on River Hill Road in
17 Enoree; is that right?

18 A Yes, sir.

19 Q When he picked you up, what was he driving?

20 A A blue SUV, a blue Suburban.

21 Q Okay. I'm going to hand you what's been marked as
22 State's Exhibit No. 7. Do you recognize that vehicle?

23 A Yes, it is his blue Suburban.

24 MR. MOWRY: I would offer this as a State's Exhibit
25 at this time, Your Honor.

1 MR. RICHEY: No objection.

2 THE COURT: Which exhibit?

3 MR. MOWRY: This is No. 7.

4 THE COURT: State's Exhibit No. 7 is in evidence
5 without objection.

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

8 BY MR. MOWRY:

9 Q So this was the car he drove, or the vehicle he
10 drove?

11 A Yes, sir.

12 Q How long were y'all at the Waffle House?

13 A I, actually, drove to the Waffle House. Once we got
14 to the Waffle House, he sat in the car, gave me the money
15 to go in, pay for the food and I came back out.

16 Q You said he gave you the money. Where did he get the
17 money from?

18 A From his wallet.

19 Q Okay. I'm going to hand you what's been marked as
20 State's Exhibit No. 17. Do you recognize that?

21 A Yes.

22 Q What is that?

23 A That's Lee's wallet.

24 Q That is his wallet?

25 A Yes, sir.

1 Q Would you look inside the wallet? Just take a look
2 at the contents.

3 A It's Lee's inmate identification, Lee's ID, Lee's
4 social security card.

5 Q And you recognize the wallet itself, though; is that
6 right?

7 A Yes.

8 Q But there's also his cards inside?

9 A Yes, sir.

10 Q Were you able to see how much money he had that
11 night?

12 A I wasn't able to count exactly, but Lee had a couple
13 thousand dollars.

14 Q Okay. Pretty good stack of money?

15 A Absolutely, yes.

16 Q Is that what he normally carried?

17 A Yes.

18 Q Okay. What did he get at the Waffle House; do you
19 remember?

20 A He got a large plate, grits, bacon, hash browns, I
21 think, some toast. A large plate.

22 Q All right. What was he doing with that on the way
23 back to [REDACTED]?

24 A I drove and he was eating.

25 Q Okay. About what time of night is this; do you

1 recall?

2 A Before I had said it was like 10:00, but I think it
3 may have been a little later, maybe 10:30, 11:00.

4 Q But it was the latter part of the evening, though; is
5 that right?

6 A Yes.

7 Q I'm not asking you the exact time, but later on in
8 the evening?

9 A Yes.

10 Q When y'all got back to [REDACTED] Road, what did
11 y'all do then?

12 A We exited the vehicle and went inside the home and
13 sat down in the living room. And he continued to eat the
14 rest of his plate.

15 Q Okay. Where were you sitting?

16 A I was sitting in the living room on the left-hand
17 side, which would be directly in front of the hallway.
18 And he was sitting on the right-hand side of me in his
19 recliner.

20 Q Anything happen that was unusual later on, soon after
21 y'all got home?

22 A Within five minutes, there was a knock at the door.

23 Q Okay. What happened? Who answered the door?

24 A Lee answered the door.

25 Q Were you visible from the doorway where you were

1 sitting?

2 A Not with the door ajar.

3 Q Okay. Was this an unusual occurrence, for somebody
4 to come knocking at the door that late?

5 A It's not unusual for someone to knock that late, no.

6 Q Okay. Looking to buy something; is that correct?

7 A Correct.

8 Q When Mr. Cheeks answered the door, what happened?

9 A He opened the door and he stepped outside. That's
10 not what would normally happen, though.

11 Q Okay. What would normally happen?

12 A Normally, if it was just someone stopping to purchase
13 something, they would step inside the door and they would
14 push the door to behind them. At that time, they would be
15 able to see me and I would be able to see them. But at
16 this time, he didn't. They didn't step inside, he stepped
17 outside of the home.

18 Q Were you able to see who was knocking at the door?

19 A No.

20 Q Were you able to hear anything at that point?

21 A Yes.

22 Q What did you hear?

23 A There was a verbal altercation.

24 Q Let me ask you this, what kind of structure was Mr.
25 Cheeks's home?

1 A It was a trailer.

2 Q So not exactly well insulated, not thick walls or
3 anything like that?

4 A No.

5 Q You could hear some of what was being said?

6 A Yes.

7 Q You said there was an altercation. Describe what you
8 mean by that.

9 A I heard an individual say, I'm here to rob you.

10 Q Okay. Do you know whose voice that was?

11 A Not at that time, no.

12 Q Do you know how many people there were outside?

13 A At least, two, possibly three.

14 Q How do you know that there was more than one person
15 out there?

16 A Because I could hear voices of more than one person.

17 Q Okay. How long did this altercation go on?

18 A I would say maybe a minute.

19 Q Okay.

20 A Maybe it was longer. After something like this, time
21 seems shorter or longer, but I would say approximately a
22 minute or so.

23 Q So it was a short period of time, though; is that
24 right?

25 A Yes.

1 Q What did you hear then?

2 A I heard one gunshot.

3 Q Okay. What did you hear after that -- or what
4 happened after that?

5 A After about 10 or 15 seconds, I heard several more
6 gunshots, like three to five more gunshots.

7 Q Okay. Do you know how many exactly?

8 A No, I don't know exactly.

9 Q What was your state of mind when you heard that first
10 gunshot?

11 A I began to panic and I was worried, so I was already
12 up out of my seat after the first gunshot. But before I
13 could ever make it down the hall to the door, which is a
14 very short hall, the other gunshots had already went off.

15 Q Okay.

16 A So then I was in full guard.

17 Q All right.

18 A In full panic.

19 Q Did you make any phone calls at that point?

20 A Yes.

21 Q Who did you call?

22 A 911.

23 Q All right. We have heard on State's Exhibit No. 24
24 the recording of a 911 call. Have you heard that as well?

25 A Yes.

1 Q Is that your voice on that phone call?

2 A Yes, sir.

3 Q What would you say your state of mind was at that
4 point?

5 A I was hysterical.

6 Q Okay. Once you had gotten 911 on the phone, what did
7 you do?

8 A I went to the yard to check on Lee and started to get
9 him as close to the house as I could from where he was
10 lying.

11 Q Now, let me refer back to the chart, State's Exhibit
12 No. 2, and ask you if you could point -- if you could
13 stand up and point for the jury where Lee was.

14 A Okay. The Suburban would have been parked right
15 here. Lee's body was at the very front of this Suburban,
16 which would have been approximately right here.

17 Q Okay. So a short distance from the front door; is
18 that right?

19 A Yes.

20 Q What kind of lighting was there outside?

21 A Not very good, but, I mean, good enough to where, you
22 know, you could see who was who.

23 Q Was there any kind of special lighting out there?

24 A In the yard, there was a motion light and at the top
25 of the hill, there was a mercury light or either a

1 florescent light.

2 Q A street light?

3 A Yes.

4 Q And when you say the top of the hill, you mean --

5 A Way up there --

6 Q -- up in here?

7 A Yes.

8 Q Yeah, up at the driveway. But there was lighting out
9 here?

10 A Yes, but it's a motion light.

11 Q Okay. Had there been movement in the yard?

12 A Yes.

13 Q Was that light on?

14 A Yes.

15 Q When you opened the door, what did you see?

16 A Lee was lying at the front of his Suburban on the
17 ground shot.

18 Q Did you see anybody else at that stage?

19 A Not from the porch, not from the door, I couldn't,
20 no, sir.

21 Q What did you do then?

22 A Once I made it to where Lee was lying and I began to
23 try to move him towards the house, then I could see there
24 was an additional body laying at the tail end of the
25 Suburban.

1 Q Did you know who that was?

2 A No, sir.

3 Q Did you later find out who that was?

4 A Yes, sir.

5 Q Who was that, please, ma'am?

6 A David Walker.

7 Q Let me show you what's been marked as State's Exhibit
8 No. 3. Can you point out David Walker out of this?

9 A Yes, sir, this is David Walker.

10 Q This is David Walker right here, okay. What else did
11 you see?

12 A. There was someone in the driveway who was facing
13 towards me. Then once I began to exit the home and get
14 closer into the yard to where Lee was, he turned and ran
15 up the hill.

16 Q Okay.

17 A Up the driveway to the top of the hill.

18 Q When you say he was facing towards you, how close was
19 he would you estimate?

20 A Eight to 10 feet.

21 Q And you say that there was -- the motion sensor light
22 was on; is that right?

23 A Yes.

24 Q How long did you have an opportunity to see him?

25 A It was probably, maybe 15 seconds, but it felt like,

1 you know, a minute.

2 Q How -- you said he went up the driveway towards the
3 street. How did he go?

4 A He initially started moving stepping backwards. And
5 then after three to five steps backwards, he turned and
6 ran.

7 Q So you saw him face-to-face, you would say it was
8 about this close, eight to 10 feet?

9 A Yes.

10 Q And then he started stepping backwards like this and
11 then turned and ran up the hill; is that right?

12 A Correct.

13 Q Let me show you State's Exhibit No. 3 again. Do you
14 see the man that you saw in the driveway that night?

15 A Yes, sir.

16 Q Which one is he?

17 A (Indicated).

18 MR. MOWRY: Your Honor, for the record, she has
19 pointed out the Defendant.

20 THE COURT: The record will reflect that she
21 identified the Defendant on the exhibit.

22 BY MR. MOWRY:

23 Q What else did you see at the top of the hill?

24 A There was a vehicle.

25 Q Where did it come from?

1 A It came from the Spartanburg County end, which would
2 be --

3 Q Going back to No. 2 again, if you could point out
4 which direction that vehicle was moving?

5 A The vehicle was coming from this direction.

6 Q Do you know whether it was parked up there or did you
7 just see it moving?

8 A It was parked up there initially. Then once this --
9 when Christopher Wells started running up the driveway,
10 then the car started moving.

11 Q Okay. Was the motor running? It wasn't just rolling
12 out of gear; was it?

13 A No.

14 Q So the motor was running. Were you able to tell what
15 kind of car that was?

16 A All I know, it was an older, box-style car.

17 Q When you say box-style car, what do you mean?

18 A Squared off, it was a squared-off car.

19 Q All right. Let me show you three pictures, State's
20 Exhibits 28, 29 and 30. Just look at those and tell me if
21 the car you saw that night -- I'm not asking you was it
22 the same car, but is that similar to the one you saw?

23 A This car does resemble the car I saw.

24 Q Okay. Did you make a written statement after this
25 event?

1 A Yes.

2 Q How did you describe the car at that time? What
3 color do you describe it?

4 A I described it as a brown, older model, box-style
5 car.

6 Q Okay. You talked about the lighting up at the top of
7 the hill, was that the only light that you could see the
8 color of the car in?

9 A Yes.

10 Q And what kind of light was that again?

11 A It was like a mercury light, a florescent light. And
12 it was a ways off.

13 Q Right. When the man you've identified as Christopher
14 Wells got to the top of the driveway, did he meet the car
15 at that stage?

16 A Yes.

17 Q What did he do as far as the car was concerned?

18 A He jumped into the passenger side back seat.

19 Q Back seat of the passenger side?

20 A Yes, sir.

21 Q So he did not jump into the driver's seat; is that
22 right?

23 A No, sir.

24 Q What did the car do at that point?

25 A It sped away.

1 Q Do you know how many other people were in the car?
2 Were you able to tell?

3 A No.

4 Q Let me show you a few items, if I may. I'm going to
5 refer to State's Exhibit No. 18. Do you recognize --
6 there's a tiny little item in there. Do you recognize
7 that?

8 A Yes.

9 Q What is that, please, ma'am?

10 A That's Lee medallion off of his necklace.

11 Q Okay. And I'm going to show you State's Exhibit No.
12 19. Do you recognize that?

13 A Yes.

14 Q What is that?

15 A Lee's necklace.

16 Q Was he wearing the necklace and the medallion that
17 night?

18 A Yes.

19 Q Did he habitually wear those?

20 A Yes.

21 Q Kelly, when Lee went outside that night, do you know
22 whether he was armed at all in some way?

23 A Yes.

24 Q What did he normally carry?

25 A A gun.

1 Q What kind of gun; do you know? Are you familiar with
2 guns?

3 A No, sir.

4 Q Was it a semi-automatic or was it a revolver?

5 A A revolver.

6 Q Okay. Let me show you what's been marked as State's
7 Exhibit No. 25.

8 MR. MOWRY: And I will state for the record, Your
9 Honor, there is a cable through. It is inoperable.

10 THE COURT: Ladies and gentlemen of the jury, the
11 weapons that are going to be displayed here shortly have
12 previously been rendered incapable of being fired, so you
13 don't need to be concerned about that. Out of an
14 abundance of caution, anybody who handles a weapon will
15 either point it towards the ceiling or the floor.

16 Solicitor.

17 MR. MOWRY: Force of habit on that one, Your Honor.

18 BY MR. MOWRY:

19 Q Let me hand you what's been marked as State's Exhibit
20 No. 25. Do you recognize that?

21 A Yes.

22 Q What is that, please, ma'am?

23 A That's Lee's gun.

24 Q Did you see Lee's gun that night?

25 A Yes.

1 Q Where did you see it?

2 A He gave it to me after I finally got him pulled into
3 the home.

4 Q Okay. At what stage did you get him into the home?

5 A I got him halfway to the home before the car started
6 to speed away. But then I got afraid that they were going
7 to fire from the car again or shoot from the car again, so
8 I left him laying on the step up on the porch to get
9 myself back into safety so I wouldn't be shot just in case
10 they started shooting again. And then once the car was
11 gone, I went back out there and pulled him the rest of the
12 way into the home and locked the door behind us.

13 Q Okay. What kind of condition was he in as far as you
14 could tell?

15 A I mean, he had been shot, but he didn't --

16 Q Was he able to speak with you?

17 A Yes.

18 Q And converse in a rational fashion?

19 A Yes.

20 Q Okay. How far into the house did you get him?

21 A Just right inside the door and locked the door behind
22 us. I didn't want to move him any farther than what I
23 just had to to get him back into safety.

24 Q Okay. Once you did that -- were you still on the
25 phone with 911?

1 A Yes.

2 Q Once you did that, what happened then?

3 A After a brief while, there was a knock at the door --
4 a bang at the door.

5 Q Was it something falling against the door or somebody
6 knocking on the door, beating on the door?

7 A Something knocking, beating the door.

8 Q Was anything said?

9 A Yes. I said, Who is it?

10 Q And what was the reply?

11 A David.

12 Q What did you do then?

13 A I didn't do anything because then Lee spoke up and
14 said, Do not open that door, that's who shot me.

15 Q Okay. So he was saying that David was the one that
16 shot him?

17 A Yes, sir.

18 Q Okay. You hadn't seen the shooting, though; is that
19 right?

20 A No.

21 Q How long was it after that before First Responders
22 got there, the emergency personnel, the police and
23 ambulances?

24 A I would say 10, 15 minutes.

25 Q Okay.

1 A After David knocked on the door.

2 Q Okay. What was your mental state at that time?

3 A I was very hysterical.

4 Q Is that reflected on the audio?

5 A Yes.

6 Q What happened then?

7 A Then the knocking stopped. And after 10 or 15 more
8 minutes, First Responders arrived. Once they arrived, I
9 hung up with 911 and let -- once they were into the home,
10 then I hung up with 911. Because, at first, I wasn't sure
11 if it was First Responders or if it was -- you know, after
12 what had just happened, my mind went a million ways. I
13 didn't know who it may be.

14 Q Right. So after First Responders got there, you hung
15 up with 911; is that right?

16 A Correct.

17 Q That's the end of the recording?

18 A Correct.

19 Q In the meantime, had you done something with this
20 gun?

21 A Yes.

22 Q With State's Exhibit No. 25. What did you do with
23 it?

24 A I reached over on a beside, got an envelope, picked
25 the gun up with the envelope and put it under Lee's

1. mattress.

2 Q Why did you do that?

3 A That's where it would normally be kept.

4 Q Did you have any other plans of taking Lee yourself
5 to the hospital?

6 A Yes, he begged me to.

7 Q Okay. Why didn't you do that?

8 A I had no keys.

9 Q Where were the keys? You had just gotten back from
10 the Waffle House, where were they?

11 A He had them on him when the robbery took place.

12 Q Okay.

13 A And they took everything. They took the keys to the
14 home, the car. Everything he owned, they took, the
15 wallet, everything.

16 Q Did he have this wallet, State's Exhibit No. 17, on
17 him?

18 A Yes.

19 Q And you said it was a pretty good stack of cash in
20 there?

21 A Yes, sir.

22 Q Was that on him when you got to him?

23 A No.

24 Q So the wallet was gone and the keys were gone. Did
25 you have keys to his vehicle?

- 1 A No.
- 2 Q Did you have any other means of transportation?
- 3 A No.
- 4 Q When law enforcement arrived, what did you do?
- 5 A I let them inside.
- 6 Q You let them in?
- 7 A Yes, sir.
- 8 Q Did you speak with them that night?
- 9 A Yes.
- 10 Q I'm not going to ask you to describe what went on
- 11 during that time, but did you speak with law enforcement
- 12 at length that evening?
- 13 A Yes.
- 14 Q Or early the next morning?
- 15 A Yes.
- 16 Q Did you make a written statement to them?
- 17 A Yes.
- 18 Q Did you describe as much as you could at that time?
- 19 A Yes.
- 20 Q What was your demeanor, what was your mental state a
- 21 few hours later?
- 22 A I was still in shock.
- 23 Q Did you speak later with Detective Cheek?
- 24 A Yes.
- 25 Q A few days later?

1 A Yes.

2 Q Did you make another written statement at that time?

3 A Yes.

4 Q Did you try to go into more detail?

5 A Yes.

6 Q How did you describe the man that you saw in the
7 driveway in your written statement; do you recall?

8 A Yes, a large black male. And I even described his
9 clothing.

10 Q Did you refer to anybody else?

11 A Yes.

12 Q Who did you refer to?

13 A Ty.

14 Q How did you know Ty?

15 A Through Lee. He had been having dealings with Ty.
16 But I referred to Ty because that was the only person's
17 body frame, their build, and their beard that I could use
18 to say this person looked like him in this way, this
19 manner.

20 Q So was that person Ty that you saw in the driveway?

21 A No.

22 Q You're just saying he looked sort of like Ty; is that
23 right?

24 A Absolutely.

25 Q How did you describe his size?

1 A I said he was very large. He was a large man.

2 Q How tall are you?

3 A I'm five foot.

4 Q So I don't mean to -- you're kind of small; is that
5 right?

6 A Right.

7 Q Kind of short?

8 A Yes.

9 Q Did he appear large to you?

10 A Yes.

11 Q At some point later, did Detective Cheek and a couple
12 of other investigators from the sheriff's office and,
13 maybe, another deputy come and see you?

14 A Yes.

15 Q About how long after this night was that; do you
16 recall?

17 A I would say a month and a half.

18 Q Okay. What did they do?

19 A They come and asked me did I recognize anyone off of
20 that paper.

21 Q What did they show you?

22 A They showed me a paper with several pictures and
23 asked me did I -- was anyone on that picture there that
24 night.

25 Q Okay. Let me show you State's Exhibit No. 27, this

1 sheet of paper with several pictures on there. How many
2 pictures are on there?

3 A Six.

4 Q And what are those pictures of?

5 A Men that look similar to one another.

6 Q Okay. Did you recognize anybody?

7 A Yes.

8 Q Which number did you recognize?

9 A Five.

10 Q What did you do -- or when you recognized that
11 individual, what did you tell the investigators?

12 A This is the guy. This is the guy who ran away from
13 the scene.

14 Q Okay. And how did you demonstrate physically that
15 that was the guy?

16 A I circled it and initialed it.

17 Q Okay. Are these your initials down there at the
18 bottom?

19 A Yes, sir.

20 Q Did you draw those circles around the picture?

21 A Yes.

22 Q Did anybody suggest to you anybody to pick out?

23 A No.

24 Q Nobody said how about number five, take a close look
25 at him?

1 A No.

2 Q They just laid it in front of you and said do you
3 recognize the person you saw that night?

4 A Yes.

5 Q And did you recognize the person you saw that night?

6 A Yes.

7 Q Do you see that person in the courtroom today?

8 A Yes.

9 Q Where is he?

10 A (Indicated.)

11 MR. MOWRY: Your Honor, for the record, she has
12 pointed out the Defendant.

13 THE COURT: The record will reflect the witness has
14 identified Mr. Wells.

15 MR. MOWRY: And I would offer State's Exhibit No. 27
16 into evidence at this time.

17 MR. RICHEY: No objection.

18 THE COURT: Without objection, State's Exhibit No. 27
19 is in evidence.

20 (WHEREUPON, State's Exhibit No. 27 was admitted
21 into evidence.)

22 BY MR. MOWRY:

23 Q So number five is who you picked out?

24 A Yes, sir.

25 Q And that's your -- those are your initials down at

1 the bottom?

2 A Yes, sir.

3 Q And you drew the circles around that picture; is that
4 right?

5 A Yes, sir.

6 Q I'm going to show you once again State's Exhibit No.

7 3. Do you see the person you saw in the driveway that
8 night in this selection?

9 A Yes.

10 Q Where is he?

11 A (Indicated.)

12 Q The one at the bottom of the three pictures? The one
13 at the bottom of the poster?

14 A Yes.

15 Q Is that the same person you saw that night?

16 A Yes.

17 Q Is that the same person you -- is that the same
18 person you picked out of the lineup?

19 A Yes.

20 Q Is that the same person you see seated over at
21 Defense table today?

22 A Yes.

23 MR. MOWRY: Beg the Court's indulgence just a moment.

24 THE COURT: Yes, sir.

25 MR. MOWRY: Thank you, Kelly, that's all I've got.

1 THE COURT: Cross?

2 MR. RICHEY: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MR. RICHEY:

5 Q Ma'am, why did you hide his gun? Why did you hide
6 Lee's gun?

7 A Lee had gave me his gun and said put it where it
8 goes.

9 Q Okay. And at this time, there has been a criminal
10 act done and you all did not give the police the
11 opportunity to see where that gun was, correct?

12 A The gun was already removed with Lee from the yard as
13 I removed Lee from the yard..

14 Q What I'm saying is, the gun -- when the shooting was
15 done, the gun was on the ground, correct?

16 A Not Lee's.

17 Q Where was Lee's gun?

18 A Lee's gun was in his holster.

19 Q Okay. Okay.

20 A After he did his shooting, he put his gun back in his
21 holster and that's where it was whenever I got to him, but
22 I wasn't there to see the shooting.

23 Q Okay. So when the cops got there, they didn't have
24 the opportunity to see where that gun was at the time all
25 this happened because you all moved it, correct?

1 A I didn't move the gun from the yard, Lee did. I
2 didn't -- Lee handed me the gun once inside the home.

3 Q Okay. The gun -- your story is the gun was in his
4 holster, correct?

5 A Yes.

6 Q When the police got there, you had moved the gun,
7 correct?

8 A Yes. He handed me the gun.

9 Q So don't you think that's odd for you to go try to
10 hide his gun at that point?

11 A I wasn't trying to hide it. I gave it to them as
12 soon as they got there and told them exactly where it was.

13 Q Okay. To put it up, do you believe that's odd when
14 someone has been shot to go put the gun underneath the
15 bed? Do you find that strange?

16 A I don't.

17 Q Okay. Do you -- so when Lee -- he had got shot,
18 right? He had got shot and it was obvious, right?

19 A Yes.

20 Q The first thing you did was not call 911, the first
21 thing you did was put that gun up, correct?

22 A No, I called 911 before I ever went into the yard
23 where Lee and the gun were.

24 Q Okay. All right.

25 A I never exited the home until I called 911.

1 Q And Lee, he had large sums of money, correct?

2 A Correct.

3 Q That is consistent with somebody dealing large sums
4 of drugs, correct?

5 A Correct.

6 Q And he was a major guy? He kept moving up, up, up,
7 up, right?

8 A Somewhat.

9 Q And the night that this happened, you felt like --
10 because normally, these people he sells this poison to,
11 y'all bring them in your home, right? Or he stands at the
12 door where you can see the people when the deal is done,
13 right?

14 A Uh-huh.

15 Q You have to answer yes or no.

16 A Yes.

17 Q But on this day, you found it odd that he, in fact,
18 kind of pushed them outside. He went freely, correct?

19 A Yes.

20 Q Nobody grabbed him outside?

21 A Correct.

22 Q Nobody forced him to go outside?

23 A Correct.

24 Q He went outside after he answered the door and talked
25 to whoever it was, correct?

1 A He went outside after he seen them. I never heard
2 any discussion whatsoever at the door.

3 Q Right. So he didn't make any hesitation or show any
4 signs of fear from your recollection when he walked out
5 that door, correct?

6 A My recollection, it was very strange from the
7 beginning because anyone he was not afraid of would have
8 came inside the home. He pushed himself through the door,
9 and not only that, tried to slam the screen door behind
10 him getting it to latch and it failed to do so.

11 Q And you know Ty, right? You know him, right?

12 A Correct.

13 Q You know him real well, correct?

14 A Correct.

15 Q You've seen him a lot of times, right?

16 A Correct.

17 Q Okay. And Ty, his skin complexion would be close to
18 this, correct?

19 A Correct.

20 Q Not closer to that, right?

21 A I agree.

22 Q Okay. Ty is about 6'2", right, a big guy?

23 A I don't know. I just know it was a tall man, much
24 bigger than myself.

25 Q That's not what I'm asking you. I'm asking you, Ty,

1 Ty that you know is a big man?

2 A Yes, he's a big man.

3 Q Okay. And so Ty is a dark-skinned, large man,
4 correct?

5 A Correct.

6 Q You know Ty because Lee, he kept escalating in drug
7 dealer and he needed Ty because Ty can provide him with
8 more drugs, correct?

9 A Correct.

10 Q And so you know the characteristics of Ty,
11 everything, correct?

12 A Somewhat.

13 Q Okay. So when you give a description to law
14 enforcement two days after this happened and you say that
15 it is a large, dark-skinned man, that description is more
16 closer to Ty than it is him, correct?

17 A What I told them is that the person resembled Ty.

18 Q That's not my question to you. My question is this,
19 when you say it's a large, dark-skinned man, correct?

20 A Yes.

21 Q That description is closer to Ty than it is this
22 young man, correct?

23 A Correct.

24 Q And even in that statement, you referenced Ty's name,
25 correct?

1 A I did. I said it resembled Ty, but it was not Ty.

2 Q Okay. Lee was playing a dangerous game, correct?

3 That's a dangerous game?

4 A Yes.

5 Q And when you start dealing this dope in the volume he
6 was dealing it, it's really -- it's dangerous, correct?

7 A Correct.

8 Q And oftentimes, these drug dealers, they get in
9 arguments, correct?

10 A Yes.

11 Q And most of the time, they're armed, correct?

12 A Yes.

13 Q So on that day when these people came over there --
14 well, let me ask you this. You said that gun is normally
15 underneath the mattress, right?

16 A Right. Unless we're going somewhere, then he takes
17 it out and puts it in his holster.

18 Q So when y'all go out to eat or anything, he arms
19 himself?

20 A Yes.

21 Q And he arms himself because of all the dope he's
22 carrying -- all the money he's carrying, right?

23 A I assume. I can't answer that.

24 Q Okay. And you don't have any doubt in your mind this
25 was a drug transaction? No doubt in your mind this had

1 something to do with drugs?

2 A This that happened that night?

3 Q Yeah.

4 A No, I don't agree with that. This was not any form
5 of transaction. This was someone coming to take what they
6 wanted.

7 Q And you use a word re-up. What does that mean,
8 re-up?

9 A When you're out of drugs, you go get more and you
10 re-up.

11 Q When you re-up, is it a large, small?

12 A A re-up can be a small re-up or it can be a large
13 re-up. I don't understand the question.

14 Q So it's not the amount of times you re-up, it's the
15 quantity of it? It can be a quantity, too?

16 A Right.

17 Q So I could re-up for a little bit or a lot, correct?

18 A Correct.

19 Q And what Lee was doing, he needed more drugs,
20 correct?

21 A When?

22 Q At the time this happened, because his drug supplier
23 that he had was not consistent?

24 A At the time this happened, Lee had drugs. He was
25 re-upping.

1 Q Let me ask the question this way, Lee needed a new
2 drug supplier, right, because the one he had was not
3 reliable, correct?

4 A Lee had multiple sources he could use.

5 Q So he had a lot of people he was dealing with these
6 drugs, correct?

7 A Correct.

8 Q So he didn't just need one guy because he had tons of
9 guys he could go buy all this dope from, right?

10 A Agreed.

11 Q And all these guys out there he's buying dope from,
12 they're all dangerous, correct?

13 A Correct.

14 Q And they're all the kind of people that when you get
15 in an argument with them, it could be deadly, correct?

16 A Correct.

17 Q And that night, what you heard, what you heard, you
18 heard a verbal altercation, correct?

19 A Correct.

20 Q That means that's two people arguing, correct?

21 A Two, possibly three.

22 Q They were arguing, correct?

23 A Correct.

24 Q And those arguments were some of the arguments you've
25 heard before when these people argue over these drugs,

1 right?

2 A No. No one ever before has told Lee "I am here to
3 rob you" because Lee would have shot them.

4 Q He would have shot them?

5 A Lee ain't going to let somebody just rob him.

6 Q Lee -- and Lee, in fact, shot somebody this night;
7 didn't he?

8 A After he was shot.

9 Q But he shot somebody, correct?

10 A Correct.

11 Q So if you try to argue and fight with Lee, he'll
12 shoot you, right? Right, he'll shoot you?

13 A I've never known Lee to shoot anyone. This night, he
14 shot that gun because he had already been shot at.

15 Q Well, who shot him?

16 A According to him, David shot him.

17 Q According to Lee, David shot him?

18 A Correct.

19 Q Did you tell the police that that's who shot him?

20 A No, Lee did himself.

21 Q Oh, so he told that's who shot him?

22 A Yes.

23 Q So that's not a mystery who shot him, right?

24 A Right.

25 Q Let me go to State's Exhibit 3, State's Exhibit 3.

1 We've got all these three men up here, right?

2 A Correct.

3 Q Okay. Does any one of these three guys on here, are
4 they dark-skinned?

5 A They're all black men.

6 Q Do you understand the difference between a
7 dark-skinned black man and a light-skinned black man?

8 A I do.

9 Q Okay. Are all these -- are any one of these
10 gentlemen up here dark-skinned?

11 A Not very dark-skinned, no. But you've got to
12 remember it was dark. There was very little lighting.

13 Q Is any one of these guys of the skin tone or skin
14 color of Ty?

15 A No.

16 Q So you were never presented a photo lineup with Ty in
17 it, correct?

18 A I don't think Ty was in the lineup that I chose from,
19 no.

20 Q And in your statement that you gave -- so you gave
21 two statements, correct?

22 A Correct.

23 Q And in the first statement, you said nothing about
24 this robbery deal, right? You said nothing about it? You
25 said nothing about this robbery deal, right?

1 A Not to my knowledge. You've got to remember this is
2 right directly after this took place.

3 Q And in your second statement, would this be correct
4 when you say, Now, after the fact, I realized that I heard
5 a strange voice? Did you say that, Now, after the fact, I
6 realized that, correct?

7 A Yes.

8 Q So at that time when you were out there, when
9 everything was fresh in your mind, you were putting that
10 gun away, you didn't tell the police that, correct?

11 A That I heard an altercation?

12 Q No, no, no, no, that you heard a voice saying, I'm
13 here to rob you?

14 A I didn't tell them what I heard the voice say. I
15 told them that I heard voices arguing.

16 Q But you didn't hear anybody say I'm here to rob you,
17 right?

18 A I did hear them say that, but there was a lot on me
19 that night. It was very fresh and I was very hysterical.
20 I wrote what I could keep it together to write. I can't
21 help that I didn't remember every single detail. I did
22 the best I could in the hysterical situation I was in.

23 Q What color was that car?

24 A I'm not sure. Like I said, it was a mercury
25 florescent light. I can tell you it was a box-style,

1 older model car. It did look brown due to the lighting at
2 the top of the hill, but what color it really was, I do
3 not know.

4 Q You told the police it was brown, right?

5 A I told them it was brown.

6 Q You can distinguish between gray and brown, right?

7 You know the difference between gray and brown, right?

8 A I know the difference, but you've got to realize, I'm
9 25 feet away from the top of the hill where the car is and
10 it's under a mercury light.

11 Q But my question is, you can distinguish between gray
12 and brown, correct?

13 A Yes.

14 Q And if that car -- if you saw that car and it was
15 gray, you would have recognized that, correct?

16 A Not if it was in the same spot, I may not have been
17 able to tell you that that's a gray car.

18 Q I just want to make sure I understand what you told
19 the police. You told the police it was brown, correct?

20 A I did.

21 Q And you told them the truth on that, correct?

22 A Yes, to the best of my ability at that time. What
23 was to my knowledge of what color the car was to my
24 knowledge. But like I say, the lighting could have
25 changed the color of the car. I can't say it did and I

1 can't say it didn't.

2 Q So are you exactly positive of who you identified
3 that night?

4 A I am absolutely positive of who I identified. His
5 eyes met mine, my eyes met his. He walked backwards at
6 first.

7 Q So you're absolutely positive on the guy you
8 recognize, but you're not positive on the car?

9 A You're talking a difference of eight feet and 25
10 feet.

11 Q Twenty-five feet. Okay. I'm 25 feet, right?

12 A Oh, no, much farther than that up the hill, much
13 farther.

14 Q You saw --

15 A Out to the back of the courtroom is still not far
16 enough to go all the way up the hill to see the car.

17 Q So --

18 A The car is back further than that away from me.

19 Q So the gentleman ran a long distance to get to that
20 car, right?

21 A Yes.

22 Q A long distance?

23 A Uh-huh.

24 Q And when he's running a long distance, the one thing
25 that you can -- you might not be able to see his face,

1 correct, but you can see his build, right?

2 A I seen his face before he ever started running.

3 Q Right, but you can see his build, right?

4 A Right.

5 Q So when he's running from you, that build that you're
6 seeing is a large build, correct?

7 A Right.

8 Q Okay.

9 MR. RICHEY: Hold on, Your Honor, please.

10 THE COURT: Yes, sir.

11 BY MR. RICHEY:

12 Q The windows to this car, could you tell whether the
13 windows were up or down?

14 A I could not tell.

15 Q You could not tell. So you don't really know whether
16 somebody's in this car or not?

17 A The car was running, it was driving up the road
18 before he made it to the car.

19 Q Okay. Inside this car, you couldn't see who was
20 inside this car? You don't know if it was one, two, three
21 people?

22 A Absolutely.

23 Q Okay. So, basically, you're saying you saw the one
24 guy, correct, that you -- the one guy that was tall and
25 dark, you saw that guy, but you didn't see anybody else,

1 correct?

2 A No, that's not true.

3 Q Okay.

4 A There was a guy collapsed at the back of the vehicle.
5 I seen that guy. There was a guy standing in the driveway
6 staring me down. That guy. That's the only two men I
7 seen other than Lee.

8 Q Okay. So you're saying the gentleman was standing
9 this close to you? Staring you down about this close?

10 A No. We were less apart than what we are now.

11 Q About this far?

12 A No. Further.

13 Q Right here? You were about this close?

14 A Further away.

15 Q This way? Okay, this way?

16 A Yeah, away would be away.

17 Q And that's something you identified from this
18 distance?

19 A Yeah, about that distance.

20 MR. RICHEY: Thank you, ma'am.

21 THE COURT: Redirect?

22 MR. MOWRY: Just a few questions, Your Honor.

23 REDIRECT EXAMINATION

24 BY MR. MOWRY:

25 Q Kelly, Mr. Richey was asking you isn't it strange you

1 took the gun and put it under the mattress. Again, what
2 was your mental state?

3 A I was hysterical.

4 Q What did Lee tell you to do with the gun?

5 A Put it where it goes.

6 Q Were you just simply following his instructions?

7 A Correct.

8 Q Did you know any of the three people depicted -- I
9 never can remember the number -- in State's Exhibit No. 3
10 before that night?

11 A No.

12 Q Did you know Ty before that night?

13 A Yes.

14 Q You made a statement -- a second statement to law
15 enforcement on November the 5th; isn't that correct?

16 A Yes.

17 Q It was about a four-page statement; isn't that right?

18 A Yes.

19 Q I want you to read the sentence that begins right
20 there, "this man".

21 A This man strongly resembled a man named Ty from Boyd
22 Road.

23 Q Okay. Was your purpose in that description to tell
24 the officers it was Ty?

25 A No.

1 Q You knew Ty; is that right?

2 A Correct.

3 Q If it had been Ty, would you have told them it was
4 Ty?

5 A Absolutely.

6 Q So this was just something to try to give the
7 officers an idea of --

8 A Of his makeup, his build. Even the beard was
9 similar.

10 Q Okay. Now, Mr. Richey was trying to characterize
11 Johnny Lee Cheeks as a business, I'll put it that way.
12 What kind of car did he drive?

13 A A blue Suburban.

14 Q How old was it?

15 A I don't know, late 80's or early 90's.

16 Q So it wasn't a brand new car is what I'm getting at?

17 A No.

18 Q What kind of residence did he have?

19 A A trailer.

20 Q Not exactly Al Pacino in Scar Face, was it?

21 A No.

22 Q You testified that you were able to hear parts of the
23 conversation; is that right?

24 A Yes.

25 Q Mr. Richey asked you about that. Did you ever hear

1 anybody say I'm here to buy drugs from you?

2 A No.

3 Q What did you hear them say?

4 A I am here to rob you.

5 MR. MOWRY: Thank you, ma'am, that's all I've got.

6 MR. RICHEY: I've just got a few more.

7 THE COURT: Go ahead.

8 RECROSS-EXAMINATION

9 BY MR. RICHEY:

10 Q Two thousand dollars is a lot of money?

11 A Yes.

12 Q And that's regularly what he had on him, 2,000 or
13 more dollars, correct?

14 A Yes.

15 Q And 2,000 or more dollars is consistent with somebody
16 selling a lot of drugs?

17 A Was that a question?

18 Q Yes.

19 A I mean, yeah, it could be.

20 Q So this stuff the prosecutor is trying to say, his
21 car wasn't nice and all that, he moved a lot of dope,
22 correct?

23 A No. He did not move a lot of dope. He did move
24 small amounts, but not a lot, not where you're going with
25 it. He did not move a lot of dope.

1 Q Unfortunately, you've done drugs before,
2 unfortunately, correct?

3 A Unfortunately, yes, sir.

4 Q And \$2,000 in drugs would be a lot of drugs to you,
5 correct?

6 A Right.

7 MR. RICHEY: Thank you, ma'am.

8 FURTHER REDIRECT EXAMINATION

9 BY MR. MOWRY:

10 Q Let me ask you this, and this is going to be it.
11 Have you done drugs in the last couple of years?

12 A No.

13 MR. MOWRY: Thank you, ma'am.

14 MR. RICHEY: No questions.

15 THE COURT: Ma'am, you can step down. Thank you very
16 much. You're free to leave the courthouse, but you remain
17 under the subpoena.

18 Ladies and gentlemen, I don't know if y'all need a
19 brief break, the Court does, so we will take a brief
20 break, just five or 10 minutes.

21 I meant to mention to y'all yesterday, if any of
22 y'all smoke, that's perfectly fine. Just let the bailiff
23 know and they'll escort you outside. Don't discuss the
24 case. We'll break for about five or 10 minutes.

25 (WHEREUPON, the jury exits the courtroom at

1 10:58 a.m.)

2 (WHEREUPON, a short break was taken.)

3 (WHEREUPON, the jury enters the courtroom at
4 11:19 a.m.)

5 THE BAILIFF: All present, Your Honor.

6 THE COURT: All right. The record will reflect that
7 the jury is back and seated. Of course, the Defendant is
8 present with counsel.

9 Solicitor, call your next witness, please.

10 MR. MOWRY: I call Marty Crain.

11 THE BAILIFF: Place your left hand on the Bible and
12 raise your right hand.

13 Thereupon;

14 MARTY CRAIN, after having been
15 duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MOWRY:

18 Q You are Marty Crain?

19 A Yes, sir.

20 Q And I see you're wearing bars on your collar. Are
21 you a lieutenant?

22 A Yes, sir.

23 Q With the Laurens County Sheriff's Office?

24 A Yes, sir.

25 Q Can you describe for the jury what your duties are

1 with the sheriff's office, please, sir?

2 A I'm the supervisor over the uniform patrol division.

3 Q And what hours do you normally work or does it
4 rotate?

5 A We work 7:00 p.m. to 7:00 a.m.

6 Q Okay. Were you employed in that capacity back on the
7 31st of October, going into the 1st of November, 2013?

8 A Yes, sir.

9 Q What were you doing the latter part of that evening?

10 A I was answering calls and supervising the shift.

11 Q What do you have to do as a supervisor?

12 A All calls that come in for service through the
13 Laurens County Dispatch Center are dispatched to me and I
14 assign the call to the designated deputy that works that
15 area.

16 Q So whoever you've got close or whatever, you tell
17 that person to go; is that right?

18 A Yes, sir.

19 Q Late that evening, did you receive a call about an
20 event on River Hill Road in Enoree?

21 A Yes, sir.

22 Q How did you receive that call?

23 A Dispatch received a call, dispatched to me that there
24 was a possible shooting that had occurred on River Hill.

25 Due to the severity of the call, I responded as well as

1 the assistant supervisor, the sergeant. And because of
2 the severity of it, I had several other deputies respond
3 as well.

4 Q So pretty much all hands on deck; is that right?

5 A Yes, sir.

6 Q All right. Where were you when you received the
7 call; do you remember?

8 A I do remember. I was at the red light in Laurens at
9 the big intersection there by Rite-Aid and KFC.

10 Q Okay. How far is it from that spot in Laurens out to
11 21 to Enoree?

12 A Maybe 12, 15 miles.

13 Q Did you obey the speed limit?

14 A I responded in emergency capacity, which is code
15 three, blue lights and sirens.

16 Q Okay. And did you go fast?

17 A Yes, sir.

18 Q Put it that way?

19 A Yes, sir.

20 Q Any idea how long it took you to get there?

21 A Not precisely, no.

22 Q You got there as fast as you could, though; is that
23 right?

24 A Yes, sir.

25 Q Were you one of the first officers on the scene?

1 A Yes, sir.

2 Q Describe what you saw when you got there.

3 A When I pulled up to the residence, I made my approach
4 to the house. There was a vehicle sitting in the yard.
5 Because there were calls of gunfire being exchanged there
6 at the residence, I used the back of that vehicle for
7 cover as I approached the house with my weapon drawn. I
8 was covering the residence.

9 As I stepped up on -- there was a small porch right
10 in front of the house. I stepped up on the porch and I
11 encountered an individual who was sitting in a swing on a
12 front porch.

13 Q All right. Let me take you through step by step.
14 You talked about using a car or a vehicle as cover. Let
15 me show you State's Exhibit No. 7. That photograph, do
16 you recognize the vehicle in there?

17 A Yes, sir.

18 Q What is that?

19 A I believe it's a Chevrolet Suburban or a Tahoe.

20 Q And was that the vehicle that you were using?

21 A Yes, sir.

22 MR. MOWRY: If we could get the lights, please.

23 BY MR. MOWRY:

24 Q Is that the vehicle?

25 A Yes, sir.

1 Q And you talked about going up to the residence. Is
2 that the residence that you talked about?

3 A Yes, sir.

4 Q Describe what kind of structure that is.

5 A It's a single dwelling mobile home with an attachment
6 on the front porch.

7 Q Okay. But it's a trailer; is that right?

8 A Yes, sir, a trailer.

9 Q And what did you see when you got there?

10 A As I approached -- it was dark, so when I approached,
11 I approached to the right-hand corner of this vehicle. As
12 I went around the vehicle with my weapon drawn, I saw --
13 there's a swing that you look -- when you step up on that
14 porch, you look directly at a swing. There was a swing
15 there --

16 Q Right in here?

17 A Yes, sir. There was a swing there with an individual
18 that was sitting on the swing slumped over.

19 Q Okay. I'm going to show you a chart with some
20 pictures on it. And this is State's Exhibit No. 3. Do
21 you recognize the individual that you saw sitting in the
22 swing?

23 A (Indicated.)

24 Q This individual right here?

25 A Top right-hand corner.

1 Q Did you later find out what his name is?

2 A Mr. Walker.

3 Q David Walker?

4 A Yes, sir.

5 MR. MOWRY: And for the record, Your Honor, he has
6 indicated the person on the upper right-hand side of the
7 chart.

8 THE COURT: Very good.

9 BY MR. MOWRY:

10 Q What was Mr. Walker's condition when you saw him?

11 A When I asked him had he been shot or anything, he
12 told me his arm was broken. At which time, as I was
13 speaking with him, my sergeant came up behind me. And I
14 heard a female yelling to my right behind the closed door
15 inside the residence.

16 Q Did you later determine who that female was?

17 A It was -- I think her name was Kelly.

18 Q Kelly Ball?

19 A Yes, sir.

20 Q All right. What did you do next?

21 A I advised her that it was law enforcement, to open
22 the door. She was kind of hesitant. She didn't believe
23 us at first. She was on the phone with my dispatcher.
24 And once she was convinced -- she asked me my name, I told
25 her my name. And I guess she confirmed that on the phone

1 with dispatch and she opened the door and let me in. And
2 once I opened the door and started in, that's where I
3 encountered the other victim.

4 Q And did you later determine who that was?

5 A Mr. Cheeks.

6 Q All right. What -- how did he appear?

7 A He was lying in the floor gasping and bleeding
8 profusely.

9 Q What did you do when you saw him in that condition?

10 A Once we made sure the residence was secure, we
11 immediately notified medical and fire to come in to start
12 -- for their procedures to start rendering aid. I'm,
13 again, talking with him, trying to get as much information
14 as I could from him due to the fact that he had been -- I
15 had noticed a couple of bullet wounds. And I just started
16 asking him questions, who shot him, if he knew where the
17 person was that shot him, where the weapons were, things
18 like that.

19 Q Okay. You said you saw a couple of bullet wounds,
20 where were they?

21 A One that I saw was on the neck and the other one was
22 in his lower extremity, near the abdomen somewhere.

23 Q All right.

24 A That's where the most amounts of blood were coming
25 from.

1 Q Okay. You talked about making sure the residence was
2 secure. What do you mean by that?

3 A To ensure that no one else was there, possibly
4 another shooter, or another suspect, or any more victims
5 were inside the residence.

6 Q How do you go about doing that?

7 A We clear the house room by room.

8 Q Okay. Y'all go through room by room to make sure --

9 A Any obvious space that a person could fit.

10 Q So to avoid ambush?

11 A Yes, sir.

12 Q No problems?

13 A No, sir.

14 Q What did you do next?

15 A I stayed with Mr. Cheeks and began talking to him.

16 And then, finally, after I got Ms. Ball calmed down, I
17 found out where the weapon was that he had possessed and
18 she took and showed me where it was at.

19 Q Let me ask you this, how would you characterize the
20 scene at this point? Was it orderly or --

21 A Total chaos.

22 Q All right. You had two individuals that were shot?

23 A Yes, sir.

24 Q You didn't know what the story was. You didn't know
25 where the shooter was. There were people that were

1 distressed, upset. Was there anything else going on?

2 A A dog barking loudly, very loudly.

3 Q And you've been doing this for how long?

4 A Almost 20 years.

5 Q And how would you rate this as far as chaos is
6 concerned?

7 A A 10. On a scale of one to 10, a 10.

8 Q How quickly after you got there did other officers
9 get there?

10 A A matter of moments.

11 Q Did medical personnel arrive as well?

12 A They did, but it was several minutes later because we
13 had to make sure the scene was secured before they came
14 in.

15 Q Among the officers that arrived there, can you list
16 some names?

17 A Myself, Sergeant Timmons, Deputy Sweat, Deputy
18 Taylor, and Deputy McMahan.

19 Q All right. Did you start giving out assignments
20 while you were there?

21 A Yes, sir.

22 Q What did you tell Sweat and Taylor to do?

23 A I told them to start photographing and collecting
24 evidence outside, if they could find anything outside,
25 which a few of them had noticed some evidentiary items

1 outside. So they started to photograph and collect those.

2 Q Okay. I'm going to show you a photograph, State's
3 Exhibit No. 12. Do you recognize that?

4 A Yes, sir.

5 Q What is that, please, sir?

6 A That is the markers for evidence where the shell
7 casings, clothing articles, weapons, anything like that.
8 That's our evidence markers.

9 Q That's pretty much the same picture as State's
10 Exhibit No. 7, except the markers have been put down; is
11 that right?

12 A Yes, sir.

13 Q Okay.

14 MR. MOWRY: Let me show this.

15 THE COURT: You want to move that in first?

16 MR. MOWRY: Yeah, I'm sorry. State's Exhibit No. 12
17 into evidence, Your Honor. I'm sorry. We marked them and
18 I completely neglected -- we had not moved it into
19 evidence.

20 THE COURT: Very good.

21 (WHEREUPON, State's Exhibit No. 12 was admitted
22 into evidence.)

23 BY MR. MOWRY:

24 Q You see the yellow triangles in there or yellow
25 squares, triangles, whatever shape you want to call them.

1 Are those the markers you're talking about?

2 A Yes, sir.

3 Q What's the significance of all of the markers?

4 A The numbered sequences when they noticed a piece of
5 evidence as they start making it as they came onto the
6 scene. They went back from where we came on and they
7 marked them in that order.

8 Q Okay. And who was responsible for collecting the
9 evidence once it had been discovered?

10 A Deputy Taylor collected the evidence that night.

11 Q All right. Were you able to determine where they
12 needed to look or was this --

13 A We searched the whole premises and they started
14 locating stuff outside.

15 Q Okay. Did you ask about any weapons or anything like
16 that?

17 A The only weapon -- when I asked about a weapon -- I
18 asked Mr. Cheeks and he explained to me where his weapon
19 was at.

20 Q After you had spoken with him, where did you go to
21 look?

22 A Ms. Ball directed me to the bedroom that was to my
23 right -- from where Mr. Cheeks was when I went into the
24 residence to my right. It was between the mattress.

25 Q Okay. I'm going to show you what's been marked as

1 State's Exhibit No. 14. Do you recognize that?

2 A Yes, sir.

3 Q What is that, please, sir?

4 A That is the weapon that was recovered from between
5 the mattresses in the bedroom.

6 Q Okay.

7 MR. MOWRY: I offer State's Exhibit No. 14 into
8 evidence, Your Honor. I'm going to do 15 in just a
9 minute, but, apparently, no objection as well.

10 THE COURT: All right. State's 14 and 15 will be in
11 evidence without objection.

12 (WHEREUPON, State's Exhibit Nos. 14 and 15 were
13 admitted into evidence.)

14 BY MR. MOWRY:

15 Q Let me show you what's been marked as State's Exhibit
16 No. 25. Does this appear to be the revolver that was
17 recovered from under the mattress?

18 A It does. It appears to be same one.

19 Q Did you collect this revolver?

20 A I did.

21 Q And who did you turn it over to?

22 A Deputy Taylor.

23 Q While you were in the house, did Mr. Cheeks appear to
24 be in any kind of distress?

25 A Yes.

1 Q Describe what you're talking about, please.

2 A He had shallow breathing, bleeding profusely, and he
3 began to vomit.

4 Q All right. What was your concern when he began to
5 vomit?

6 A That he was about to go unconscious.

7 Q When that begin to happen, what did you do in
8 response?

9 A We had to, actually, move him from where he was
10 located because they couldn't -- the rest of the emergency
11 personnel couldn't get through the door because,
12 partially, he was blocking the door. So we moved him
13 slightly back so they could get the rest of the way
14 through the door with their equipment. We moved him back
15 towards a small bathroom there.

16 Q So that was a life-saving maneuver; is that right?

17 A Yes, sir.

18 Q In the process, did you find anything unusual?

19 A Yes, sir. When we lifted him up to move him back, a
20 bullet slug fell out of his clothing.

21 Q Let me show you State's Exhibit No. 15 that's in
22 evidence now. Do you recognize that?

23 A Yes, sir, that's the round that fell out of his
24 clothing onto the floor.

25 Q And is that near where he was?

1 A Yes, near the bathroom.

2 Q But that fell out of his clothing when you were
3 moving him?

4 A Yes, sir.

5 Q What was done with that slug?

6 A It was collected as evidence, photographed and
7 collected as evidence.

8 Q By --

9 A Deputy Taylor.

10 Q Deputy Taylor. What else did you do at the scene?

11 A Once we got him in there with the help and
12 everything, I went back outside to where they were taking
13 the photographs and starting to collect evidence. I made
14 contact with dispatch to have any investigators that was
15 on call notified and respond to the scene.

16 Q And was that Lieutenant Cheek?

17 A Yes.

18 Q How soon thereafter did he arrive?

19 A I don't remember. It wasn't very long.

20 Q But in the meantime, you were the senior officer on
21 the scene; is that right?

22 A Yes, sir.

23 Q What was done with Mr. Walker during this time?

24 A He was being tended to by medical as well.

25 Q All right. What happened after that?

1 A He was transported. And that was the last I saw of
2 him once he was transported.

3 Q Transported by?

4 A EMS.

5 Q So ambulances came?

6 A Yes, sir.

7 Q They loaded up Mr. Walker?

8 A Yes, sir.

9 Q And they took him off?

10 A Yes, sir.

11 Q Did you assume to the hospital?

12 A Yes, sir.

13 Q What was done with Mr. Cheeks?

14 A He was transported as well. If I'm not mistaken, I
15 think they transported him to a location. They
16 transported him by helicopter.

17 Q Did you know at that point whether his injuries were
18 fatal?

19 A No, sir.

20 Q Did you think they were?

21 A From what it appeared to be, yes.

22 Q What other involvement did you have there that night?

23 A Just supervising the scene and responding.

24 MR. MOWRY: Thank you, Lieutenant. That's all I
25 have. Answer any of Mr. Richey's questions, please.

CROSS-EXAMINATION

1

2

BY MR. RICHEY:

3

Q Sir, when you got there, you made a determination

4

that these gentlemen shot each other? Is that the

5

determination that you made?

6

A No, sir.

7

Q Okay. You said that Mr. Cheeks -- did he tell you

8

who shot him?

9

A Yes, he did.

10

Q Who did he say shot him?

11

A He said Mr. Walker.

12

Q Mr. Walker shot him.

13

A And he was on the porch.

14

Q So you made a determination that Walker shot him.

15

And you have no reason not to believe that, correct?

16

A That's what he said.

17

Q Okay. And you, also, know that Mr. Walker was, also,

18

shot, too, correct?

19

A At first, I didn't notice he was shot because he said

20

his arm was broken.

21

Q Well, did you determine he was shot?

22

A Later.

23

Q So you get there and both of these gentlemen are shot

24

and one guy says the other one shot him, correct?

25

A Yes.

1 Q Okay. This picture -- well, let me ask you this
2 first. From that bedroom that you went and got the gun
3 out of, was that in the front or the back of the house?

4 A It's to the right. It was on this end of the house,
5 the right end.

6 Q So when you come in, you've got to go this way to
7 that bedroom down a hallway?

8 A Yes, sir -- well, it's not much of a hallway.

9 Q But you had to go down just a little bit, correct?

10 A It's closer than you and I are right now to it.

11 Q Okay. So it's about this far?

12 A It's immediate right, bathroom, then the bedroom. So
13 it's like, actually, maybe a little closer than that.

14 Q Right here?

15 A Somewhere right in there. I didn't measure it.

16 Q Okay. And when I look at this picture up here where
17 all these shell casings are right here, would it be
18 reasonable to say that whatever happened, the shootings,
19 it could have happened in this area, correct, right in
20 here?

21 A Yes, sir.

22 Q So if I'm in this area, okay, and I leave this area
23 and go to that bedroom, then that distance becomes a
24 little bit farther, right?

25 A Yes, sir.

1 Q . So if I'm sitting -- if I'm out there and take a gun
2 from that area and I go to the bedroom, that's a pretty
3 good distance -- it's a distance to go, correct?

4 A Yes, sir.

5 Q As a law enforcement officer, with you being there on
6 the scene, you do not want anybody move any of this
7 evidence, correct?

8 A That's correct.

9 Q If the gun's down on the ground, you want it to stay
10 on the ground, right?

11 A Yes, sir.

12 Q Because when it stays on the ground right there, it
13 helps y'all in determining what, actually, happened,
14 correct?

15 A Yes, sir.

16 Q And when it's moved, it interferes with your
17 investigative process, correct?

18 A Yes, sir.

19 Q And so what it does is it causes a lot of facts to be
20 in doubt, correct?

21 A I assume so.

22 Q It could? It could, correct? So when that gun --
23 when someone tells someone to move that gun, that's awful
24 suspicious to you; isn't it?

25 A I wasn't aware anybody told anybody to move a gun.

1 Q Okay. Let me put it this way, if somebody moved that
2 gun before you got there, that would be suspicious to you,
3 correct?

4 A Correct.

5 Q And it would make you investigate the case in
6 somewhat of a different manner, correct? It could affect
7 the investigation, correct?

8 A It could affect the investigation, yes.

9 Q Okay. Looking at this picture again --

10 MR. RICHEY: Lights, please.

11 BY MR. RICHEY:

12 Q I'm going to try to get out of your way here. When
13 we look at this picture, is this the front door right
14 here?

15 A Yes.

16 Q That's the front door, okay. So this is the front
17 door and this is where all this stuff happens, correct?

18 A Yes. That's all different pieces of evidence. It's
19 not all necessarily shell casings. It's any evidence.

20 Q Right. But it's a lot of evidence collected in that
21 one area, correct?

22 A Yes, sir.

23 MR. RICHEY: Lights, please.

24 BY MR. RICHEY:

25 Q So when I step out the front door to that spot, I'm

1 walking probably about this distance, correct?

2 A Yes, sir.

3 Q Okay. Where did you find the gun at again?

4 A In the bedroom between the mattresses.

5 Q So it was shoved in between the mattresses?

6 A It was between the mattresses.

7 Q Whose gun was it?

8 A Mr. Cheeks.

9 Q No doubt in your mind it was his, right?

10 A They said it was his.

11 MR. RICHEY: Thank you.

12 MR. MOWRY: Just a couple of questions, Your Honor.

13 REDIRECT EXAMINATION

14 BY MR. MOWRY:

15 Q Mr. Richey asked you about the weapon, the revolver
16 that you had spoke of. How did you become aware of this?

17 A When I asked him where his weapon was at, he told Ms.
18 Ball to show me where it was at.

19 Q Any hesitation?

20 A No.

21 Q And just to make sure that we're aware, all of those
22 yellow markers are not for shell casings; is that right?

23 A No, it's any evidence that was on the ground as it
24 was being photographed.

25 Q Might be shell casings, but it could be other stuff,

1 too?

2 A Could be.

3 Q What was Kelly Ball's demeanor during this time that
4 you were with her?

5 A Hysterical.

6 Q Very upset?

7 A Very.

8 MR. MOWRY: Excuse me, Your Honor.

9 THE COURT: Yes, sir.

10 (Pause.)

11 MR. MOWRY: Thank you, sir. That's all I have.

12 MR. RICHEY: I've just got one question.

13 RECROSS-EXAMINATION

14 BY MR. RICHEY:

15 Q When you say she was hysterical, did she know where
16 she was, her whereabouts, and have good understanding?

17 A Yeah, she knew where she was -- well, she knew where
18 she was and what was going on, but she was still
19 hysterical.

20 MR. RICHEY: Thank you.

21 THE COURT: Sir, thank you. You can step down.

22 Any objection to excusing this witness at this point?

23 MR. MOWRY: No, Your Honor.

24 MR. RICHEY: No, Your Honor.

25 THE COURT: Call your next witness, Mr. Mowry.

1 MR. MOWRY: I call Steven Sweat.

2 Thereupon;

3 STEVEN SWEAT, after having
4 been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MOWRY:

7 Q You are Steven Sweat?

8 A Yes, sir.

9 Q Mr. Sweat, back in October of 2013, where were you
10 employed?

11 A Laurens County Sheriff's Office.

12 Q And what was your position with the sheriff's office
13 here in Laurens?

14 A Uniform patrol deputy.

15 Q Are you still with the sheriff's office?

16 A No, sir.

17 Q How recently did you leave?

18 A End of March.

19 Q Okay. So about a month ago?

20 A Yes, sir.

21 Q When you left, what was your rank?

22 A I was sergeant in the investigations division,
23 subsection narcotics.

24 Q All right. Where have you gone for employment?

25 A BMW.

1 Q Okay. More money?

2 A Yes, sir.

3 Q But back in October of 2013, you said you worked in
4 uniform patrol; is that right?

5 A Yes, sir.

6 Q Which shift were you on?

7 A The night shift.

8 Q With Lieutenant Crain?

9 A Yes, sir, he was my direct supervisor, assisted by
10 Sergeant Timmons.

11 Q Sometime late that night, did you receive a call to
12 go to [REDACTED] Riverview Road?

13 A Yes, sir. You're talking about Enoree?

14 Q Yes, sir.

15 A Yes, sir.

16 Q What was the gist of that call? What were you
17 expecting to find when you got there?

18 A We had -- the call came in, I believe it was two
19 people -- someone had been shot. I can't remember if the
20 call came out as one person or two people. But myself and
21 other units responded there.

22 Once we arrived, we found an individual by the name
23 of David Walker on the front porch, who had an apparent
24 gunshot wound. Where exactly on him, I can't remember off
25 the top of my head. But we got the scene cleared. We

1 were let in the house by a female, I want to say her last
2 name was Ball.

3 Q Kelly Ball?

4 A Yes, sir.

5 Q All right.

6 A She let us in and we found the homeowner, Mr. Cheeks
7 or Cheek, I think it was Johnny. He was just inside the
8 doorway laying up against the wall. It was a single-wide
9 trailer. And this door would regularly be the back door
10 on any residence, but it was situated as the front on this
11 one. We went right into the hall and he was laid up in
12 there. And he had a gunshot wound, I think to his -- I
13 can't remember which side it was on, but it was his upper
14 body. I'll have to reference my report.

15 Q Feel free to do so.

16 A He was laying on the floor. He was shot in the right
17 side of his neck and shoulder. We got the area secured,
18 got crime scene tape up, got EMS in there. And we spoke
19 with Ms. Ball, interviewed her briefly. She told us that
20 the guy on the front porch was the one who she thought had
21 shot Mr. Cheeks. Cheeks shot back at the man. We were
22 able to locate a firearm that was under the master bedroom
23 bed. We tried to speak to Mr. Walker, but he would only
24 tell us his arm was broke.

25 Q Let me ask you this before we go on.

1 A Yes, sir.

2 Q Let me show you State's Exhibit No. 25. Does that
3 appear to be the gun?

4 A The one in the master bedroom?

5 Q Yes.

6 A Yes, sir.

7 Q And who took this gun into custody or into
8 possession?

9 A I want to say Lieutenant Crain went in there, off the
10 top of my head. I know Deputy Taylor collected a lot of
11 the evidence, but I believe while me and him were in the
12 process of doing that in the yard, Lieutenant Crain was
13 able to get that out of the house. But, ultimately, it
14 ended up in Deputy Taylor's control and went back to the
15 office to be processed -- or put into evidence.

16 Q So Deputy Taylor was the one that was taking control
17 of the evidence as it was found; is that right?

18 A Yes, sir.

19 Q How do you go about documenting a scene?

20 A Pretty much, once we get everything secured and
21 render aid and whatnot, we'll start going around and
22 finding items that we think might be of evidentiary
23 importance. Once that -- once one is found, we'll start
24 making its location with the scene markers on the screen
25 there. The total amount of evidentiary items that were

1 on-scene, I can't remember. Again, I've got it documented
2 in here. I typed the report and he handled the evidence.
3 But there was a good bit outside and a couple things
4 inside.

5 Q Okay. I'm going to hand you a series of pictures.

6 MR. MOWRY: And for the record, Your Honor, State's
7 Exhibit 6, 8, 9, 10, 13 and 16.

8 BY MR. MOWRY:

9 Q I'd ask you to go through those and just tell me if
10 you can identify those pictures?

11 A That's going to be one of the shell casings --

12 Q You don't need to describe it at this point, but just
13 tell me whether or not you recognize the subjects of those
14 photos.

15 A Yes, sir.

16 Q In general, what are those, sir?

17 A You've got a shell casing --

18 Q Well, I mean, what -- in general, what do those
19 pictures depict? What do they show?

20 A The things on the ground outside the residence.

21 Q The evidence outside?

22 A Yes, sir.

23 Q Referring back to State's Exhibit No. 12, would those
24 markers indicate where these various pieces of evidence
25 were that you just described?

1 A Yes, sir.

2 MR. MOWRY: Your Honor, I would move the pictures
3 that I just listed, 6, 8, 9, 10, 13 and 16, into evidence
4 at this time.

5 MR. RICHEY: No objection.

6 THE COURT: Without objection, those are in evidence.

7 (WHEREUPON, State's Exhibit Nos. 6, 8, 9, 10, 13
8 and 16 were admitted into evidence.)

9 BY MR. MOWRY:

10 Q Deputy Sweat, let me ask you, specifically, about No.
11 16. What is that?

12 A It's a shell casing for a firearm.

13 Q Do you recall what kind of shell casing it was?

14 A 380.

15 Q Okay. Who put down all the markers; do you remember?

16 A I did.

17 Q You did?

18 A Yes, sir.

19 Q Who photographed them?

20 A I did.

21 Q You did?

22 A Yes, sir.

23 Q And Deputy Taylor's function was to do what?

24 A Collect.

25 Q Let me show you State's Exhibit No. 13. It says

1 evidence marker number nine. What is that?

2 A It appears to be a chain necklace, silver.

3 Q Let me show you what's already been marked as State's
4 Exhibit No. 19 and ask you if you recognize the contents
5 of that bag?

6 A That's it.

7 Q That's the chain?

8 A Oh, yeah.

9 Q That's shown in picture No. 13; is that right?

10 A It doesn't have a pendant, correct?

11 Q It does not. Speaking of which, let me show you a
12 couple of pictures, this is No. 6 and No. 8. Can you
13 identify those?

14 A It appears to be the pendant --

15 Q And --

16 A -- of Jesus Christ on a cross.

17 Q So it's a crucifix?

18 A Yes.

19 Q Let me show you then now State's Exhibit No. 18 and
20 ask you if you can identify that?

21 A That's it.

22 Q That's the one that you found?

23 A Yes, sir.

24 Q And who took that into possession?

25 A Yeah, it's going to be Deputy Taylor.

1 Q But this is what you found; is that right?

2 A Yes, sir.

3 Q In that scene up there?

4 A Yes, sir. It should be marked as item number one up
5 there on the screen.

6 MR. MOWRY: Your Honor, I would move the chain and
7 the pendant into evidence at this time. That's State's
8 Exhibit Nos. 18 and 19.

9 MR. RICHEY: No objection.

10 THE COURT: Without objection, State's Exhibit Nos.
11 18 and 19 are now in evidence.

12 (WHEREUPON, State's Exhibit Nos. 18 and 19 were
13 admitted into evidence.)

14 BY MR. MOWRY:

15 Q I want to show you, also, State's Exhibit No. 10. Do
16 you recognize that?

17 A That's the shell casing.

18 Q And what caliber shell casing was that?

19 A : 380.

20 Q Let me show you this photograph, State's Exhibit No.
21 9, and ask you if you recognize that?

22 A Absolutely, yes, sir.

23 Q What is that, please, sir?

24 A Lorcin handgun, 380.

25 Q Where was that found?

1 A Outside on the ground. And it was -- just a moment
2 and I'll tell you which marker it was under.

3 Q Detective -- or excuse me, Mr. Sweat --

4 A Here it is. It's listed as item number 15.

5 Q But it's all in that same area; is that right?

6 A Yes, sir.

7 Q Let me show you now what has been marked as State's
8 Exhibit No. 26. Do you recognize that?

9 A Yes, sir.

10 Q What is that, please, sir?

11 A Revolver.

12 Q Is that the same weapon that's depicted in No. 9?

13 A Yes, sir.

14 Q This is the handgun that you're talking about; is
15 that right?

16 A Yes, sir.

17 Q What is the constitution of the driveway? What kind
18 of material did it have in it?

19 A Some type of mulch, dirt, maybe a little rock here
20 and there and whatnot, but, mainly, what you see on the
21 screen.

22 Q But that's the condition you found it in; is that
23 right?

24 A Yes, sir. It was right there beside the SUV,
25 Chevrolet SUV shown in the picture.

1 Q Okay. Thank you, sir.

2 MR. MOWRY: I believe that's all I have, Your Honor.

3 THE COURT: Cross?

4 MR. RICHEY: Yes, Your Honor. Thank you.

5 CROSS-EXAMINATION

6 BY MR. RICHEY:

7 Q Officer, I think you said in your report that Ms.

8 Ball told you she saw the victim get shot at, she saw him
9 shoot back; is that correct?

10 A You're talking about Mr. Cheeks shoot Mr. Walker?

11 Q Mr. Walker shoot at Mr. Cheeks?

12 A Yes.

13 Q Ms. Ball told you she, actually, saw that?

14 A I think she said she believed -- again, give me a
15 second to reference it. It's been several years.

16 Q Okay.

17 A Ms. Ball advises that she thought the individual we
18 found on the porch -- which was Mr. Walker, she advised
19 she thought the individual we found on the porch had tried
20 to rob Cheeks after she and Cheeks got back at the
21 residence that was shown above -- or on the screen. And
22 she states Cheeks shot back at the man who had tried to
23 rob him. And the gun that Cheeks used was in the bedroom.

24 Q You saw David Walker on the swing on the porch?

25 A Yes, sir.

1 Q You saw him sitting there, correct?

2 A Correct.

3 Q Okay. Let me put this other up beside it. Okay.

4 Officer, you see the picture on the left is where the gun
5 was found, correct?

6 A Yes, sir.

7 Q You see the picture on the right is where these
8 evidence markers are, correct?

9 A Yes, sir.

10 Q Was that gun found where these markers were?

11 A Where evidence marker 15 was, it was off to the side
12 of that SUV up there.

13 Q Is it up towards this way?

14 A No, it's towards the driver's side rear. So it's
15 going to be probably -- I want to say it's going to be in
16 the foreground outside that shot, but off the top of my
17 head -- it was found more towards this direction away from
18 the porch, yes, sir.

19 Q It was found out there and that was the condition --
20 when y'all got to the scene, that's what y'all saw, that
21 gun sitting there?

22 A Yes.

23 Q Hadn't been moved?

24 A No, sir.

25 Q And that would be consistent with the story that this

1 gentlemen, Mr. Walker, was shot and the gun came out his
2 hands? Would that be a consistent story?

3 A I can't speculate. I didn't investigate, I just took
4 what was on scene. But, I mean, it's a possibility.
5 Again, I was a responding officer. I cleared, I collected
6 evidence, I found evidence, and I photographed.

7 Q Well, you would agree if this is his gun -- this is
8 his gun, correct, and it's on the ground. And he's in the
9 swing. He's been separated from that gun, correct?

10 A Oh, that gun was a long way from where we found Mr.
11 Walker.

12 Q Yeah. When you say a long way, is it from me to you?

13 A In that picture -- I'd say a lot farther than that.
14 In that picture, you've got a full-sized Chevrolet, I
15 think it's a Tahoe --

16 Q Hold on a second. Okay.

17 A It looks like a Tahoe. You've got a full-sized Tahoe
18 sitting there in the yard. It's going to be several feet
19 along -- about maybe -- I don't know, 10 feet, maybe. And
20 it's not particularly close to the porch. And you can see
21 the overhang of that porch right there.

22 Q Right.

23 A Now, the swing on that porch is on the very far side
24 away from it away from us.

25 Q So this side?

1 A Yeah.

2 Q Okay.

3 A And you go back towards the house a little bit,
4 that's where the swing was. That's where we found Walker.

5 Q Right.

6 A And the gun was clear back over here, kind of, like I
7 said, towards the back of that SUV right there.

8 Q It was toward back here?

9 A Yeah. Probably a little closer towards the --

10 Q The door?

11 A -- camera. Toward where the photograph was taken
12 from, yes, sir.

13 Q Okay. And --

14 A Back towards us.

15 Q I'm sorry?

16 A Back towards where the shot was taken from.

17 Q Okay. And this SUV, this is an older model car; is
18 that correct?

19 A Yes, sir, I'd say so. It's going to be a late 90's
20 model, probably.

21 Q But has it been kind of, I use the phrase tricked up
22 some?

23 A It's been customized.

24 Q And that customization is consistent with someone who
25 sells drugs? You typically see that?

1 MR. MOWRY: Your Honor, I would object to that
2 question.

3 THE COURT: I'll sustain that. It calls for
4 speculation. I think the point is made.

5 Go ahead.

6 BY MR. RICHEY:

7 Q You said the distance from the front porch to this
8 spot right here, you said that was a good amount of
9 distance?

10 A We're inside, but if I were going to estimate the
11 distance, I'd say from where Walker was to where that gun
12 was would be about from the back courtroom door to where
13 Mr. -- maybe a little bit -- about where the front of the
14 table is in front of where Mr. Mowry is sitting.

15 Q I'm sorry, I didn't understand. Maybe that's my
16 fault..

17 A The front of the table -- pretty much my side of the
18 table right there to that door, maybe just a little bit
19 farther. And we're inside, so that changes things.

20 Q Okay. Okay. Okay.

21 MR. RICHEY: Thank you, sir. No further questions.

22 THE COURT: Thank you, sir. You may step down.

23 Call your next witness, Mr. Mowry.

24 MR. MOWRY: I call Mr. Taylor.

25 THE COURT: And you're free to go, sir. Thank you.

1 Thereupon;

2 JAMISON TAYLOR, after having
3 been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MOWRY:

6 Q You are Jamison Taylor?

7 A Yes, sir.

8 Q And I see you're wearing your uniform, who are you
9 employed by?

10 A I'm currently employed by the Union County Sheriff's
11 Office.

12 Q Back in October of 2013, who were you employed by?

13 A Laurens County Sheriff's Office.

14 Q What were your duties with the sheriff's office?

15 A In 2013, when I worked at the Laurens Sheriff's
16 Office, I was assigned to the uniform patrol division to
17 respond to calls for service from citizens or visitors of
18 the county.

19 Q Okay. And were you employed in that capacity back on
20 the 31st of October going into the 1st of November?

21 A Yes, sir.

22 Q What shift were you working that night?

23 A It was night shift.

24 Q Were you on the same shift with Lieutenant Crain and
25 Sergeant Sweat?

1 A I was.

2 Q Long about midnight during your shift, did you
3 receive a communication?

4 A We did in regards to a possible shooting event in the
5 Enoree area of Laurens County.

6 Q Okay. And in response to that call, what did you do?

7 A I responded from the area I was assigned, which was
8 the eastern end, for assistance with other deputies to
9 this call in the kind of northeastern end of the county.

10 Q Okay. What did you find when you got there?

11 A Found, pretty much, I guess you would say, mass
12 confusion because everything -- I believe we found the
13 victim in this case when the report was done to be shot, I
14 believe it was on the front porch, if I remember
15 correctly.

16 Q Did you find two people that were shot?

17 A I don't recall. I do remember the one.

18 Q What was your assignment -- who made your assignment,
19 let me ask you that?

20 A Pretty much, we just kind of got together and started
21 working everything to get the scene secured, getting it
22 roped off with crime scene tape that we're provided by the
23 sheriff's office with, locating any evidence out in the
24 yard that may be potential to the call. I do remember we
25 found a pistol out in the yard by a vehicle.

1 Q Let me just stop you there and show you State's
2 Exhibit No. 9. Do you recognize that?

3 A Yes, sir, this is a pistol that was found out in the
4 yard by, I believe, an SUV or pickup, something like that
5 in the yard.

6 Q And did you take possession of that gun?

7 A I did, after we photographed it.

8 Q And you, in fact, took the photographs; is that
9 right?

10 A Yes, sir.

11 Q So that photograph was taken by you. And let me show
12 you State's Exhibit No. 26. Do you recognize that?

13 A Yes, sir, same weapon as in the picture.

14 Q And did you take that into possession as well?

15 A Yes, sir.

16 Q Very good.

17 MR. MOWRY: I would offer State's Exhibit No. 26 into
18 evidence at this time, Your Honor.

19 MR. RICHEY: No objection.

20 THE COURT: State's 26 is in evidence.

21 (WHEREUPON, State's Exhibit No. 26 was admitted
22 into evidence.)

23 BY MR. MOWRY:

24 Q Do you have a list of the items that you collected?

25 A Yes, sir. It was, actually, loaded in as a report.

1 It was a chrome in color Lorcin 380 semi-automatic
2 handgun.

3 Q And that is State's Exhibit No. 26; is that right?

4 A Yes, sir.

5 Q What else?

6 A We located two spent 380 caliber shell casings in the
7 yard as well.

8 Q All right. And let me show you State's Exhibit No.
9 29, two packets there. Do you recognize that?

10 A Yes, sir. They're going to be the spent shell
11 casings that were found in the yard, recovered by me.

12 Q Okay. And let me show you State's Exhibit -- excuse
13 me, not 29, I apologize. It's 21. And let me show you
14 State's Exhibit No. 20 as well and ask you if you can
15 identify that?

16 A There was, also, a -- what we call a lead slug, the
17 top one, and then another spent shell casing that was
18 located at the same road.

19 Q Do you recall where you found these, the lead slug
20 that you referred to, regarding State's Exhibit No. 20?

21 A If I'm permitted to review over the report?

22 Q Yes. Deputy Taylor, let me show you State's Exhibit
23 No. 15 and ask you if that would help at all?

24 A That does. That was, actually, I believe, just
25 inside the residence on the floor.

1 Q So on the threshold of the trailer?

2 A Yes, sir.

3 Q And that was on the floor. You collected that as
4 well; is that right?

5 A Yes, sir.

6 Q And is that the lead slug that you referred to in
7 State's Exhibit No. 20?

8 A Yes, sir.

9 Q What else did you find?

10 A Also, was find a yellow in color necklace with a gold
11 pendant, was found on the ground around the front bumper
12 of the vehicle that was parked in the yard.

13 Q And did you take that into possession?

14 A Yes, sir.

15 Q That's State's Exhibit No. 19. Let me hand you that,
16 is that the item you're talking about, the chain?

17 A Yes, sir.

18 Q And, also, State's Exhibit No. 18, did you take that
19 into possession?

20 A Yes, sir.

21 Q And what is No. 18, please, sir?

22 A That's going to be the crucifix charm.

23 Q Okay. Were all these pretty much found in the same
24 area?

25 A Yes, sir.

1 Q Let me refer you now to State's Exhibit No. 14. Do
2 you recognize that?

3 A Yes, sir, that was the revolver that was found inside
4 the residence. I believe it was located by Lieutenant
5 Crain under the mattresses in the victim's bedroom.

6 Q Let me hand you now State's Exhibit No. 25 and ask
7 you if you can identify that?

8 A Yes, sir, that's the weapon that's in that picture.

9 Q Did you check the cylinder of the weapon for any kind
10 of ammunition?

11 A I believe Lieutenant Crain might have whenever he
12 recovered it to make it safe to be placed into evidence.
13 It's part of our policy.

14 Q And I want to hand you State's Exhibit No. 23. Do
15 you recognize that?

16 A That would be the rounds that came out of that weapon
17 along with spent casings.

18 Q Describe what we had in there.

19 A It was pretty much two, what we call, live rounds,
20 which are bullets ready to fire. Of course, a revolver
21 doesn't eject them like a semi-automatic, so it would hold
22 all the casings in there. We found the two live rounds
23 along with two spent rounds, which are empty, that have
24 been fired.

25 Q And how many shots does this revolver hold?

1 A Five.

2 Q So there was one empty --

3 A One empty --

4 Q -- slot?

5 A -- slot, chamber.

6 Q Is that common?

7 A It can be. Some owners in my time in law enforcement
8 will have one that will be empty to use it as a safety.
9 Because on a revolver -- there are safety measures you can
10 do with it, but a lot of people will have an empty
11 chamber.

12 Q Rather than accidentally flipping the hammer back and
13 having a round go off, you've got an empty spot in the
14 cylinder; is that right?

15 A If it goes in a clock-wise motion, they'll usually
16 have the next -- they'll have one loaded and when you cock
17 the weapon back it will be on an empty cylinder so it
18 doesn't accidentally go off in their pocket or something
19 like that.

20 Q Got you. And these were the shell casings that were
21 retrieved from this gun; is that right?

22 A Yes, sir.

23 Q That's your handwriting?

24 A Yes, sir.

25 MR. MOWRY: I would offer this as State's Exhibit No.

1 23, Your Honor.

2 MR. RICHEY: No objection.

3 THE COURT: Without objection, 23 is in.

4 (WHEREUPON, State's Exhibit No. 23 was admitted
5 into evidence.)

6 MR. MOWRY: Beg the Court's indulgence one more
7 moment.

8 THE COURT: Yes, sir.

9 MR. MOWRY: Your Honor, before Deputy Taylor steps
10 down, I would offer State's Exhibit No. 25 and No. 14 into
11 evidence.

12 THE COURT: Those are already in.

13 MR. MOWRY: Good. I just wanted to make sure.

14 THE COURT: They're in evidence without objection in
15 case I misstated.

16 (WHEREUPON, State's Exhibit No. 25 was admitted
17 into evidence.)

18 MR. MOWRY: I believe that's all I have, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. RICHEY:

21 Q You, basically, collected this evidence, correct?

22 A Yes, sir.

23 Q I'll ask you about a statement you put in your
24 report. You stated Ms. Ball, who was at the house, saw
25 Mr. Cheeks shoot back at the man; is that correct?

1 A Mind if I review over that part?

2 Q Yes. It's on the front page?

3 A You said it's on the front page?

4 Q Front page about three lines up to the right.

5 A What was your question again? I'm sorry.

6 Q Okay. This is on the first page, She states Cheeks
7 shot back at the man who tried to rob him?

8 A Yes, sir.

9 Q So she told you that he shot back at the man,
10 correct?

11 A Yes, sir.

12 Q And that she saw it?

13 A Yes, sir.

14 MR. RICHEY: Okay. Thank you, sir.

15 REDIRECT EXAMINATION

16 BY MR. MOWRY:

17 Q Let's make sure we've got what we're referencing
18 here. Your report says that she thought the individual we
19 found on the porch had tried to rob Cheeks after she and
20 Cheeks had arrived back at the above location from the
21 Waffle House?

22 A Yes, sir.

23 Q The next thing says "she states", but doesn't "she
24 thought" refer to that as well?

25 MR. RICHEY: I'm going to object to that.

1 MR. MOWRY: Your Honor, he asked the question. He
2 opened the door. I'm trying to clarify it.

3 THE COURT: Let's handle it this way. Ask the
4 witness what he meant by those two sentences.

5 BY MR. MOWRY:

6 Q Let me ask you this, are those two sentences
7 connected?

8 A Yes, sir, they would be.

9 Q So do you know whether she definitively saw that or
10 whether she is reporting what she thinks?

11 A More than likely reporting what she thinks.

12 Q All right. Thank you, sir. And you weren't there;
13 is that right?

14 A No, sir, we didn't get there until after the fact.

15 MR. MOWRY: Okay. That's all. Thank you.

16 RECROSS EXAMINATION

17 BY MR. RICHEY:

18 Q Again, this states very clearly "she states". When
19 this says "she states", that means she said it, correct?

20 A Yes, sir.

21 Q So when she said "she states", that's implying that
22 you are talking to her, right?

23 A Yes, sir.

24 Q And she states, as this says, that she saw him shoot,
25 correct?

1 MR. MOWRY: Your Honor, that's a mischaracterization
2 and I think it's asked and answered as well.

3 THE COURT: We're going around and around. I think
4 the point has been made by everybody. So we're good.

5 MR. MOWRY: May I just ask one last question on how
6 this report came to be?

7 THE COURT: We're good.

8 Sir, you can step down.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Mr. Mowry, call your next witness,
11 please, sir.

12 MR. NEELY: The State would call Andrew Ashley.

13 Thereupon;

14 ANDREW ASHLEY, after having
15 been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. NEELY:

18 Q Mr. Ashley, if you would, would you state your name
19 and spell it for the record?

20 A Andrew Ashley, A-N-D-R-E-W, A-S-H-L-E-Y.

21 Q And where do you currently work?

22 A Laurens City Police Department.

23 Q And where were you working on October 31st, 2013?

24 A Laurens City Police Department.

25 Q Do you recall what you were doing that night?

1 A Vaguely remember, but I know I was going to a welfare
2 check on a subject that we received a call about. I
3 believe they were towards Enoree or somewhere like that,
4 Gray Court area.

5 Q Did that have anything to do with the shooting?

6 A Nothing at all.

7 Q Okay. So while you were out on a welfare check, did
8 you receive a description of a vehicle suspected to be
9 involved in a shooting?

10 A I did.

11 Q And what was that description?

12 A Older model blue car, dark blue car. I can't recall
13 if it was specific, like what model. I just know it was
14 an older box-style is what we were told.

15 Q Okay. And can you come down off the stand?

16 A (The witness complied.)

17 Q And did you see a vehicle that was matching that
18 description?

19 A I did.

20 Q I'm going to have you just place a blue star where
21 you saw that vehicle.

22 A (The witness complied.)

23 Q And this is State's Exhibit 1, a map of Laurens
24 County.

25 A I can't recall exactly, but I know we were close to

1 the Laurens County line near 101, somewhere around in
2 here.

3 Q So that's not the exact location, but approximate?

4 A Approximate location.

5 Q And when you saw the vehicle that you believed
6 matched that description, what did you do then?

7 A It passed me heading south onto Highway 101 North. I
8 was headed north. Like I said, I was lost. I'm not
9 familiar with the areas as much as I should be. I'm a
10 city officer.

11 Q I'm going to ask you to sit back down with the
12 microphone because it's hard for the court reporter to
13 hear you right now.

14 A Okay. As I was saying, I'm a city officer, so I'm
15 not as familiar with the county as I should be. At that
16 time, I was lost. I observed a vehicle matching the
17 description pass me headed south on 101 North and I was
18 headed north.

19 Q So what did you do then?

20 A I turned around and tried to observe the vehicle that
21 I believed matched the description. And I began following
22 it as I called the tag number into our dispatch.

23 Q So you thought it matched the description well enough
24 that you pulled a U-turn?

25 A I did.

1 Q And once you were following the vehicle, you called
2 in the license plate number?

3 A I did.

4 Q Could you tell how many people were in that vehicle?

5 A I could not.

6 Q And why not?

7 A The tint on the windows was very dark, very hard to
8 see into, especially it being dark outside as well.

9 Q So while you were following that vehicle, did you
10 notice anything you thought suspicious about the driving
11 pattern?

12 A Not at first.

13 Q Not at first?

14 A Not until we got into the city limits of Gray Court.

15 Q And once you got into the city limits of Gray Court,
16 I'm going to have you trace the route you followed that
17 car on on this map right here.

18 A Okay.

19 Q I'll have you come down here.

20 THE COURT: And Mr. Ashley, speak as loudly as you
21 can.

22 THE WITNESS: Yes, sir.

23 THE COURT: I know you're soft-spoken. Try and
24 project your voice as best you can, sir.

25 BY MR. NEELY:

1 Q I'm going to have you mark down on -- this is State's
2 Exhibit No. 4. I'll hand you this Sharpie. If you would,
3 just outline the route that you followed that vehicle.

4 A It's my understanding 101 comes in somewhere along in
5 here. We then took a right turn -- I'm sorry. We took a
6 right turn off of 101 that comes in right about here onto
7 Highway 14. We followed Highway 14 to Rock Street, made a
8 left, took another right here and followed it all the way
9 -- made another left-hand turn onto 101 South. At that
10 time, I was a little ways behind. I observed the vehicle
11 make a left here. As I made the turn, I was somewhere
12 along in here as I observed the vehicle turn, take another
13 right on Goose Way.

14 Q Did you see where the vehicle went down after it made
15 that right-hand turn on Goose Way?

16 A I did not.

17 Q And why not?

18 A At the time, my supervisor was a -- he had worked for
19 Laurens County and was familiar with the area. And he
20 told me that that area was a dead-end and he did not want
21 me going any further due to I might be ambushed or
22 something like that if that was, in fact, the vehicle in
23 question.

24 Q And because those roads that follow down Goose Way is
25 a dead-end, what did you do?

1 A I had already been on dispatch talking back and forth
2 with the county. Without losing sight of Goose Way, I
3 pulled back up somewhere around in here and I met with
4 Deputy McMahan since he was so close.

5 Q Do you recall how long it took Deputy McMahan to get
6 there?

7 A Less than five minutes. A very short period of time.
8 Probably less than three.

9 Q And you said you stayed in view of the Goose Way
10 entrance. Why did you do that?

11 A Knowing -- having that knowledge that it was, in
12 fact, a dead-end, there's only one way in and one way out.
13 I wanted to make sure if that vehicle had exited again I
14 would have eyes on it as it exited.

15 Q And if you would, just put a little "X" where you
16 stayed to watch that entrance.

17 A I want to say it was somewhere right in here. I
18 believe I was between the school somewhere along in here.

19 Q And after Deputy McMahan got there, what did y'all
20 then do?

21 A I seen him coming. I was backed into -- I can't
22 remember what address it was. I believe it was 138 here.
23 I was backed into a residence. I then turned and met him
24 somewhere along in the school and I told him what I
25 observed. And I followed him down to try to locate the

1 vehicle where it turned onto Goose Way.

2 Q So after back-up arrived and you went down to locate
3 the vehicle, did y'all then locate a vehicle?

4 A Deputy McMahan did.

5 Q And after he located the vehicle, did he call you?

6 A He did.

7 Q And did you go to him?

8 A I did.

9 Q And when you got to the residence -- which residence
10 was it?

11 A 76 Jones Hill here at the end.

12 Q And was the vehicle in the driveway?

13 A It was.

14 Q And did it match the description?

15 A It did match the description, having the same tag
16 that I ran whenever we was on Highway 101.

17 Q And after you located the vehicle, what did you then
18 do?

19 A Since I was out of my jurisdictional boundaries, I
20 was just assisting Deputy McMahan. He walked up to the
21 front door, knocked and spoke with a female there and
22 inquired about the vehicle in the yard.

23 Q Okay. And after he inquired about the vehicle in the
24 yard, what happened then?

25 A She advised us that the vehicle belonged to her

1 boyfriend and we asked if we could speak with him.

2 Q And who was her boyfriend?

3 A Christopher Wells. I want to make sure that's
4 correct on my paper, incident report. Christopher Wells,
5 date of birth of [REDACTED] is the information I wrote
6 down.

7 Q And what was his height and weight at the time?

8 A I have in my report 5'10", 235 pounds.

9 Q Okay. So after you located Mr. Wells, what did y'all
10 then do?

11 A Deputy McMahan spoke with him, inquired about a
12 search of the vehicle, which was allowed. And --

13 Q Stop right there. When you say that was allowed,
14 what do you mean by that?

15 A We asked Mr. Wells if we could search his vehicle and
16 he advised us that we could, indeed, search the vehicle.

17 Q And did you find anything in the vehicle?

18 A The only thing that we found inside the vehicle that
19 I observed was a CD case that contained CDs.

20 Q So nothing of evidentiary value?

21 A No.

22 THE COURT: Is he done with the chart? Can he go
23 ahead and sit down?

24 (WHEREUPON, the witness retook the stand.)

25 BY MR. NEELY:

1 Q Deputy Ashley, let me just ask you, is this map a
2 fair and accurate representation of the roads in Gray
3 Court that you drove down?

4 A Yes, sir, it is.

5 MR. NEELY: Your Honor, at this point, I'd like to
6 introduce State's Exhibit No. 4 into evidence.

7 MR. RICHEY: No objection.

8 THE COURT: Without objection, State's 4 is in
9 evidence.

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

12 MR. NEELY: And I would, also, like to introduce
13 State's Exhibit No. 1.

14 BY MR. NEELY:

15 Q Is this a fair and accurate representation of Laurens
16 County?

17 A Yes, sir.

18 THE COURT: No objection to the map?

19 MR. RICHEY: None, Your Honor.

20 THE COURT: State's 1 is in as well.

21 (WHEREUPON, State's Exhibit No. 1 was admitted
22 into evidence.)

23 BY MR. NEELY:

24 Q Deputy, I just want to hand you what's been marked as
25 State's Exhibit Nos. 28, 29 and 30. If you can look at

1 those. Do you recognize those pictures?

2 A That looks very similar to the vehicle.

3 Q What doesn't look similar about the vehicle?

4 A The paint scheme. It's a different color than it was
5 that evening.

6 Q So when you saw it, what color was it?

7 A Dark blue.

8 Q Dark blue, okay.

9 MR. NEELY: That's all I have of this witness.

10 If you would, answer any questions Mr. Richey has for
11 you.

12 CROSS-EXAMINATION

13 BY MR. RICHEY:

14 Q You followed this car from here -- so this incident
15 location would be somewhere back here, correct?

16 A Yes, sir.

17 Q So you picked it up and you followed this car all the
18 way. You watched what it did, right?

19 A Yes, sir.

20 Q And did this car stop anywhere?

21 A Not that I could observe.

22 Q And you were following it pretty closely, correct?

23 A No, sir.

24 Q Did you follow it close enough to see it make this
25 path?

1 A Yes, sir, I did.

2 Q Did you follow it close enough to see if the car
3 stopped for a long period of time?

4 A Yes, sir, I would have noticed if it stopped for a
5 long period of time.

6 Q Okay. So, basically, this car was continuously
7 moving, correct?

8 A I can't say definitely that it was continuously
9 moving. I was, at some points, several hundreds behind
10 it, so if it was stopped -- if you go down here where
11 Pleasant View is, the roads tend to dip and come back up a
12 little bit where you can still see the entrance of Goose
13 Way. If it had stopped -- like I said, I was trying to
14 keep a good distance between the vehicles.

15 Q Okay. When you're keeping this good distance, you
16 still can see the vehicle pretty good? You can't see it
17 great, but you can see it out in front of you?

18 A Yes, sir.

19 Q And if this vehicle had stopped and let somebody out,
20 you would have saw that, correct?

21 A More than likely, yes.

22 Q So more than likely -- well, you got down here to Mr.
23 Wells's house, correct?

24 A Yes, sir.

25 Q Did you notice any other men there or was it just him

1 and the girlfriend?

2 A Yes, sir, as far as my knowledge.

3 Q So based off your investigation, it would be more
4 likely that Mr. Wells was driving this car, correct?

5 A Yes, sir.

6 Q And that he was not in the back seat, correct?

7 A I can't say definitively due to I couldn't see inside
8 the vehicle on who was inside the vehicle.

9 Q But when you got down there, Wells was in the house
10 with the girlfriend, correct?

11 A Yes, sir.

12 Q And when you got there and you knocked on the door
13 and you spoke to Mr. Wells, he was cooperative with you,
14 correct?

15 A Yes, sir.

16 Q He wasn't stand-offish, correct?

17 A Not to my knowledge.

18 Q And he was relatively pleasant, correct?

19 A To my knowledge, he was. I did not speak with him as
20 much as Deputy McMahan did.

21 Q If he hadn't been -- well, at some point, you all
22 were advised that the vehicle did not match -- did not
23 possibly match the description; is that correct? Dispatch
24 advised y'all at one point that the vehicle was the wrong
25 color and that Christopher was not involved; do you

1 remember that from dispatch?

2 A No, sir, I don't.

3 Q Were you there with Officer McMahan?

4 A Yes, sir, I was.

5 Q And y'all sat there together, correct? Not standing,
6 correct?

7 A We were there at the same incident location. We may
8 not have been standing right beside each other, but we
9 were at the same incident location.

10 Q But you were involved at this point? You weren't
11 involved because it was your jurisdiction, you were
12 involved because you happened to follow the car, correct?

13 A Yes, sir.

14 Q And you were just there for that purpose. And what
15 color was the car?

16 A Dark blue.

17 Q It was blue, okay. And it wasn't brown, correct?

18 A No, sir.

19 Q And it wasn't gray?

20 A Not that I recall.

21 Q It was blue. And you were right behind it, correct?

22 A Yes, sir, I followed it for a good ways.

23 Q So if someone said that car was brown, that wouldn't
24 be the truth, correct?

25 A Yes, sir, it wouldn't be the truth.

1 Q If they said it was gray, that wouldn't be the truth
2 either, would it?

3 A According to my report, it would not.

4 MR. RICHEY: Thank you, sir.

5 MR. NEELY: Just a couple redirect questions, Your
6 Honor.

7 THE COURT: Yes, sir.

8 REDIRECT EXAMINATION

9 BY MR. NEELY:

10 Q Were you or Deputy McMahan allowed in the house?

11 A No, sir.

12 Q So you didn't go in the house?

13 A No, sir.

14 Q Could there have been somebody else in the house?

15 A Possibly.

16 Q Would you have known if there was?

17 A No, sir.

18 Q And you said there was about five minutes that you
19 waited for Deputy McMahan?

20 A Yes, sir.

21 Q Could somebody have gotten out of the vehicle after
22 he turned on Goose Creek Road?

23 A Absolutely.

24 Q Could somebody have left a vehicle at that location?

25 A Possibly.

1 Q And would you have seen it?

2 A No, sir.

3 Q And we have a lot of trees right here at this
4 intersection. When you made this left turn onto Pleasant
5 View Drive, did you lose sight of the vehicle for a
6 second?

7 A I did.

8 Q About how far behind were you following?

9 A It's hard to say. I was possibly a quarter of a
10 mile.

11 Q But it would be fair to say that you lost sight when
12 it made that direct turn?

13 A Yes, sir. I know for a fact I lost sight of that
14 vehicle when it made the turn. I lost sight of it as it
15 made the turn onto 101 South.

16 Q So whenever you had trees in the way of a turn, you
17 couldn't see it after it made the turn?

18 A Yes, sir.

19 Q And is the route that this vehicle took to that
20 location the most direct route?

21 A No, sir, it's not.

22 MR. NEELY: Thank you. That's all the questions I
23 have.

24 MR. RICHEY: No questions.

25 THE COURT: Thank you, sir. You may step down.

1 MR. NEELY: The State would call Deputy McMahan.
2 And Judge, may we have Mr. Ashley excused as well?
3 MR. RICHEY: No objection.
4 THE COURT: Certainly.
5 Thank you for coming, sir.

6 Thereupon;

7 JEREMY MCMAHAN, after having
8 been duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. NEELY:

11 Q Deputy McMahan, if you would, would you spell and
12 state your name for the record?

13 A Yes, sir. It's Jeremy McMahan. First name,
14 J-E-R-E-M-Y, last name McMahan, M-C-M-A-H-A-N.

15 Q And where do you currently work?

16 A Laurens County Sheriff's Office.

17 Q And where were you working on October 31st, 2013?

18 A Here in Laurens County. Specifically, I was working
19 the middle area.

20 Q And do you recall receiving a description of a
21 shooting that took place that night?

22 A Yes, sir. We got a call about a shooting and then en
23 route -- ask me the question one more time, I apologize.

24 Q You're on the right track.

25 A I was on the right track, okay.

1 Q Whenever you received a call about a shooting, what
2 happened?

3 A At the initial time, I had made a stop on 221,
4 arrested an individual. I was leaving the jail. Once we
5 got it, I came out, made my way to the city and got on 221
6 North. En route there, Lieutenant Crain and several
7 others who were ahead of us had noted they had seen a
8 box-style, what they called it was a Chevy Crown Vic or
9 that type body style, possibly gold or brown in color,
10 leave the area up 221 North. At that time, I was still
11 proceeding up 221 North towards the call.

12 Q And what happened to make you not proceed to that
13 call?

14 A What made me detour from it, Sergeant Gainey, who
15 works for Laurens City, he monitors -- or keeps one radio
16 on our channel. Officer Andrew Ashley was going with
17 Deputy Jamison Taylor to Country Estates up in Fountain
18 Inn to do a welfare check. Well, Deputy Taylor left
19 Officer Ashley up there once we got this call on River
20 Hill. Andrew Ashley was trying to make his way back to --
21 find his way back to the city.

22 While on Highway 101 North, he passed a box-style
23 Chevy Crown Vic. I'm not sure if he turned around or what
24 the ordeal --

25 Q Let's kind of go off what he did and what he said.

1 How did you become involved in --

2 A It was relayed to me that Officer Ashley was
3 following this vehicle. His driving seemed to be a little
4 bit erratic on how he was getting to wherever he was
5 going. It's like, you know, the officer was behind him
6 and stuff. With the description we had of River Hill, I
7 started initially going that way. We were, at least,
8 going to do an ID and do a traffic stop and see who was in
9 the car.

10 Q And was the traffic stop ever initiated?

11 A The traffic stop was never initiated. I had to turn
12 up 221, so it took me -- Andrew was right there at it.
13 Officer Ashley followed the car around, so they turned off
14 Pleasant View and they turned on Goose Way. He was not
15 familiar with the area. I do remember Sergeant Gainey
16 telling me he asked Officer Ashley to back off.

17 At this time, I was coming into Gray Court, at which
18 time, the road, it went down. Sergeant Gainey had told
19 him it was a dead-end, so Officer Ashley was going to be
20 standing by on Pleasant View Road waiting for me. Within
21 the next couple of minutes, I met up with Officer Ashley
22 on Pleasant View and he could still see the last initial
23 place that he saw this vehicle go down.

24 Q After you met up with Officer Ashley, what did y'all
25 then do?

1 A He give me the description of the car he was behind,
2 told me the tag number, told me the color and what it
3 looked like. I said, Okay. So once you turn off Goose
4 Way, which was the last place he saw it, it forks off two
5 other roads. Once he turned, he didn't go all the way
6 down. So what we did is we split up. I went down Tally
7 Hoe and Jones Hill, and Andrew, actually, went down the
8 rest of Goose Way.

9 Once I got down on Jones Hill, the gray, silver in
10 color, box-style Crown Vic that he described to me with
11 the tag number, I found it at the end of Jones Hill. I
12 asked Sergeant Gainey to have Andrew, actually, come back
13 over with me just to verify this is the vehicle he was
14 behind. He said it was.

15 We got out, went up to the front door, knocked on the
16 door. There was a lady who answered it. I was inquiring
17 about the vehicle outside. She said, That's my fiance.
18 At which time, she said, Christopher -- or she called him
19 Chris, I believe. But he came to the door. We spoke with
20 him.

21 While speaking to him, I was asking him, Were you
22 just driving the car? He said, Yeah. I asked him where
23 he came from and he told me he was coming from
24 Spartanburg. I was, Whereabouts in Spartanburg? And he
25 said he was a friend's house. He was just being very

1 vague and kind of reluctant.

2 They were blocking the doorway. And the fiance, I'm
3 not sure what she was thinking. I asked Mr. Wells to come
4 outside and talk to us, you know, get away from her. At
5 which time, he told me that he was at a friend girl's
6 house. Wouldn't name a name, wouldn't name a place. He
7 said he didn't want his fiance to hear about it. I said,
8 Okay.

9 I advised him as to why we were there, why we were
10 inquiring --

11 Q Let me just stop you right there. You said he didn't
12 want his fiance to hear that he was at another girl's
13 house?

14 A Yes, sir.

15 Q Did he ever give you a location or a name?

16 A No. He didn't want her to know, but he, also, never
17 give me a location, never give me a name. All he told me
18 was Spartanburg.

19 Q Okay.

20 A That's all he would say.

21 Q And what was his demeanor again?

22 A He didn't really want to talk to us. He didn't
23 really want to answer the questions. When I asked
24 specifically, you know, where were you coming from and he
25 said Spartanburg, again, I asked where. He just didn't

1 want to talk to us. He was just kind -- you could tell he
2 wanted us to leave. He didn't really want to talk to us.

3 Q And did you ever go in the house?

4 A Never went into the house. I could see right inside
5 where the foyer was. And I could tell while speaking to
6 her there was some other rooms off to the back left.

7 That's where Mr. Wells came from out to speak to us.

8 Q But you couldn't see into the rooms?

9 A No, I could not see into the rooms. I have no idea
10 what that room was he came from.

11 Q Okay. And just for verification, on this map of Gray
12 Court, which house were you at?

13 A It's at the very end -- forgive me on the numerics,
14 but it's the very last house on the right on Goose Way.

15 Q Okay.

16 A I apologize, Jones Hill.

17 Q And if you could, come down and just point to the
18 location where y'all were at?

19 A The house we were at, very last one, which would be
20 right there.

21 MR. NEELY: And just for the record, he's indicated
22 No. 76 on State's Exhibit No. 4.

23 THE COURT: All right.

24 BY MR. NEELY:

25 Q And you've already said you spoke to Mr. Wells. Is

1 Mr. Wells in the courtroom?

2 A He is. Mr. Wells is sitting here.

3 MR. NEELY: Just for the record, he has indicated the
4 Defendant in this case.

5 THE WITNESS: The individual, more specifically, with
6 the white shirt on.

7 THE COURT: Very good. The record will reflect the
8 witness has identified the Defendant.

9 MR. NEELY: Thank you. I believe that's all the
10 questions I have. Please answer any questions Mr. Richey
11 has.

12 CROSS-EXAMINATION

13 BY MR. RICHEY:

14 Q Mr. Wells was cooperative with you, correct?

15 A He was cooperative by he didn't tell us to leave or
16 anything. He just was very vague in answering questions.

17 Q And he had a legal right to deny that search. He
18 could have said no and legally been correct, right?

19 A That's correct.

20 Q But he allowed you to do it, correct?

21 A He did.

22 Q And you thoroughly searched the car, correct?

23 A I am not the officer that searched the car. I stood
24 by and spoke with Mr. Wells and Officer Ashley is the one
25 that searched the car.

1 Q But you don't doubt he did a good job, right?

2 A I trust Officer Ashley.

3 Q And at the time -- what color was the car?

4 A At the time -- it was nighttime, but at the time, it
5 was gray to me, like a gray-silver color.

6 Q So it was gray, not brown? It wasn't brown, right?

7 A It was not brown.

8 Q Not blue?

9 A It was not blue.

10 Q It was gray?

11 A It was gray. In the dark where we were at, it looked
12 gray-silver.

13 Q So you were right there by the car, right? You could
14 see the car, correct?

15 A I could see the car, but we didn't have a flood
16 light. It was in the dark.

17 Q Okay. This ain't that car, right?

18 A That is the car. That is the car that is painted a
19 different color. The tags are the same. The rims are the
20 same. The tinted windows are the same.

21 Q So it's painted brown now?

22 A It is now a different color than the night that I
23 first encountered it.

24 Q So the color of the car after the night is brown,
25 correct?

1 A I don't know when it was brown, but it's been painted
2 brown. It was not that color the night that I encountered
3 Mr. Wells.

4 Q Right. So if I see the car four days after this
5 incident, I would call it brown, correct?

6 A That color there would be brown, red, burgundy to me.

7 Q But if I saw that car the night of this incident, I
8 wouldn't say it was brown; would I?

9 A It was not brown.

10 Q And that wouldn't identify that car, would I?

11 A By simply looking at the car and the color, yes.
12 It's the same body style. It's the same type windows,
13 same type rag top, same type rims, plus the tag on the
14 back of it matches.

15 Q But it's going to be gray, right?

16 A It was gray, that's the only difference.

17 Q At some point, did you get a call from dispatch that
18 alerted you to the car was the wrong color and Mr. Wells
19 wasn't involved? Did you get a call from dispatch to that
20 extent?

21 A It was not from dispatch. It was from my lieutenant
22 who was working the shift. Again, it was dark. He passed
23 a car. I thought I heard what might have been like a gold
24 or brown or something.

25 Q Gold?

1 A Yeah, possibly gold.

2 Q Okay. So the car could have been gold?

3 A But the description was like a box-style, like a
4 Crown-Vic-type-style car.

5 Q So you don't remember saying the vehicle was possibly
6 the wrong color; you remember that?

7 A I do remember being told that we could clear, that
8 the car may have been the wrong color, Mr. Wells -- or the
9 individual who was out there may have not had anything to
10 do with it at the time.

11 Q And when you encountered Mr. Wells -- because the
12 testimony was he was followed all around here, correct?

13 A Yes, sir.

14 Q When you encountered Mr. Wells, he wasn't breathing
15 heavy; was he?

16 A No. Mr. Wells, he was, if I remember right, had a
17 sandwich or something. He came from the back of the
18 house. It was cold outside. And I don't quite honestly
19 remember.

20 Q He came out the house with a sandwich in his hand?

21 A He had a plate that he had went in there and grabbed
22 something and came back. He said he was getting ready to
23 fix himself something to eat.

24 Q Okay.

25 A I do remember that.

1 Q And nothing about his demeanor alerted you that he
2 was involved in a murder, correct?

3 A At the time, his demeanor was he just didn't want to
4 talk to us. He was ready for us to leave.

5 Q He wasn't sweating or anything?

6 A It was cold outside. It was like 30 degrees.

7 MR. RICHEY: Thank you.

8 MR. NEELY: Nothing further.

9 THE COURT: Sir, you can step down. Thank you very
10 much for coming.

11 MR. NEELY: Your Honor, we would ask that he be
12 excused as well.

13 THE COURT: Without objection?

14 MR. RICHEY: No objection.

15 THE COURT: You're free to go.

16 MR. MOWRY: And, Your Honor, this would be a good
17 time to break.

18 THE COURT: I surmised as much.

19 Ladies and gentlemen of the jury, we're going to go
20 ahead and take our lunch break. At this point in time,
21 I'm going to ask that you please be back in the jury room,
22 let's say, at 2:00. That should give you about an hour
23 and 10 minutes to grab a bite somewhere.

24 Please don't talk about the case. We'll resume with
25 the trial at 2:00. Thank you very much. You're excused.

1 (WHEREUPON, the jury exits the courtroom at
2 12:52 p.m.)

3 THE COURT: We're off the record until 2:00.

4 (WHEREUPON, a lunch break was taken.)

5 THE COURT: We will go back on the record. The
6 record should, of course, reflect that the Defendant is
7 present with counsel.

8 Let's have the jury out, please.

9 (WHEREUPON, the jury enters the courtroom at
10 approximately 2:20 p.m.)

11 THE BAILIFF: All the jury is present, Your Honor.

12 THE COURT: All right. The jury is back.

13 Mr. Neely, call your next witness, please.

14 MR. NEELY: Thank you, Your Honor. The State would
15 call Tiffany Hezel to the stand.

16 Thereupon;

17 TIFFANY HEZEL, after having
18 been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. NEELY:

21 Q And Ms. Hezel, if you would, please state and spell
22 your full name for the record.

23 A Tiffany Hezel, H-E-Z-E-L.

24 Q And where are you currently employed?

25 A I'm employed at the South Carolina Law Enforcement

1 Division, commonly referred to as SLED.

2 Q And where were you employed in November 2013?

3 A I was employed at SLED.

4 Q In what capacity are you employed at SLED?

5 A I'm employed as a special agent both in the crime
6 scene unit and within the latent print unit.

7 Q So what does that mean in layman's terms?

8 A In layman's terms, I respond to crime scenes and
9 process the scene for evidence, document with photographs,
10 sketching and so forth. I, also, work as a latent print
11 examiner within the latent print unit, meaning that I
12 process evidence for latent fingerprints and I, also,
13 perform latent print comparisons to known fingerprints.

14 Q So latent print comparisons to known fingerprints, is
15 that just a fingerprint match up?

16 A In most common terms, yes. It's taking an unknown
17 impression developed from a piece of evidence and
18 comparing it to known persons within an investigation.

19 Q And do you have special training to do this?

20 A Yes, I do. I have completed the in-house training
21 program within SLED, and I've, also, completed several
22 external training courses in different aspects of the
23 comparison processing.

24 Q And do you have an educational background that led
25 you to that?

1 A My educational background is I have a Bachelor of
2 Science degree in criminal justice from the University of
3 Wisconsin, and I have a Master's Degree in forensic
4 science from the University of Central Oklahoma. In
5 addition to being a certified State Law Enforcement
6 officer here in the State of South Carolina, I'm a
7 nationally certified medical legal death investigator and
8 a nationally certified crime scene analyst.

9 Q And is there any continuing education that you do
10 yearly to keep yourself up to date?

11 A We maintain a yearly proficiency within the latent
12 print discipline, so, meaning, every year we take a
13 standardized test where there are comparisons. And we
14 must pass that test annually to maintain being qualified
15 in the discipline.

16 Q And if you failed that test, what would happen?

17 A You would be taken off of processing and comparison
18 and you would go through remedial training.

19 Q Have you ever failed that test?

20 A No, sir, I have not.

21 Q On the date November 7, 2013, did you have occasion
22 to examine a lab L13-1419 form report?

23 A I completed a technical review on this report.
24 Within the latent print discipline, all processing and
25 comparisons undergo a peer review by another examiner

1 who's competent in those fields.

2 In this particular case, an item of evidence was
3 processed by Special Agent Kimberly Mears. And I
4 completed the technical review, just reviewing that all
5 policies and protocol within the latent print division
6 were followed.

7 Q So when you say you did a technical review of all the
8 policies and procedures, does that, basically, mean you
9 reexamined the piece?

10 A With processing of evidence, no, it does not. What
11 it means is I will then do a review of her worksheet where
12 she documented her processing of the item, that she
13 performed reliability tests and all, chemicals that were
14 used to process the item to make sure that they were
15 working in accordance with protocol, and that everything
16 was documented accordingly.

17 Q So you reviewed her procedures and agreed with her
18 result?

19 A Yes, I did.

20 MR. NEELY: Your Honor, I would like to qualify Ms.
21 Hezel as an expert in latent fingerprint examination and
22 identification.

23 THE COURT: Any objection?

24 MR. RICHEY: No objection.

25 THE COURT: Ladies and gentlemen, usually, when a

1 witness testifies, they have to testify about something
2 that they observed with one of their five senses, either
3 they saw or heard. An exception to this rule exist for
4 individuals who are experts in some particular field.

5 In this case, the parties agree that Ms. Hezel is an
6 expert in the field of latent prints and latent print
7 identification. Therefore, she can give opinion testimony
8 in that area. It doesn't mean that you have to accept it,
9 but it is evidence that you can use if you choose to.

10 Go ahead, sir.

11 MR. NEELY: Thank you, Your Honor.

12 BY MR. NEELY:

13 Q And do you have your report with you?

14 A Yes, I do.

15 Q And could you verify that this was the gun that you
16 examined -- or that Kimberly Mears examined and you did a
17 technical review of?

18 A The weapon that was documented was a Lorcin handgun
19 bearing a serial number of 438650, as does this one. As
20 per policy and procedure, all pieces of evidence that are
21 examined for latent fingerprints by a fingerprint agent
22 are documented with a lab number, the unique item number
23 given to that piece of evidence and the initials of the
24 examiner. This specific piece of evidence bears the lab
25 number, item number and initials of Special Agent Mears

1 inside of the magazine floating port at the base of the
2 gun.

3 Q In Ms. Mears's opinion and in your technical review
4 opinion, what's your opinion on whether the gun had any
5 latent prints?

6 A Based upon the documentation of processing that
7 Special Agent Mears performed of the chemical processing
8 applied to the weapon, fingerprint evidence was found;
9 however, it was not of value for further comparison.

10 Q What does that mean?

11 A When you touch something, you have raised portions of
12 areas on your skin, which we call ridges. So based on
13 environmental factors, the surface that you're touching,
14 how much sweat and oil you've accumulated along your
15 hands, there's a chance that you could leave almost a
16 stamped impression of your fingerprint on that item.

17 Now, if the item is handled a lot, you're sweaty,
18 it's cold, all of these factors play into it, and there
19 might only be a portion of that ridge detail that has been
20 stamped on an item.

21 In that case, it's not enough ridge detail for us to
22 then compare that unknown to a known fingerprint source.
23 Meaning, if we collect your fingerprints with ink and you
24 get that true stamped image, there's not enough of that
25 unknown to compare to the known for us to be 100 percent

1 certain that it is a match.

2 Q Now, this is kind of a strange question, but on CSI
3 and police shows like that, you see something like I could
4 touch this and then just touch it a bunch of different
5 times and take different prints and they merge them all
6 together and come up with a good fingerprint that they
7 match it to. Is that how that works?

8 A No.

9 Q It's just not the science of it?

10 A No, that's TV, and we don't get commercial breaks.
11 When you touch something -- if you think about a stamp,
12 your return address stamp or a business card stamp that
13 you put on your cards. You're taking a whole object,
14 you're applying pressure evenly across the surface onto
15 the ink pad and then you're placing that whole stamped ink
16 onto your envelope and you're getting a true
17 representation of that full picture on your stamp.

18 Think about when you touch things throughout the day.
19 You touch your car, a glass of water, you touched your
20 chair when you sat down. You're not touching with the
21 full pressure of your hand on everything you touch every
22 single time. A lot of times, it's just a chance touch,
23 you're holding the door for somebody, you're grabbing your
24 car handle.

25 You're not applying pressure evenly upon your hand

1 onto that surface and you're not stamping your hand prior
2 to. All you have on there is your natural sweat,
3 secretion, makeup build up, dirt, anything like that that
4 you're transferring. So you don't have the CSI 45-minute
5 ideal condition situation when you're just touching
6 something.

7 Now, if you take into the account the piece of
8 evidence we're discussing now, a handgun. You're sliding
9 it, your racking it, you're loading it, you're handling
10 it. Every time you touch it, you're not pressing and
11 holding. You're just handling it in an everyday manner.
12 So you're not constantly leaving fingerprints.

13 Fingerprint evidence is a chance piece of evidence.
14 We process it to try to locate it. It's not always there.
15 Does that mean it wasn't handled? No, it does not. It
16 just means that the conditions were not ideal for ridges
17 of value to be left.

18 Q So the way somebody could grab something could change
19 whether fingerprints were left or not?

20 A Correct.

21 Q And the material that was grabbed could also change
22 that?

23 A Absolutely. If the material is rough or textured,
24 your ridges aren't going to make contact with it evenly
25 already. So now, you're making a whole other factor. So

1 it's just a series of factors. And we don't get those
2 beautiful fingerprints you see on television very often.
3 Usually, it's only a partial. And more times than not, we
4 get what we got in this case here where we have evidence
5 that it was touched, but there's just not enough there for
6 us to move forward with performing a comparison.

7 Q So that's what we have here, just not enough to make
8 a comparison?

9 A Correct. There was evidence that it was touched.
10 You can see evidence that ridges were there. There was
11 just not enough evidence for us to move forward to then go
12 do a comparison of comparing that little piece of ridge
13 detail to a known subject.

14 Q How much ridge detail do you need to make that
15 comparison?

16 A Unfortunately, there is no specific amount. We don't
17 count points. We just look for overall ridge flow and
18 characteristics within that ridge flow.

19 Now, when I say characteristics, you have these lines
20 all over your hand and your feet, okay. Each of these
21 lines is going to do one of four things. It's either
22 going to continue, it's going to stop, it's going to flow
23 along and fork into two, or it's going to make what's
24 called a dot. And that's just going to look like a period
25 at the end of a sentence.

1 So it's those characteristics, the overall flow of
2 the ridges themselves that we're going to look at, and
3 based on what presents on our evidence, we'll determine
4 whether or not that is enough, meaning that it's unique
5 enough that there are enough points for comparison within
6 that sampling to then compare to a known individual.

7 Q So just because we don't have enough ridge detail on
8 this item, that doesn't mean that the officers mishandled
9 the gun or that it should have been there, it just means
10 it wasn't in this case?

11 A It means that it wasn't there. It was processed. We
12 tried our best to locate any latent evidence. There was
13 evidence that it was touched; however, the latent
14 impressions upon it were not pristine enough or contained
15 enough information for us to then move forward to the next
16 step.

17 MR. NEELY: Thank you. Those are all the questions I
18 have. Please answer any questions Mr. Richey has for you.

19 THE COURT: Cross.

20 MR. RICHEY: Thank you.

21 CROSS-EXAMINATION

22 BY MR. RICHEY:

23 Q If this gun is on the ground and it's subsequently
24 handled by people, would that play a role in your not
25 being able to find these fingerprints if it's handled by

1 other people?

2 A It is possible. There's a lot of things that could
3 change whether or not -- again, in this situation, we're
4 not saying there wasn't evidence of it being touched.
5 We're just saying that evidence that we documented was not
6 enough to move forward.

7 Q So you're saying that you don't know who handled this
8 gun and who shot it based off what you did, correct?

9 A Correct.

10 Q So it could have been handled by various people, you
11 just don't know, correct?

12 A Correct.

13 MR. RICHEY: Thank you.

14 THE COURT: Ma'am, thank you very much for coming.
15 You may step down.

16 MR. NEELY: We ask she be excused, Your Honor.

17 MR. RICHEY: No objection.

18 THE COURT: You're free to leave.

19 Call your next witness.

20 MR. MOWRY: I call James Green.

21 Thereupon;

22 JAMES GREEN, after having been
23 duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MR. MOWRY:

1 Q You are James Green?

2 A Yes, sir.

3 Q And I believe you, like Ms. Hezel, are employed by
4 the State Law Enforcement Division; is that right?

5 A Yes, sir.

6 Q What kind of duties do you perform for SLED?

7 A I'm a firearms examiner in the forensic services
8 laboratory. And what that means is when submitting
9 agencies submit firearms-related evidence, a gun, fired
10 cartridge cases, fired bullets, things like that to our
11 department, I examine them under a comparison microscope
12 to try to determine if they were fired by the same gun or
13 different guns. Or if there is a firearm submitted, we
14 try to say if they were fired by this gun or not.

15 Q What sort of training have you had in this area?

16 A Once I was hired at SLED, I started the forensic
17 firearm and tool mark course instruction. It's, roughly,
18 a three to three and a half year course instruction in an
19 apprentice-type fashion, studying under a court-qualified
20 firearms examiners learning to do what I do now.

21 Q And was one of your instructors, I guess, Ira
22 Parnell?

23 A Yes, sir, he was my training instructor when I was
24 hired.

25 Q How long had Mr. Parnell worked for SLED in firearms

1 identification?

2 A At that time, I believe it was 32 years.

3 Q And he ended up working about 40 years there; is that
4 right?

5 A Roughly, yes, sir.

6 Q Do you graduate from that program or are you just
7 simply termed qualified? How does that work?

8 A At the end of the course of instruction, we're given
9 fake cases to work on our own. During the course of the
10 instruction, we're given probably a hundred or so written
11 exercises, discussion questions, that kind of thing, and
12 then we're given practical problems. And at the end of
13 the thing, I was given, roughly, 11 or 12 fake cases to
14 work on my own as well as a comprehensive written final.

15 Q And did you successfully complete that course?

16 A Yes, sir.

17 Q How long ago was that?

18 A I finished, I think, in 2008.

19 Q And you've been working in that area for the last
20 eight years?

21 A Well, I started at SLED in 2005, but I was qualified
22 as a firearms examiner from 2005 to 2008 as a trainee.
23 And since 2008, I've been testifying, yes, sir.

24 Q What sort of education do you have in this field?

25 A I have a Bachelor of Arts from Charleston Southern

1 University. I, also, have a Master's of Science in
2 criminal justice from Charleston Southern as well as
3 completed a SLED firearms and took mark course of
4 instruction.

5 Q How many cases do you think you've examined during
6 the course of your career? Just ballpark.

7 A Ballpark, a thousand.

8 Q And have you testified in courts in this field
9 before?

10 A Yes, sir.

11 Q How many times would you say you've testified?

12 A I've testified 47 times in State courts and once in
13 Federal.

14 Q And have you been declared an expert witness in any
15 of those courts?

16 A Yes, sir, in every one.

17 Q So close to 50 times being an expert; is that right?

18 A Yes, sir.

19 MR. MOWRY: Your Honor, we would offer him as an
20 expert in the field of firearms examination and
21 identification.

22 MR. RICHEY: No objection.

23 THE COURT: As I explained a moment ago, ladies and
24 gentlemen, normally, a witness cannot testify as to
25 opinion evidence or opinions. In this case, Mr. Green,

1 the parties have agreed that he is an expert in the field
2 of firearms examination and identification, so he can give
3 opinion testimony that you may use as you deem
4 appropriate.

5 BY MR. MOWRY:

6 Q I'm going to hand you a series of items. I'm going
7 to give you State's Exhibit No. 26, State's Exhibit No.
8 25, State's Exhibit No. 23, State's Exhibit No. 21 and 20.
9 And, lastly, I'm going to hand you, also, State's Exhibit
10 No. 22. Have you seen any of those items before?

11 A Yes, sir. State's Exhibit 26 is the Lorcin pistol,
12 which was submitted in the SLED lab as SLED item seven.
13 State's Exhibit 25 is the SLED item eight revolver that I
14 examined in this case.

15 Let me back up a second. Ladies and gentlemen of the
16 jury, you see me look at the evidence, rotating around
17 looking. I'm looking for my markings on it. When we get
18 evidence, firearms particularly, we scribe on it with an
19 electric pencil with our lab number, item number and
20 initials so that when we do come to court, just like he
21 said have you seen this before, I can look at it, match
22 the serial number to what I have on the report as well as
23 my markings and see that is what I was looking at. So
24 that's what I'm doing right now.

25 State's Exhibit No. 29 is the item five and six

1 cartridge cases I examined.

2 Q I'm sorry, you need to read off the white marks.

3 A Okay, I'm sorry.

4 Q Sorry, that's our bad.

5 A Sorry about that. State's Exhibit 21 is SLED item
6 five and six cartridge cases. State's Exhibit 20 is the
7 SLED item three bullet, as well as the item four cartridge
8 case in State's Exhibit 20. State's Exhibit 22 is a
9 magazine, which I have not seen.

10 Q Okay. I have a question about that, whether you have
11 seen it or not. I just wanted to simply ask you?

12 A No, sir, that was not submitted. And State's Exhibit
13 23, looks like two fired cartridge cases and two unfired
14 cartridges, which was not submitted.

15 Q Let's talk about the Lorcin then, the chrome
16 semi-automatic pistol. What can you tell us about that?

17 A This is a Lorcin model L3 semi-automatic pistol with
18 serial number 438650, which I said before was State's
19 Exhibit 26 with the SLED item seven pistol that was
20 admitted in this case.

21 Q Just for reference purposes, given your familiarity
22 with firearms, how would you qualify, I guess, the quality
23 of that weapon?

24 A It is an inexpensive firearms purchase.

25 Q That's very political. Thank you. Very polite, I

1 guess is a better way to put it. What kind of comparisons
2 were you able to do with the projectile and the shell
3 casings?

4 A Whenever firearms are submitted to our laboratory,
5 the first thing we do is examine them physically to make
6 sure they're safe to fire. I like all 10 fingers. I've
7 read things where people shoot guns and they explode. I
8 don't want that to happen. So we'll check them to make
9 sure they're safe to fire. And then we'll look at the
10 evidence submitted, fired cartridge cases or fired
11 bullets, and see what type of ammunition was used. And
12 then we'll shoot the guns ourself.

13 In this case, I shot this pistol myself. We have a
14 two-story water tank about three feet diameter. We'll
15 shoot down into and there's a colander at the bottom
16 attached to a chain. We shoot the ammunition out of the
17 gun that was submitted into the tank, pull the colander up
18 and our bullets and cartridge cases are in there. We can
19 say with a hundred percent certainty they were fired by
20 that gun because we fired them ourself.

21 Then I'll look at those under our comparison
22 microscope to see if the gun is marking consistently.
23 Each gun will mark individually. They have their own
24 fingerprint, if you will. And then we'll use the test
25 that we fired from the gun to be fired the bullets or

1 cartridge cases submitted in the case.

2 Q How are the guns marked specifically? You talked
3 about the fired bullets and cartridge casings having,
4 essentially, a fingerprint on it. How does that happen?

5 A During the manufacturing process, the gun
6 manufacturing, in this case, Lorcin Engineering Company,
7 says they want to have a gun that marks a certain way.
8 They want a certain number of lands and grooves in their
9 barrel, which is the rifling. They want those lands and
10 grooves to be a certain depth. And they want the rifling
11 to have a right or left twist. All those are rifling
12 characteristics that are unique. Not unique to a
13 particular gun, they're all the Lorcins. However, when
14 they're creating the gun, metal to metal contact by the
15 tools used to make the working surfaces of the gun --

16 You know, if we all go to the beach and we all take
17 the same rake and all of us rake the same
18 two-foot-by-two-foot spot, each one of us rakes our own
19 using the same rake, it's all going to look the same. But
20 when we look at it microscopically and how many grains of
21 sand that fall, how each one using the same tool look the
22 same, but different at the same time. It's like that with
23 firearms. When the metal removes metal, tiny microscopic
24 pieces are different on this one and the next and the one
25 made right after it. So every firearm will mark

1 differently.

2 There's been lots of studies which I've partaken in
3 where they get 10 consecutively-made barrels or 10
4 consecutively-made slides using the same tool, and
5 although there are some similarities, if you're trained
6 and know what you're looking for, you can readily tell the
7 difference.

8 Q And is that what your three-and-a-half-year training
9 program with SLED was all about, learning how to do --

10 A Yes, sir.

11 Q -- examination for that?

12 A Yes, sir.

13 Q When you examined the Lorcin and the shell casings
14 and the bullets -- or the bullet, the projectile, what are
15 you looking for?

16 A When the cartridge is fired by the gun, the firing
17 pin hits the primer, the primer explodes and sends a
18 little tiny flame through the flash on the cartridge case
19 to the powder. The powder burns and it builds up
20 pressure. Whenever the critical pressure is reached, the
21 bullet is expelled out of the cartridge casing, down the
22 barrel. And when it's going down the barrel through the
23 rifling, it takes on the markings of the barrel. And the
24 cartridge case is slammed back up against the breech face
25 and takes on markings of the breech face that were put

1 there by the manufacturer.

2 Q What is done with the spent shell casing at that
3 point?

4 A At that point, in a firearm like this, you can see
5 where the gun lock goes through here, that's the ejection
6 port. When the slide comes rearward, which is like a
7 little claw, it will grab on the cartridge case, pull it
8 rearward and it will hit the ejector. In this case, it
9 pivots the cartridge case out from the firearm, so it
10 expels the fired cartridge case. If there's more
11 cartridges in the magazine, the slide will close and when
12 it does, it trips the top cartridge off the magazine, it
13 loads it into the chamber and ready to be fired again.

14 Q Does it make unique markings when the shells are
15 extracted?

16 A Sometimes, there will be extractor marks on the
17 cartridge cases, yes, sir, that will be unique to that
18 gun.

19 Q Were you able to determine whether or not there were
20 any in this case?

21 A I didn't really see any. It was kind of there, but
22 it was muddy. It goes back to the quality of the firearm.

23 Q What were you looking for, then, to determine whether
24 or not those shell casings came from the same gun? What
25 helped you determine whether or not they did?

1 A The breech face mark, which is -- you're not going to
2 be able to see it, but at the back of the slide where the
3 firing pin protrudes from is a breech face. It's a
4 vertical wall where the firing pin protrudes from. When
5 the cartridge case is slammed back up against that, it can
6 sometimes take on the marks left by a manufacturer.

7 Q And did you find marks like that in the shell casings
8 from the 380?

9 A From the -- State's Exhibits 20 and 21, the fired
10 cartridge cases submitted in this case?

11 Q Yes.

12 A I was able to match the three cartridge cases to each
13 other, but I was not able to match them to the gun.

14 Q Okay. Any reason why that was the case?

15 A 380 caliber, which this is, it's a relative low
16 pressure, so you're not going to get a lot of markings.
17 It goes back to the quality of the firearm. Or it could
18 simply be the difference in ammunition. I tried to shoot
19 as close as possible to what was used, but sometimes, even
20 though you can get the same make and brand of cartridge,
21 it may not mark the same.

22 Q But the cartridge casings, were they compatible with
23 the Lorcin?

24 A Yes, sir, they were 380, so it could have been fired
25 in this gun. And when I was doing the microscopic

1 comparisons of State's Exhibits 20 and 21, the fire
2 cartridge cases, with tests I fired from State's Exhibit
3 26, I was able to see some similarities. I gave what is
4 called an inconclusive answer. It means they could have
5 been fired by that gun or they could have been fired by
6 another gun.

7 Q So just to sum up, you're saying as far as the shell
8 casings are concerned, you can say that they were fired by
9 the same gun, but you can't say conclusively that they
10 were fired by State's Exhibit No. 26?

11 A Yes, sir. It's like school, you know, 70 is a
12 passing grade. For being fired by this gun, they would
13 have gotten like a 67 or a 68. There was enough for me to
14 say well, it could have been that gun. There wasn't
15 enough for me to say it was this gun.

16 Q All right. Now, let's switch over to the projectile,
17 the bullet there. Tell us what you were looking for on
18 that.

19 A When the bullet goes down the barrel, it engages the
20 rifling, which makes it spin. It's like a quarterback
21 throwing a spiraling football. When you throw a football,
22 you know that nice spiral -- excuse me, the football
23 spins. It's fairly accurate and it goes a decent
24 distance. That's what rifling does to a bullet. It
25 engages the rifling and makes it spin.

1 When it does that, when it passes through the
2 rifling, it takes on the markings left by the rifling.
3 The lands and the grooves will mark the bullet and grip
4 it. It's a really tight fit. I mean, you can't take your
5 finger and push a bullet through there. It's the pressure
6 that does it. And it, basically, scrapes away and
7 scratches the top of the surface of the bullet.

8 Q And what -- were you able to conduct a test on the
9 bullet that you've got before you as far as the comparison
10 of the Lorcin is concerned?

11 A Yes, sir. I did the same thing. I shot it and I got
12 the cartridge case and the bullets. I looked at the
13 bullets and made sure the gun was marking consistently.
14 And I was able to match the SLED item three, State's
15 Exhibit 20, bullet back to this pistol. So State's
16 Exhibit 20, bullet, was fired by the item -- excuse me,
17 State's Exhibit 26 pistol.

18 Q So unlike the shell casings, you were able to say
19 conclusively that that bullet came from that gun?

20 A Yes, sir.

21 MR. MOWRY: Mr. Green, thank you very much. If you'd
22 answer any questions that Mr. Richey has, please.

23 MR. RICHEY: No questions.

24 THE COURT: Thank you, sir, for coming. You are free
25 to go and released from your subpoena.

1 Mr. Mowry, call your next witness.

2 MR. MOWRY: Can you give us a second, Your Honor? I
3 think Dr. Ward is here. I just want to make certain.

4 THE COURT: Okay.

5 MR. MOWRY: Your Honor, Dr. Ward, our pathologist,
6 who's coming down from Greenville, apparently, there's
7 traffic on the interstate. He says he'll be here in about
8 five minutes.

9 THE COURT: We'll go ahead and take a break for
10 ourselves while we're waiting for the next witness to get
11 here, ladies and gentlemen. Don't talk about the case.

12 (WHEREUPON, the jury exits the courtroom at
13 approximately 2:49 p.m.)

14 (WHEREUPON, a short break was taken.)

15 (WHEREUPON, the jury enters the courtroom at
16 approximately 3:11 p.m.)

17 THE BAILIFF: The jury is all present, Your Honor.

18 THE COURT: The record will reflect the jury is back
19 as is Defendant and counsel.

20 Mr. Mowry, call your next witness, please.

21 MR. MOWRY: I call Dr. Michael Ward.

22 Thereupon;

23 MICHAEL WARD, M.D., after
24 having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MOWRY:

2 Q You are Michael Ward?

3 A Yes, I am.

4 Q I believe you are a medical doctor; is that correct?

5 A That's correct.

6 Q Do you have any particular speciality in the practice
7 of medicine?

8 A My speciality is pathology, and I have subspeciality
9 training in forensic pathology.

10 Q Can you explain to us what forensic pathology is?

11 A Pathology is the study of disease and disease
12 processes and how they affect man. Forensic pathology
13 takes that one step further where the primary focus is on
14 trauma, injury patterns and disease processes and how they
15 affect and why people die, and then the presentation of
16 that information in a court of law.

17 Q And on the criminal side, part of your determination
18 is to figure out the cause and manner of death; is that
19 correct?

20 A That is correct.

21 Q Can you explain what the difference between cause and
22 manner of death are?

23 A Cause of death is either a disease process or an
24 injury that starts the ball rolling down the hill that,
25 ultimately, ends in your death. So if you have a blunt

1 force trauma to the head or if you have a stab wound to
2 the chest, those would be particular causes of death.

3 Manner of death is the circumstances in which that
4 occurs. So the five choices that we have in South
5 Carolina are natural death, accidental, suicide,
6 undetermined or homicide.

7 Q Can you take us through your education and training
8 that led you to the positions that you hold today?

9 A I received my undergraduate degree in biology from
10 University of Alabama. I have a Master's Degree in
11 forensic science from the University of Alabama in
12 Birmingham. I received my medical degree from the
13 University of South Alabama, which is in Mobile. I did a
14 four-year anatomic pathology residency at the Medical
15 University of South Carolina in Charleston and a one-year
16 fellowship in forensic pathology at the University of New
17 Mexico, which is in Albuquerque. I'm certified by the
18 American Board of Pathology in both anatomic and forensic
19 pathology.

20 Q Don't mean to give away your age, but how long have
21 you practiced medicine?

22 A I received my medical degree in 1988. I finished my
23 training in 1993. So I've been actively participating in
24 forensic pathology for approximately 23, 24 years.

25 Q Have you testified in courts of law before?

1 A Yes, I have.

2 Q And have you testified in this courtroom before?

3 A I have.

4 Q Have you been declared an expert witness in forensic
5 pathology?

6 A Yes, I have.

7 Q And could you give us a ballpark figure as to how
8 many times?

9 A It's well over a hundred times.

10 MR. MOWRY: Your Honor, I would offer Dr. Ward as an
11 expert in forensic pathology.

12 MR. RICHEY: No objection.

13 THE COURT: Again, ladies and gentlemen, the parties
14 agree that Dr. Ward is an expert in the field of forensic
15 pathology, so he can give opinion testimony. He's not
16 limited to simply things that he observed. He can give
17 opinion testimony in that area that you may use as you
18 deem appropriate.

19 Mr. Mowry.

20 BY MR. MOWRY:

21 Q Dr. Ward, did you examine the body of Johnny Lee
22 Cheeks, the victim in this case?

23 A Yes, I did.

24 Q Under what circumstances did you come to examine his
25 body?

1 A I was requested by Laurens Coroner Nick Nichols to
2 perform an autopsy on Mr. Cheeks.

3 Q And as part of that process, did you receive medical
4 records from the hospital in Spartanburg?

5 A Yes, I did.

6 Q Can you kind of review what was done with Mr. Cheeks
7 -- review for the jury what was done with Mr. Cheeks, what
8 kind of treatment was given to him in efforts to save his
9 life?

10 A Certainly. A review of the medical records indicate
11 that he was transported from the scene to Spartanburg
12 Regional Hospital where he received various treatments to
13 include blood and blood products as well as being taken to
14 the operating room where a laparotomy was performed, which
15 is an incision to expose the abdominal cavity. Treatment
16 for his gunshot wound was provided there with removal of
17 various segments of the intestinal tracts, small
18 intestine, large intestine, repair of a defect to the
19 stomach as well as a repair of a defect to the liver. He,
20 also, had exploration of the wound to his neck to
21 determine that it was superficial in nature and there was
22 no grade vessels that needed repair.

23 Q Have you -- in your review of the treatment that was
24 given to him, was that appropriate treatment?

25 A Yes, it seemed to be.

1 Q And yet, as a result, Mr. Cheeks did die?

2 A That is correct.

3 Q When did you receive his body for your examination?

4 A The examination was performed on November 2nd, 2013.

5 So he would have made it to Greenville approximately in
6 the early morning hours of November 2nd.

7 Q Okay. How do you go about conducting an autopsy?
8 What is the procedure?

9 A The autopsy begins with an initial external
10 examination where we examine the body for any external
11 evidence of trauma or disease processes, documentation of
12 those injuries, both on paper and photographing. Then we
13 extend the external examination to an internal examination
14 where we examine the organs of the chest, abdomen as well
15 as the brain. We're looking for natural disease as well
16 as any extent of trauma that may be present internally as
17 well.

18 Q Do you do what is called toxicology?

19 A Yes, we do.

20 Q Can you explain what that is?

21 A Toxicology is a chemical analysis of body fluids.
22 And in this case, blood that was taken at Spartanburg
23 Regional Hospital, his admission blood, before he was
24 given any drugs for treatment, before he was given any
25 other blood products, that blood was tested for

1 commonly-used medications as well as commonly-used drugs
2 or abuse and alcohol.

3 Q What was the result of his toxicology screen?

4 A This was performed on anti-mortem blood, or blood
5 that was drawn at the hospital. Mr. Cheeks had a blood
6 alcohol concentration of 0.8 percent and he, also, had a
7 metabolite of marijuana present in his blood.

8 Q Which meant what?

9 A That at some time within the reasonable past, he had
10 smoked marijuana. Not necessarily that day, but within
11 the last few days.

12 Q Okay. And when you mention the alcohol concentration
13 of 0.08, can you give us an idea of what kind of affect
14 that had on him?

15 A Affects of blood alcohol on an individual depend on
16 how much they are used to drinking. So an individual who
17 is relatively naive to alcohol may show signs of
18 intoxication at this level. So they may appear
19 intoxicated. They may be a little more outgoing or more
20 reserved, depending on their personality. They may have
21 difficulty with reaction time. Mr. Cheeks may or may not
22 have appeared intoxicated to individuals who knew him,
23 depending on how used to alcohol he was.

24 Q Were you able to determine how old Mr. Cheeks was?

25 A Mr. Cheeks was stated to me to be 61 years of age.

1 Q And did he appear to be that age?

2 A Yes, he did.

3 Q What about his size, his height and his weight?

4 A He was 5 feet, nine inches and -- excuse me, and 140
5 pounds.

6 Q What else did you do as far as your examination was
7 concerned, your procedures?

8 A Well, the procedure is to document the presence of
9 any injury that's present. And in this case, gunshot
10 wounds. So describing their location, photographing them,
11 following their path through the body and, in this case,
12 documenting where they exited. We, also, looked at each
13 and every visceral organ or the heart, lung, liver,
14 kidney, brain of Mr. Cheeks to determine any natural
15 disease that may have been present.

16 Q Did you find any natural disease that might have
17 contributed to his death?

18 A Yes, we did.

19 Q What did you find?

20 A Mr. Cheeks had severe coronary artery disease in that
21 he had had a previous heart attack. He had had previous
22 bypass, which is where they, basically, open your chest,
23 take vessels from your legs and bypass the disease vessels
24 of your heart. He had had a previous bypass. And he,
25 also, had some changes in his lungs consistent with

1 cigarette smoking called emphysema or chronic lung
2 disease.

3 Q Were either of these the cause of his death?

4 A They were not, no.

5 Q Okay. What, based on your examination, caused his
6 death?

7 A Mr. Cheeks died as a result of a gunshot wound of the
8 abdomen.

9 Q You said that he had two gunshot wounds; is that
10 right?

11 A That is correct.

12 Q Let's talk about the one on the shoulder first -- or
13 the neck, the upper body. Can you describe that for us?

14 A Certainly. This is gunshot wound to the right side
15 of the neck, which entered roughly in this area here on
16 what we call the lateral or the outside portion of the
17 neck. It passed from his back to front downward and very
18 slightly from his right to his left. This created,
19 basically, a gutter-type wound. And that is ripping
20 through the skin and the underlying subcutaneous tissues,
21 but it does not, actually, penetrate into the underlying
22 deep muscles. So this would be a superficial, actually, a
23 fairly deep graze-type gunshot wound. Superficial in its
24 injury and would not have caused the death of Mr. Cheeks.

25 Q You said, though, that it came from the back to the

1 front; is that right?

2 A That's correct.

3 Q Let's talk about the other wound then.

4 A The second gunshot wound that Mr. Cheeks had was an
5 entrance gunshot wound to the abdomen. This was located
6 within the midline of the body approximately two inches
7 below the umbilicus or the belly button. This wound
8 passed through multiple loops of small intestine. It
9 passed through a portion of the liver, through a portion
10 of the stomach, and exited out the left upper back --
11 well, the left midback of Mr. Cheeks. So it went in the
12 front and exited out the back. So it passed from front to
13 back, from the midline to the left, so from right to left,
14 and slightly upward.

15 Q Doctor, do you know which order those wounds were
16 received?

17 A No, I do not.

18 Q Let me ask you this, assuming hypothetically that the
19 abdominal wound came first, would it be consistent after
20 having been shot with turning around like this and
21 presenting his back to the shooter and then the second
22 shot came across his shoulder?

23 A That is, certainly, possible, yes.

24 Q And what did you say was the -- what, essentially,
25 led to his death then? What was the mechanism -- you said

1 gunshot wound. What caused his death in the hospital?

2 A The mechanism of death in this case would be the
3 blood loss associated with the gunshot wound to the
4 abdomen.

5 Q In spite of all the medical process that was done, he
6 died as a result of this gunshot wound; is that right?

7 A That is correct.

8 Q And what would you -- did you have an opinion as to
9 the manner of death?

10 A Yes, I do.

11 Q What is your opinion, please, sir?

12 A That this was a homicide.

13 MR. MOWRY: Thank you, sir. I believe that's all I
14 have.

15 THE COURT: Cross?

16 MR. RICHEY: Couple of questions.

17 CROSS-EXAMINATION

18 BY MR. RICHEY:

19 Q You said that the abdomen wound was upwards?

20 A Yes, sir.

21 Q And the one to the shoulder was upwards?

22 A It's not really a gunshot wound to the shoulder.

23 It's a gunshot wound to the neck. And it is very slightly
24 downward.

25 Q Okay. So I'm shot in the abdomen and that shot is

1 going, your testimony, like this, right?

2 A Well, not that much upward, no, but it is trending
3 upward, yes.

4 Q So for me to get that gun to go upwards, I've got to
5 have it pointed this way, correct? Because I can't point
6 it down, it goes down, right?

7 A You either have to be pointing it upward or be
8 positioned lower than the victim.

9 Q Right. So the guy that shot him, based on your
10 testimony, could have been lower than him, correct?

11 A Certainly, could have been.

12 MR. RICHEY: Thank you.

13 MR. MOWRY: Just a couple of questions.

14 REDIRECT EXAMINATION

15 BY MR. MOWRY:

16 Q Doctor, could the shot have come from the hip down
17 like this?

18 A Yes.

19 Q And when a bullet strikes a human body, is there a
20 predictable path or does the bullet sometimes go in an
21 unusual manner?

22 A It may sometimes go in an unusual manner. If it
23 strikes bone, it can deflect and go in a different -- or
24 change its initial path, so it is sometimes unpredictable.

25 MR. MOWRY: Thank you, sir. That's all I have.

1 MR. RICHEY: No questions. He can be excused, Your
2 Honor.

3 THE COURT: Doctor, thank you very much for coming.
4 You may step down and you are free to go.

5 Mr. Mowry.

6 MR. MOWRY: I call Antonio Morris, Your Honor.
7 Thereupon;

8 ANTONIO MORRIS, after having
9 been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MOWRY:

12 Q You are Antonio Morris?

13 A Yes, sir.

14 Q Mr. Morris, I don't mean to embarrass you, but you've
15 got a criminal record; don't you?

16 A Yes, sir.

17 Q You've got a petit larceny back in 1999, false
18 information to the police in 2008, fraudulent check in
19 2009 and burglary and larceny back in 2009, and then
20 financial transaction credit card fraud back in 2014;
21 isn't that right?

22 A Yes, sir.

23 Q And I believe you're in jail right now on a DUI/DUS;
24 is that right?

25 A Yes, sir.

1 Q Let me ask you to think back to 2013. Whereabouts
2 did you live in the latter part of 2013?

3 A In Gray Court on Pleasant View Drive.

4 Q Pleasant View Drive?

5 A Yes, sir.

6 Q I'm going to ask you to refer to -- if you could come
7 down for just a second.

8 A (The witness complied.)

9 Q I'm going to ask you to refer to State's Exhibit No.
10 4. Have you seen this chart before?

11 A I stayed right there, [REDACTED] --

12 THE COURT: He needs to speak up, Mr. Mowry.

13 THE WITNESS: [REDACTED] Pleasant View Drive.

14 BY MR. MOWRY:

15 Q So this area right here is where you stay; is that
16 right?

17 A Yes, sir.

18 Q If you will take the stand again.

19 A (The witness complied.)

20 Q Do you still have a residence there?

21 A Well, a couple weeks ago, the house caught on fire.

22 Q But you lived there up until then?

23 A Yes, sir.

24 Q You were living there in --

25 A My whole life.

1 Q Yeah, the last part of 2013, particularly. Do you
2 know the Defendant in this case, Christopher Wells? Have
3 you ever seen him before?

4 A No, sir.

5 Q But you lived right here; is that right?

6 A Yes, sir.

7 Q Sometime in the early part of November, or
8 thereabouts, did you find anything unusual on Pleasant
9 View?

10 A Yes, a wallet.

11 Q You found a wallet?

12 A Yes, sir.

13 Q How did you come about finding it?

14 A I was walking on my way to the Dollar Store. And up
15 the street from my house by the Washerette, there was a
16 wallet laying on the side of the road and I had picked it
17 up.

18 Q So up in this area? The Washerette is right here;
19 isn't it?

20 A Yes, sir.

21 Q Right at the corner of Highway 101 South and Pleasant
22 View, right?

23 A Yes, sir.

24 Q And whereabouts did you find a wallet?

25 A Can I point it out to you?

1 Q Okay.

2 A I found the wallet up in this area here.

3 Q Okay. So you found it on the side of the road. And
4 I'm just going to ask you, is it between 62 and 38, the
5 numbers that are listed on this chart?

6 A Yes, sir.

7 Q Okay. Thank you. I'm going to hand you what's been
8 marked as State's Exhibit 17. Do you recognize that?

9 A Yes, sir.

10 Q What is that, please, sir?

11 A That's the wallet I had found.

12 Q Okay. That's the wallet you found lying on the side
13 of Pleasant View Road?

14 A Yes, sir.

15 Q Okay. Was there anything inside that wallet?

16 A It was a dollar and the man ID and a bunch of other
17 little cards.

18 Q Do you remember whose ID's they were?

19 A I remember the last name was Cheeks.

20 Q Was it Johnny Lee Cheeks?

21 A Yes, sir.

22 Q Okay. What did you do with the dollar?

23 A I kept the dollar.

24 Q Okay. Did you keep on going to the Dollar Store?

25 A Yes, sir. On my way to the Dollar Store, it's a

1 field across the street from it. After I got the man ID
2 and the little silver thing you keep on your clip, I had
3 got that out and I tossed the wallet out in the field. I
4 went to the Dollar Store.

5 When I got back home, my aunt had called and she was
6 telling me about somebody had got killed. And when she
7 brought that man name up, I had told her I had found his
8 ID and stuff. So they came to my house to look at it and
9 verify it was the person.

10 Q Who is they?

11 A Nicole Sullivan and Jerry May.

12 Q Who are they?

13 A I think Jerry May is kin to him. I think that's his
14 cousin.

15 Q Kin to Johnny Lee Cheeks?

16 A Yes, sir.

17 Q Did you ever see this man?

18 A That's who we called.

19 Q Okay. You called Bryan Cheek?

20 A Yes, sir.

21 Q And did he come talk to you?

22 A Yes, sir.

23 Q And what did he ask you?

24 A I told him where I found the wallet at and I took him
25 to where I throwed it.

1 Q And that was up where?

2 A By the Dollar Store, in the field.

3 Q And what did y'all do when y'all got to the field?

4 A We walked around the field and looked for it until we
5 found it.

6 Q And did you find it?

7 A Yes, sir.

8 Q And did Detective Cheek take possession of that
9 wallet?

10 A Put it in evidence.

11 Q And you have no doubt that State's Exhibit 17 is the
12 wallet you found?

13 A That's it.

14 Q And again, you found it right here?

15 A Yes, sir.

16 Q Mr. Morris, can I get you to come down just a second?

17 A (The witness complied.)

18 Q And I'm going to ask you to take this little gold
19 star sticker and put it right where you found the wallet.

20 A (The witness complied.) Somewhere in that area
21 there.

22 Q Right. And this "X" denotes where you lived?

23 A Yes, sir.

24 Q Thank you, sir.

25 MR. MOWRY: I believe that's all I have, Your Honor.

1 THE COURT: Mr. Richey.

2 MR. RICHEY: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. RICHEY:

5 Q That's not why you told about that wallet. That's
6 not why you told them about that wallet. You kept those
7 credit cards, too; didn't you?

8 A There wasn't no credit cards in there.

9 Q You didn't keep any credit cards?

10 A No, sir.

11 Q You didn't try to use any credit cards?

12 A No, sir.

13 Q So if anyone said you did, they would not be telling
14 the truth, correct?

15 A They would be telling a lie.

16 Q They would be telling a lie, right?

17 A Yes, sir.

18 Q Okay. And you -- none of this stuff you've done out
19 of the goodness of your heart because you do have a record
20 for not telling the truth, correct?

21 A Yes, sir.

22 Q And this wallet that you supposedly found, you didn't
23 call the police and say hey, I found this wallet right
24 here; did you?

25 A When I found out that it was a dead man's wallet, I

1 called his family and then called the police.

2 Q And you called the family, but you took the wallet
3 and threw it away, right?

4 A I didn't know who the person was before then.

5 Q But you knew it wasn't your wallet, right?

6 A Yes. It could be anybody's walking and pass on the
7 side of the road.

8 Q No, no, this wallet -- no, no, no, that's not what
9 we're talking about. See, we're talking about a wallet
10 right here and we open it up -- you see that? When we
11 open this wallet up when we find it, we can say, hey,
12 that's Johnny Lee Cheeks, right?

13 A Yeah, and it was in there.

14 Q And we can say hey, there's his driver's license,
15 right?

16 A (Witness did not respond.)

17 Q You have to answer.

18 A Yes, sir.

19 Q And this driver's license -- I'm going to hand it to
20 you. You take that. That driver's license right there
21 has that man's address on it, right?

22 A Yes, sir.

23 Q So you find this wallet, you know whose wallet this
24 is, correct?

25 A I didn't know the man, but ID and stuff was in there.

1 Q You know his name and address, correct?

2 A Yes, sir.

3 Q Okay. And when you found this man's wallet, you're
4 telling us it was only a dollar in it, right?

5 A Yes, sir.

6 Q And you realize this man carried around substantial
7 money, right?

8 A I don't know. I don't know the man.

9 Q But you never went to the address on this driver's
10 license and told him you found his wallet?

11 A No, sir.

12 Q And you claim that you found this wallet up by the
13 Washerette?

14 A Yes, sir.

15 MR. RICHEY: Thank you.

16 REDIRECT EXAMINATION

17 BY MR. MOWRY:

18 Q Just one or two questions, Antonio.

19 A Yes, sir.

20 Q You didn't try to get in touch with Johnny Lee Cheeks
21 when you found the wallet; did you?

22 A No, sir.

23 Q But when you found out that he was a murder victim,
24 what did you do?

25 A Called his family and got in contact with Detective

1 Cheek.

2 Q And helped Detective Cheek find that wallet, right?

3 A Yes, sir.

4 MR. MOWRY: Thank you, sir. That's all.

5 THE COURT: Thank you, sir. You can step down.

6 Mr. Mowry, call your next witness, please.

7 MR. MOWRY: I call Bryant Cheek.

8 Thereupon;

9 BRYANT CHEEK, after having
10 been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MOWRY:

13 Q You are Bryant Cheek?

14 A Yes.

15 Q Would you spell your last name, please, sir?

16 A C-H-E-E-K.

17 Q And what is the last name of the victim in this
18 particular case?

19 A Cheeks, with an S, C-H-E-E-K-S.

20 Q So a different spelling. Are y'all at all related?

21 A No, sir.

22 Q Okay. Just to make that clear for the record. What
23 is your job right now? What do you do?

24 A I work in the criminal investigation division for the
25 Laurens County Sheriff's Office. I'm a criminal

1 investigator. My main focus is the Gray Court area on
2 Highway 101 South and Highway 14 and everything up to
3 Fountain Inn.

4 Q Okay. Are you occasionally, also, on call?

5 A Yes, sir, we do rotation on call every nine weeks.

6 Q And were you involved in an investigation in the
7 Enoree area on Halloween night of 2013?

8 A Yes, sir, I was on call that night.

9 Q How did you become aware of this case?

10 A The call came out from dispatch that they had a
11 shooting on River Hill Road.

12 Q And what did you do in response to that call?

13 A I left my residence and ran lights and siren to [REDACTED]
14 River Hill Road.

15 Q What did you find when you got there?

16 A When I got to the scene at [REDACTED] River Hill Road, I met
17 with Lieutenant Marty Crain and other deputies. They
18 started explaining to me what was going on and what they
19 had found so far.

20 Q Did you, also, meet with Kelly Ball there that night?

21 A Yes.

22 Q What was her state at that point?

23 A She was visibly upset, hysterical, panicky.

24 Q What kind of process did you go through? What steps
25 did you take in investigating this matter?

1 A I talked with Lieutenant Crain, Sergeant Timmons,
2 other officers there at the scene. They began to explain
3 to me what happened. We, also, talked with Mr. Cheek, Mr.
4 Walker as well as Kelly Ball.

5 Q Let me ask you this, at the outset, did you know
6 whether David Walker was a victim or a perpetrator?

7 A At the outset, he told me that he was a victim.

8 Q Okay. When did things begin to turn as far as that's
9 concerned?

10 A For me, it didn't turn -- I still treated him as a
11 victim because of what he had to share with us sitting
12 there on the porch and we were still gathering information
13 through the investigation.

14 Q And not for the truth of the matter asserted, but did
15 he tell you that he had been attacked by two guys that he
16 didn't know?

17 A Yes.

18 Q And they hit him over the head and shot him; is that
19 right?

20 A Yes.

21 Q Did you learn something different from Mr. Cheeks?

22 A Yes. We learned from Mr. Cheeks that he had said
23 that David Walker -- or he pointed to the gentleman on the
24 porch had come to rob him.

25 Q And was that, in fact, David Walker?

1 A Yes, it was.

2 Q Did he indicate whether or not anybody else was with
3 Mr. Walker?

4 A Not that I can remember. I thought he said they came
5 to rob me, but he was pointing at Mr. Walker.

6 Q Do you see David Walker on this chart?

7 A Yes, I do.

8 Q Which one is he?

9 A (The witness indicated.)

10 MR. MOWRY: And for the record, Your Honor, he is
11 pointing to the upper right-hand figure on State's Exhibit
12 No. 3.

13 THE COURT: Thank you.

14 BY MR. MOWRY:

15 Q What happened next?

16 A Talked with Mr. Walker. Of course, we were securing
17 the scene. We were processing the scene. EMS was there.
18 They were working with Mr. Walker on the front porch. EMS
19 was working with Mr. Cheeks in the house. They
20 transported them to the hospital.

21 Q Did you go to the hospital?

22 A Yes. After we had processed the scene and the
23 deputies had collected the evidence, then I left [REDACTED] River
24 Hill Road and went to Spartanburg Regional Hospital.

25 Q Did you speak with Mr. Cheeks there?

1 A No. I didn't get to speak with Mr. Cheeks, he was in
2 surgery.

3 Q Did you ever get to speak with Mr. Cheeks before he
4 died?

5 A No, sir, I did not get to speak with Mr. Cheeks.

6 Q Was his condition just bad?

7 A Yes, he was in surgery that night. And then when I
8 went home and came back, they had taken him back down to
9 surgery again the following morning.

10 Q After Mr. Cheeks died, did you speak with Kelly Ball?

11 A Yes.

12 Q What was the purpose in speaking with her that second
13 time?

14 A I wanted to give her a little time to think about her
15 statement. We, also, talked with her that night. We put
16 her in the back of one of the police cars, got her calmed
17 down and asked her to give us a handwritten statement to
18 the best of her ability of what she could recall happened.

19 Q What was her state?

20 A She was very nervous, still upset.

21 Q And you were in the courtroom when the 911 call was
22 played; is that right?

23 A Yes.

24 Q Was that pretty much the way she was?

25 A Yes, sir.

1 Q A few days later, was she able to give another
2 statement?

3 A She was able to give us another handwritten
4 statement.

5 Q Did you have any other suspects Mr. Walker at that
6 point?

7 A Based on her statement, she had indicated to us there
8 were some other people out there.

9 Q So you had indications there were other people, but
10 did you know who?

11 A No, sir.

12 Q How did you become aware of Christopher Wells?

13 A Through the course of the investigation, what I
14 started doing was try to see who some of David Walker's
15 friends were. So I discovered some of his friends and who
16 his friends were, so it started there.

17 Q Now, was Mr. Walker arrested for this homicide?

18 A Not at the time.

19 Q Was he still in the hospital for a while?

20 A Yes, he was at the hospital.

21 Q At that point, had you focused on him as a suspect in
22 this case?

23 A Yes.

24 Q Go ahead and describe what you did then. You said
25 you were looking for some of his associates.

1 A We were looking for some of his associates. Of
2 course, Mr. Walker was in the hospital. We did not arrest
3 him. Mr. Walker came out the hospital, we still had not
4 arrested him. We were just kind of pounding the pavement
5 trying to get leads and do follow-up.

6 Q What led you then to Christopher Wells?

7 A Through the course of the investigation, Ms. Ball had
8 given us a description on another individual that
9 resembled another gentleman by the name of Ty --

10 Q Let me ask you this, did she ever say that the
11 individual -- did she ever indicate to you that the
12 individual, Ty, was the person she saw that night5?

13 A No, sir, she didn't.

14 Q What was the reference to Ty all about then?

15 A She gave us a description of an individual that fit a
16 picture of someone that she knew, I guess, that she was
17 acquainted with or dealt with in the past.

18 Q Okay. And did you take it from there?

19 A Yes.

20 Q Where did your investigation lead you from there?

21 A So throughout the course of the investigation, I
22 looked back at the entire case. Because of the situation
23 of the investigation down on River Hill Road, I never did
24 copy the radio traffic that the other deputies were out
25 with Mr. Wells at the time. So when I asked dispatch to

1 set the CAD aside and the recording --

2 Q When you say CAD, what is that?

3 A Everything that comes in through is recorded and is
4 CAD'ed with times.

5 Q Okay. So it's, basically, a transcript of all the
6 radio traffic; is that right?

7 A Yes, sir.

8 Q Let me just ask you this in general, in your
9 experience as an investigator, is an investigation usually
10 a straight line or are there a lot of branches that go off
11 in different directions?

12 A There are a lot of branches in a lot of different
13 directions.

14 Q Okay. And was this one no exception?

15 A No exception.

16 Q What was it about the CAD that you found to be
17 interesting?

18 A I started looking back at the CAD, started looking at
19 the various times. And then when I was looking at it, all
20 of a sudden, I discovered the description of the car had
21 been given. I didn't know our deputies had stopped a car
22 or one of the guys from Laurens City had gotten behind a
23 car. So when I saw that and I saw the name, it kind of
24 clicked with me from there.

25 Q And what name did you find?

1 A Christopher Wells.

2 Q Okay. Where did you determine that Mr. Wells was
3 approached by law enforcement that night?

4 A On Jones Hill Road.

5 MR. MOWRY: And I'm referring, Your Honor, to State's
6 Exhibit No. 4.

7 BY MR. MOWRY:

8 Q And Jones Hill Road is right here, right?

9 A Yes.

10 Q And up here was Mr. Morris's house?

11 A Yes.

12 Q And up here, this little star, is where the -- he
13 says the wallet was found; is that right?

14 A Yes, sir.

15 Q How far -- what kind of distance are we talking about
16 here between the house and, let's say, the corner of 101
17 and Pleasant View?

18 A It's not a long way. I'm not good with the mileage.
19 I don't think it's more than a mile. It's kind of a short
20 distance. It's just kind of a road that comes straight
21 down and turns off.

22 Q Okay. And how far is this area from [REDACTED] River View
23 Road in Enoree?

24 A May eight, 10, 12 miles. I'm not sure. It's a good
25 distance.

1 Q Quite a good distance, okay. Based on your
2 information about Mr. Wells, what did you do?

3 A Based upon the information in the CAD system and
4 finding out that law enforcement had spoke with him that
5 night, I took a photo ID of him, submitted it to South
6 Carolina Law Enforcement Division, which they compiled a
7 photo lineup and then we showed it to Ms. Ball.

8 Q And I'm going to show you State's Exhibit No. 27. Is
9 this the lineup that you presented to Kelly Ball?

10 A Yes, sir.

11 Q And which photograph of Mr. Wells did you submit to
12 SLED -- or which photograph is Mr. Wells that you
13 submitted to SLED?

14 A Number five.

15 Q And the others, you have no idea who they are; is
16 that right?

17 A No, sir.

18 Q When SLED does something like this, prepares a lineup
19 like this, what are the criteria? What are they trying to
20 do?

21 A They're trying to give the witness something to look
22 at or can ID an individual based upon what we submit to
23 them.

24 Q And you give them information and they give you
25 similar-looking people; is that right?

1 A Yes, sir.

2 Q And they compiled this themselves?

3 A They compiled that themselves.

4 Q How did you present that to Ms. Ball?

5 A Well, we talked with her. I told her I was going to
6 show her a photo lineup to see if anybody on there looked
7 familiar to her. So when we set the photo lineup down,
8 she immediately went to number five. I gave her a pen,
9 she circled it and I asked her to put her initials right
10 there indicating that she had ID'd this individual.

11 Q Did you, also, speak to Toris Moore?

12 A Yes.

13 Q How did you become aware of her?

14 A Through the course of the investigation. Again, just
15 pounding the pavement, following up every lead.

16 Q And did you take a written statement from her?

17 A Yes.

18 Q And you heard her testimony in court yesterday; is
19 that right?

20 A Yes, sir.

21 Q Do you recall about when Antonio Morris got in touch
22 with you?

23 A No, sir. I know it was after the incident, some time
24 after that. I don't really recall the date and time.

25 Q Okay. Describe what you did when you got that

1 information.

2 A When I received the information that a wallet had
3 been discovered, I immediately went to meet with him. And
4 when I got there, he gave me the contents of the wallet.
5 I asked him to explain exactly where he found the wallet.
6 He kind of gave me a description of it. And I asked him
7 where was the wallet. He had the contents of the inside
8 of the wallet. He said, I threw the wallet down up on
9 West Main, which is across from the Dollar Store.

10 Q And I'm going to show you State's Exhibit No. 17. Is
11 this the wallet that y'all retrieved?

12 A Yes, sir.

13 Q Okay. Now, Investigator Cheeks, did you become aware
14 of Johnny Lee Saxon around the same time?

15 A Yes, sir.

16 Q How did you become aware of him as a possible
17 suspect?

18 A Just following up leads from various people. We
19 started out looking for a Johnny Tribble. He, also, went
20 by Johnny Tribble, but it's, also, Johnny Saxon.

21 Q Okay. Did Toris Moore give you information about
22 him?

23 A Yes.

24 Q And which one on State's Exhibit No. 3 is Johnny
25 Saxon?

1 A This is Johnny Saxon right here.

2 Q All right. Do you know whether Johnny Saxon has
3 relatives that live on Pleasant View Road -- Pleasant View
4 Drive?

5 A Yes.

6 Q He does?

7 A Yes, sir.

8 Q Can you point out on this chart --

9 MR. MOWRY: I'm referring again, Your Honor, to
10 State's Exhibit No. 4.

11 BY MR. MOWRY:

12 Q Can you point out on this chart where those relatives
13 live?

14 A I think it's 172, I think.

15 Q So it's in this area? I'm going to put this star
16 there; is that about right?

17 A I think so.

18 Q Okay. I'm going to hand you what have been marked as
19 State's Exhibit 28, 29 and 30, and ask you if you can
20 identify those?

21 A Yes.

22 Q What are those, please, sir?

23 A These are photos that were taken at Jones Hill Road.

24 Q Okay. What do those depict?

25 A It depicts the description of the car that was given

1 out that night, the BOLO.

2 Q And whose car is that?

3 A Christopher Wells.

4 Q Is that the same car it was on -- the same color it
5 was on Halloween night5?

6 A No, sir, it is not.

7 Q How do you know that?

8 A We discovered through the course of the investigation
9 that the car had been painted.

10 Q Okay. Do you know how long after that event that it
11 had been repainted?

12 A No, sir.

13 Q Okay. But that's the same car?

14 A Yes, sir.

15 Q That's Christopher Wells's car?

16 A Yes, sir.

17 MR. MOWRY: Beg the Court's indulgence, Your Honor.

18 THE COURT: Yes, sir.

19 BY MR. MOWRY:

20 Q Based on your investigation, what charges do you
21 bring against this Defendant?

22 A Murder, possession of a weapon during the commission
23 of a violent crime, armed robbery.

24 MR. MOWRY: Thank you, sir.

25 Your Honor, at this time, I would ask to enter the

1 aerial photographs of River View Road, I believe, from the
2 crime scene. I would, also, like to introduce State's
3 Exhibit No. 3, the photographs, and No. 17, the wallet,
4 and I would like to introduce State's Exhibits 28, 29 and
5 30, the photographs of the car.

6 MR. RICHEY: No objection.

7 THE COURT: So I've got State's 3, State's 17, 28, 29
8 and 30?

9 MR. MOWRY: Yes, sir. And if I could confer with the
10 court reporter to make sure I'm not missing anything.

11 THE COURT: All right.

12 MR. MOWRY: No. 2, the aerial view of the crime
13 scene. Your Honor, I would, also, like to admit State's
14 Exhibit No. 20, 21, which are the shell casings. And in
15 order to keep bullets and firearms separate, I will not
16 introduce the magazine with the other live rounds.

17 THE COURT: Okay. Any objections to State's 2, 20 or
18 21?

19 MR. RICHEY: No objection, Your Honor.

20 THE COURT: Okay.

21 MR. MOWRY: And I think that's it.

22 THE COURT: State's 2, 3, 17, 20, 21, 28, 29, and 30
23 are in evidence without objection.

24 MR. MOWRY: Thank you, Your Honor.

25 (WHEREUPON, State's Exhibit Nos. 2, 3, 17, 20,

1 21, 28, 29, and 30 were admitted into evidence.)

2 THE COURT: Mr. Richey.

3 CROSS-EXAMINATION

4 BY MR. RICHEY:

5 Q Okay. Mr. Cheeks, you're the last witness, so I'm
6 going to try not to keep you up here too long. Do you
7 have your report up there?

8 A Yes, sir.

9 Q This wallet right here that was found, this wallet,
10 Antonio Morris, he used the credit cards in that wallet;
11 didn't he? He took them out and used them for himself,
12 correct?

13 A I don't know.

14 Q Is that what you have in your report? Look at your
15 report and where you've got December 18th, 2013?

16 A Yes, sir, I have it.

17 Q You see where it says Antonio Morris?

18 A Yes, sir. It says, Antonio Morris found a wallet on
19 the side of the road on Pleasant View Road on 101 South.
20 Morris went through the wallet and kept the credit cards
21 from inside the wallet and threw it out in the field on
22 Old Lawrence Road.

23 Q So when he got on that witness stand and said there
24 were no credit cards in that wallet, he was not telling
25 the truth, correct? Based off your report, he was not

1 telling the truth?

2 A Yes.

3 Q And he tried to use those cards?

4 A I don't know if he tried to use those cards.

5 Q And let me go back to this car. Your version of the
6 color was not brown, right? That night, the car wasn't
7 brown?

8 A I didn't copy the radio traffic for the description
9 of the car. All I copied was the BOLO -- well, ask me the
10 question again.

11 Q Let me ask it this way, you were at the house that
12 night, correct?

13 A Yes.

14 Q Okay. And you were privy to all the radio transfers
15 from law enforcement on dispatch, correct?

16 A No, sir.

17 Q You were not?

18 A I was privy to the radio traffic, but down in the
19 hole, the radio was distorted.

20 Q So you don't know what color the car was?

21 A No, sir.

22 Q You have no idea? It could have been red?

23 A No, sir.

24 Q Right?

25 A No, sir.

1 Q You don't know what the color was, is that your
2 answer?

3 A Yes, sir.

4 Q Okay. So when you say that this depicts the color of
5 his car, you don't know what the color of the car was,
6 correct?

7 A It depicts the --

8 Q The color of the car, you did not know the color of
9 the car?

10 A No, I did not know the color of the car.

11 Q So you don't know what color that car was the night
12 that the incident occurred, correct?

13 A No, sir.

14 Q So these pictures, based on your testimony, do not
15 reflect the car that you saw, correct?

16 A I did not see the car.

17 Q Okay. So you said that car was painted, right?

18 A Yes, sir.

19 Q When Kelly Ball originally gave her statement, that
20 was that night, right?

21 A She gave us one statement that night, yes, sir.

22 Q And then, subsequently, at a time after that, she
23 gave you another statement a week or two after that,
24 correct?

25 A Yes, sir.

1 Q And in that statement of hers, she described the car
2 as being brown, right?

3 A I think so.

4 Q And we know at the of the incident the car was not
5 brown, correct?

6 A Yes, sir.

7 Q Kelly Ball told you that the guy that was there
8 looked like Ty, right?

9 A Yes, sir.

10 Q And Ty is a dark-skinned, big guy, right?

11 A Yes, sir.

12 Q Did you ever put Ty in a lineup and show her?

13 A Yes, sir.

14 Q You did?

15 A Yes, sir.

16 Q And you have that lineup?

17 A Yes, sir.

18 Q Okay. And did she pick out Ty?

19 A No, sir.

20 Q So she -- your testimony is that she picked out
21 somebody that looked totally different than the
22 description she gave you?

23 A Say that again now.

24 Q This description right here -- this picture right
25 here, this gentleman is not dark-skinned, right?

1 A No, sir.

2 Q So she picked out an individual that was not the
3 description of the guy there that night, correct, based on
4 this?

5 A Yes, sir.

6 Q And this is -- don't you think all this story is kind
7 of strange? We've got a guy that we know is a know drug
8 dealer, correct?

9 A Yes, sir..

10 Q That moves a lot of dope, correct?

11 A I don't know that for a fact.

12 Q But he sells it -- or sold it?

13 A Yes, sir.

14 Q Don't you think from your investigation that it's
15 kind of strange for somebody to knock on his door and say,
16 oh, I'm here to rob you? You don't find that being
17 strange?

18 MR. MOWRY: Speculation, Your Honor.

19 THE COURT: I'll let the question stand.

20 Go ahead and answer it if you can.

21 BY MR. RICHEY:

22 Q That's not your traditional robbery; is it?

23 A In my understanding, robberies can take on many forms
24 and fashions. I want to make sure I understand what
25 you're asking me.

1 Q In your career, have you seen another one like this
2 where somebody come and say I'm going to rob and they go
3 out the house with them; have you seen that before?

4 A I'm not really sure if I recall any.

5 Q Right. So it's a first, right? From your
6 recollection, it would be a first because you can't recall
7 another one; is that correct?

8 A Yes.

9 Q And it would seem strange to you that somebody would
10 go to the door and voluntarily walk out the house with
11 somebody that's going to rob them? That would be strange
12 to you?

13 A No, sir.

14 Q It would not be strange if somebody opened the door
15 and walked out with a guy that says I'm going to rob you?

16 A In my understanding, if an individual knocks on the
17 door and walks out in the yard, I can't say whether or not
18 he's walking out in the yard and he knows that individual
19 is getting ready to rob him. I don't know.

20 Q These people in this case, these people are
21 dangerous, right? These Cheeks are dangerous, right?

22 A I can't say they're dangerous. I've never had any
23 dealings with them in law enforcement.

24 Q Okay. But you found in your investigation, he
25 carried a gun, right?

1 A Based on?

2 Q Your investigation, talking to Kelly Ball and
3 everybody, Cheeks carried a gun?

4 A Yes, sir.

5 Q He had large sums of money on him, right?

6 A Yes, sir.

7 Q He sold drugs and had several drug suppliers; is that
8 correct?

9 A I don't know all -- yes, sir.

10 Q Okay. So --

11 A Based on her testimony.

12 Q Based on her testimony, he had all these dangerous
13 people around him. These people -- these drug folks are
14 dangerous; aren't they?

15 A Yes, sir.

16 Q And it doesn't surprise you when drug dealers have a
17 shoot out; does it?

18 A No, sir.

19 Q You expect it, right?

20 A Yes, sir.

21 Q Because they boys, they don't play hand to hand
22 combat; do they?

23 A No, sir.

24 Q When they get mad, they shoot, right?

25 A Occasionally.

1 Q And this case right here, it fits that description;
2 doesn't it?

3 A Yes.

4 MR. RICHEY: Thank you, sir.

5 MR. MOWRY: Your Honor, could I take up a matter of
6 law very briefly?

7 THE COURT: Sure.

8 Ladies and gentlemen of the jury, I need to take up
9 an issue of law with the attorneys. I'll need to ask you
10 to adjourn to the back. Don't discuss the case. I'll
11 have you back up here in a few minutes. Adjourn to the
12 back.

13 (WHEREUPON, the jury exits the courtroom at
14 approximately 4:08 p.m.)

15 THE COURT: The jury is out, Mr. Mowry.

16 MR. MOWRY: Your Honor, at this point, since Mr.
17 Richey is casting speculation on other people that might
18 have done the shooting, I think it would be appropriate
19 for the jury to know that 12 jurors in Laurens County have
20 found David Walker guilty beyond a reasonable doubt of
21 murder of Johnny Lee Cheeks. And I would submit that the
22 State should be allowed to enter into evidence the
23 certified copy of the indictment and sentencing sheet in
24 his case.

25 THE COURT: Mr. Richey?

1 MR. RICHEY: Judge, I didn't open the door. I just
2 said these people shoot. I said nothing about any other
3 person. I was talking about Walker and this individual,
4 who we've all said -- he put in evidence -- there's no way
5 I even remotely opened the door to let that conviction in.

6 MR. MOWRY: I think he kicked it open, Your Honor.

7 THE COURT: You're referencing the portion of the
8 testimony, Mr. Mowry, where he asked -- the last question
9 he asked this witness about, doesn't this more closely
10 resemble a shoot out between drug dealers' robbery, is
11 that kind of what you're getting at?

12 MR. MOWRY: That's exactly what I'm getting at, Your
13 Honor. And I think the jury should be -- in order to give
14 them a complete picture in this case, they should know
15 that David Walker has already been convicted in this case.

16 THE COURT: The Court would like to take a moment to
17 reflect on that, Mr. Mowry. However, would it be possible
18 -- or wouldn't it be possible for the State to, perhaps,
19 rehabilitate this witness's testimony -- if that is what
20 was asked on cross, would it not be possible for you to
21 then on redirect ask this investigator well, did you
22 pursue the possibility that this was a shoot out? Or what
23 led you to conclude that it was not a drug-related type of
24 -- drug dealer on drug dealer kind of offense? The Court
25 is sympathetic with the way the question was asked, but

1 the Court, of course, has many considerations.

2 MR. MOWRY: Yes, sir.

3 THE COURT: Usually, there are two avenues by which
4 that can be achieved. But let me reflect on that and,
5 perhaps, you can gather your thoughts in the event I would
6 rule against you on that. We'll take about five minutes
7 while I consult with my law clerk on that question.

8 Mr. Cheek, you can step down and make yourself
9 comfortable. Just don't discuss your testimony with the
10 solicitor or anyone else while we're on break.

11 Will this be your last witness?

12 MR. MOWRY: Yes, sir.

13 (WHEREUPON, a short break was taken.)

14 THE COURT: We'll go back on the record. With
15 regards to the request by the State, the jury is -- first
16 of all, these jurors are not idiots. I've been observing
17 them and they've been paying attention. They've heard the
18 testimony. They, clearly, understand that the State's
19 theory of the case is that Mr. Walker was the shooter.

20 MR. MOWRY: Yes, sir.

21 THE COURT: The 50-cent question -- well, the first
22 question that the Court has to answer is whether the door
23 was opened. I disagree with the State's characterization
24 that it was kicked open, but I would agree that the door
25 was opened to a degree by that last series of questions

1 concerning drug dealers and isn't it possible that this is
2 a drug-on-drug-type of a thing. I'm certain that the
3 State can rehabilitate this witness, but at the same time,
4 in light of those questions, in light of the evidence as a
5 whole, I have the sneaking suspicion that the jury has
6 already concluded that Mr. Walker is not walking around
7 Laurens County.

8 So what the Court is inclined to do, I'm not going to
9 allow you to ask this witness whether or not 12 people
10 from Laurens County in this very courtroom on February the
11 25th of 2015 found Mr. Walker guilty of the crime of
12 murder. I will allow you to ask this witness is it your
13 understanding that Mr. Walker is currently in the
14 Department of Corrections serving a sentence for murder in
15 this incident. So I will allow you to ask them that.

16 The Court will, also, be giving the jury an
17 instruction -- because the one thing the Court wants to be
18 certain of is that the jury understands that this case has
19 to stand alone as it relates to this Defendant, Mr. Wells.
20 The fact that Mr. Walker was tried and convicted by 12
21 people is not relevant to that ultimate question.

22 But, again, these jurors are not idiots. And I think
23 that the first question if I sent this question back to
24 them, based on my experience -- and this is only the
25 eighth murder I've tried in the last eight months. But my

1 experience is that the first question I would get from the
2 jury is okay, we're just curious what happened to Mr.
3 Walker? And, clearly, the evidence points out the State's
4 theory that -- and the State's theory has been made
5 abundantly clear to them. I will allow you to ask this
6 deputy that question about Mr. Walker's current custody
7 status, but I would ask that you phrase it the way I did.

8 MR. MOWRY: I'm trying to write that down just as you
9 said it, Your Honor. Are you familiar with the fact that
10 David Walker is in the South Carolina Department of
11 Corrections --

12 THE COURT: Serving time for this homicide. And that
13 is a proportional response to the degree in which the door
14 was opened. It also is consistent with the State's theory
15 with the Court charging the jury -- and what I'm going to
16 do is use the modified charge where you're trying, you
17 know, several co-defendants, you know that charge from the
18 bench book.

19 I'll modify that somewhat so that it is perfectly
20 clear to the jury that the evidence in this case has to be
21 judged only as it relates to the culpability of Mr. Wells
22 himself and anything else is not a proper consideration.
23 So I'll have to play with that a little bit this evening,
24 but I will allow you to ask this witness that question
25 because, again, it is consistent with the State's theory.

1 It's along the lines of evidence that's already been
2 presented that the jury has already heard about. They
3 know that Walker is the shooter in this case. It does no
4 harm to the potential defense that maybe Ty was the person
5 standing with Mr. Walker, which is kind of what I've
6 heard, perhaps, from the right side of the courtroom. It
7 does no damage, it does no violence to that, and the
8 prejudice is minimal. Again, it's a proportional question
9 in light of the last series of questions that were asked.

10 If you, also, want to rehabilitate this witness about
11 his investigation and how he concluded this was not a drug
12 transaction, that's fine, too, however, you want to play
13 it. I'm not going to gag you on that.

14 But that's my ruling. I understand the Defense does
15 object.

16 Let's have the jury out.

17 MR. MOWRY: Thank you, Your Honor.

18 THE COURT: And you do not need to contemporaneously
19 object, you are covered.

20 MR. MOWRY: Thank you, Your Honor.

21 (WHEREUPON, the jury enters the courtroom at
22 approximately 4:35 p.m.)

23 THE BAILIFF: All the jury is present, Your Honor.

24 THE COURT: Let the record reflect the jury is back.

25 Mr. Mowry, you may continue with your redirect, sir.

1 MR. MOWRY: Thank you, Your Honor.

2 REDIRECT EXAMINATION

3 BY MR. MOWRY:

4 Q Investigator Cheek, in your study of the CAD, the
5 report of the radio traffic, the log, I guess, of the
6 radio traffic that was kept that night, you became
7 familiar with Patrolman Ashley and Deputy McMahan's
8 encounter with the car, Mr. Wells; is that right?

9 A I didn't at the time.

10 Q Well, you became familiar with it?

11 A I became familiar, yes.

12 Q Were you able to look at the time elapsed between the
13 report of the incident on River Hill Road and the
14 encounter?

15 A Yes.

16 Q Did the time fit? Could the vehicle -- in that time,
17 would it have fit for the vehicle to go from here to here?

18 A From where to --

19 Q From River Hill Road to --

20 A To Gray Court.

21 Q Well, to where they encountered the vehicle on 101?

22 A Yes.

23 Q It fit?

24 A Yes.

25 Q Is there a fairly direct route to get there? Are you

1 familiar with the roads?

2 A No, sir, not familiar with the roads.

3 Q Okay. But the time fit; is that right?

4 A Yes, sir.

5 Q And you had an opportunity in court to hear the 911
6 audio; is that right?

7 A Yes, sir.

8 Q Do you recall on there Kelly Ball talking about a
9 brown car?

10 A Yes, sir.

11 Q So she reported it contemporaneously; is that right?

12 A Yes, sir.

13 Q And that's what she saw?

14 A That's what she saw.

15 Q During the course of your investigation, was there
16 any evidence that this was a shooting by a drug rival?

17 A No, sir.

18 Q Who did the victim say to you was his assailant?

19 A David Walker.

20 Q Did he identify anyone else as his assailant?

21 A No, sir.

22 Q Did Toris Moore give you the name of David Walker?

23 A Yes, sir.

24 Q Christopher Wells?

25 A Yes, sir.

1 Q Johnny Lee Saxon?

2 A Yes, sir.

3 Q Where was the wallet found by Antonio Morris,
4 according to your investigation?

5 A Right off of Highway 101 on Pleasant View Drive.

6 Q Where did Johnny Lee Saxon have family?

7 A Pleasant View Drive.

8 Q Where did Christopher Wells have a girlfriend?

9 A Jones Hill.

10 Q Right off of Pleasant View, right?

11 A Yes, sir.

12 Q Are you familiar with the fact that David Walker is
13 in the South Carolina Department of Corrections serving
14 time for this homicide?

15 A Yes, sir.

16 MR. MOWRY: No further questions, Your Honor.

17 THE COURT: Any further questions?

18 RECROSS-EXAMINATION

19 BY MR. RICHEY:

20 Q Officer, you don't, actually, know where that wallet
21 was found, correct?

22 A I know where Mr. Morris took me to.

23 Q Where he told you it was found, but other than that,
24 you don't have any idea where that wallet was found?

25 A He told me it was found at the corner of 101 and

1 Pleasant View Drive.

2 Q Right. Other than that, you don't have any other
3 independent evidence that wallet was found at that place?

4 A Nothing but what he told me.

5 MR. RICHEY: Thank you, sir.

6 THE COURT: Thank you for coming. You may step down.
7 Call your next witness.

8 MR. MOWRY: Your Honor, that's the State's case. We
9 rest at this time.

10 THE COURT: Ladies and gentlemen of the jury, here's
11 what we're going to do. There's a few legal matters that
12 I do need to address with the attorneys. What I'm going
13 to ask is that you be back in the jury room tomorrow
14 morning -- I'll ask that you be back at the same time,
15 okay, 9:30, please. Be back in the jury room at 9:30. At
16 that point in time, we'll proceed with the case.

17 Again, do not discuss the case this evening while
18 you're on break. Talk about anything else, don't talk
19 about the case. I trust y'all will have a pleasant
20 evening. We're going to stick around and do some more
21 stuff, some more motions and a few other things that we
22 have to address on this case. I'll see you at 9:30 and
23 we'll resume at that point in time. Have a great night.

24 (WHEREUPON, the jury leaves the courtroom at
25 4:42 p.m.)

1 THE COURT: At this point, Mr. Richey, you move for a
2 directed verdict; is that correct, sir.

3 MR. RICHEY: Yes, Your Honor. Looking at the
4 evidence in the light most favorable to the State, they
5 cannot prove the elements of the charges against my
6 client.

7 THE COURT: In the light most favorable to the State,
8 considering the law and the testimony, the Court would
9 deny that motion. The Court does find there is sufficient
10 direct and circumstantial evidence. Direct evidence,
11 namely, direct identification by a person present at the
12 scene. Additionally, there is circumstantial evidence in
13 this case which would warrant submitting the case to a
14 jury.

15 Mr. Richey, I'm assuming that you've had an
16 opportunity to discuss with Mr. Wells whether or not he's
17 choosing to testify or y'all intend to present a defense;
18 is that correct?

19 MR. RICHEY: Yes, Your Honor.

20 THE COURT: It's done a variety of ways. Nowadays, I
21 think it's typical for me to ask him a few questions about
22 his right to testify. Are you comfortable with me
23 proceeding with that?

24 MR. RICHEY: I'm comfortable with the Court inquiring
25 of him, yes, sir, I am.

1 THE COURT: Mr. Wells, you can stay seated. I do
2 need to ask you a few questions, okay, sir, just under
3 oath. So if you would, just raise your right hand for me.
4 Thereupon;

5 CHRISTOPHER WELLS, after
6 having been duly sworn, testified as follows:

7 THE COURT: These are simple questions. I just need
8 you to understand the responses I get have to be honest,
9 okay, Mr. Wells? And you can put your hand down. Thank
10 you, sir.

11 Mr. Wells, at this point in the trial, we've reached
12 that part of the trial where you can present a defense.
13 And I need to explain to you certain rights that you have
14 under the Fifth Amendment to the United States
15 Constitution. Okay, sir?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: At this point in time, the State has
18 rested. And if you need to ask me about anything I
19 explain to you in greater detail, just let me know. I'll
20 let you talk to me. I'll let you talk to Mr. Richey. But
21 if you don't understand something I'm telling you, I need
22 you to tell me, okay, sir?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, again, Mr. Wells, we've reached this
25 point in the trial where you have a right to present a

1 defense. And you, also, have the right to claim the
2 protections given to you by the Fifth Amendment of the
3 U.S. Constitution. Basically, this amendment says you
4 cannot be forced to be a witness against yourself in any
5 criminal case. Do you understand that, sir?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Thank you. Now, Mr. Wells, what that
8 means is that, basically, the solicitor cannot force you
9 to take the stand, the Court cannot make you take the
10 stand, Mr. Richey cannot make you take the stand. No one
11 can force you to be a witness in this particular case. Do
12 you understand that, Mr. Wells?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Now, Mr. Wells, this is a personal right,
15 your Fifth Amendment right to testify or not to testify is
16 a personal right. Only you can waive it. If you decide
17 to testify, Mr. Wells, please, understand you'll be
18 subject to the same rules of cross-examination that govern
19 the other witnesses. So the solicitor would be able to
20 ask you about any relevant material or any relevant
21 questions that the solicitor wants to ask you about.

22 Do you understand that, sir?

23 THE DEFENDANT: Yes.

24 THE COURT: So if you choose to testify, obviously,
25 you'll be subject to the same questioning process that we

1 have seen with other witnesses.

2 Additionally, aside from your conviction for
3 voluntary manslaughter some years ago, I think the
4 solicitor said it was '92 or something like that, aside
5 from that, I really don't know what your criminal history
6 holds. And it's possible that the Court would allow the
7 State to inquire of you or to bring out the fact that
8 maybe you've been convicted of other crimes, perhaps,
9 crimes involving dishonesty or crimes that carry more than
10 a year in prison if the Court determines that the
11 probative value outweighs any prejudice to you.

12 So understand, Mr. Wells, that if you decide to
13 testify, this decision has to be made freely, voluntarily
14 and with the understanding of all the protections
15 guaranteed to you under the Fifth Amendment.

16 Do you understand what I've told you so far, sir?

17 THE DEFENDANT: Yes.

18 THE COURT: Very good. If you decide not to testify,
19 Mr. Wells, I would instruct the jury that they cannot give
20 the fact that you did not testify any consideration
21 whatsoever in deciding whether you're, actually, guilty of
22 this crime. They can't talk about it. They can't discuss
23 it and they're not to infer anything negative about you
24 because of the fact you didn't testify.

25 Do you understand that, Mr. Wells?

1 THE DEFENDANT: Yes.

2 THE COURT: Now, Mr. Wells, it's entirely up to you
3 on whether or not you want to testify. You can chat with
4 your family about this. You can talk to your attorney
5 about this. Truthfully, I would suggest strongly that you
6 rely upon the advice of your attorney as far as whether or
7 not you choose to testify or even present a defense.
8 Because, obviously, if you choose not to present a
9 defense, then your may get -- or your lawyer will get last
10 argument and sometimes that's a very valuable thing from
11 the defense side of things.

12 Do you understand that, Mr. Wells?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: So any decision on whether or not you
15 testify, it's entirely up to you. The final decision has
16 to be yours.

17 Have you understood everything I've talked to you
18 about, Mr. Wells?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: The way I usually leave it is if Mr.
21 Richey were to call you as a witness, I will assume you
22 have voluntarily waived your right under the Fifth
23 Amendment. Is that a good way to handle it for you, sir,
24 or do you know if you want to testify at this point in
25 time? Have you made that decision?

1 THE DEFENDANT: (There was no response.)

2 THE COURT: If you haven't made a decision, just tell
3 me and you can think about it tonight, you can talk to Mr.
4 Richey some more, if you want to leave it like that.

5 THE DEFENDANT: Let me talk about it.

6 THE COURT: That's perfectly fine. Very good. Just
7 let me know what y'all decide to do in the morning.

8 Anything else we need to cover this evening?

9 MR. MOWRY: I don't think so, Your Honor.

10 THE COURT: My law clerk has been working on the jury
11 instructions. This is not her first rodeo either, so she
12 will be e-mailing those to y'all sometime this evening
13 that you can take a look at.

14 MR. MOWRY: Your Honor, I've got the copy that you
15 had distributed for Mr. Walker's trial. Would it be
16 similar to that, do you anticipate?

17 THE COURT: Perhaps, it will. Perhaps, it won't. I
18 need to look at what she has been working on. We will be
19 giving an instruction on felony murder inference, not
20 felony murder rule, felony murder inference, the same
21 language, an inference of malice can arise, that kind of
22 thing, but the jury is free to reject that inference. At
23 this point in time, we're charging hand of one, mere
24 presence, prior record of a witness, based upon the fellow
25 who testified this afternoon. And then I've got to tweak

1 the multiple co-defendant instruction to make it clear to
2 the jury that they have to judge this case based on the
3 evidence not against Mr. Walker --

4 MR. MOWRY: Yes, sir.

5 THE COURT: -- or the other guy, but solely against
6 Mr. Wells. So that's what I'll be charging so far. If
7 there are any other additions that you can think of right
8 now, go ahead and let me know and we'll put them in there.
9 But we will e-mail this to you, gentlemen, sometime this
10 evening.

11 MR. MOWRY: Sounds very good.

12 MR. RICHEY: Thank you, Your Honor.

13 MR. MOWRY: What time are we starting in the morning?

14 THE COURT: If y'all don't mind, if we could,
15 perhaps, start at maybe 9:15 in the event Mr. Wells
16 chooses not to testify. That way, we can go straight to
17 closing arguments and charge.

18 Do you anticipate any additional witnesses if Mr.
19 Wells weren't to testify?

20 MR. RICHEY: No, Your Honor.

21 THE COURT: Okay. Very good.

22 So if there is going to be a defense case, it will be
23 Mr. Wells alone, that's what I'm hearing. If that
24 changes, just let me know. Otherwise, we'll plan on going
25 straight into closings and charge.

1 MR. MOWRY: Very good.

2 THE COURT: See y'all in the morning, around 9:15 if
3 y'all could.

4 (WHEREUPON, the proceedings were adjourned for
5 the day to be reconvened on Wednesday, April 27, 2016.)

6 Day 3 - WEDNESDAY, April 27, 2016

7 THE COURT: We'll go ahead and go back on the record
8 in the State vs. Mr. Wells. The record should reflect
9 that, first of all, of course, the Defendant is present,
10 along with counsel.

11 A few housekeeping matters that we need to address.
12 First of all; my clerk has already given to you a copy of
13 the proposed instructions. We just realized that we
14 omitted two things from the instructions that I think will
15 need to be included based upon conversations that we had
16 in the courtroom this morning off the record.

17 First, Mr. Richey, Mr. Wells, it's my understanding
18 that Mr. Wells is not going to be testifying; is that
19 correct?

20 MR. RICHEY: Yes, sir.

21 THE COURT: Is that accurate, Mr. Wells? Is that
22 correct, sir, you've chosen not to testify?

23 (Pause.)

24 THE COURT: And the reason I'm asking, Mr. Wells, in
25 anticipation of your not testifying, I need to include

1 some instructions for the jury that there's no inference
2 raised against you because of your not testifying, that
3 the jury is not to consider that in any way, shape or
4 form. That's the reason I was asking that question. I
5 need to include that language at this point in time in the
6 instructions.

7 THE DEFENDANT: No, I ain't going to testify.

8 THE COURT: All right.

9 Additionally, I did not include in the instructions
10 the limiting language that I said I was going to include
11 yesterday. I e-mailed that to my clerk. I thought it had
12 been copied to y'all, but it did not go through. What I
13 have added as it relates to Mr. Walker and the other
14 co-defendants, I added a portion to the instructions that
15 says, You've heard testimony that three individuals were
16 charged in connection with this incident. Only Mr. Wells
17 is on trial in this case, therefore, the evidence against
18 Mr. Wells must be considered separately and apart from the
19 cases against any other defendant and the manner in which
20 a case against any other defendant has been resolved. In
21 short, you must consider the evidence in this case in its
22 totality only as it relates to Mr. Wells without regard to
23 the case of any other co-defendant.

24 So that was the limiting language I put in there.

25 MR. MOWRY: No problem from the State, Your Honor.

1 MR. RICHEY: That's fine, Your Honor.

2 THE COURT: Additionally, it was brought to my
3 attention last night that we did have an issue with one of
4 the jurors.

5 Which juror is it, Mr. Neely?

6 MR. NEELY: I believe it was the younger female juror
7 that was sitting in the middle front.

8 THE COURT: Do we have her name? I think you gave it
9 to me yesterday. Did you give it to me yesterday?

10 MR. NEELY: I don't have her name.

11 THE CLERK: I think it's Kayla Windley.

12 THE COURT: Windley?

13 THE CLERK: Yes. #10 on the list.

14 THE COURT: Okay.

15 THE CLERK: 192 is her juror number.

16 THE COURT: Apparently, one of the officers saw her
17 sitting outside waiting for a ride yesterday -- one of the
18 officers who had testified in the case saw her sitting
19 waiting for her ride, offered to give her a ride and,
20 apparently, did, in fact, give her a ride home. I don't
21 know what the Defendant's position is on her, but,
22 apparently, she is the younger, I believe, black-haired
23 lady sitting on the front row, somewhat of a petite build,
24 if I'm not mistaken. I may be mistaken, but I'm thinking
25 that that's the juror. I'm seeing some heads nod out

1 there.

2 MR. MOWRY: Yes, sir, that, apparently, is the one.
3 I did not see it, but that's what was reported to me.

4 THE COURT: Obviously, if the Defense wants, I'll
5 replace her. If they feel like they'd rather keep her --

6 I was assured, and I'm assuming, Solicitor, that
7 you've already spoken to the officer and that there was no
8 conversation about this case?

9 MR. MOWRY: No, sir. He said it was very innocent.
10 He did not intend for there to be a problem. There wasn't
11 any collusion or anything, but -- Your Honor, if I may
12 state the State's position. That's what we've got
13 alternates for. And to avoid any appearance of
14 impropriety, it might be a good idea to use the alternate.

15 MR. RICHEY: Your Honor, my client, he can't remember
16 which one she is, so he would like for her to be brought
17 out so he can see because he may want to keep her.

18 THE COURT: Very good.

19 And you say you believe her name is Lindley?

20 THE CLERK: Windley.

21 THE COURT: Ask Ms. Windley to step out here, okay?

22 And it's Officer Ashley?

23 MR. MOWRY: Yes, sir.

24 (WHEREUPON, Ms. Windley enters the courtroom.)

25 THE COURT: Hey, Ms. Windley, how are you?

1 THE JUROR: Good.

2 THE COURT: First thing, you're not in trouble, so
3 don't be nervous. I just need to ask you a quick
4 question. It was related to me after we finished up
5 yesterday that you were waiting on a ride outside the
6 courthouse and that one of the officers, who had testified
7 in this case, I think it was Officer Ashley, happened to
8 see you sitting there and then offered you a ride home.
9 Are you the juror that got a ride home from him?

10 THE JUROR: That's correct.

11 THE COURT: At any point in time when you got that
12 ride did y'all discuss the case in any way?

13 THE JUROR: No, sir.

14 THE COURT: He just gave you a lift? How far is it
15 to your house from here?

16 THE JUROR: In driving time, maybe 20 minutes.

17 THE COURT: Okay. And I'm assuming that you -- even
18 though he helped you out and gave you that ride, that lift
19 yesterday, are you able to still sit as a fair and
20 impartial juror being fair to everybody involved in this?

21 THE JUROR: Of course. Of course.

22 THE COURT: Very good, Ms. Windley. Thank you very
23 much. You can go back.

24 (WHEREUPON, the juror exits the courtroom.)

25 THE COURT: All right. Gentlemen, thoughts?

1 MR. MOWRY: I'll leave it to the Defense and you,
2 Your Honor.

3 MR. RICHEY: We want her. My client says he wants
4 her to stay.

5 THE COURT: You'd rather keep her. Okay. Very good.

6 If there were to be any prejudice, the prejudice
7 would adhere to the Defendant, and since they want her to
8 stick around, we'll let Ms. Windley continue to serve.

9 All right. I need to print out the final version of
10 the instructions. Let me get a copy of that.

11 When we come back, Mr. Richey, you can rest on the
12 record. We'll go straight into closings. Of course,
13 you'll have final closing.

14 MR. RICHEY: Thank you, Your Honor.

15 THE COURT: Five minutes while we get this.

16 (WHEREUPON, a short break was taken.)

17 THE COURT: We will go back on the record. The Court
18 has the instructions at this particular point in time.

19 When I bring the jury out, Mr. Richey, I'll just turn
20 to you and at that point in time, you can rest and we'll
21 go straight into closings.

22 MR. RICHEY: Yes, sir.

23 THE COURT: Ask the bailiffs to bring the jury out.

24 (WHEREUPON, the jury enters the courtroom at
25 10:10 a.m.)

1 THE BAILIFF: All jurors are present.

2 THE COURT: Thank you.

3 Ladies and gentlemen of the jury, again, I apologize
4 for keeping you waiting. We were working out here on a
5 few matters that did not involve you. We are, of course,
6 still engaged in the case of the State vs. Mr. Wells. At
7 this point, the State has rested.

8 Mr. Richey.

9 MR. RICHEY: The Defense rest at this time, Your
10 Honor.

11 THE COURT: Ladies and gentlemen, we have reached
12 that point in the trial where you have received all the
13 evidence that you're going to have in order to judge this
14 case. At this point in time, the attorneys will be given
15 an opportunity to give either a closing argument or their
16 closing summation.

17 Normally, when the lawyers talk to you in their
18 closings, it's normal for them to reference facts or
19 testimony or evidence that has been introduced into the
20 record. I will tell you that since you are the sole
21 judges of the facts that if at any time they say something
22 about the facts, the lawyers say something about the facts
23 and it differs from what you recall the testimony being,
24 you should go with your recollection, of course, because
25 you're the judge of the facts in this case. Not the

1 attorneys, not the Court, you're the sole judges of the
2 facts.

3 For example, if they were to say that yesterday, the
4 weather was cold, rainy and miserable and you recall
5 yesterday being the most perfect spring day, you should go
6 with your recollection of the weather as opposed to what
7 they say it was.

8 The way we will proceed is the State will go first
9 with their closing, to be followed by Mr. Richey.

10 So at this point in time, Solicitor, you're recognize
11 for your closing.

12 MR. MOWRY: Thank you very much, Your Honor.

13 Closing Statement by Mr. Mowry

14 MR. MOWRY: Ladies and gentlemen, we've come to the
15 time where, as the Judge said, you've gotten everything
16 you're going to get, except for lawyers flapping their
17 gums.

18 I wanted to talk with you for a few minutes about the
19 law in the case. I want to tie that law in to the facts
20 that you've heard over the last couple of days. This is
21 the only opportunity that I get -- or the last opportunity
22 that I get to talk with you, for which some of you may be
23 eternally grateful. But what I want you to do is remember
24 what you've heard and remember what I'm telling you now.
25 Because I don't get another chance. Mr. Richey will get

1 the last argument. And that's a powerful tool in our
2 system.

3 But I want to talk with you a little bit about the
4 law in the case. Remember, I told you at the start of the
5 trial that a murder is an unlawful killing. Well, was
6 Johnny Lee Cheeks doing anything that deserved killing?
7 Yes, he dealt drugs. And some of you may say well, drug
8 dealers deserve killing. That didn't give David Walker
9 and Johnny Saxon and Christopher Wells the authority to be
10 judges, jurors and executioners. This was an unlawful
11 killing. Without justification, without excuse of a human
12 being. No doubt about that. With malice, either
13 expressed or implied.

14 His Honor is going to instruct you a little later on
15 that malice can either be expressed -- and that is saying
16 -- somebody saying I am going to kill you. That would be
17 expressed malice. And then you can infer malice from the
18 surrounding circumstances. His Honor is going to instruct
19 you that you can infer malice from the fact that the
20 homicide was committing during the commission of a felony.

21 Armed robbery. That's stealing property from
22 somebody with the threat of the use of a deadly weapon.
23 What did you hear from Kelly Ball? I'm here to rob you.
24 This weapon was used in the commission of that unlawful
25 act. By force or violence, intimidation while armed with

1 a deadly weapon. This weapon that Toris Moore told you
2 David Walker told her was Christopher Wells's killed
3 Johnny Lee Cheeks. Oh, it most assuredly is a deadly
4 weapon.

5 Possession of a firearm during the commission of a
6 violent crime is another crime that Mr. Wells has been
7 charged with. Murder and armed robbery are both violent
8 crimes. His Honor will instruct you of that.

9 Now, can we prove to you that Christopher Wells was
10 the trigger man? No. We don't have any eyewitnesses that
11 can come in here and testify to that. No doubt about it.
12 Kelly Ball heard the altercation. She testified that she
13 heard the gunshots and then went out. But she did not see
14 who pulled the trigger, so we cannot prove that
15 Christopher Wells was in actual physical custody of that
16 gun. We cannot prove to you that he's the one that pulled
17 the trigger.

18 But His Honor is going to instruct you about
19 constructive possession as well. Constructive possession
20 -- listen carefully to his charge. That means that
21 several people can possess the same thing at the same
22 time. Listen carefully to that charge when that times
23 comes up.

24 Criminal conspiracy. This is a meeting of the minds.
25 Several people combining together, getting together and

1 coming to an agreement to commit a criminal act. It
2 started out as a plan to go to Enoree to rob, then it
3 extended out to a murder.

4 His Honor will instruct you of the legal principle, I
5 guess is the good word, in South Carolina of the hand of
6 one is the hand of all. There's a very good reason behind
7 this. Basically, it keeps people from getting together as
8 a mob and carrying out some kind of illegal act. And
9 that's what we, essentially, have here.

10 We have three men, Wells, Saxon and Walker, getting
11 together, planning out, going to Enoree. Remember what
12 they told Toris Moore. They told her this before. We're
13 going to Enoree and we're going to rob a drug dealer that
14 lives with a white woman. And is that what happened? I
15 submit to you that it did.

16 The whole idea behind the hand of one is the hand of
17 all is that one person acting alone might well not commit
18 a crime. But if you get a group together, that group
19 dynamic kind of builds up. You get some people egging
20 other people on, other people not wanting to fail in the
21 eyes of the other folks. So that group can a lot of times
22 do an act that the individuals alone would never do. That
23 is why the hand of one is the hand of all is a principle
24 of law in South Carolina. His Honor will instruct you on
25 that as well.

1 And remember, His Honor will instruct you about the
2 inference of malice that arises during the commission of a
3 felony. If a homicide is committed during the commission
4 of a felony, you can infer that there was malice involved
5 with that killing, which might well make it murder in your
6 eyes.

7 His Honor is going to instruct on the concepts of
8 direct and circumstantial evidence. Both of them are
9 present here. Direct evidence is eyewitness testimony.
10 Kelly Ball saw Christopher Wells in the driveway. She was
11 able to describe the car, Wells's car. And you have
12 circumstantial evidence as well. Circumstantial evidence
13 you can consider as pieces in a puzzle, that taken by
14 themselves are not of that great significance, but when
15 you start putting them together, all of a sudden, just
16 like a puzzle, the big picture emerges.

17 The fact that the victim's wallet was discovered in
18 Gray Court by itself may not have been that significant.
19 But when you start putting the other pieces together,
20 Toris Moore talking about how Saxon and Wells and Walker
21 were together going to rob Johnny Lee Cheeks, as it turns
22 out, in Enoree; the fact that Officer Ashley followed the
23 car down 101; the fact that the car drove erratically or
24 evasively; the fact that the wallet is found within a
25 short distance of both Saxon's family's house and Wells's

1 girlfriend's house. All of those are pieces that come
2 together circumstantially to give you the complete
3 picture.

4 So, ladies and gentlemen, let me talk about how this
5 law fits in together. You know, there's a principle of
6 philosophy that I hear every once in a while called
7 Occam's Razor. And it says, basically, that the simplest
8 explanation of an occurrence is usually the best one.
9 Perhaps, even the most accurate.

10 So let's consider this case in that regard. We know
11 that Johnny Lee Cheeks was mortally wounded at his home on
12 Halloween night in 2013. We know that David Lee Walker,
13 this man right here, was found sitting wounded on Johnny
14 Lee Cheeks's front porch after the incident. We know that
15 David Lee Walker had been in Gray Court that evening not
16 long before this incident, that he had been there in
17 search of a gun from Toris Moore. He wanted to borrow a
18 gun he thought she had. They had this one, but they
19 wanted a second one.

20 Now, when you saw Toris testify, I can tell you it
21 was fairly obvious that David Lee Walker's niece wanted to
22 be anywhere else but here. She didn't want to be here.
23 She had no desire whatsoever to be in this courtroom. You
24 could tell that from her demeanor. But what she testified
25 to about her uncle's conversation with her and his

1 associates rings true. And that's what I want you to take
2 back there. She's got no reason to come in here and tell
3 the story she did unless it's the truth. Why is she going
4 to put her own kin in jeopardy?

5 Walker told her that they were going to go rob a drug
6 dealer in Enoree who lived with a white woman. As I said,
7 they wanted a second gun, not just this one. We know from
8 her testimony that Walker was in the company of Saxon and
9 Wells. We know that they were traveling in Christopher
10 Wells's car. And we know from her testimony that the
11 conspiracy had already begun. They had already entered
12 into a meeting of the minds to commit a criminal act.
13 They had already decided here's what we're going to do.

14 And she knew about this several hours before. She
15 didn't want any part of it. So she came up with a story
16 that the gun -- she didn't have it. It wasn't available.
17 They couldn't have it. And off they went. Apparently,
18 maybe, they decided that one gun was enough.

19 So how did David Walker get from Enoree in, say, an
20 hour, hour and a half -- get from Gray Court, I should
21 say. David Walker, who is found wounded on Johnny Lee
22 Cheeks's front porch sometime between 11:30 and midnight
23 on Halloween night of 2013, how did he get from Gray Court
24 to Enoree? It's 10 or 12 miles. We're talking an hour
25 and a half. He, certainly, didn't walk it. Weren't any

1 other cars found.

2 The simplest explanation, ladies and gentlemen, is
3 that these three carried out the plan that Walker had
4 outlined to Toris Moore. That they used Wells's car, that
5 box-style car, that you can see in these pictures. That
6 they drove from Gray Court to Enoree because they were
7 going to rob Johnny Lee Cheeks, a man that Kelly Ball told
8 you had habitually carried a big wad of cash and probably
9 wasn't going to report this to law enforcement. They
10 figured this was an easy, safe score. They figured three
11 on one, even with only one gun. This was an easy score.

12 Remember, Dr. Ward told us that Johnny Lee Cheeks was
13 61 years old. I'm almost that old, so I know it's not
14 ancient, but it's not 40 and it's not 20. He was 61 years
15 old. He was five foot, nine, 140. Remember, what Andrew
16 Ashley put in his report, that Christopher Wells was
17 nearly a hundred pounds heavier, 235 pounds. They hadn't
18 counted on Johnny Lee Cheeks fighting back. They just
19 thought they were going to grab the wallet and go. But he
20 did, he did fight back. He managed to shoot and wound
21 Walker before this trio put him down himself.

22 Now, remember, Kelly Ball wanted to get Johnny Cheeks
23 into his car. She wanted to drive him to the hospital.
24 That's what she testified to. She wanted to get him
25 there, but couldn't. Because the only set of keys that

1 Johnny Lee Cheeks had had been stolen by these robbers
2 along with Johnny Lee Cheeks's wallet. The fact that they
3 took his keys and his wallet, the fact that they did it at
4 gunpoint while armed with a deadly weapon, ladies and
5 gentlemen, that's armed robbery.

6 Now, you'll have all the evidence with you back there
7 in the jury room. You'll have the 911 call. If you want
8 to hear that again, we can make arrangements to do that.
9 That's your province. You make that decision. But you
10 can hear the desperation and hysteria in Kelly Ball's
11 voice. I submit to you that's no act. That was real.

12 You can hear her description at the top of the
13 driveway. They did a lot of talking about colors of the
14 car. But she said that the car was brown. That's what
15 she said in the recording. That's what she wrote several
16 days later in her written statement. Her perception that
17 night was it was brown. But she explained to you, it's
18 under a mercury light. I may be wrong, but that's the way
19 it looked to me that night. And that's the description
20 that went out.

21 But you can hear the description of the car, the
22 box-style car. The description of the car that matches
23 the description of the car owned by the man she saw
24 backing up the driveway, Christopher Wells. That she saw
25 face to face as she came out after the gunshots subsided.

1 She saw Christopher Wells backing up the driveway. Her
2 description of the box-style car matches up with these
3 pictures.

4 And, ladies and gentlemen, it was a description
5 accurate enough for Andrew Ashley to have decided this is
6 worthy of investigation when a short time after the
7 shooting in Enoree, he encountered a box-style car,
8 box-style sedan on Highway 101 heading towards Gray Court.
9 He turned around and followed the vehicle. And where did
10 that car go, ladies and gentlemen? It went, amazingly
11 enough, to Pleasant View Drive with a lot of twists and
12 turns that really weren't necessary. The car could have
13 come in, could have gone across here, could have gone
14 straight down here and made this turn. But instead, they
15 turned here, they turned here, they go up here, they turn
16 here. Little evasive. The same street that Antonio
17 Morris found the wallet. Same street -- or same area, at
18 least, that Christopher Wells's girlfriend lived on. Same
19 street, ladies and gentlemen, that Johnny Lee Saxon's
20 family lives on.

21 Now, do you need a complicated, convoluted
22 explanation? No, not when simple is the best. By some
23 luck and by some good police work, Andrew Ashley happened
24 to follow the right car to the right place. He didn't
25 know that that night. He checked it out as much as he

1 could. He wasn't sure if there was anything there. He
2 was told no, that's probably the wrong color. They're
3 saying it's brown. So you can imagine how Saxon and Wells
4 felt when they're fleeing the scene of what eventually
5 became a homicide and, all of a sudden, they see a police
6 car coming towards them and then stop and turn around and
7 get behind them. That's why all that evasive driving.
8 They knew what was going on.

9 Now, I don't know if Saxon stayed as the driver on
10 the trip from Enoree to Gray Court. Kelly Ball said she
11 saw the car come pulling across the driveway and she saw
12 Christopher Wells go running up the drive. He backed away
13 from her for several steps, turned around and ran. Where
14 did he get in? She said the back passenger side door is
15 where he got in. He jumped in the back seat and the car
16 took off. So I don't know if Saxon stayed the driver the
17 whole time they were going to Gray Court. I don't know if
18 he and Wells switched in transient. And I don't know if
19 Saxon bailed out on Pleasant View Drive. You heard
20 Officer Ashley say, I lost sight of them. I was, he said,
21 a quarter of a mile behind them. He was a distance behind
22 them. So there was a time when he didn't see them. He
23 lost sight of them. But I don't know if he got out there
24 -- if Saxon got out there or he went with Wells to his
25 girlfriend's house, Well's girlfriend house.

1 Remember, the officers, McMahan and Ashley, said they
2 never went inside Wells's girlfriend's house. Never did.
3 So who's to say Saxon wasn't in there? It doesn't matter,
4 though. It doesn't matter. Because we do know that
5 Wells, the car and the wallet all made that trip from
6 Enoree to this area of Gray Court, 10 or 12 miles away.

7 Now, what does that mean, ladies and gentlemen? What
8 does that mean for us? Well, it means that we can tie
9 Christopher Wells to the crime before the shooting of
10 Johnny Lee Cheeks when the conspirators were in Gray Court
11 trying to get the second gun from Toris Moore. And we can
12 tie him to the shooting when it happened based on the
13 testimony of Kelly Ball, her eyewitness identification of
14 him.

15 His Honor is going to tell you about mere presence.
16 Mere presence at a crime is not enough to convict. But
17 Christopher Wells wasn't merely present. It was his car,
18 it was his gun and he was there to rob Johnny Lee Cheeks.
19 Just like Saxon, just like Walker, Christopher Wells was
20 there to commit a robbery and ended up being responsible
21 for a murder.

22 So we can tie it to him before, we can tie him in
23 during and we can tie him in after. Once again, how else
24 did Johnny Lee Cheeks's wallet get from Enoree to Gray
25 Court and to the same street where Saxon lived to the same

1 neighborhood that Wells's girlfriend lived, except by
2 traveling in Wells's car with Wells and Saxon. Ladies and
3 gentlemen, they divided the cash between them and pitched
4 the wallet where they figured, okay, this isn't going to
5 incriminate us.

6 Ladies and gentlemen, do you remember what Toris
7 Moore said Wells's nickname and the name she knew him by
8 was? Well, remember, again, according to Toris, it was
9 his gun. It was his gun that Walker referred to. We've
10 already got one, we need another. It was Wells's car.
11 Wells had Johnny Lee Cheeks's wallet and cash. He was
12 well and truly Johnny Lee Cheeks's nightmare, ladies and
13 gentlemen.

14 Now, Mr. Richey has made quite a bit about Johnny Lee
15 Cheeks's occupation. I doubt any of us consider that a
16 badge of honor that he was wearing. You might not have
17 liked Kelly Ball's lifestyle at the time. You might not
18 like Antonio Morris's criminal record. But what you have
19 to ask about Johnny Lee Cheeks -- yeah, what he did might
20 have been a dangerous occupation -- did that give these
21 three any authority, any basis for going over there and
22 robbing him and gunning him down? And the answer is no.

23 Kelly Ball's lifestyle and Antonio Morris's criminal
24 record, you might not like them, but the question is, were
25 they believable? Did what they told you from the witness

1 stand ring true to you? And I think you can agree that it
2 did.

3 Now, Mr. Richey, has been forced to play the hand
4 he's been dealt. And he's done an admirable job of it.
5 He's been kind of like a slight of hand magician. He'll
6 do something up here while the other hand is doing the
7 trick. It's called misdirection. He's trying to convince
8 you that issues like skin tone or car color make up for
9 all the incriminating evidence that the State has brought
10 against Wells. He keeps bringing up Ty and tries to
11 misdirect you with that. Remember, Kelly Ball used Ty as
12 an example. The frame was like Ty. The beard was like
13 Ty. This was not as a suspect. She didn't think did it.
14 She knew Ty. If it was Ty, she would have said so.

15 Based on her observations that night, based on her
16 recollection that night, she picked him out of this
17 lineup. She picked Wells out of this lineup. Now, either
18 she is making a remarkable, incredible coincidence for
19 that's the guy. And the simplest explanation is, ladies
20 and gentlemen, is that's the guy.

21 Mr. Richey has also talked about an anonymous phantom
22 rival of Johnny Cheeks doing the killing, when we know
23 that David Walker has been convicted of this homicide.
24 David Walker, who was with the other two, Saxon and Wells,
25 that night planning out the robbery. He tries to convince

1 you that Christopher Wells is not a large man that Kelly
2 Ball described. Remember, Kelly is five feet tall. And
3 then it came out that Christopher Wells was 235 pounds.
4 That ain't small.

5 Mr. Richey has reminded me at times of the old lawyer
6 joke -- not saying that he's a joke at all, not by any
7 stretch of the imagination. But the old line about when
8 you have the law, you pound the law. When the facts are
9 in your favor, you pound the facts. When both of them are
10 against you, you pound the table. And Mr. Richey has had
11 to do a lot of table pounding in this case because that's
12 about all he has.

13 Ladies and gentlemen, I asked you at the start of
14 this trial to do three things for me and you've already
15 done one of them admirably. You've listened closely to
16 the testimony that's been brought before you. Y'all have
17 been attentive. Y'all have been zoned in. And we
18 appreciate that, that's important. So that's number one.

19 We're going to ask you to continue to listen very
20 carefully when His Honor instructs you in the law. And
21 then apply the law that you hear to the facts as you find
22 them to be. Y'all are the fact finders in this case.
23 Y'all determine what the truth is. That's number two,
24 listen very carefully to His Honor.

25 And then when you go back there in that jury room,

1 ladies and gentlemen, after you've heard the Judge's
2 charge, I ask you to do that third thing that I asked from
3 you in my opening statement. I ask you to use your common
4 sense. Your common sense will tell you, ladies and
5 gentlemen, the State has proved its case against
6 Christopher Wells. He's guilty of murder. The hand of
7 one is the hand of all. He's guilty of armed robbery.
8 He's guilty of conspiracy with these other two. And he's
9 guilty, either actually or constructively, of possessing a
10 weapon during the commission of a violent crime. Common
11 sense will tell you that the State has carried its burden.
12 We've proved our case beyond a reasonable doubt. We've
13 left you firmly convinced of his guilt. And we ask you to
14 bring back verdicts of guilty on all charges. Thank you
15 very much.

16 THE COURT: Mr. Richey, you're recognized for your
17 closing.

18 MR. RICHEY: Thank you, Your Honor.

19 Closing Argument by Mr. Richey

20 MR. RICHEY: I'm not no magician. I can't do tricks.
21 I can just tell you about what happened. See, this case,
22 this case, when I say this case is a dangerous case, this
23 prosecutor, these police officers, they've got a dual job.
24 Their job is to convict people and not to convict to the
25 innocent. They've got a dual job. And to do that,

1 they've got to come out here and be straight with you.
2 They've got to be straight and honest. But when this
3 prosecutor stood up in this opening statement and tell you
4 he don't know who shot Cheeks, he does know. They told
5 him, David Lee Walker.

6 I'm not going to be transparent. I'm not going to do
7 a magic trick and make a second gun appear over here. I'm
8 not going to do a magic trick. It's here. It's a reason
9 why he didn't touch this gun one time. It's a reason why
10 he came over here and kept saying, this gun, this gun,
11 this gun, this gun. He's not being straight with you. If
12 he was being straight with you, he'd come over here and
13 say you know what, it was two guns. It was this gun and
14 it was this gun. He'd be straight with you. That's a
15 magic trick. He'd be straight with you. And he'd look at
16 this evidence and he'd be straight with you.

17 Let me tell you what happened out there that night.
18 It's real straightforward. What happened out there that
19 night, we all know Cheeks had a large sum of money, that
20 he was involved in these drugs. He always carried money
21 on him. We know that's a fact.

22 We know Kelly Ball was in the house with him. Kelly
23 Ball is not somebody -- she's not a stand-by-me woman.
24 She's not -- she didn't get up here and say, you know
25 what, I loved that man. I loved him. I really miss him.

1 God, I miss him. She didn't say any of that. All she
2 talked about was he's got all these other sources that he
3 can get his dope from. He's got all these people he's
4 getting his dope from. Okay. So we know that's a fact.

5 We know he got a knock at the door and we know it's a
6 fact he walked out there. Nobody held a gun to him. They
7 didn't come to the door and say, hey, sir, we're robbing
8 you. Back up. He went out there freely and voluntarily
9 to get armed robbed.

10 And you know what that police office said, he said he
11 never seen anything like this. He never seen an armed
12 robbery where a guy walk out of the house voluntarily and
13 get robbed. It doesn't happen. These people are armed
14 and they're dangerous. So when he walked out of that
15 house with David Walker for some other reason, not to be
16 robbed. We know that.

17 Then when they got out there, they started arguing.
18 We know both of them are armed. We know both of them are
19 carrying this stuff. We know that, okay. They get in an
20 argument, shots fired. Shots fired.

21 I'm going to tell you what got this started.
22 Unfortunately, Mr. Cheeks was 61 years old. He was living
23 a life at 61 he shouldn't be living. We all know that,
24 but he chose that life to live. And what happened is when
25 he got out there with Walker, we know that he shot Walker

1 first. We know that. You know how we know that? Because
2 of the evidence.

3 The pathologist testified -- you remember the
4 pathologist? No magic trick of mine. I didn't call him
5 as a witness. He said that Cheeks had shots in his
6 abdomen that were upward. You remember, he said the
7 person had to be underneath to do that shot, or lower than
8 you. So we know whoever shot Cheeks was lower than him by
9 the pathologist. So we know he got shot. So we know that
10 David Walker didn't -- he shoots Walker first. Walker's
11 down, he does an upward shot. That's consistent with the
12 evidence. That's what the man testified to.

13 And I'm going to tell you when this armed robbery
14 game started. Cheeks is out there shot, okay. You know
15 what Kelly Ball did, she went out there and got that gun.
16 She got that gun, okay, and she moved that gun a great
17 distance.

18 When we look at this photo that was put up, this
19 photo right here that was put up, where they say all the
20 stuff happened where those markers are. That's where
21 everything happened where those markers are. Okay.
22 That's where everything happened. So we know she went out
23 that house and moved that gun. We know that. That's not
24 a smoking mirror by me, that's what's the evidence because
25 she moved that gun. And why would she move that gun?

1 Because this is the story, unfortunately, that a man dying
2 and her came up with. I wasn't the aggressor, meaning
3 Cheeks. He shot me first. He robbed -- that's what the
4 story was.

5 And we know Christopher Wells didn't shoot him. They
6 tell you that. So this is a beef that these gentlemen had
7 that started up when he -- when they got there, they
8 didn't have a beef. They walked out the house like normal
9 people and then they started arguing. So we know that
10 Walker did not come there to rob him because they went
11 outside and started arguing. How do you argue with a guy
12 that's there, I'm here to rob you? That's not arguing.
13 So we know that don't make any sense. Because they don't
14 make common sense for somebody to open sir, we're here to
15 rob you. We know that doesn't make sense.

16 Now, we look at Wells. Kelly Ball, she says hey, I
17 saw the guy. I saw who he was. He was dark-skinned. He
18 was big. When he was up here, did he say that Toris told
19 us that Christopher Wells was not big and that he was
20 light-skinned? She told us that. She, also, told us that
21 the car was gray. She told us that.

22 See, the descriptions of these people could not be
23 more opposite. We can look at dark-skinned,
24 light-skinned. It's just a contrast. That's not me.
25 That's how she described the guy. That's how she

1 described the guy. And we know that description -- we can
2 all sit here and say, you know what, that description does
3 not fit Mr. Wells. That's not a game. We know that's not
4 him. We know that.

5 They said he was robbed. They said he was robbed.
6 They stole his wallet and all of this stuff. They stole
7 his wallet. That gentlemen got on the witness stand --
8 you remember him, the wallet guy? One word he said was
9 not the truth. I'll give you an example. He sat up here.
10 I said, Sir, do you know whose wallet that was? I had no
11 idea who it was. He said, I had no idea who it was. When
12 he was out here, I showed him. It's got the man's
13 driver's license and all this stuff in it, so he knows
14 whose wallet it was. No question he knows.

15 Oh, he's got a criminal record, don't worry about.
16 Then, I say to him, sir, did you use those credit cards?
17 See, that's how they got him. See, that's how they got
18 him, the credit cards. He used those credit cards.
19 That's how they got him. That's how they got him. And
20 this stuff about --

21 MR. MOWRY: Your Honor, I hate to object during a
22 closing argument, but there's been no evidence that he
23 used those cards besides a statement from Mr. Richey.

24 THE COURT: Overruled. The jury will recall the
25 facts as they recall them to be.

1 Mr. Richey, please, continue, sir.

2 MR. RICHEY: Thank you, Your Honor.

3 And we can see how this wallet was filled up. You
4 know, like my wallet is real thin because I don't put a
5 lot of money in it. But this wallet is a wallet that is
6 filled with a lot of money. This guy got up here and told
7 you it was one dollar in here and I went to the Dollar
8 Store. Somebody going to run -- we know this man's got
9 large sums of money in here. They're going to take all
10 and leave one dollar in here? I mean, that doesn't make
11 any common sense.

12 But you know what, when this gentleman strolled in
13 here, when I'm sitting over here and this gentleman,
14 Antonio with the wallet, sitting over there and he strolls
15 in here, this guy is about six-one, six-two. He sat down
16 and he started talking, I'm looking at him and I'm
17 thinking, fits the description. Fits the description,
18 dark-skinned, tall. Did you believe he lives down here?
19 See, the State has the burden of proof. They want you to
20 believe that he lives down there. That he lives there.
21 We have to believe him to say he lives there. No way.
22 They didn't bring in evidence, oh, this is his mail,
23 nothing. So we've got to take his word for it, the man
24 that's lied to us repeatedly, that fit that description of
25 a dark-skinned, tall man sitting there with the wallet.

1 Because he fits the description and he's got this wallet.

2 Christopher Wells, the prosecutor says to you, oh, he

3 was driving erratically. Oh, he was driving erratically.

4 What evidence did the officer say he was driving erratic?

5 The officer said he's back there, cruises by and him

6 following him. He's not speeding. He's not weaving off

7 the road. He's just driving through there. He's just

8 driving through there. He goes and makes a left turn and

9 he drives. And I asked him, If he had let someone out,

10 would you have saw him? Because he was behind him. He

11 was behind him. And he was cruising through here. He

12 comes down here, gets out, gets home.

13 What happened when he got home? Two officers came to

14 the house. They knock on the door, a woman answers the

15 door. He's sitting there with a plate and a sandwich.

16 He's got a plate and a sandwich. And see, his demeanor

17 did not alarm these officers. See, his demeanor, it did

18 not raise suspicion. So they talked to him and they said

19 hey, where you been. He said hey, I was over in

20 Spartanburg with this girl and I'd prefer his girlfriend,

21 fiancé, not hear them. And that officer, he was

22 satisfied. When you look at this testimony, he was

23 satisfied. Was he sweating? Because, you know, according

24 to them, he just ran, jumped in the car, done all this

25 stuff. Was he sweating? No. Nothing.

1 Then the officer got a call and said hey, this car
2 don't fit the description. That car does not fit the
3 description. We know the car was gray because that
4 officer got there, he said wait, this car is gray. It
5 doesn't fit the description. So we know it was gray. And
6 see, gray and brown, no, that's not close. Gray and brown
7 is not close. Not even close to gray. Not even close.
8 And that's not a magic trick. That's not even close to
9 gray. It's not. If you put lights on this, gray don't go
10 to brown. It just don't happen. It doesn't happen. It
11 does not happen.

12 But you know what's interesting about this? You
13 know, Kelly Ball gave that initial statement. She gave an
14 initial statement. And she came back later and made a
15 statement. And they're down there with her with this.
16 And she said oh, yeah, it was brown. It was brown. But
17 see, what she didn't know is that officers had already
18 been down there. She didn't know that. When she's
19 telling these officers hey, Christopher Wells jumped in a
20 car on the passenger side, all this stuff, she didn't know
21 that Christopher Wells's car was being followed by a
22 police officer. She didn't know that. She didn't know
23 that.

24 And see, the State of South Carolina, the State of
25 South Carolina, the reason why that burden is so high, the

1 reason why the reasonable doubt burden is so high is
2 because the resources that the State has, that's why this
3 burden is so high. They didn't prove to you this was
4 Christopher Wells's car. They didn't. We use our common
5 sense here to figure out whether this car here is
6 registered to Christopher Wells. He wants you to believe
7 this is his car. That's what he wants you to believe.
8 But we use our common sense and we say why wouldn't he go
9 out and get the VIN number on this and come in and say
10 yeah, that's it. Why didn't he do that when there's all
11 this dispute over color? And he's going to bring this in
12 and wants you to believe this is his car.

13 This is a murder trial, okay. This is a murder
14 trial. He's asking this man to be convicted of murder.
15 And he's going to ask you to believe this is his car.
16 He's going to ask you to believe that this man found this
17 wallet. We can't believe him.

18 Photo lineup. Look at this lineup. It's not one
19 dark-skinned person in this thing. I mean, why don't you
20 have a photo lineup -- when this lady has told you that
21 the guy dark-skinned, why would you have this lineup? But
22 see, they want you to convict this man for murder, for
23 murder with this stuff.

24 You know, oftentimes, when you're in your car -- you
25 know, you get in your car and you put your feet in and you

1 go, all this stuff, and the car is dirty and all this
2 stuff. That officer searched Christopher Wells's car that
3 night. We know that. Christopher Wells gave them
4 permission. He searched that car and he didn't find
5 anything suspicious in that car. Because what we have to
6 understand is this is a surface that we're talking about
7 the people were on. This is the surface that we're
8 talking about that he's running on through. If you
9 believe this story, this is the surface. That officer
10 didn't say, you know what, I found some wood chippings in
11 the bottom of Christopher Wells's car that was consistent
12 with this. He didn't say that. He didn't say he found
13 any of this stuff.

14 This car. He tried to make oh, this is an older car.
15 Look at the rims on this car. This car has got
16 substantial money put into it, but we know that because he
17 had a lot of money and he dealt a lot of money. This is
18 not about smoking mirrors. This is not a game. It really
19 isn't. This is serious business. Because I'm
20 representing a client that they want you to convict him of
21 murder. And see, they have a burden of reasonable doubt.
22 See, reasonable doubt is the kind of doubt that will make
23 you hesitate to act. It makes you hesitate to act.
24 That's what reasonable doubt is. The Judge will charge
25 you that reasonable doubt is a doubt that will make you

1 hesitate to act. But when I look at this case, what would
2 make you hesitate to convict?

3 Number one, we know the identification is wrong, not
4 even close. That would make you hesitate, why is this ID
5 screwed up? Number two, has the car been proven to be
6 his? No. Because this is some car -- I don't know what
7 this car is, but we know his car was gray. Do we believe
8 that this was an armed robbery? Do we believe that? Do
9 we believe that these two guys went out there and got in
10 an argument and it was an armed robbery? Do we believe
11 that? Do we believe that Christopher Wells's demeanor
12 that night with the police was a guy that ran and hid all
13 this stuff, to be in a house eating a sandwich? And that
14 officer out there that night had the opportunity to judge
15 his demeanor. Do we believe that his demeanor was the
16 demeanor of somebody that had done something? No. The
17 officer didn't either.

18 He wasn't there. That's what the evidence is. He
19 wasn't there. Mere presence has nothing to do with it.
20 He wasn't there. He was not there. Armed robbery?
21 Wasn't there. They never told you anything about
22 Christopher Wells being armed, never said one thing about
23 it. But, unfortunately, Johnny Cheeks left this world
24 very unfortunate. He left this world very unfortunate.
25 And that had nothing to do with Christopher Wells.

1 Nothing. He got in a shouting match and the shouting
2 matching became a verbal altercation and a shooting match.
3 He told you. He told you what it was. He told you what
4 it was.

5 We're going to ask you to come back with a verdict of
6 not guilty. Not guilty. Because we believe when the
7 stakes are high, when the stakes are high, this high, the
8 State cannot get up here -- Mr. Mowry said we don't know
9 if he put Johnny Saxon out. You have to know. You have
10 to know. You have to know. He deserves to know. He
11 deserves to know. Because he's sitting over there, he
12 deserves to know. And when they don't have the answers,
13 when the State doesn't have the answers and they come in
14 here playing games, he deserves better. Because this is
15 his life. It's his. It's his life.

16 We're going to ask you to find him not guilty for all
17 these charges. You've got to believe that they went there
18 with the intent to rob him and all the other stuff. Done.
19 Done. Case over. It's over. And we know it wasn't that
20 way. Thank you.

21 THE COURT: Thank you, sir.

22 Charge on the Law by the Court

23 THE COURT: Ladies and gentlemen of the jury, by my
24 count, you've been out there for about an hour and five
25 minutes. It's going to take me about 20 to 25 minutes to

1 give you the instructions on the law. Does anyone need a
2 brief break?

3 (WHEREUPON, the jury responded in the negative.)

4 THE COURT: Ladies and gentlemen, it becomes my
5 obligation to instruct you on the law that applies in this
6 particular case. And when I first started practicing law
7 24 years ago, the way that a judge would do this and the
8 way some judges still do this is they would sit up here
9 and, basically, read you 25 pages of the law taken from
10 the law books. And you were supposed to sit there and
11 absorb it all and hear it one time and get it right.
12 Basically, you're supposed to get right in 20, 25 minutes,
13 the same stuff that took me three years to learn in law
14 school.

15 I always found that a little bit unreasonable. So
16 long story short, ladies and gentlemen, I'm going to give
17 you a copy of these instructions that you can refer to if
18 you need to in the jury room during your deliberations.
19 If you have any questions about these instructions or the
20 law that applies, I can answer any legal questions. So if
21 you have any questions about these instructions, I can
22 answer any sort of legal question as it relates to the
23 law. However, if you have any factual questions, I cannot
24 answer those. Because, again, you're the judges of the
25 facts and I cannot make any comment on the facts. And at

1 this point in the trial, it's not possible to reopen the
2 record and take additional testimony. So factual stuff, I
3 can't help you with. Legal stuff, I can help you with.

4 Of course, consider these instructions as a whole and
5 don't simply pay attention to part of the instructions to
6 the detriment of other portions of the instructions. And
7 if you would, if you would just return these to me after
8 you're done with your deliberations.

9 Now, ladies and gentlemen, the indictments in this
10 case charge the Defendant with the offenses of murder,
11 armed robbery, possession of a weapon during the
12 commission of a violent crime, and conspiracy. I'll
13 remind you the fact that Mr. Wells was arrested and
14 charged and indicted in this case is not evidence, nor can
15 these indictments be considered by you as evidence of
16 guilt. These indictments do not create any presumption or
17 inference of guilt. The documents are merely the formal
18 written instruments which contain the charges made against
19 Mr. Wells, the formal documents by which this case is
20 brought into court.

21 Now, ladies and gentlemen, the indictments in this
22 case allege several different offenses against the
23 Defendant. The charges are murder, armed robbery,
24 possession of a weapon during the commission of a violent
25 crime, and conspiracy. Each indictment charges a separate

1 and distinct offense or crime. You must decide each
2 indictment separately on the evidence and the law
3 applicable to it uninfluenced by your decision as to any
4 other indictment. The Defendant may be convicted or
5 acquitted on any or all of the offenses charged. And
6 you'll be ask to write a separate verdict of guilty or not
7 guilty for each of the indictments issued.

8 Now, ladies and gentlemen, you've heard testimony
9 that three individuals were charged in connection with
10 this incident. I emphasize to you that only Mr. Wells is
11 on trial in this case. Therefore, the evidence against
12 Mr. Wells must be considered separately and apart from the
13 cases against any other defendant and the manner in which
14 the case against any other defendant has been resolved.
15 In short, you must consider the evidence in this case in
16 its totality only as it relates to Mr. Wells without
17 regard to the case of any other co-defendant for the
18 manner in which that case against that other co-defendant
19 was resolved.

20 Now, ladies and gentlemen, the Defendant, Mr. Wells,
21 has pled not guilty to these indictments. That plea puts
22 the burden on the State to prove the Defendant's guilt. A
23 person charged with committing a criminal offense in this
24 state is never required to prove himself innocent. I
25 instruct you that it's an important rule of law that the

1 defendant in a criminal trial, no matter what the
2 seriousness of the charge may be, will always be presumed
3 to be innocent of the crimes for which the indictments
4 were issued unless guilt has been proven by evidence
5 satisfying you of his guilt beyond a reasonable doubt.

6 Presumption of innocence, ladies and gentlemen, does
7 not end when you begin your deliberations, but it
8 accompanies the defendant throughout the trial of a case
9 until you reach a verdict of guilt based on evidence
10 satisfying you of his guilt beyond a reasonable doubt.
11 The presumption of innocence is like a robe of
12 righteousness. It's placed about the shoulders of the
13 Defendant. It remains with him until it has been stripped
14 from him by evidence satisfying you of his guilt beyond a
15 reasonable doubt.

16 Now, ladies and gentlemen, the presumption of
17 innocence is not merely a legal theory, it's not just a
18 legal phrase. It's a substantial right to which every
19 defendant is entitled unless you are satisfied from the
20 evidence of his guilt beyond a reasonable doubt.

21 Now, ladies and gentlemen, I instruct you and
22 emphasize the fact that the Defendant did not testify is
23 not a factor to be considered by you in any way in your
24 deliberation and in your consideration on the question of
25 the guilt or the innocence of the Defendant. It must not

1 be considered by you in any manner whatsoever. The
2 Defendant has the Constitutional right to remain silent.
3 And the assertion of this right must not be considered by
4 you during your deliberations.

5 I repeat, under your oath, you're to draw no
6 conclusions whatsoever from the fact that the Defendant in
7 this case did not testify. The fact that he did not
8 testify should not even be discussed in the jury room.
9 The burden of proof, as I stated to you, is on the State.
10 The Defendant is not required to prove his innocence. The
11 burden of proof remains on the State to prove guilt beyond
12 a reasonable doubt.

13 What is a reasonable doubt in the law? A reasonable
14 doubt is the kind of doubt that would cause a reasonable
15 person to hesitate to act. The State has the burden of
16 proving the Defendant's guilt beyond a reasonable doubt.
17 Some of you may have served as jurors in civil cases where
18 you were told that it's only necessary to prove that a
19 fact is more likely true than not true or greater weight
20 of the preponderance of the evidence. In criminal cases,
21 the State's proof must be more powerful than that. It
22 must be proof beyond a reasonable doubt. Proof beyond a
23 reasonable doubt is proof that leaves you firmly convinced
24 of the Defendant's guilt.

25 Now, there are very few things that we know in this

1 world with absolute certainty. And in criminal cases, the
2 law does not require proof that overcomes every possible
3 doubt. If, based on your consideration of the evidence,
4 you're firmly convinced the Defendant is guilty of the
5 crimes charged, you should find him guilty. If on the
6 other hand, you think there's a real possibility the
7 Defendant is not guilty, you must give him the benefit of
8 the doubt and find him not guilty.

9 Ladies and gentlemen, I remind you that during this
10 trial, you and I have certain duties to perform. As the
11 trial judge, it is my responsibility to preside over the
12 trial of this case. I, also, have the duty to rule on the
13 admissibility of evidence offered during the trial. You
14 should consider only the competent evidence before you.
15 So if any testimony was stricken from the record, you will
16 have to disregard that testimony because you are to
17 consider only the testimony which has been presented from
18 the witness stand as well as any exhibits which have been
19 made a part of the record in this case.

20 I have the additional duty to charge you the law
21 applicable. And as the presiding judge, I am the sole
22 judge of the law. It is your duty to accept and apply the
23 law as I state it to you. So if you already have any
24 ideas as to what the law is or what it should be and it
25 does not agree with what I now tell you the law is, you

1 have to abandon this idea because you're sworn to accept
2 and apply the law exactly as I state it to you.

3 Again, every case tried in this court before a jury,
4 the jury becomes the sole and exclusive judge for the
5 facts in the case. A trial judge cannot intimate, state,
6 comment on or make any statement to a trial jury about the
7 facts. Since you the jury are the sole judges of the
8 facts, you're not to infer from what I said during the
9 progress of this trial in ruling upon the admissibility of
10 evidence or otherwise, or anything I say to you now during
11 the course of these instructions that I have any opinion
12 about the facts. Ladies and gentlemen, the law does not
13 permit me to have an opinion about the facts in this case.
14 This is a matter solely for you to determine. As jurors,
15 it's your duty to determine the effect, value, weight and
16 truth of the evidence presented.

17 Typically, there are two types of evidence presented
18 during a criminal trial, direct evidence and
19 circumstantial evidence. Direct evidence directly proves
20 the existence of a fact and does not require deduction,
21 such as testimony by an eyewitness. Circumstantial
22 evidence is proof of a chain of facts and circumstances
23 indicating the existence of a fact. I instruct you that
24 crimes may be proven by circumstantial evidence. The law
25 makes no distinction between the weight or value to be

1 given to either direct or circumstantial evidence.

2 However, to the extent the State may rely on

3 circumstantial evidence, all of the circumstances must be

4 consistent with each other and when taken together point

5 conclusively to the guilt of the accused beyond a

6 reasonable doubt. If these circumstances merely portray

7 the Defendant's behavior as suspicious, then the proof has

8 failed. The State has the burden of proving the Defendant

9 guilty beyond a reasonable doubt. And this burden rest

10 with the State regardless of whether the State relies on

11 direct evidence, circumstantial evidence or some

12 combination of the two.

13 Now, ladies and gentlemen, necessarily, you'll have

14 to determine the credibility of witnesses who have

15 testified in this case. And, of course, credibility

16 simply means believability. It's your duty as jurors to

17 analyze and to evaluate the evidence and determine which

18 evidence convinces you of its truth. In determining

19 believability of witnesses who have testified in this

20 case, you may believe one witness over several witnesses,

21 or several witnesses over one witness. You may believe a

22 part of the testimony of a witness and reject the

23 remaining part of the testimony of that same witness. You

24 may believe the testimony of a witness in its entirety or

25 reject the testimony in its entirety. You can consider

1 whether any witnesses exhibited to you any interest, bias,
2 prejudice or other motive in this case, and you can, also,
3 consider the appearance and manner of a witness while on
4 the witness stand.

5 Now, as I explained yesterday, ladies and gentlemen,
6 normally, the rules of evidence don't permit witnesses to
7 testify as to opinions or conclusions, but an exception to
8 this rule exist for expert witnesses. A witness who by
9 education and experience has become an expert in some art,
10 science, profession or calling may state an opinion as to
11 relevant and material matters in which the witness claims
12 to be an expert and may, also, state the reasons for that
13 opinion. You should consider any expert opinion received
14 in evidence in this case and, like any other evidence,
15 give it the weight you think it deserves.

16 If you decide the opinion of an expert witness is not
17 based on sufficient education and experience, or if you
18 conclude that the reasons given in support of the opinion
19 are not sound, or that the opinion is outweighed by other
20 evidence, you may disregard the opinion entirely. An
21 expert witness's testimony is to be given no greater
22 weight than that of any other witness simply because the
23 witness is an expert. And you're required to accept an
24 expert's opinion even though it's not contradicted.

25 There has been evidence presented during this trial

1 that witnesses have made prior statements which are not
2 consistent with the testimony at trial. You may use this
3 evidence to decide whether or not to believe the witness,
4 and you may, also, use the evidence of the earlier
5 contradictory statement to determine the truth of those
6 statements. It's up to you to decide whether to believe
7 the earlier statements or the testimony given at trial.
8 If a witness is shown to have knowingly testified
9 untruthfully concerning any matter, you may consider this
10 in determining whether to trust the witness's testimony as
11 to other matters. You may reject all of the testimony of
12 that witness or give or part of the testimony the weight
13 you think it deserves.

14 Now, ladies and gentlemen, I instruct you that a
15 person who has a past criminal record is competent to
16 testify during a trial. A past record does not affect the
17 ability of that witness to testify. A past record may
18 only be considered by you, if at all, in determining the
19 witness's believability. Remember, you're the sole judges
20 of the facts in this case and of the believability of any
21 and all of the witnesses who have testified.

22 Now, ladies and gentlemen, I instruct you that if a
23 crime is committed by two or more people who are acting
24 together in committing a crime, the act of one is the act
25 of all. A person who joins with another to commit an

1 unlawful act is criminally responsible for everything done
2 by the other person which happens as a probable or natural
3 consequence of the acts done carrying out the common plan
4 and purpose. If two or more people are acting together,
5 acting with each other, assisting each other in committing
6 the offense, the act of one is the act of all, or as it is
7 sometimes said, the hand of one is the hand of all.

8 I instruct you that prior knowledge that a crime is
9 going to be committed without more isn't sufficient to
10 make a person guilty of that crime. Mere knowledge that
11 another person is going to commit a crime, even if the
12 Defendant is present when the crime is committed, isn't
13 sufficient to convict the Defendant as a principle. Guilt
14 as a principle is shown by actual or constructive presence
15 at the scene as a result of prior arrangement. Therefore,
16 a finding of a prior arranged plan or common scheme is
17 necessary for a finding of guilt as a principle. The
18 State must prove beyond a reasonable doubt by competent
19 evidence the theory of the hand of one is the hand of all.

20 A principle in a crime is one who either, actually,
21 commits the crime or who is present aiding, abetting or
22 assisting in the commission of the crime. When a person
23 does an act in the presence of and with the assistance of
24 another, the act is done by both. Where two or more
25 people acting with a common plan or intent are present at

1 the commission of the crime, it doesn't matter who,
2 actually, commits the crime, all are guilty. The hand of
3 one is the hand of all.

4 Present at the commission of a crime means to be
5 sufficiently near to aid and abet and assist in the
6 commission of that crime. However, mere presence at a
7 scene isn't sufficient to convict one as a principle on
8 the theory of aiding and abetting. Intent is, also, a
9 necessary element. There must have been a common design
10 or intent to commit the crime and the crime must have been
11 committed pursuant thereto with the person aiding and
12 abetting by some overt act.

13 Intent means intending the result which, actually,
14 occurs, not accidentally or involuntarily. Intent may be
15 shown by acts and conduct of the Defendant and other
16 circumstances from which you may naturally and reasonably
17 infer intent. The State must prove these elements beyond
18 a reasonable doubt.

19 Again, ladies and gentlemen, I instruct you that mere
20 presence at the scene of a crime is not sufficient to
21 prove someone guilty of a crime. A defendant's presence
22 where a crime is being committed or near association with
23 a person who commits a crime does not make a defendant an
24 accomplice or an aider and abettor of the person
25 committing the crime. The burden is on the State to prove

1 every element of the crime charged. If you find after
2 reviewing all the evidence that the State has proven the
3 Defendant was only present at the scene of the crime and
4 they have not proved beyond a reasonable doubt any other
5 participation in the crime, then you must find the
6 Defendant not guilty. The law is that proof being at the
7 scene of a crime is not sufficient to find someone guilty.

8 Now, ladies and gentlemen, the Defendant in this case
9 is charged with murder. So the State must prove beyond a
10 reasonable doubt that the Defendant killed another person
11 with malice aforethought. Malice is hatred, ill will or
12 hostility towards another person. It's the intentional
13 doing of a wrongful act without just cause or excuse and
14 with an intent to inflict an injury or under circumstances
15 that the law will infer an evil intent. Malice
16 aforethought does not require that malice exist for any
17 particular time before the act is committed, but malice
18 must exist in the mind of the Defendant just before and at
19 the time the act is committed. Therefore, there must be a
20 combination of the previous evil intent in the act.
21 Malice aforethought may be expressed or inferred.

22 Now, these terms expressed and inferred don't mean
23 different types of malice, but merely the manner in which
24 malice may be shown to exist. That is either by direct
25 evidence or by inference from the facts and circumstances

1 which are proven.

2 Expressed malice is shown when a person speaks words
3 which express hatred or ill will for another or when the
4 person prepared beforehand to do the act which was later
5 accomplished. For example, laying in wait for a person or
6 any other acts of preparation going to show that the deed
7 was within the Defendant's mind would be expressed malice.

8 Malice may also be inferred from conduct showing a
9 total disregard for human life. Inferred malice may,
10 also, arise when the deed is done with a deadly weapon. A
11 deadly weapon is any article, instrument or substance
12 which is likely to cause death or great bodily harm.

13 The following are examples of instruments which may
14 be deadly weapons: A pistol, shotgun, rifle, dirt,
15 dagger, knife, slingshot, metal knuckles, a razor,
16 gasoline or Molotov cocktail or lighter fluid. A gun may
17 be a deadly weapon even if it's not operating. If the
18 facts are proven beyond a reasonable doubt sufficient to
19 raise an inference of malice to your satisfaction, this
20 inference would be simply an evidentiary fact to be
21 considered by you along with the other evidence in this
22 case to be given the weight you think it deserves.

23 Now, ladies and gentlemen, I instruct you that if one
24 intentionally kills another person during the commission
25 of a felony, the inference of malice may arise. If facts

1 are proven beyond a reasonable doubt sufficient to raise
2 an inference of malice to your satisfaction, this
3 inference would simply be an evidentiary fact to be taken
4 into consideration by you, along with any other evidence
5 in this case, and you may give it the weight you decide it
6 should receive.

7 The Defendant is also charged, ladies and gentlemen,
8 with the crime of armed robbery. In order to prove this
9 offense, the State must first prove beyond a reasonable
10 doubt that the Defendant took the personal property from
11 the person or presence of another person. Property is in
12 the presence of a person if it is within the person's
13 reach, inspection, observation or control so that the
14 person could, if not overcome with violence or prevented
15 by fear, retain possession of that property.

16 The State must, also, prove beyond a reasonable doubt
17 that the Defendant carried the property away intending to
18 permanently deprive the other of that property and to keep
19 the property for the Defendant's own use. The slightest
20 removal of the property or the complete possession of the
21 property, even for an instant, by the Defendant is
22 sufficient to show a taking and carrying away of the
23 property. The taking and carrying away of the property
24 must have been done with violence or by putting the owner
25 of the property in fear of violence.

1 Finally, the State must prove beyond a reasonable
2 doubt that the Defendant was armed with a deadly weapon
3 during the robbery. Again, a deadly weapon is any
4 article, instrument or substance which is likely to cause
5 death or great bodily harm. Whether an instrument has
6 been used as a deadly weapon depends on the facts and
7 circumstances of each case. Of course, the deadly weapons
8 that I gave as examples, that still stands for the offense
9 of armed robbery.

10 The Defendant is, also, charged with possession of a
11 weapon during the commission of a crime or attempt to
12 commit a violent crime. Therefore, the State must prove
13 beyond a reasonable doubt the Defendant was in possession
14 of a firearm or visibly displayed what appeared to be a
15 firearm during the commission of a violent crime.
16 Firearm, again, means any machine gun, automatic rifle,
17 revolver, pistol or any weapon which will or may be
18 readily converted to expel a projectile.

19 In order to find the Defendant guilty of possession
20 of a weapon during the commission of a violent crime, you
21 must find the Defendant guilty of either committing a
22 violent crime or attempting to commit a violent crime. I
23 instruct you that under the law of South Carolina, both
24 armed robbery and murder are classified as violent crimes.
25 The State must, also, prove beyond a reasonable doubt that

1 the weapon further advanced or helped in the commission of
2 the crime.

3 Finally, ladies and gentlemen, the Defendant is
4 -- charged with conspiracy. The State must prove beyond a
5 reasonable doubt the Defendant combined with one or more
6 persons for the purpose of committing an unlawful act or
7 of committing an unlawful act by unlawful means -- I'm
8 sorry. Let me restate that and just start over.

9 The Defendant is charged with conspiracy. The State
10 must prove beyond a reasonable doubt the Defendant
11 combined with one or more persons for the purpose of
12 committing an unlawful act or of committing a lawful act
13 by unlawful means. There must be a mutual understanding,
14 agreement or common intention and plan. Mere passive
15 knowledge or consent to the criminal conduct of another
16 isn't enough to make a person a conspirator. There must
17 be guilt of knowledge and participation.

18 Similarly, the fact that the Defendant may have
19 associated with another person or met with another person
20 and discussed common schemes and interests does not
21 necessarily establish proof of the existence of a
22 conspiracy or that the Defendant was involved in a
23 conspiracy.

24 On the other hand, it's not necessary that the
25 agreement be a formal one, that the persons hold a meeting

1 and expressly state the terms of the common plan or that
2 the agreement be stated in words between them. The
3 agreement of a criminal conspirator may come into being
4 through an implied mutual understanding. The willful,
5 intentional and knowing adoption by two or more persons of
6 a common plan is sufficient. No overt acts need to be
7 shown to establish a conspiracy. A conspiracy may be
8 shown by circumstantial evidence and the conduct of the
9 parties.

10 In order to convict the Defendant of conspiracy, the
11 State must prove beyond a reasonable doubt not only that
12 the Defendant knew of the unlawful conduct, but the
13 Defendant agreed and combined with the other persons for
14 the purpose of accomplishing the unlawful conduct.

15 Now, ladies and gentlemen, there are four possible
16 verdicts in this case.

17 And I've prepared this verdict form to help guide
18 your deliberations, Mr. Foreman. Basically, the verdict
19 form has it all outlined with regard to the four charges.
20 It gives you the option of finding the Defendant guilty or
21 not guilty with respect both the murder -- with respect to
22 the murder charge, the armed robbery charge, the
23 possession charge as well as the conspiracy charge.

24 If you find that the State has met its burden of
25 proving any one, two, three or all of those charges, find

1 the State has met its burden of proving the Defendant's
2 guilt beyond a reasonable doubt, you would just initial
3 next to guilty for each and every one of the separate
4 charges. Once you're done with all four of them, knock on
5 the door, let the bailiff know and we'll receive you back
6 in the courtroom.

7 Similarly, if you find that the State has failed to
8 meet its burden of proving the Defendant's guilt beyond a
9 reasonable doubt with respect to one, two, three or all of
10 the charges, just initial next to not guilty as applicable
11 on the verdict form, knock on the door, let the bailiff
12 know and we'll get you back in here.

13 Now, ladies and gentlemen, the verdict has to be a
14 unanimous one in this case. That means that all of you
15 have to agree on the verdict. We do not have majority
16 verdicts in South Carolina, so all 12 of you must agree
17 with regard to each and every verdict on all four charges.

18 Once you have agreed on a verdict, as I've said, Mr.
19 Foreman, sign your name on the verdict form, knock on the
20 door and we'll get you back in the courtroom.

21 If any member of the jury panel has any issue or
22 question about the law, simply bring that to my attention
23 by writing me a note. We'll then you bring you -- I'll
24 discuss the note with the attorneys. We'll then bring you
25 back into the courtroom and I'll give you further

1 instruction on the law.

2 At no time, however, should any member of the jury
3 panel or should you, the Foreperson, indicate any
4 numerical division as a result of your deliberations. So
5 I never want to know and, please, don't tell me if you're
6 voting 11 to one or seven to five or whatever the case may
7 be. I don't want to know anything about any numerical
8 division. That's none of my business, okay. So don't
9 give me any of that information along those lines.

10 Now, ladies and gentlemen, I'll remind you that
11 you've been chosen as fair and impartial individuals. In
12 other words, you have no enemies to punish, you have no
13 friends to reward in this case. Your job is to render a
14 verdict based solely upon the evidence and the law as I
15 instructed you.

16 Now, I'm going to ask that you go ahead and return to
17 the jury room in just a few moments. Before I do that, I
18 will mention to you that there are a couple of firearms
19 that are in evidence in this case. They have been secured
20 so that they can't fire, but out of an abundance of
21 caution, and as you all know, treat every firearm as if
22 it's loaded. So that goes without saying. Point at the
23 ceiling, point at the floor. Don't point it at each
24 other. I don't think you could ever get those things to
25 fire, but at the same time, treat every gun as if it's

1 loaded. I'm required to tell you that under the rules.

2 Secondly, we're getting close to lunch time. If you
3 would care to have lunch, that's perfectly fine. While
4 we're getting the evidence together to send back to you,
5 if y'all want to discuss whether you want to order
6 something or you feel like maybe you want to deliberate
7 for a few minutes before you decide to order, that's
8 perfectly fine. It usually takes about 45 minutes to get
9 the food here. Typically, we order pizza from across the
10 street or --

11 We're going to order from across the street if they
12 want lunch?

13 THE CLERK: From Palmetto.

14 THE COURT: All right. We'll get something from The
15 Palmetto if you want lunch. If you have any certain
16 dietary restrictions, let us know what those are and we'll
17 try to accommodate those with a salad or something
18 different. So any dietary restrictions, just let us know
19 and we'll try to accommodate that.

20 At this point in time, go ahead and retire to the
21 jury room, but don't begin your deliberations yet. Your
22 cue to begin your deliberations will be receipt of these
23 instructions, the evidence involved in this case and my
24 asking the alternate to step out. So that's when you can
25 start talking about the case. If you want to go ahead and

1 start talking about lunch, feel free to do that.

2 (WHEREUPON, the jury exits the courtroom at
3 11:39 a.m.)

4 THE COURT: Exceptions or additions from the State to
5 the instructions?

6 MR. MOWRY: Your Honor, I didn't know with regard to
7 possession of a firearm during the commission of a violent
8 crime if you wanted to talk about actual and constructive
9 possession? I don't believe any mention was made of that.

10 MR. RICHEY: Going on the conspiracy theory, I don't
11 believe the Court has to instruct them on actual and
12 constructive possession.

13 MR. MOWRY: I believe that's an element of the crime,
14 though, Your Honor, and they ought to have the option, I
15 guess you could say.

16 THE COURT: While my computer is warming up, any
17 exceptions or additions from the Defense?

18 MR. RICHEY: No, Your Honor.

19 THE COURT: While I appreciate the State's request
20 for constructive possession charge, I've instructed on the
21 hand of one, hand of all. And I think I made it
22 abundantly clear that if more than one person engages in
23 conspiracy that the hand of one is the hand of all. So I
24 don't know that that's terribly necessary. If they
25 struggle with that or I get some indication that they're

1 struggling with an issue concerning constructive
2 possession, then, perhaps, I'll give them that additional
3 charge. But I think if they don't have it now after 27
4 pages of it and hand of one, hand of all, they're not
5 going to get it.

6 MR. MOWRY: Yes, sir.

7 THE COURT: I appreciate your position, but I decline
8 to issue that instruction. Quite honestly, I looked at
9 the most recent case on constructive possession. Most of
10 that is contained, pretty much, in the same language of
11 the hand of one, hand of all. So that's where we are.

12 MR. MOWRY: Thank you, Your Honor.

13 THE COURT: My clerk is reprinting the verdict form.
14 One small typo on that. Y'all get together on the
15 evidence and make sure we've got what we've got going
16 back. I kept track of it separately, but, obviously, the
17 court reporter has primary responsibility for that, so
18 what she says goes.

19 (WHEREUPON, deliberations began at 11:49 a.m.)

20 THE COURT: We'll go back on the record. We've
21 received two communications from the jury.

22 Of course, the record should reflect Defendant is
23 present with counsel.

24 The jury, first, requested a transcript, essentially,
25 wanting a copy of the testimony of Kelly Ball. I

1 explained to the jury that we could not do that because
2 the transcript, obviously, has not been prepared. Then
3 with the consent of counsel off the record, I went to the
4 back and told the Foreperson -- because Ms. Ball's
5 testimony was an hour in length, I told the Foreperson
6 that if they wanted to, they could narrow down their
7 inquiry. And if they gave me some approximation of the
8 question that they had with testimony they were having
9 difficulty recalling that we could probably cue that up.

10 The jury did respond with another note that's been
11 marked as Court's 2. And, basically, they're wanting to
12 hear that portion of the testimony where Ms. Ball says --
13 the portion just after the 911 call where she placed the
14 911 call and she goes into the yard.

15 So what I'm going to do -- we have that cued up, the
16 court reporter has cued that up. I'll have the jury come
17 back into the courtroom and we'll play that portion of her
18 testimony. And I'll tell the Foreperson -- or the jury
19 just to sort of give me a nod or an indication when they
20 want me to stop playing that testimony back, when they
21 feel like they've heard enough of her testimony. So that
22 is my plan.

23 Let's have the jury, please.

24 (WHEREUPON, the jury enters the courtroom at
25 2:54 p.m.)

1 (WHEREUPON, Court's Exhibit Nos. 1 and 2 were
2 marked for identification.)

3 THE BAILIFF: All jurors are present.

4 THE COURT: All right. We're back on the record.

5 Mr. Foreman, based on your notes that you've given to
6 me, I've asked the court reporter to cue up that portion
7 of the testimony. And I think we've found that part that
8 y'all are looking for, but you're asking for the part of
9 the testimony where Ms. Ball is outside of the house
10 helping Mr. Cheeks back inside and seeing the Defendant
11 and identifying Wells/Ty. So the portion that we're going
12 to play for you is the part where Ms. Ball has just made
13 the 911 call and that precedes the portion of the
14 testimony I think you guys are getting at, okay?

15 What I'm going to do is when you feel like you've
16 gotten the answer or you feel like you've heard what you
17 need to hear, just kind of tell me to stop. And if
18 somebody else wants to hear more, then y'all can speak up
19 and we'll hear more -- play more.

20 Madam Court Reporter, go ahead and proceed to play.

21 (WHEREUPON, the requested portion of the
22 testimony of Ms. Kelly Ball was played in open court for
23 the jury.)

24 THE COURT: We can do the same thing for any
25 additional testimony. It's a little bit cumbersome, but

1 we have no problem doing that for you if you need --

2 You want to hear additional portions, sir?

3 THE FOREPERSON: We're having a difficult time with
4 the 911 tape. We're not able to get the speakers to work.
5 We know what we're doing and we're trying to compare the
6 911 tape to this.

7 THE COURT: I got you. My clerk can go back there
8 and try and fix it.

9 THE JUROR: The green light just wasn't on on the
10 speakers when we plugged it in, so.

11 THE COURT: Okay.

12 MR. MOWRY: I don't know if the audio is better here,
13 but it sounds like it is, we can play it here. It might
14 be better.

15 THE COURT: We're happy to play it here.

16 Y'all adjourn to the back. Let me let my clerk take
17 a shot at it first. If that's not satisfactory, we'll
18 bring you guys out and do it out here. Thank you.

19 (WHEREUPON, the jury exits the courtroom at 3:08
20 p.m. to continue deliberations.)

21 THE COURT: We'll just be at ease until we figure out
22 if she can get it to work. If she can't, we'll just bring
23 them out here. Let's all stay here until we find out if
24 they're going to need to come back in.

25 (WHEREUPON, Court was in recess awaiting a

1 verdict.)

2 THE COURT: We'll go back on the record in the State
3 vs. Mr. Wells. Mr. Wells is present with counsel. I'm
4 told the jury has reached a verdict.

5 Anything before we receive the jury back in the
6 courtroom from the State?

7 MR. MOWRY: No, sir.

8 THE COURT: The Defense?

9 MR. RICHEY: Nothing, Your Honor.

10 THE COURT: Very good.

11 I have no way of knowing what the verdict is. It's
12 my custom to remind everybody that this jury did not
13 volunteer to come in here and hear this case. I do not
14 like to see any kind of emotional reaction when verdicts
15 are read. That only serves to convey disrespect to the 12
16 people who have had to make this decision. Clearly, it
17 was not an easy one. They have been deliberating for some
18 time now. So if you find yourself unable to keep your
19 composure or maintain your composure when the verdict is
20 announced, feel free to quietly stand and leave through
21 the back of the courtroom.

22 Let's have the jury, please.

23 (WHEREUPON, the jury enters the courtroom at
24 4:13 p.m.)

25 THE BAILIFF: All jurors are present.

1 THE COURT: Thank you.

2 The record will reflect that the jury is back.

3 Mr. Thomas, I'm told that the jury has reached a
4 verdict; is that correct?

5 THE FOREPERSON: Yes, sir.

6 THE COURT: And all 12 jurors agree on a verdict; is
7 that correct?

8 THE FOREPERSON: Yes, sir.

9 THE COURT: If you would, please, hand the form to
10 the bailiff for me.

11 Madam Clerk, if you will publish, please.

12 Verdict

13 THE CLERK: Your Honor, in the case of the State of
14 South Carolina vs. Christopher Jermaine Wells, case number
15 2015-GS-30-1162, 503, 504 and 505, we, the jury, in the
16 above captioned case on the charge of murder unanimously
17 find Christopher Jermaine Wells not guilty. We, the jury,
18 in the above captioned case on the charge of armed robbery
19 unanimously find Christopher Jermaine Wells guilty. We,
20 the jury, in the above captioned case on the charge of
21 possession of a weapon during the commission of a violent
22 crime unanimously find Christopher Jermaine Wells guilty.
23 We, the jury, in the above captioned case on the charge of
24 conspiracy unanimously find Christopher Jermaine Wells
25 guilty. Signed by the Foreperson, Charles Thomas, dated

1 April 27, 2016, Laurens, South Carolina.

2 Ladies and gentlemen, if that be your verdict,
3 please, indicate by raising your right hands.

4 (WHEREUPON, all jurors raised their hands.)

5 THE COURT: Let the record reflect that all 12 jurors
6 did, in fact, raise their right hand.

7 Anything further from the jury from the State?

8 MR. MOWRY: Not from the jury, Your Honor.

9 THE COURT: Anything from the Defense?

10 MR. RICHEY: No, Your Honor.

11 THE COURT: Ladies and gentlemen of the jury, I want
12 to thank you for your service on this case. I know that
13 it's always difficult for even a couple of people to agree
14 on an outcome. And as I mentioned when I instructed you
15 earlier, we don't have majority verdicts in South
16 Carolina. And I hope we never do because, quite honestly,
17 if 12 people can agree on an outcome, then that's about as
18 certain as I think we can get in this mortal life. So I
19 want to thank you for your efforts on this particular
20 case.

21 And I would very much like to say that you are free
22 to go for the week. Regrettably, I must request that you
23 be back here tomorrow morning at 9:00. We have one more
24 case that we possibly can get to. We, actually, have two
25 more cases that we can possibly get to this week. So if

1 you would, please, report back to the courtroom tomorrow
2 at 9:00. None of you -- I think there were a few jurors
3 that I protected for Friday. Are any of y'all protected
4 for Friday? This is your opportunity to raise your hand
5 and lie to me because I would not recall.

6 Yes, ma'am.

7 THE JUROR: Your Honor, you did not protect me, but
8 on Friday, my son does have -- in a talent show at school
9 at 2:00. And I would like to attend.

10 THE COURT: What's your name, ma'am?

11 THE JUROR: Belinda Young.

12 THE COURT: Remind me of that tomorrow. We have one
13 case that will go into Friday. The other one will be
14 completed tomorrow. So just remind me of that tomorrow,
15 Ms. Young.

16 With that, Mr. Thomas, I need for you to stick around
17 and sign the actual indictments -- the verdict on the
18 actual indictments.

19 The rest of you, if you want to stay around for
20 sentencing, at this point in time, what I will usually do
21 is hear any kind of victim impact evidence from the State
22 as well as any post-trial motions from the Defense and
23 then we would proceed with sentencing. So if you would
24 like to stay, that's perfectly fine. What I would need
25 you to do, though, is just kind of go out that door and

1 then come back around and we'll have some seats available
2 for you out here if you choose to stay the remainder of
3 the proceedings.

4 With that, you have my thanks. I'll see y'all back
5 tomorrow morning at 9:00. Thank you very much for your
6 work and patience.

7 (WHEREUPON, the jury was released at 4:18 p.m.)

8 MR. MOWRY: And Your Honor, if you'll give me a few
9 minutes, I'll go get the sentencing sheets.

10 THE COURT: Thank you, sir.

11 If there are any jurors who want to come around,
12 y'all just pick a row or something back there, deputies,
13 where they can sit, please.

14 (Pause.)

15 THE COURT: We're back on the record.

16 At this point, Mr. Richey, obviously, you renew all
17 previous pretrial motions, all objections, all motions
18 made during the course of the trial; is that correct?

19 MR. RICHEY: Yes, sir, Your Honor.

20 THE COURT: Same ruling as before. And, of course,
21 you move for a new trial; is that correct?

22 MR. RICHEY: Yes, sir.

23 THE COURT: The motion for a new trial is denied.
24 Same rulings with respect to all prior motions and
25 objections from the Defense.

1 At this point, Solicitor, I assume these may be some
2 of the victim's family members behind you. I was, of
3 course, involved with the Walker trial, but if there's
4 anything that they wanted to relate to me or that you
5 wanted to relate on their behalf?

6 MR. MOWRY: Your Honor, it is quite a number here. I
7 have spoken with the spokesman for the family. I have
8 told them that in this case, since the Defendant has a
9 prior record for a violent crime and has been convicted of
10 a violent crime in this case after having been served with
11 a notice of life without parole that the sentence of life
12 is mandatory. And given that circumstance, I don't
13 believe they wish to relate anything further.

14 THE COURT: All right, sir.

15 MR. MOWRY: Your Honor, do you have the certified
16 copy of the indictment on which he was convicted for
17 voluntary manslaughter?

18 THE COURT: I do not.

19 MR. MOWRY: We had it here just a few moments ago.

20 THE COURT: At some point, that would need to be made
21 a part of the record.

22 MR. MOWRY: I'm going to hand up the entire packet
23 that I got from Greenville, Your Honor. It includes a
24 whole bunch of stuff. But it has the certified copy of
25 the indictment and a copy of the sentencing sheet that was

1 in use at that time..

2 I will state for the record, Your Honor, that Mr.
3 Wells, according to our records, was released from the
4 South Carolina Department of Corrections in August, late
5 August of 2013, about two months before this event
6 occurred.

7 THE COURT: All right.

8 The State has presented to the Court a copy of the
9 notice seeking life without the possibility of parole
10 under 17-25-45, the Defense has previously acknowledged
11 service of notice upon them before we ever went to trial.
12 The Court, also, notes that according to the documents
13 presented to the Court, it would appear that Mr. Wells was
14 convicted of -- he was tried, apparently, for murder and
15 was convicted of voluntary manslaughter on December the
16 18th of 1992. I believe that's Judge Patterson's
17 signature.

18 MR. MOWRY: That is Judge Patterson's signature, Your
19 Honor.

20 THE COURT: And received a 25-year sentence on that
21 charge. Obviously, voluntary manslaughter is a violent
22 crime and a most serious offense under the laws of this
23 state.

24 At this point in time, Mr. Richey, I'll turn it over
25 to you for anything that you may want to say or anything

1 that your client may want to say.

2 MR. RICHEY: Yes, just real brief because the
3 sentence is what it is, but he has been out since 2007.
4 And he was, actually, doing pretty good. I think the
5 record reflects he was staying out of trouble. He was
6 working at Duke Mayonnaise. He was pretty much with his
7 grandkids and all that. So he was really doing real well.

8 I will tell the Court that -- I talked to my client
9 about this. I think this was a risk that was taken that
10 he felt real strongly about his innocence. And in terms
11 of the plea offer that was offered to us, it was a real
12 severe risk, but he believed in his innocence in this case
13 that much. And there's nothing I can say for sentencing
14 because the sentence is what it is.

15 And my client does not want to speak. Thank you,
16 Your Honor.

17 Sentence of the Court

18 THE COURT: All right. Well, Mr. Wells, I,
19 certainly, appreciate your position and respect the fact
20 that you felt very strongly that you weren't guilty of
21 these particular crimes. Obviously, by the verdict of the
22 jury, you were guilty of the armed robbery and the other
23 two offenses. They did find you not guilty of the murder.
24 At the same time, Mr. Wells, the law does provide for a
25 very serious penalty for people who repeatedly commit

1 violent crimes. And you've previously committed a
2 homicide, a voluntary manslaughter, and somehow, you find
3 yourself wrapped up in an armed robbery. Even though you
4 weren't convicted of the underlying murder in this
5 particular case, obviously, these crimes in this incident
6 we tried this week, these are, certainly, interrelated.
7 And in the Court's opinion, you are -- regrettably, sir,
8 you are deserving of this sentence.

9 So the sentence on indictment 504, that's the armed
10 robbery is that you be committed to the Department of
11 Corrections for the balance of your natural life as
12 required under section 17-25-45. You will receive a
13 five-year sentence on the conspiracy charge. And under
14 state law, because you received a life sentence on the
15 armed robbery charge, there will be no sentence imposed on
16 indictment 503. That's the possession of a weapon during
17 the commission of a violent crime. All sentences run
18 concurrently and you'll receive credit for time service.
19 Good luck, Mr. Wells.

20 For the record, you have 10 days to file notice of
21 intent to appeal.

22 Mr. Richey, if you would perfect this appeal, please,
23 for Mr. Wells.

24 We stand in recess.

25 *****END OF PROCEEDINGS*****

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA)

COUNTY OF AIKEN)

I, PENNY M. JOHNSON, Official Court Reporter for the
Second Judicial Circuit of the State of South Carolina, do
hereby certify that the foregoing is a true, accurate, and
complete Transcript of Record of the proceedings had and the
evidence introduced in the trial of the captioned case,
relative to appeal, in Court of General Sessions for Laurens
County, South Carolina, on the 25th through 27th days of
April, 2016.

I do further certify that I am neither of kin, counsel,
nor interest to any party hereto.

July 14, 2016



Penny M. Johnson Court Reporter

My Commission Expires: 06/16/2018

WITNESSES

Bryant Cheek
Laurens County Sheriff

WARRANT NUMBER

2014A3010100011

True Bill

Marietta Thompson

Foreman of the Grand Jury

Date: *4-10-15*

VERDICT

Guilty

Charles Thomas

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

April Term, 2015

Indictment # 15GS30- 0503

THE STATE

vs.

Christopher Jermaine Wells

INDICTMENT FOR

Possession of a Weapon During the
Commission of a Violent Crime
16-23-0490

CDR: 0549

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

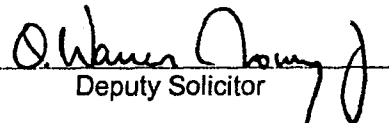
INDICTMENT FOR

Possession of a Weapon During the
Commission of a Violent Crime
16-23-0490

At a Court of General Sessions, convened on the 10th day of April, 2015, the Grand Jurors of Laurens County present upon their oath:

That Christopher Jermaine Wells, in Laurens County, on or about October 31, 2013 possess a firearm or visibly displayed what appeared to be a firearm, or was present, aiding, and assisting another who was so armed during the commission of a violent offense, to wit: Murder and/or Armed Robbery, or any lesser included violent offense, in violation of Section 16-23-490 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Deputy Solicitor

386

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Laurens
 STATE VS.
Christopher Jermaine Wells
 AKA: _____
 Race: _____ Sex: M Age: 42
 DOB: [REDACTED] SS#: _____
 Address: [REDACTED] Dr _____
 City, State, Zip: Simpsonville, SC 29680
 DL#: _____ SID#: _____

INDICTMENT/CASE#: 15GS30-0503
 A/W#: 2014A3010100011
 Date of Offense: 10/31/2013
 S.C. Code § : 16-23-0490
 CDR Code #: 0549

SENTENCE SHEET

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐
 In disposition of the said indictment comes now the Defendant who was ☐ CONVICTED OF or ☒ PLEADS
 TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life witho

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45
 w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: O. Warren 4124 SC Bar# _____ Defendant _____ Attorney for Defendant _____ SC Bar# _____
Mowry, O. Warren

WHEREFORE, the Defendant is committed to the No sentence imposed per § 16-23-490 and the sentence on
☐ State Department of Corrections, ☐ County Detention Center, 15-65-30-504
 for a determinate term of _____ days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____
 Payment Terms: _____
☐ Set by SCDPPPS _____

Recipient: _____

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

Obtain GED ☐
 Attend Voc. Rehab. or Job Corp. _____
 May serve W/E beginning _____
 Substance Abuse Counseling ☐
 Random Drug/Alcohol testing ☐
 Fine may be pd. in equal, consecutive weekly/monthly
 pmts. of \$ _____ beginning _____
 \$ _____ paid to Public Defender Fund
 Other: _____

☐ Appointed PD or appointed other counsel,
 § 47.12 requires \$500 be paid to Clerk
 during probation.

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Presiding Judge

Judge Code:

Sentence Date:

2159
4-27-16

WITNESSES

Bryant Cheek
Laurens County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

April Term, 2015

Indictment # 15GS30- 0504

WARRANT NUMBER.

2014A3010100013

THE STATE

vs.

Christopher Jermaine Weils

True Bill

Marcetta Thompson

Foreman of the Grand Jury

Date: 4-10-15

VERDICT

Guilty

Charles Thomas

Foreman

INDICTMENT FOR

Armed Robbery
16-11-0330(A)

CDR: 0139

THE STATE OF SOUTH CAROLINA

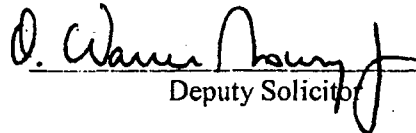
COUNTY OF LAURENS

INDICTMENT FOR**Armed Robbery
16-11-0330(A)**

At a Court of General Sessions, convened on the 10th day of April, 2015, the Grand Jurors of Laurens County present upon their oath:

That Christopher Jermaine Wells, in Laurens County, on or about October 31, 2013 willfully and unlawfully while armed with a deadly weapon, or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, or while being present, aiding, abetting, and assisting another so armed, feloniously take from the person or presence of Johnny Lee Cheeks, by means of force or intimidation, goods or monies described as follows: Wallet and contents, and keys, with intent to deprive the owner permanently of such property, in violation of Section 16-11-330 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Deputy Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Laurens
 STATE VS.
Christopher Jermaine Wells

AKA: _____

Race: _____ Sex: M Age: 42DOB: [REDACTED] SS#: _____Address: [REDACTED]City, State, Zip: Simpsonville, SC 29680

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

☒ CONVICTED OF or ☐ PLEADSTO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly wein violation of § 16-11-0330 of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☒ §17-25-45
The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: O. Warren Mowry 4124

Mowry, O. Warren

SC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
 for a determinate term of life pursuant to section 17-25-45 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
 of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
 probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 15-65-30-505

☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
 by the State Department of Corrections.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
 Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$ 100
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
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§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

Court Reporter: Tara Scott

SCCA/217 (03/2011)

INDICTMENT/CASE#: 15GS30-0504A/W#: 2014A3010100013Date of Offense: 10/31/2013S.C. Code § : 16-11-0330CDR Code #: 0139

SENTENCE SHEET

Presiding Judge

Judge Code: 2159Sentence Date: 4-27-14

WITNESSES

Bryant Cheek
Laurens County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

April Term, 2015

Indictment # 15GS30- 0505

WARRANT NUMBER

2015D3000100026

THE STATE

vs.

Christopher Jermaine Wells

True Bill

Marvette Thompson

Foreman of the Grand Jury

Date: *4-10-15*

INDICTMENT FOR

Criminal Conspiracy
§16-17-0410

VERDICT

Guilt

Charles Thomas

Foreman

CDR: 0049

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

INDICTMENT FOR**Criminal Conspiracy
§16-17-0410**

At a Court of General Sessions, convened on the 10th day of April, 2015, the Grand Jurors of Laurens County present upon their oath:

That Christopher Jermaine Wells did, on or about October 31, 2013, in Laurens County, along with another person or persons, willfully and unlawfully unite, combine, conspire, confederate, agree between and among themselves and have tacit understanding with each other or with other persons whose names are unknown to the Grand Jurors, for the purpose of committing the act of Murder, Armed Robbery, Possession of a weapon during the commission of a violent crime, in violation of Section 16-17-410 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Deputy Solicitor

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STATE OF SOUTH CAROLINA

COUNTY OF Laurens
STATE VS.Christopher Jermaine Wells

AKA: _____

Race: _____ Sex: M Age: 42DOB: [REDACTED] SS#: _____

Address: _____

City, State, Zip: Simpsonville, SC 29680

DL#: _____ SID#: _____

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Conspiracy/Criminal Conspiracy, Common Law conspiracy defined

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 15GS30-0505A/W#: 2015D3000100026Date of Offense: 10/31/2013S.C. Code § : 16-17-0410CDR Code #: 0049

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-17-0410 of the S.C. Code of Laws, bearing CDR Code # 0049☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: O. Warren 4124Mowry, O. Warren

SC Bar# _____

Defendant

Attorney for Defendant

SC Bar# _____

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on: 15-65-30-504☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:

§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ <u>5</u>
3% to County (if paid in installments)		\$ <u>3.90</u>
TOTAL		\$ <u>133.90</u>

PTUP _____

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Clerk of Court/ Deputy Clerk

Court Reporter: Tara Scott

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 2159Sentence Date: 4-27-16

WITNESSES

Bryant Cheek
Laurens County Sheriff

WARRANT NUMBER

2014A3010100010

True Bill

Marvette Thompson

Foreman of the Grand Jury

Date: *7-24-15*

VERDICT

Not Guilty

Charles Han

Foreman

THE STATE OF SOUTH CAROLINA

COUNTY OF LAURENS

COURT OF GENERAL SESSIONS

July Term, 2015

Indictment # 15GS30- *1162*

THE STATE

vs.

Christopher Jermaine Wells

INDICTMENT FOR

Murder

16-03-0010

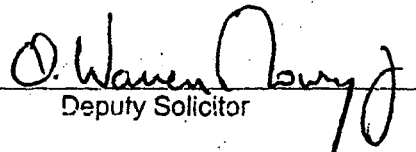
CDR: 0116

THE STATE OF SOUTH CAROLINA**COUNTY OF LAURENS****INDICTMENT FOR****Murder****16-03-0010**

At a Court of General Sessions, convened on the 24th day of July, 2015, the Grand Jurors of Laurens County present upon their oath:

That Christopher Jermaine Wells, in Laurens County, on or about October 31, 2013 willfully feloniously, and with malice aforethought kill one Johnny Lee Cheeks by means of shooting him with a pistol, or was present, aiding, abetting, and assisting another in the commission of said act, and that the said Johnny Lee Cheeks did die as a proximate result thereof on or about November 1, 2013 in violation of Section 16-3-10 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.


Deputy Solicitor

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

RECEIVED

MAR 28 2017

SC Court of Appeals



Kathrine H. Hudgins
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 28th day of March, 2017.