

ORIGINAL

VOLUME I OF II

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Orangeburg County

APR 10 2017

Maite Murphy, Circuit Court Judge

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RODSHEEN AYER,

APPELLANT

APPELLATE CASE NO 2015-002416

RECORD ON APPEAL

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THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

**STATE'S EXHIBIT #65 (PHOTOGRAPH); STATE'S EXHIBIT #67 (PHOTOGRAPH);
STATE'S EXHIBIT #68 (PHOTOGRAPH); STATE'S EXHIBIT #69 (PHOTOGRAPH);
STATE'S EXHIBIT #70 (PHOTOGRAPH); STATE'S EXHIBIT #112 (PHOTOGRAPH);
STATE'S EXHIBIT #113 (PHOTOGRAPH); COURT'S EXHIBIT #1 (PHOTOGRAPH)**

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF ORANGEBURG) FIRST JUDICIAL CIRCUIT

2012-GS-32-02619, 2621, 2622

State of South Carolina,)
))
Plaintiff,)
))
v.) Transcript of Record
))
Rodsheen Ayer,)
))
Defendant.)
))
_____)

November 16, 2015
Lexington, South Carolina

B E F O R E:

The Honorable Edgar W. Dickson, Judge and a jury

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

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Attorneys for the State

Breen Stevens, Esquire
Minh Lee Wyman, Esquire
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Hilda M. Jordan, CVR-M
Circuit Court Reporter

1 injuries consistent with a person having been shot with this
2 person who responded to the hospital. Tattoos that are --
3 he has the exact same tattoos. That would be how we would
4 be seeking to deal with this. We're not going to get into
5 any facial recognition software. But the fact that they did
6 receive information of a possible suspect and then went up
7 and ultimately extradited him back. And he was, you know,
8 appeared to be the same person. As I said, there's other
9 stuff since then that kind of further corroborates that.

10 THE COURT: Okay. So that should take care of your
11 motion Ms. Wyman.

12 MS. WYMAN: Your Honor, could I add one more thing,
13 though?

14 THE COURT: You may.

15 MS. WYMAN: Even though he says he's not going to
16 go into the whole facial recognition software, the report
17 for them to recognize his face came originally from the
18 picture. And we specifically asked the State to provide
19 discovery involving -- so we can do our own outside
20 investigation as far as the process that was used in even
21 identifying him.

22 THE COURT: Your motion's denied. Anything else?

23 MR. STEVENS: Thank you, Judge. Our next motion,
24 we'd move to suppress the photograph of Mr. Ayer by the
25 Lexington County Sheriff's Department in a hospital room

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1 where he was sleeping. He was -- just to give you some more
2 background, Judge. In the present case, the discovery
3 indicates deputies from the Lexington County Sheriff's
4 Office entered the hospital room. Not the ER, but the
5 hospital room of the person they claim is Rodsheen Ayer.
6 Photographed his half naked body as he was sleeping from
7 medication while recovering from surgery. And this room had
8 four walls and a door, Judge, and a bed. It was not an
9 open-bay emergency area. Our position is that an occupant
10 of a closed hospital room recovering from any procedure
11 whether it's, you know, repair the surgery on his arm from
12 gunshot wound or whether it's recovering from childbirth,
13 Judge, anybody that's recovering in a closed hospital room
14 with doors and walls has a reasonable right to privacy in
15 their closed room. And this should apply not only under the
16 Fourth Amendment of the United States Constitution but also
17 under the heightened privacy protections of Article 1
18 Section 10 of the South Carolina Constitution.

19 THE COURT: Do you have any case law to back up
20 what you're saying, Mr. Stevens?

21 MR. STEVENS: None for the specifics of the
22 hospital/hotel room, Judge. However, we do know when we
23 look at other Fourth Amendment law, for example, that
24 there's privacy in public phone booth, at least to the
25 extent that you are supposed to have some privacy by closing

1 the door where people can't hear you. Here, the walls are
2 not clear. Like a phone booth the walls are opaque. And
3 that's because people recuperating are typically in one of
4 the most vulnerable positions ever. I would shutter to
5 think if the police were able to go into my wife's hospital
6 room because they said she didn't have the right of
7 reasonable expectation of privacy when she's actually
8 recovering from childbirth, just by way of example.
9 Additionally, we have a right to privacy in hotel rooms,
10 which frankly, it's prices are considerably cheaper than
11 what you've paid on today at that hospital.

12 Here, Judge, law enforcement entered the room. Entered
13 without a warrant. They entered when he was asleep due to
14 the effects of medication, when he was in his most
15 vulnerable state. He was half naked and recovering from a
16 surgical procedure. Now, Judge, no exigent circumstances
17 exists. I mean, clearly he's not going anywhere. He's
18 unconscious. He's clearly not armed. He's already stripped
19 by the hospital. If they wanted a photograph all they had
20 to do was post an officer by the door, get a warrant. Yet
21 they did not. However, when we actually look at hospital
22 records, they shows that they did wait at the hospital door
23 after they'd already did this stuff. So clearly they could
24 have done it and yet they chose not to. Instead, the chose
25 to go in and photograph this man asleep in his room.

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1 Our position again, this is violative of his reasonable
2 expectation of privacy. And, therefore, the photograph
3 itself should be suppressed.

4 Judge, If I may get a copy of that photograph to show
5 the Court.

6 THE COURT: Yes, sir.

7 MR. STEVENS: May I approach?

8 THE COURT: Yes, sir.

9 MR. STEVENS: Thank you, ma'am.

10 THE COURT: Okay. Mr. Sorenson.

11 MR. SORENSON: May it please the Court, Your
12 Honor?

13 THE COURT: Yes, sir.

14 MR. SORENSON: Of course law enforcement is called
15 that day initially by the hospital because they have got a
16 gunshot victim that shows up at the hospital. So they are
17 in the process of basically investigating a crime at that
18 point in time. And Mr. Stevens indicated that there was no
19 exigent circumstances. However, he is discharged and out of
20 the hospital thirty minutes after this photograph is taken.
21 So it not's like he stuck around. He's given a false name.
22 Given a kind of sketchy description of what happened to him.
23 And at that point in time, I mean, they're in the process of
24 trying to investigate what is going on. You know, taking --
25 I mean it's not like it's a nude photograph. I mean,

1 obviously the officer can testify as to his observations
2 but, I mean, that -- I just don't see how taking -- it's not
3 like they, you know, pulled the sheet down and photographed
4 his nude body. I mean, it's here up, I mean that you see
5 his chest. I mean, I just -- I mean, I think they had a
6 right to be where they were, I mean, based on, you know, and
7 he was talking with them, I mean, prior to this. And he had
8 given them a set story that, you know, didn't make a whole
9 lot of sense.

10 THE COURT: So tell me timing wise. He came in he
11 gave the brother's name.

12 MR. STEVENS: Judge, I've got the report if you'd
13 like to see it.

14 MR. SORENSON: It looked like at 10:48 p.m. on the
15 10th --

16 MR. STEVENS: May I approach Your Honor.

17 THE COURT: Yes, sir.

18 MR. SORENSON: -- is when he presents to the
19 hospital. And, you know, he was obviously dealt with by
20 hospital personnel for the next couple hours. And law
21 enforcement originally was there about 1:15. And then, as I
22 said, I think he may give kind of that brief story. And
23 then the forensics, if you look at 911, 3:01, that would
24 actually be the Sergeant Day with the Lexington County
25 Sheriff's Office who responded there and photographed him.

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1 And I believe he was still -- after the photograph, I mean,
2 he still was conversing with them.

3 THE COURT: So he was conversing with that officer
4 before and after the photograph?

5 MR. SORENSON: I believe so. Yes.

6 THE COURT: Then he wasn't, like, unconscious
7 during this time?

8 MR. SORENSON: He may have dozed off at some point
9 in time. I mean, this is 3:00 in the morning. I mean, and
10 he had suffered a gunshot wound to his left arm.

11 MR. STEVENS: Judge, I think the officer's
12 incident report answered that question for you. If I may
13 approach with that as well, Your Honor.

14 THE COURT: Yes, sir.

15 MR. STEVENS: Thank you, Judge.

16 MR. SORENSON: What is that?

17 MR. STEVENS: This is --

18 (Off the record discussions with Mr. Sorenson and Mr.
19 Stevens.)

20 MR. STEVENS: And Judge those are reports, one from
21 Deputy Hanco the other one from Investigator Day. And I
22 believe Investigator Day's indicates that he was there with
23 Deputy Hanco. It also clearly shows that they were there
24 when he was asleep. He was on medication and frankly that
25 he only woke up due to pain because they were swabbing his

1 hands for GSR while he was asleep in the confines and
2 security of his own hospital room trying to recuperate. And
3 when we compare that with the report from the hospital, at
4 one point it shows even after they went into his room that
5 they actually did wait by his door. He couldn't have
6 checked out, Judge. All they had to do was just wait there
7 if they wanted to actually talk with the man or take him
8 into custody or anything like that?

9 THE COURT: So what's the prejudice to your client
10 if they could have taken a picture right after rather than
11 at the time?

12 MR. STEVENS: Well, Judge, it's a question of
13 whether they can take his picture when he's clothed or not.

14 THE COURT: There's nothing showing that's
15 inappropriate. The cast covers most of his chest. And
16 basically all you see is identifying features such as the
17 tattoos on his chest and his face.

18 MR. STEVENS: And, Judge, it's the fact that they
19 would not have been able to photograph him in that condition
20 whatsoever, but for the fact that they actually violated his
21 reasonable expectation of privacy and therefore his Fourth
22 Amendment rights as well as Article 1 Section 7 of our
23 Constitution.

24 THE COURT: All right. Solicitor?

25 MR. SORENSON: Of course, I mean, this is all

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1 assuming that that's actually him, because he doesn't give
2 his name in the hospital. He gives the name of Emmanuel
3 Ayer. So then, again, that just kind of goes to -- I mean,
4 you know, they're investigating a crime at that point in
5 time, and I don't think they did anything improper.

6 THE COURT: I tend to agree with that. I think it
7 -- I think they're investigating a gunshot incident and they
8 need to -- he's potentially a victim of a crime at that
9 point as far as they know. And they're looking for evidence
10 to try to solve this crime.

11 MR. STEVENS: And, Judge, our position is if
12 someone is a victim of a crime it doesn't give the police
13 the right to just violate their privacy. They can't come
14 into my house. They can't come into a hotel room. They
15 can't bust into a phone booth.

16 THE COURT: I understand what you're -- that's
17 where I'm leaning right now.

18 MR. STEVENS: Yes, ma'am.

19 THE COURT: I'm going to think about it overnight.
20 If you guys have any case law to support your position, if
21 you could bring it to me in the morning or just email it to
22 me. That way I'll take it under advisement and inform you
23 in the morning.

24 MR. STEVENS: Thank you, Judge.

25 THE COURT: If I could have a copy of this

1 incident report.

2 MR. STEVENS: I'll get a copy for you, Judge.

3 THE COURT: Okay. Anything further, Mr. Stevens?
4 You can have this back?

5 MR. STEVENS: Thank you, ma'am. Actually, Judge,
6 you can keep this copy. I do have another one.

7 THE COURT: Okay. Any objection to that Mr.
8 Sorenson?

9 MR. SORENSON: No, not from me.

10 MR. STEVENS: Judge, at this time, we'd like to go
11 ahead and make our motion to sever trials. I understand Mr.
12 Palmer's already made his. We'd like go ahead and make our
13 motion to sever trials as well. And that Ms. Wyman will do
14 that.

15 THE COURT: All right. Ms. Wyman.

16 MS. WYMAN: Again, we're just echoing Mr. Palmer's
17 motion to sever. It's our position that a joint trial would
18 prejudice our case. That our Defendant could greatly be
19 impacted by the way Mr. Palmer chooses to proceed with Mr.
20 Johnson's case. There's a risk of a spill-over effect also
21 where the jury could associate issues with Mr. Johnson's
22 case and the facts related solely to Mr. Johnson's case and
23 attribute that to ours. Given the two different
24 perspectives and having both trials together is likely, in
25 our opinion, to cause confusion of the jury and make them

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1 (Court in session November 17, 2015 at 9:30 a.m.)

2 (Jury panel in at 9:30 a.m.)

3 (Jury panel sworn at 9:54 a.m.)

4 (Statutory Qualification)

5 THE COURT: Solicitor, you may call your case?

6 MR. SORENSON: May it please the Court, Your
7 Honor?

8 THE COURT: Yes, sir.

9 MR. SORENSON: Your Honor, the State calls the
10 case of the State versus Terrance Johnson, his indictment is
11 2013-GS-38-561, 558 and 559.

12 And the State versus Rodsheen Ayer, 2013-GS-38-1679,
13 1681, 1682.

14 THE COURT: Thank you, Solicitor.

15 Ladies and gentlemen of the jury, we're about to begin
16 the trial of this case of the State of South Carolina versus
17 Mr. Rodsheen Ayer and the State of South Carolina versus
18 Terrance Shawan Johnson.

19 Before we begin the jury qualification process for the
20 selection of this particular jury, I'm going to read the
21 indictments to you. And the purpose of this is to see if
22 you have any previous knowledge about this case or have
23 heard anything about this case before today.

24 Indictment number 2103-GS-38-1679 states that in
25 Orangeburg County on or about September the 10th, 2012 with

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1 malice aforethought, the Defendant, Rodsheen Ayer did kill
2 one Gregory Howell by the means of shooting the victim with
3 a gun. The victim did die as a proximate result thereof.
4 This offense is a violation of the common law and the South
5 Carolina Code of Laws as amended.

6 Indictment number 2013-GS-38-1682 states that the
7 Defendant, Rodsheen Ayer, did in Orangeburg County on or
8 about September 10th, 2012 did with the intent to kill
9 attempt to kill one Calvin Kennedy with malice aforethought
10 by shooting at the victim. This offense is in violation of
11 the South Carolina Code of Laws.

12 Indictment number 2013-GS-38-1681 states that the
13 Defendant, Rodsheen Ayer, did in Orangeburg on or about
14 September 10th, 2012 did with intent to kill attempt to kill
15 one Alvin Clark with malice aforethought by shooting at the
16 victim. This offense is in violation of the South Carolina
17 Code of Laws.

18 Indictment number 2013-GS-38-0561 states that in
19 Orangeburg County on or about September 10th, 2012 with
20 malice aforethought the Defendant Terrance Shawan Johnson
21 did kill one Gregory Howell by means of shooting the victim
22 with a gun. The victim did die as a proximate result
23 thereof. This offense is in violation of the common law and
24 the South Carolina Code of Laws.

25 Indictment number 2013-GS-38-0559 states that in

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1 Orangeburg County, South Carolina on or about September
2 10th, 2012 the Defendant, Terrance Shawan Johnson did with
3 intent to kill attempt to kill Calvin Kennedy with malice
4 aforethought, either expressed or implied by means of
5 shooting a gun at the victim. This offense is a violation
6 of the South Carolina Code of Laws.

7 The last indictment is 2013-GS-38-0558. It states that
8 in Orangeburg County, South Carolina, on or about September
9 10th, 2012 the Defendant Terrance Shawan Johnson did with
10 intent to kill attempt to kill Alvin Clark with malice
11 aforethought, either expressed or implied by means of
12 shooting a gun at the victim. This offense is in violation
13 of the South Carolina Code of Laws.

14 Ladies and gentlemen, I'm going to ask you several
15 questions. And the first is, is anyone related by blood or
16 marriage to either Terrance Shawan Johnson or Mr. Rodsheen
17 Ayer. And both of these gentlemen are in the courtroom.
18 Mr. Johnson is here with his attorney, Mr. Palmer. And Mr.
19 Ayer --

20 Anyone related by blood or marriage to either Mr.
21 Johnson or Mr. Ayer or have a close personal or social
22 relationship with either of these gentlemen. If so, please
23 stand.

24 (No one stands)

25 THE COURT: I find that there is no one standing.

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1 THE COURT: Thank you.

2 MR. PALMER: For the record, Your Honor, I join in
3 Mr. Stevens' motion.

4 THE COURT: All right. Thank you Mr. Palmer.

5 Well, counsel for the Defense, at this juncture
6 obviously we've selected a jury. We're ready to begin the
7 trial of this case. Mr. Stevens, you said something very
8 important in regards to your, what you assumed is on the
9 phone. And that's an assumption. I think that's really a
10 speculative fishing expedition. I'm going to deny your
11 motion to continue this case for further investigation of
12 that phone.

13 In regards to the other matters that were taken under
14 advisement by the Court yesterday. The first matter was Mr.
15 Palmer's motion regarding the nickname of is client to be
16 referred to as Gunner. It's my understanding that there are
17 witnesses that knew him by his real name as well as by his
18 nickname of Gunner. So identification does not appear to be
19 an issue. I will ask the State to refer when they're
20 questioning witnesses did you know his -- knew him by a
21 nickname is fine. But please just don't refer to the
22 nickname itself. And just refer to contact where you able
23 to make a connection between the nickname and the Defendant.
24 And I think that should clear it up and help us keep a clear
25 record on that. So Mr. Palmer your motion on that is

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1 granted.

2 Regarding Mr. Ayer's motion regarding the reasonable
3 expectation of privacy in his hospital room, I have reviewed
4 the hospital records as well as the incident reports
5 provided to the Court by Defense counsel Mr. Stevens. And
6 upon review of those records, it appears that a person
7 identifying himself as Emanuel Ayer presented to Lexington
8 Medical Center about ten minutes until eleven in the evening
9 with a gunshot wound. And basically told the nurse that he
10 was shot on the arm, being outside of a club in -- where he
11 met up with some women and somebody tried to rob them
12 outside. It was unknown assailants. Law enforcement was
13 called and the Emanuel or alleged Emanuel Ayre repeated that
14 same sequence of events to apparently Deputy Hanco, who was
15 present in the hospital room. Based upon Mr. Ayers, Emanuel
16 Ayers description of where the incident may have happened,
17 Richland County was notified that that's where the potential
18 incident location would have taken place, according to that
19 description. And that's where Investigator Day came in also
20 to the room. At no time did Mr. Emanuel Ayers indicate that
21 he wished to exercise any kind of privacy rights. He freely
22 spoke to both officers before and after the photograph was
23 taken. Apparently, he was in and out of the hospital within
24 four hours and ambulated out on his own. As well as
25 apparently he was able to talk and able to articulate what

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1 he alleged had happened. And then he stated he didn't wish
2 to prosecute. Also, in that same line of reasoning, it
3 appears from Mr. Stevens argument that Mr. Ayers, the
4 Defendant, Mr. Ayers, Mr. Rodsheen Ayer, was claiming that
5 that's not even him in the picture. Therefore, he would
6 have no standing to judge to whatever this Emanuel Ayers
7 stated was his expectation of privacy. So your motion is
8 denied Mr. Stevens.

9 MR. STEVENS: Thank you, Judge. And just for
10 clarification I'm not denying specifically that's that him
11 in the photograph. Therefore, we don't have -- we should
12 not have -- our position -- we're not arguing against your
13 ruling Judge. We're simply arguing for clarification for
14 purposes of the record. That it was at least him there, and
15 , therefore, it's not a standing issue.

16 THE COURT: Thank you.

17 Anything further before we bring our jury out?

18 MR. STEVENS: Yes, ma'am. We've got more issue.
19 It's about DNA in this case, Judge. Obviously, based upon
20 all of the information provided by the State, in this case,
21 it's been very clear DNA and blood evidence is going to be a
22 very large part of it. I believe it was July 17th, 2014 we
23 had a Schmerber Hearing before Judge Dickson in this
24 courtroom. It was quite a lengthy hearing as far as
25 Schmerbers go. About forty-five minutes or so. And at that

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1 ruling I'm certain the record speaks for itself and he took
2 careful and thoughtful deliberation of the testimony
3 presented and his ruling will be upheld and you may use the
4 testimony as indicated.

5 MR. STEVENS: Thank you.

6 THE COURT: Thank you, anything further?

7 MR. STEVENS: Nothing for the Defendant. Thank
8 you.

9 THE COURT: All right. Let's have our jury,
10 please?

11 THE BAILIFF: Yes, Your Honor.

12 MR. STEVENS: Judge, I'm sorry. If I may on that
13 Court's Exhibit. I forgot to have it just as a Court's
14 Exhibit regarding the photograph of him in his bed?

15 THE COURT: Absolutely, sir.

16 MR. STEVENS: Thank you.

17 COURT REPORTER: That would be Court's 1.

18 MR. STEVENS: Yes, ma'am.

19 (Court's Exhibit No. 1, photo, was
20 marked.)

21 (Jury in at 2:18 p.m.)

22 THE COURT: Madam Clerk would you please swear our
23 jury?

24 (WHEREUPON, the Jury was sworn.)

25 THE COURT: Welcome back, ladies and gentlemen of

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1 THE COURT: Solicitor you may proceed.

2 STATE'S OPENING STATEMENT

3 BY MS. CORNWELL:

4 September 10th of 2012 was a normal day for Gregory
5 Howell, Calvin Kennedy and Alvin Kennedy [sic]. They were
6 hanging out together at their house with a friend of theirs,
7 Terrance Johnson. It was the middle of the week and at one
8 point Alvin Johnson [sic] goes back to the kitchen to get a
9 drink of water. What he hears and sees at that point will
10 forever change the lives of Calvin Kennedy, Alvin Clark and
11 the Defendant. Because when Alvin Clark went to get a drink
12 of water, what he hears is a commotion in the room. He then
13 sees the Defendant, Terrance Johnson, as well as the other
14 Defendant, Rodsheen Ayer, pull guns on his friends, Calvin
15 Kennedy and Gregory Howell. He sees Gregory Howell attempt
16 to run to the door and leave. At that point Terrance
17 Johnson points the gun and Gregory Howell and shoots him as
18 he's running out the door. He then turns, fires a shot at
19 Alvin [sic] Kennedy and follows Gregory Howell out the door.
20 While this is going on, he also see the Defendant Rodsheen
21 Ayer struggling with Calvin Kennedy. Rodsheen Ayer shoots
22 Calvin Kennedy multiple times in the face, in the arm.
23 Calvin Kennedy, fortunately was able to wrestle the gun away
24 from Rodsheen Ayer. And as he wrestled the gun away from
25 him and Rodsheen Ayer is trying to run out, he shoots

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1 Rodsheen Ayer in the arm.

2 You're going to hear through testimony today that blood
3 evidence was found at the scene of the crime, that blood
4 belonged to Rodsheen Ayer as well as Calvin Kennedy. You're
5 going to hear that after the melee occurred, as they're
6 running outside, there was a third suspect waiting in a car
7 for those Defendants to come out of the house. When those
8 Defendants come out of the house, that third subject starts
9 firing shots at Mr. Kennedy and at Gregory Howell. They end
10 up fleeing the scene. Alvin Clark is able to get Mr.
11 Kennedy and Mr. Howell into his car and immediately takes
12 them to the Regional Medical Center here in Orangeburg.
13 Unfortunately, as a result of his injuries, Gregory Howell
14 succumbed to those injuries and passed away at the Regional
15 Medical Center. Calvin Kennedy was fortunate. He was
16 airlifted to Palmetto Health Richland in Columbia where he
17 was treated for his injuries and ultimately released.

18 You're going to hear from investigation that officers
19 from the Orangeburg County Sheriff's Office met with these
20 witnesses and met with the victims. And they were able to
21 get identification ultimately of Terrance Johnson, Rodsheen
22 Ayer. And through those investigation that they were able
23 to apprehend and arrest the Defendants.

24 Throughout the course of this trial you will hear the
25 Defense talk about reasonable doubt. What is a reasonable

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1 doubt. A reasonable doubt is one that -- it's just that.
2 It's a reasonable doubt. If you do what you're saying
3 you're coming to do as jurors and you know nothing about
4 this case and at the end of hearing the State's evidence you
5 know that Terrance Johnson and Rodsheen Ayer are guilty of
6 this crime, then the State's proven their case beyond a
7 reasonable doubt.

8 Now, it's the State's burden to prove each and every
9 element of each and every crime beyond a reasonable doubt.
10 And we will do just that.

11 Both of these Defendants are charged under three
12 indictments. They are each charged with murder. They are
13 also charged with two counts of attempted murder.

14 Murder in the State of South Carolina is a very simple
15 indictment. Murder basically says it is the unlawful
16 killing of another person with malice aforethought. What is
17 malice aforethought? Malice aforethought does not mean that
18 you have to have a pre-planned, you know, plan two or three
19 days in advance. Malice can be at the time that you pull a
20 weapon and fire a shot. That is malice. You'll notice that
21 there is nothing in the definition of murder that says
22 anything about premeditation. Murder in South Carolina does
23 not involve premeditation. It is the unlawful killing of
24 another with malice aforethought.

25 Once you hear the State's evidence if you believe that

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1 Terrance Johnson and Rodsheen Ayer did contribute in the
2 murder of Gregory Howell, then you should find them guilty.
3 They are also charged with the attempted murder of Calvin
4 Kennedy and Alvin Clark. Attempted murder in South Carolina
5 is pretty much what murder is. It is the unlawful injury of
6 another or attempt to injure another with malice,
7 aforethought with the intent to kill that person. So if you
8 believe, say in this case you'll shooting, if you believe
9 that those shootings were intended to kill both Alvin Clark
10 and Calvin Kennedy, then you should find them guilty of
11 attempted murder as well.

12 One thing that you're going to hear in this case
13 whether or not, you know, both Defendants can be found
14 guilty of the murder of a single person. As you know, only
15 one person can normally pull a gun. One person will fire
16 the kill shot. In South Carolina we have what's call
17 accomplice liability or otherwise known as the hand of one
18 is the hand of all. And what that means is that if you
19 believe that in this case Terrance Johnson pulled the
20 trigger and ultimately killed Gregory Howell, you can also
21 find Rodsheen Ayer guilty for that same case. Rodsheen Ayer
22 may not have pulled the trigger on the shot that killed Mr.
23 Howell, however, he was an active participant. He was
24 actively participating, knew what he was doing and also
25 participated in having a gun and shooting as well. And,

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1 therefore, he could also be found guilty of that same crime
2 under an accomplice liability theory. And the Judge will go
3 over all of that with you at the end of this case.

4 Finally, the Judge is going to instruct you on the law.
5 And the law of this case is as the Judge tells you. Not as
6 I tell you or as any of Defense counsel tells you. But I'm
7 quite certain that after the Judge tells you what the law
8 is, after you've heard the evidence that the State has
9 presented, the testimony on the stand, that you will have no
10 choice, and I am confident that you will find that Terrance
11 Johnson is guilty of murder. He's guilty of attempted
12 murder of Calvin Kennedy and he's guilty of the attempted
13 murder of Alvin Clark. You will also find that Rodsheen
14 Ayer is guilty of the murder of Gregory Howell. He's also
15 guilty of the attempted murder of Calvin Kennedy and he's
16 guilty of the attempted murder of Alvin Clark.

17 THE COURT: Counsel for the Defense?

18 MR. PALMER: Thank you, Your Honor. May it please
19 the Court?

20 THE COURT: Yes, sir.

21 MR. PALMER: May I move the podium?

22 THE COURT: Yes, sir.

23 DEFENDANT JOHNSON OPENING STATEMENT

24 BY MR. PALMER:

25 Ladies and gentlemen, I represent Terrance Johnson, the

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1 young man seated right there in the blue and white striped
2 shirt. Let's deal with the elephant in the room. This
3 wasn't a hang-out session. This was a drug deal. This was
4 a drug deal that went very bad.

5 Now, the players in this drug deal, I like to analyze
6 the case by dividing them into two teams. Although they
7 weren't really teams, but let's do it for illustration. I
8 call one team the were theres and the other team the went
9 theres. Now, this happened in a small mobile home that none
10 of them belonged to, none of them belonged to it. The were
11 theres, Mr. Kennedy, Mr. Clark and Mr. Howell, who are the
12 purported victims in this case. The went theres were my
13 client, allegedly Mr. Ayer and alleged Mr. Morrison.

14 Now, my client's not going to deny he was there. He's
15 going to freely admit he was there, but it's important to
16 know that you'll find out during this trial that Mr. Johnson
17 was friends with the were theres. He's known them for a
18 long time. So that's a fact you need to take into
19 consideration when you consider whether or not he had a
20 motive to murder or attempt to murder anybody.

21 And while I'm on this, I'm going to talk about the
22 concept of a victim because these men are claiming to be
23 victims. But there's a distinction between victims for the
24 purpose of this case. It's a legal term. It means, in this
25 case, the guys that got shot allegedly or allegedly got shot

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1 at. I want to contrast that with the term innocent victims.
2 Let me illustrate. A law abiding citizen sleeping in his
3 bed at night who gets assaulted by a burglar, that's an
4 innocent victim. A child abducted from a shopping mall,
5 that's an innocent victim. These guys are not innocent
6 victims. All six of these guys were up to no good and they
7 had no business doing what they were doing.

8 Now, does that justify killing? Of course, not. Does
9 that justify gunshot wounds? Of course, not. But I'm
10 telling you this to illustrate that these men that are
11 purporting to be victims are in the victim chair, I'll call
12 it, for only one reason and the reason is, is that law
13 enforcement and the State only has their side of the story.

14 Let tell me you how this happened. Okay. We've
15 established a drug deal. There was some shootings. Some
16 guys got hit. And that's what we know so far. The guys
17 that got hit went to the medical center here in Orangeburg.
18 Not one of them called 9-1-1. They went to get medical
19 treatment, which two out of three of them very badly needed.
20 Law enforcement was summoned by hospital personnel. There
21 was no 9-1-1 call on the way. They just showed up to be
22 treated because they were seriously injured.

23 Mr. Johnson, my client, was not injured. He beat feet
24 out of there as quick as he could. He went to Columbia for
25 a couple of days and then he continued on to Mississippi.

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1 That's where they found him. He fled. He got out of there.
2 He didn't call 9-1-1 either. And then you'll hear about
3 what Mr. Ayer is alleged to have done.

4 But these men are saying they're victims because they
5 received gunshot wounds. That, in and of itself, does not
6 make a victim. If that were the case, if that's how we
7 define the victims in the case, you're going to find out Mr.
8 Ayer also got a gunshot wound. Why isn't he a victim? Why
9 isn't anybody charged with assaulting him? And one of the
10 were theres, Mr. Clark, doesn't have a gunshot wound. Why
11 isn't he charged with something against my client and these
12 other men?

13 I'm getting back to the reason. The reason is the only
14 people that have made statements to law enforcement were the
15 guys that got shot. Nobody's heard from Mr. Johnson. By
16 the time they got him in Mississippi, these charges were --
17 these cases under investigation, there were already charges
18 against him. And he declined to make a statement, which is
19 his perfectly legal right to do. And the reason he did that
20 is because he's waited until today to have his day in court.
21 And that's what he's here for. This week, he's going to
22 have his day in Court. And he's going to tell you what
23 really happened that day.

24 Now, this is jury duty. I've got a confession to make.
25 I've always wanted to be on a jury in a case like this and I

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1 never have. The reason I haven't is because not only do I
2 make a living doing this, I'm fascinated with the process.
3 I would love to experience it from your angle, but I have
4 yet to be called. Now, I always thought that if I were to
5 be called for jury duty, I would help my fellow jurors to
6 understand this process. Nobody gives you any training to
7 be here. And it has to be extremely intimidating to show up
8 here, not knowing what to expect or nothing about the case
9 or the process or lawyers or courts or anything like that.

10 And while my job here is not to train you to be jurors,
11 I want to offer some pointers. Number one, you are the
12 judges of the facts. You have control of what the facts are
13 determined to be, nobody else.

14 Whatever is decided in this jury box and back there in
15 your deliberations, is what the facts are in the case. Now,
16 most of the information you get is going to come from the
17 witness stand and possibly some documentary evidence. This
18 is collectively known as evidence. But evidence aren't
19 facts until you twelve folks decide they're facts. That's
20 your function here. And that's the beauty of this process.
21 I like to look at it as you work on an assembly line. And
22 instead of building a mechanical machine you're building a
23 verdict. And here's the conveyor belt coming your way with
24 all these pieces of evidence on it, and your duty, you're a
25 quality control panel. You take every piece of evidence and

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1 you examine it collectively and thoroughly. And if you find
2 a defect, throw it out. That's how this works. If you find
3 a reason, a reasonable purpose to throw it out, then it gets
4 out. And at the end of the trial, at the end of the
5 manufacturing process, if you don't have enough parts to
6 build your verdict, then you acquit my client. That's how
7 this works, okay?

8 The other reason that I am fascinated with being on a
9 jury is because it involves so much power. You twelve
10 folks, this may be the week that you have the most power of
11 any time in your life. You have the power to decide this
12 case. You have the power to alter lives. And you have the
13 power to administer justice. Now, what does that mean? Why
14 do they call it justice? Because they don't call it
15 vengeance, they don't call it retribution, and they don't
16 call it punishment. We're here to seek justice. Punishment
17 is in the Judge's job description, not yours. You're not
18 here to reward anybody. You're not here to punish anybody.
19 You're here to decide the facts.

20 Now, the burden of proof. They don't call it a burden
21 for nothing. Every word that you hear in this trial has
22 meaning, including the burden of proof. Judge Murphy is
23 going to give you a very good description of what that
24 means. But basically it means that the State of South
25 Carolina, the prosecution, has the burden of proving to your

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1 satisfaction every element of what they're alleging beyond a
2 reasonable doubt. Beyond a reasonable doubt, that's the
3 standard. It's a very strong burden. And if they don't do
4 that, it's not your option to find my client not guilty,
5 it's your sworn duty. If you collectively decided they
6 haven't proven their case and you can articulate a
7 reasonable doubt he goes home. Now, the State has the
8 burden. Mr. Johnson can sit here for the rest of this week
9 in his striped short, not utter a sound, not present a
10 witness, not offer anything into evidence. And if you find
11 the State has not met their burden he's acquitted. He does
12 not have to prove his innocence. That's the way this works.

13 The case should not be decided on prejudice or passion
14 or sympathy. The tools that you use are logic common sense
15 and the rule of law. It's quite simple, actually. And
16 because of that, because of this power that you have, you
17 can create the result that you feel is the right one. If
18 you prove the State's proved their case beyond a reasonable
19 doubt, every element, then you can convict either one or
20 both of these Defendants. However, if you have a reasonable
21 doubt as to whether or not they've proven the case, you can
22 acquit both of them. You can do that. And I would submit
23 that it's your duty to do that under those circumstances.

24 A little bit more juror training and I'll sit down.
25 One of the tools that you can use to determine the facts is

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1 drawing an inference. What is an inference? This isn't
2 evidence that's printed off the internet. This is a good
3 definition. An inference is act or process of deriving
4 logical conclusions from facts known to be true. Contrast
5 that to an assumption. There's an old saying about what
6 happens when we assume. That applies in this room, ladies
7 and gentlemen. An assumption on the other hand, is
8 something taken for granted or accepted as true without
9 proof or supposition. Don't let the State talk you into
10 assuming because that won't be the right process. You have
11 to draw an inference on each and every fact unless it's
12 obvious. Example. What's an example of an obvious fact
13 upon that which everybody agrees. The sun comes up in the
14 morning. Any dispute about that? Even when it's cloudy
15 outside and you can't see the sun, you know it's going to
16 come up. That's just a proven, known fact. You don't have
17 to draw an inference from that.

18 Now, in this case, let's say, for example, law
19 enforcement proved to your satisfaction that there were
20 fingerprints on a weapon. And the fingerprints matched to
21 somebody in this room. Which, by the way, you will not hear
22 about my client in this trial. Well, you can draw an
23 inference from that, that he had the weapon, especially if
24 it was found at the scene. That's how you draw an
25 inference. Now, contrast that. Let's say the State shows

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1 you a photograph, for example, my client when he was Denmark
2 Tech and he posed for a photo in his hip-hop clothing, with
3 the gold chains and everything. Why would they show you
4 that? Because they want you to assume because he's into
5 that, that he's a criminal because hip-hop music we all know
6 is produced by criminals. Obviously, that's not true. That
7 would require you to make an assumption, okay? Taking for
8 granted without proof. Stay away from the assumptions, go
9 with the inferences. At the end of the trial as you follow
10 this process, question every bit of evidence and you find a
11 reasonable doubt. You not only can acquit these two men,
12 including my client, you have to.

13 And let me just leave you with a thought that may
14 illustrate how this system works and why it's so great.
15 Let's say that happens. You're not satisfied and you have a
16 reasonable doubt that Terrance Johnson killed or tried to
17 kill anybody. Can you do a verdict of acquittal? In the
18 days, weeks, maybe into the months that follow, you might
19 struggle with that. Because the facts that we're going to
20 agree on is that one fellow got fatally wounded and the
21 other got seriously wounded. You know, that's not a good
22 thing. So you might struggle with the notion of well, you
23 know, these poor guys got all shot up. And nobody got
24 convicted. But just because nobody got convicted doesn't
25 mean justice wasn't done. Justice can be an acquittal

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1 because it's not about whether you think he might have done
2 it or he probably did it. It's about whether the case has
3 been proven. Logic, common sense, and the rule of law.

4 And finally, if you take my hypothetical scenario,
5 fast-forward it to after the trial and try to explain to
6 your family well, I served on this jury and nobody got
7 convicted. But there were, you know, one guy got killed and
8 another guy got wounded. How do I deal with this. Let me
9 suggest a way to deal with it. And compare it to how you
10 would struggle with the realization that you sent an
11 innocent young man to prison. Thank you very much.

12 THE COURT: Counsel for the Defense.

13 MS. WYMAN: Thank you, Your Honor. May it please
14 the Court?

15 THE COURT: Yes, ma'am.

16 DEFENDANT AYER OPENING STATEMENT

17 BY MS. WYMAN:

18 My DNA and reasonable doubt. That's what they're
19 thinking about. Contrary to the State's theory Rodsheen
20 Ayer is not guilty of killing Gregory Howell. Rodsheen Ayer
21 is not guilty of attempting to kill Alvin Clark or Calvin
22 Kennedy. On the evening of September 10th, 2012 there was a
23 shooting. The State is trying to blame someone for it.
24 However, their version of events should not be assumed of
25 the truth. Keep in mind that Mr. Ayer stands before you an

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1 innocent man. He carries that torch. He is presumed
2 innocent today, right now. He is presumed innocent
3 throughout this trial. He's presumed innocent even in that
4 back jury room when you're deciding his fate. He bears no
5 burden to prove anything. In fact, the burden here is on
6 the State. They must prove to you every element of every
7 charge beyond a reasonable doubt. So what is reasonable
8 doubt. You've heard it thrown around a few times today
9 already. I like to put things simply. Reasonable doubt is
10 a doubt to which you can put reason on. In other words, if
11 something causes you to hesitate to act, that's reasonable
12 doubt.

13 In these next few days I ask y'all to keep an open
14 mind. Pay attention to the evidence. More importantly,
15 question the evidence. And you will see that this story
16 that the State is trying to paint for you just doesn't add
17 up. It does not add up. And because of that, I ask you to
18 do your sworn duty and apply that reasonable doubt standard.
19 And you will find Rodsheen Ayer not guilty.

20 My name's Minh Wyman and along with co-counsel Breen
21 Stevens we represent Rodsheen Ayer. Thank you for your time
22 and service.

23 THE COURT: Counsel, approach the bench.
24 (Off the record bench conference with counsel and the
25 Court.)

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1 THE COURT: Welcome back, ladies and gentlemen of
2 the jury. We are now ready to begin with the trial of this
3 case.

4 Solicitor, you may call your first witness.

5 MR. SORENSON: May it please the Court, Your
6 Honor.

7 THE COURT: Yes, sir.

8 MR. SORENSON: The State calls Stephanie Barnwell.

9 THE CLERK: Please place your left hand on the
10 Bible and raise your right.

11 (WHEREUPON, Stephanie Barnwell was
12 duly sworn.)

13 THE CLERK: Please state your name again for the
14 record.

15 MS. BARNWELL: Stephanie Barnwell.

16 THE CLERK: Thank you.

17 THE COURT: Your witness.

18 MR. SORENSON: Thank you, Your Honor.

19 STEPHANIE BARNWELL - DIRECT EXAMINATION

20 BY MR. SORENSON:

21 Q Good afternoon, Stephanie?

22 A Hi.

23 Q If you would, tell the jury where it is that you were
24 living back in September of 2012?

25 A Off of Jamison Maedrine Street. I forgot the number to

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1 that address.

2 Q Okay. And was it in a mobile home that you were living
3 in?

4 A Yes, sir.

5 MR. PALMER: No objection.

6 MR. SORENSON: Any objection to these photographs?

7 MR. STEVENS: No.

8 BY MR. SORENSON:

9 Q And Ms. Barnwell, let me show you State's Exhibit No. 4
10 and No. 6. Do those photographs show your, State's Exhibit
11 No. 4 your mobile home that you lived in?

12 A Yes.

13 Q And then kind of the parking area out in front of your
14 mobile home is depicted in No. 6?

15 A Yes.

16 MR. SORENSON: Your Honor, at this time I'd offer
17 State's 4 and 6 into evidence.

18 THE COURT: Is it without objection?

19 MR. PALMER: No objection.

20 MR. STEVENS: No objection from Mr. Ayer.

21 THE COURT: All right. They're in.

22 (State's Exhibit No. 4, photo, was
23 marked and entered.)

24 (State's Exhibit No. 6, photo, was
25 marked and entered.)

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1 MR. SORENSON: May I publish them to the jury?

2 THE COURT: Yes, sir.

3 MR. SORENSON: Okay.

4 (Exhibit Nos. 4 and 6 passed to the jury.)

5 BY MR. SORENSON:

6 Q So Stephanie, State's Exhibit No. 4, that's your mobile
7 home?

8 A Yes.

9 Q And Maedrine?

10 A Maedrine.

11 Q I'm not sure I'm pronouncing that correctly -- is the
12 street that's on?

13 A Yeah.

14 Q And then State's Exhibit No. 6. I guess that's kind of
15 to the right. Is that your trailer to the right of that
16 photograph?

17 A Yeah.

18 Q I'm sorry. To the left of that road there?

19 A Yeah.

20 Q And so that area out in front would be kind of the
21 parking area?

22 A Yeah.

23 Q And there are some other trailers, kind of right
24 across?

25 A (No response)

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1 Q And tell the jury exactly back in September of 2012 who
2 was living in this mobile home with you back at that time?

3 A Me, my little girl and my two boys.

4 Q Okay. And how old was your little girl?

5 A She was three at the time.

6 Q How about your two boys?

7 A Fourteen and fifteen.

8 Q And just the four of y'all that were living in there?

9 A Yeah.

10 Q Okay. And let me show you now -- when you went into
11 your home, where were your boy's bedrooms located at?

12 A To the right side of the trailer.

13 Q Okay. And specifically back on September 10th of 2012,
14 did something happen that day with regards to your boy's
15 bedroom window?

16 A I think they had a tussle in the room and broke the
17 window.

18 Q I'm showing you State's Exhibit No. 10 and 11.

19 MR. PALMER: No objection.

20 MR. STEVENS: No objection for identification,
21 Judge.

22 BY MR. SORENSON:

23 Q I'm going to show you first of all State's Exhibit No.
24 10. Does that show the exterior of your boy's bedroom?

25 A Yeah.

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1 Q Window?

2 A Yeah.

3 Q And State's Exhibit No. 11 does that show the interior?

4 A Yeah.

5 Q Okay.

6 MR. SORENSON: Your Honor, at this time we'd offer
7 State's 10 and 11 into evidence.

8 THE COURT: No objection?

9 MR. PALMER: No objection.

10 MR. STEVENS: No objection, Judge.

11 THE COURT: All right. They're in.

12 (State's Exhibit No. 10, photo, was
13 marked and entered.)

14 (State's Exhibit No. 11, photo, was
15 marked and entered.)

16 MR. SORENSON: Thank you.

17 BY MR. SORENSON:

18 Q And so that, in State's Exhibit No. 10 does that show
19 some damage to that? And who caused that damage?

20 A My two sons.

21 Q And that was the afternoon of --

22 A Yeah.

23 Q -- where all this ended up happening later on at your
24 place?

25 A Yeah.

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1 Q State's Exhibit No. 11 is that just showing it from the
2 interior?

3 A Inside.

4 Q I'm going through some people with you, Stephanie, and
5 just kind of ask you to tell the jury kind of how you know
6 them and how long you've known them for, okay?

7 A Okay.

8 Q All right. Gregory Howell, did you know Gregory?

9 A Yes, I know Gregory.

10 Q All right. Tell the jury about how long have had you
11 known Gregory Howell, please?

12 A Ten years or so.

13 Q Okay. You consider him to be a friend of yours?

14 A Yes.

15 Q Okay. How about Alvin Clark?

16 A Yes. That's my daughter uncle.

17 Q Okay. So your little girl is with Alvin's brother; is
18 that correct?

19 A Yes.

20 Q Okay. So how long have you known Alvin Clark for?

21 A Eleven years or so, something like that.

22 Q A little longer than Gregory?

23 A Yeah.

24 Q How about Calvin Kennedy, did you know Calvin Kennedy?

25 A Yeah.

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1 Q Okay. How long had you known Calvin Kennedy for?

2 A Three or four years.

3 Q Did he go by C.J.; is that right?

4 A Yes.

5 Q Now, how about the Defendant in this case, Terrance
6 Johnson, did you know Mr. Johnson?

7 A Yes.

8 Q Okay. And how long had you known Mr. Johnson for?

9 A About three years or so.

10 Q When you say three years, is that three years from
11 September of 2012 when all of this happened --

12 A He used to stay in -- like before that. Used to be,
13 yeah, just in --

14 Q Are you saying three years from September of 2012 when
15 all of this happened --

16 A Before that. Three years before that, yeah.

17 Q Three years. So it would be six year now; is that
18 right?

19 A Six, yeah.

20 Q Okay. How about the other Defendant, Rodsheen Ayer,
21 did you know Mr. Ayer?

22 A Don't know him.

23 Q Ever seen him before?

24 A No.

25 Q Ever seen him before today that you recall?

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1 A No.

2 Q All right. And how about -- he's not in court today
3 but a guy by the Taquan Morrison. Did that name ring a bell
4 to you at all?

5 A No.

6 Q Now, I turn your attention, if I could Stephanie, back
7 to on the evening of September 10th of 2012, okay? Do you
8 remember what you were doing that late afternoon?

9 A I got home. I start cooking.

10 Q Okay. And who was at your house when you got home and
11 you were cooking?

12 A It was Greg and Alvin.

13 Q Okay. It was just the two of them initially?

14 A Yeah.

15 Q Now, did there come a time when somebody else showed up
16 at your house that evening?

17 A Yes.

18 Q And do you know about what time it was you had gotten
19 home?

20 A I don't know. About 8:30, 9:00, something like that.

21 Q Okay. It had gotten dark out?

22 A Yeah.

23 Q And who else was it that showed up at your house?

24 A Bootsy.

25 Q And by Bootsy, is that what you knew Terrance Johnson

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1 by? The nickname you knew him by that day?

2 A Yeah.

3 Q And when he showed up did he come inside?

4 A Yeah. I let him in.

5 Q Okay. Anybody else come in with him at that time?

6 A No.

7 Q Let me ask you, did you know how he got to your house
8 at that time?

9 A A car.

10 Q Did you know whose car that was?

11 A No.

12 Q Ever seen that car before?

13 A No.

14 Q Okay. Describe the car that he came to your house in?

15 A A white Chevy with tinted windows.

16 Q Okay. All right. So he came in. And what was
17 everybody doing then at that time when Terrance Johnson came
18 into your home with --

19 A Alvin was eating a pork chop in the kitchen. Greg was
20 eating a pork chop. Well, he just got finished eating a
21 pork chop, drinking some tea. And I was about to head out.
22 And, you know, he just say hey. You know, nothing --

23 Q You didn't have any problems with him at that time?

24 A No.

25 Q Okay. And you said that you let him into your home; is

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1 that correct?

2 A Yes.

3 Q All right. And you said you were getting ready to head
4 out.

5 A Yeah.

6 Q Were any of your children home at that time?

7 A No.

8 Q Okay. None of them?

9 A No.

10 Q And so where was everybody kind of? As you got ready
11 to leave your home, where was everybody hanging out at that
12 point in time?

13 A I was standing in the kitchen, like -- well, I was
14 standing by the kitchen. I was by the refrigerator, about
15 to head out. We was in the kitchen. Greg was sitting down
16 on one of my little green couches, the single one by itself.

17 Q Okay. And let me show you State's Exhibit No. 13.
18 State's Exhibit No. 13, does that kind of accurately --

19 A Yeah.

20 Q -- depict your living room of your home?

21 A That does, yeah.

22 Q Okay.

23 MR. SORENSON: Your Honor, at this time, I'd offer
24 State's 13 into evidence.

25 MR. PALMER: No objection.

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1 MR. STEVENS: No objection, Judge.

2 THE COURT: All right, sir. It's in.

3 (State's Exhibit No. 13, photo, was
4 marked and entered.)

5 BY MR. SORENSON:

6 Q And let me ask you this. I'm going to show you a
7 couple of other photographs in a minute, Stephanie. But
8 there's lots of stuff kind of around the floor?

9 A Yeah.

10 Q Was all of that stuff on the floor when you were home?

11 A No.

12 Q Okay. But otherwise, as far as the couches and the
13 coffee table, was that all in the living room when you left?

14 A Yeah.

15 Q Can now you show me where, kind of where everybody --
16 show where everybody was?

17 A The chair was basically it's shown the same, but he was
18 sitting in that chair right there when I was leaving out.

19 Q Okay. And who was that? By he?

20 A Greg.

21 Q Okay. All right. You said that was Alvin was in the
22 kitchen.

23 A In the kitchen by himself.

24 Q And how about Mr. Johnson?

25 A He was leaning over the counter that's right there. He

State v Ayer Barnwell - Direct Sorenson 11/17/15 143

1 was at this little kitchen counter.

2 Q I need to show you State's Exhibit No. 12. Does that
3 show kind of the counter that separates the kitchen and
4 living room?

5 A Yeah.

6 Q Okay.

7 MR. SORENSON: Your Honor, at this time, we'd
8 offer State's 12 into evidence.

9 THE COURT: Any objection?

10 MR. PALMER: No objection.

11 MR. STEVENS: No objection.

12 THE COURT: All right, it's in.

13 (State's Exhibit No. 12, photo, was
14 marked and entered.)

15 BY MR. SORENSON:

16 Q And yet again in State's Exhibit No. 12 does that show
17 kind of a bunch of stuff all over the floor --

18 A Yeah.

19 Q And what appears to potentially be some blood on the
20 floor?

21 A Yeah.

22 Q Was any of that stuff there when you were leaving in
23 your home?

24 A No.

25 Q Was that bar that's kind of to the right of the

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1 picture, is that the bar that separates your --

2 A Yeah.

3 Q -- kitchen from your living room?

4 A Yes, sir.

5 Q All right. So you indicated a moment ago, you
6 ultimately end up leaving your home?

7 A Yes, sir.

8 Q Okay. Where were you going when you left?

9 A I was headed out to go see where my kids at.

10 Q Okay. Looking for your two teenagers?

11 A Yeah.

12 Q So when you left your house, when you walked out your
13 door that late evening or early evening, who was inside your
14 home when you walked out the front door?

15 A Alvin, Greg, and Bootsy.

16 Q And that's, again, that's Terrance Johnson?

17 A Uh-huh. (Affirmative response)

18 Q The three of them.

19 A (Nods head affirmatively)

20 Q Okay. When you got outside you indicated that you saw
21 a white kind of Chevy with tinted windows that he showed up
22 in.

23 A Yeah.

24 Q Did you notice at that point time when you went outside
25 whether there was anybody in that vehicle?

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1 A Yeah. There were like two people in the vehicle.

2 Q And tell the jury where was that vehicle located at?

3 A It was like T-boning me. Like I wouldn't say -- well,
4 T-boning, because I was parked like in front of my trailer.

5 Q Okay. Can you point for the jury where you were
6 parked?

7 A Going right, going straight in front of my trailer like
8 I was like right here. I was like turned this way, like
9 side-by-side the trailer.

10 Q Okay.

11 A And he was like right here.

12 Q Okay. Now, let me ask you where that -- that white
13 vehicle was parked, were you able to get out where they were
14 parked?

15 A They did backed up some so I can get out.

16 Q Okay. So the vehicle actually moved for you to allow
17 you to move?

18 A Yeah.

19 Q Okay. And you said that it appeared that there were
20 two people in there?

21 A Yes, sir.

22 Q Could you see anything about them?

23 A Not really.

24 Q Could you tell whether they were males or females?

25 A Males.

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1 Q Okay. Could you tell whether they were white males or
2 black males?

3 A Black males.

4 Q So it ultimately moved. And you said when I asked you
5 earlier, that you did not recognize that vehicle?

6 A No.

7 Q Never seen it before. Did you have any idea who either
8 of the people were that were in that vehicle?

9 A No, sir.

10 Q Did you ultimately end up -- did you leave your --

11 A Yes, sir.

12 Q Leave your house and leave your home at that time?

13 A Yes, sir, I did left.

14 Q And describe for the jury how is the driveway set up in
15 front of your home?

16 A It's like a horseshoe. It's a circle with a horseshoe.

17 Q Kind of loop in front there?

18 A Right.

19 Q And tell the jury if you were getting ready to drive
20 out, after that white car had kind of moved out of the way,
21 did you encounter anybody else?

22 A Yes.

23 Q Okay. Tell the jury who that was that you encountered?

24 A I encountered C.J. coming down the road playing chicken
25 with me.

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1 Q Okay. And C.J. was Calvin Kennedy?

2 A Calvin Kennedy.

3 Q Okay. And Calvin, that's Calvin sitting in the front
4 right there; is that correct?

5 A Yes.

6 Q You said he was kind of playing chicken with you?

7 A Yeah. Like doing this. Being funny.

8 Q Okay. Did you end up stopping and talk to him at all?

9 A Yeah. He asked me where the fellows was at. Like they
10 in the house. Like because they want to look at the
11 football game. And he was going to come pick them up and
12 take them to look at the football game.

13 Q Okay. So he was in a vehicle, obviously a car also?

14 A The vehicle, yeah.

15 Q Okay. And did you end up leaving at that point in
16 time?

17 A Yeah.

18 Q And about how long do you think you were gone from your
19 home?

20 A About fifteen, twenty minutes, somewhere in there.

21 Q And after that fifteen to twenty minutes, did you
22 return back?

23 A Yeah, I came back. Like come by Bojangle's off of
24 Belleville Road, getting on Jamison. And headed up. And
25 after got a little closer to where Maedrine is, I see the

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1 white Chevy come flying out, going like real, real fast.

2 And I was like why, you know, Bootsy going so fast. That's

3 the first thing, you know, I said. And where I got closer

4 to turn, that's why I see the other car really playing

5 chicken with me but this time they being real serious.

6 Q And that other car is whose car?

7 A I don't know. I don't know.

8 Q I mean, is that car that Calvin was came up in?

9 A Yeah.

10 Q Okay. So that car came out --

11 A Yeah.

12 Q -- as you got closer --

13 A Yeah.

14 Q -- to your house?

15 A Yes, sir.

16 Q Okay. And you said it was like they were playing

17 chicken with you again, but --

18 A Yeah. But this time they was being real serious, like

19 they wasn't playing at all. Like, get out the way. When

20 they got to the little stop then they made a left.

21 Q Okay. Which direct would that -- where would that be
22 heading?

23 A Like going to Goff.

24 Q Okay. Which direction -- do you know where the

25 Regional Medical Center is located at?

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1 A They was going like, I guess, going towards that way.

2 Q Okay. All right. Now, at that point in time, did you
3 end up pulling into your driveway?

4 A Yeah. I did.

5 Q Did you have any idea what was going, what had
6 happened?

7 A No, sir.

8 Q All right. Was anybody at your home when you got
9 there?

10 A No, sir.

11 Q And tell the jury what did you see as you got out and
12 kind of came up to your home when you returned back?

13 A Smoke and, you know, blood on the porch -- I mean on
14 the steps. And a shoe.

15 Q Okay. I'm showing you State's Exhibits 7, 8, and 9.
16 Obviously, somebody has -- law enforcement has come and put
17 some markers down right? I mean, the eight, nine and ten
18 markers weren't there; is that correct?

19 A Yeah.

20 Q Okay. But otherwise, does that depict what you saw
21 when you came up to your front door?

22 A (Nods head affirmatively)

23 MR. SORENSON: Your Honor, at this time we'd offer
24 State's 7, 8, and 9 into evidence.

25 MR. PALMER: No objection.

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1 MR. STEVENS: No objection.

2 THE COURT: All right. They're in.

3 (State's Exhibit No. 7, photo, was
4 marked and entered.)

5 (State's Exhibit No. 8, photo, was
6 marked and entered.)

7 (State's Exhibit No. 9, photo, was
8 marked and entered.)

9 BY MR. SORENSON:

10 Q State's Exhibit No. 7, Stephanie, is that your front
11 porch?

12 A Yes, sir.

13 Q And you said that there was a shoe on the porch; is
14 that correct?

15 A Yes, sir.

16 Q I'm showing you State's Exhibit No. 9. Does that show
17 that shoe?

18 A (Nods head affirmatively)

19 Q Whose shoe was that?

20 A Bootsy's.

21 Q Terrance Johnson?

22 A Yes, sir.

23 Q Was he wearing that earlier when he was in your home?

24 A Yes, sir.

25 Q You indicated -- what did you see -- besides that shoe,

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1 what else did you see on your porch?

2 A The blood.

3 Q Is that depicted in State's Exhibits 8 and 9?

4 A Yes, sir.

5 Q Stephanie, what did you do when you saw all of that
6 stuff? I mean, after observing these two cars leaving at a
7 high rate of speed. And then seeing that blood on your
8 porch. What did you do?

9 A I just left. Got my kids and left.

10 Q And did you have you boys with you at that time?

11 A Yes.

12 Q How about your daughter?

13 A Yes, she was with me.

14 Q And where did you end up going?

15 A To my aunt house.

16 Q Okay. And where does your aunt live?

17 A On Cemetery.

18 Q How far is that from there?

19 A About fifteen minutes.

20 Q And at some point in time, did you hear from any of
21 those people that had been at your home earlier?

22 A Yeah. Alvin call me.

23 Q And what did Alvin ask you to do?

24 A Head back to the house.

25 Q Okay. And did you head back over to your house?

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1 A Yeah. To meet the officers.

2 Q Okay. That was what I was going to ask. Was somebody
3 waiting on you when you got over there?

4 A Yes, sir.

5 Q And who was that?

6 A Officer Stokes, I believe.

7 Q The Sheriff's office?

8 A Yeah.

9 Q Let me ask you this. Stephanie, did you end up signing
10 and giving them consent to go in and search and collect
11 evidence and photograph your home at that point in time?

12 A Yes, sir.

13 Q Had you ever -- I mean, you testified earlier that you
14 had walked up and seen the blood and all on your porch. Did
15 you go inside?

16 A No, sir.

17 Q Look inside?

18 A No, sir.

19 Q Now, when you left your home to go look for and get
20 your, pick up your children to bring them back, you
21 testified earlier that none of that stuff was all over your
22 floor?

23 A No. Greg was looking at the TV at the time on the VCR,
24 whatever DVD player. Yeah. He was --

25 Q So was the TV on the floor? Was that TV like that when

State v Ayer Barnwell - Direct Sorenson 11/17/15 153

1 you left the home?

2 A No.

3 Q I'm going to ask you. Do you have a refrigerator?

4 It's kind of a stupid question.

5 A Yeah.

6 Q Is there a refrigerator and freezer in your kitchen?

7 A Yes, sir.

8 Q And is there any damage to the exterior of that

9 refrigerator --

10 A Yes, sir.

11 Q -- when you left your house?

12 A No.

13 Q Okay. Ultimately, when you had a chance to go back
14 inside of your house later on, did you observe some damage
15 to it?

16 A Yes, sir.

17 Q Okay. I'm showing you State's Exhibit No. 14. Does
18 that show the damage to your freezer?

19 A Yes, sir.

20 MR. SORENSON: Your Honor, at this time we offer
21 State's 14 into evidence.

22 THE COURT: Any objection?

23 MR. PALMER: No objection.

24 MR. STEVENS: No objection.

25 THE COURT: All right. They're in.

BY MR. SORENSON:

5 A Yes, sir.

8 A Yeah. It was not there.

11 A A bullet through the window.

13' A In the kitchen.

16 A No.

19 A Yeah. Uh-huh. (Affirmative response)

22 MR. PALMER: No objection.

24 THE COURT: It's in.

25 (State's Exhibit No. 15, photo, was

1 marked and entered.)

2 BY MR. SORENSON:

3 Q And that's located in your kitchen; is that correct?

4 A Yes, sir.

5 Q Stephanie, when you left your home that day, were there
6 any bullet holes through the exterior of your home, around
7 the front door?

8 A No, sir.

9 Q After you had a chance to kind of get back into your
10 home after the law enforcement leave, did you observe any
11 bullet holes?

12 A Yes, sir.

13 Q None of those were there earlier?

14 A I didn't see any.

15 Q Were those there when you arrived earlier?

16 A No.

17 Q When you arrived home -- I believe I'd asked you this
18 earlier. I just want to make sure. Nobody was at your
19 house.

20 A No, sir.

21 Q Is that correct? When you arrived back over there, you
22 met with the sheriff's office?

23 A Sheriff's office.

24 Q Was anybody else there besides the sheriff's office
25 when you got back over there?

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1 A No, not that I know of.

2 MR. SORENSON: I beg the Court's indulgence.

3 Q Thank you, Stephanie. Please answer any questions the
4 Defense may have for you.

5 THE COURT: Mr. Palmer.

6 MR. PALMER: Thank you, Your Honor.

7 STEPHANIE BARNWELL CROSS-EXAMINATION

8 BY MR. PALMER:

9 Q You had known Mr. Johnson, you call him Bootsy, three
10 years at that time?

11 A At that time.

12 Q In that three years, how would you describe the
13 frequency with which you saw him? Was it occasionally,
14 frequently.

15 A Occasionally.

16 Q And would you say occasionally means once a month?

17 A No, like ever three months, now and then, here and
18 there.

19 Q How long had you had a lease on that mobile home at the
20 time?

21 A I just move in around May.

22 Q So May. And this is September. So you'd been there a
23 few months. Prior to this day we're talking about had Mr.
24 Johnson been there before?

25 A Maybe about two times that I know of.

1 Q And when he was there before, the two times you're
2 speaking of, were either Mr. Kennedy, Mr. Clark or Mr.
3 Howell?

4 A Nobody but Mr. Clark, probably. That about it.

5 Q Okay. So would you agree that Mr. Johnson and those
6 other three fellows we're talking about knew each other?

7 A Yeah. A little bit.

8 Q A little bit?

9 A Yeah.

10 Q Wouldn't you call them friends?

11 A I wouldn't say friends, friends, but knew of each
12 other.

13 Q Okay. How would you describe their relationship if you
14 wouldn't call them friends?

15 A I mean, it wasn't hostile or nothing like that. It was
16 --

17 Q Excuse me. What did you say?

18 A I say it wasn't hostile or nothing like that.

19 Q Oh, hostile?

20 A Yeah.

21 Q Nothing hostile about the relationship?

22 A Yeah, right. No.

23 Q And this night you're talking about when you left to go
24 look for your children or gather up your children, were
25 these guys getting along?

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- 1 A Yeah. They was -- he came in --
- 2 Q What were they doing?
- 3 A -- was saying hey, talking?
- 4 Q Hanging out?
- 5 A Yeah.
- 6 Q Were there any drugs being used?
- 7 A Not by -- I didn't saw none.
- 8 Q Have you ever seen these guys use drugs?
- 9 A No, sir.
- 10 Q Okay. At the time, were you employed?
- 11 A I was going to school at the time.
- 12 Q Where were you going to school?
- 13 A OC Tech.
- 14 Q Okay. How were you paying your rent?
- 15 A I was getting FI and my mon and dad was helping me.
- 16 Q Okay. And was your rent current?
- 17 A Yes. I had got finished paying the rent man that
- 18 morning.
- 19 Q Okay. And the car that you were driving, was that
- 20 yours?
- 21 A Yes. It was paid for.
- 22 Q It was paid for?
- 23 A Yes, sir.
- 24 Q Who paid for it?
- 25 A My mom.

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1 Q What's her name?

2 A Jeannette.

3 Q All right. Getting back to Mr. Johnson. You've
4 identified what you say is his shoe in State's Exhibit 9?

5 A Yes. I had it in my trunk. After the cops got through
6 I put it in a bag, but my dad got rid of my car because the
7 transmission went out, so --

8 Q Are you saying that you took possession of it after
9 this photo was taken?

10 A No. Like a little bit after that, it was sitting
11 there. Like --

12 Q Oh, so they photoed it and just left it?

13 A Yeah. The cops just left it there and so I just --

14 Q And there's no doubt in your mind that this belonged to
15 Mr. Johnson?

16 A Yes.

17 Q Did you see him wearing these shoes that night?

18 A Yes, sir.

19 Q Okay. So your testimony is this shoe belonged to Mr.
20 Johnson?

21 A Yes.

22 Q Did you find his other shoe anywhere?

23 A No. That's a size twelve and no --

24 Q You just found the one?

25 A Yeah, just that one.

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1 Q Okay. What else was he wearing, do you remember?

2 A I think some jeans, I think, if I'm not mistaken.

3 Q And what about a top?

4 A I forgot.

5 Q Did you have a chance to look at him and observe him
6 when he came over that night?

7 A I just glanced at him from like -- I just glanced at
8 him. I just remember this -- them shoes because I just
9 remember them shoes right there?

10 Q Because they're blue sparkly flip-flops?

11 A Yeah.

12 Q Yeah. I got you. Right. They are shoes that you
13 notice?

14 A Yeah.

15 Q Did you have any kind of conversation with him that
16 day?

17 A I just said, hey.

18 Q You call him Bootsy?

19 A Bootsy, yeah.

20 Q That's fine. Did you have enough of a conversation to
21 determine what his state of mind was, what kind of mood he
22 was in?

23 A He was all right. He just said hey, Steph and that was
24 about it.

25 Q And that's how he usually was?

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1 A Yeah.

2 Q Correct?

3 A Yeah.

4 Q Nothing unusual about it?

5 A Uh-huh. (Negative response) If I would have known he
6 would have came there with that kind of, you know, problem.
7 I wouldn't have let him in the house or nothing like that,
8 you know..

9 Q Now, wait a minute. When you left they were getting
10 along?

11 A They was getting along.

12 Q So how do you know he came in with a problem?

13 A I'm just saying if he did had a problem, I wouldn't
14 have let him in the house.

15 Q Okay. No, I got you. I understand now. In other
16 words, you're saying if he'd looked unusual --

17 A Yeah.

18 Q -- anything about him giving you any kind of concern,
19 you wouldn't have let him in?

20 A Yeah.

21 Q Fair enough. Okay. Have you ever done any business
22 with Mr. Johnson?

23 A No.

24 Q Have you ever met him to transfer cash?

25 A Not that I recall.

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1 Q Okay. Do you know of any reason why Mr. Johnson, any
2 reason he would have to harm these other three guys?

3 A No.

4 Q Any animosity that you know of between them --

5 A No.

6 Q -- any kind of grudge or beef?

7 A No.

8 Q And you've already described their relationship. Have
9 you ever seen them -- and what I mean by them just so we're
10 clear, have you ever seen Johnson, Mr. Clark, Mr. Howell,
11 Mr. Kennedy, any of them exchange any kind of cash between
12 them --

13 A No.

14 Q -- in a large amount?

15 A No, I haven't.

16 Q Okay. Do you have any knowledge whatsoever that any of
17 those men that were in your house that night had any large
18 sums of cash?

19 A No. I didn't know.

20 Q Nobody talked about it?

21 A No, sir.

22 Q Nothing unusual stood out about them that night?

23 A No.

24 Q Nobody was acting suspicious?

25 A No.

State v Ayer Barnwell - Cross Palmer 11/17/15 163

1 Q Did you see any weapons?

2 A No.

3 Q Nobody was armed?

4 A No.

5 Q Okay. I'm just asking. Now, was it usual for those
6 guys to hang out that late in the evening in the house you
7 are renting?

8 A Sometimes. And a little early sometimes.

9 Q Didn't they have their own place to hang out?

10 A Yeah.

11 Q Well, why would they come over to your house where you
12 live with your children?

13 A Sometimes they come, not all the time. Sometimes.

14 Q Okay.

15 A But I don't think 9:00 is late. I don't think 10:00 is
16 late.

17 Q Everybody's different. Your children, you lived there
18 full-time with your children. You had custody; right?

19 A Yeah.

20 Q Two teenage boys and your young daughter?

21 A Yes, sir.

22 Q Did the daughter stay in a different bedroom than the
23 boys?

24 A Yeah. She was in the room with me.

25 Q Okay. So just so I'm clear, if I'm standing in the

State v Ayer Barnwell - Cross Palmer 11/17/15 164

1 yard, you said the horseshoe driveway, looking at this
2 mobile home. And I know you don't live there anymore, but
3 from your recollection. And I'm staring at the front porch.
4 Say the front porch is here. These are the steps that go
5 up. Just to illustrate. And is it the case that there's a
6 bedroom on this end?

7 A Uh-huh. (Affirmative response)

8 Q So when you go in the front door, you turn right,
9 there's your living room with those couches and stuff that
10 you've identified. And then beyond there, there is a door
11 and a bedroom?

12 A Yes, sir.

13 Q And is that the bedroom that the window was busted out?

14 A Yes, sir.

15 Q Now, how big are your sons to do that kind of damage?

16 A They was kind of chunky at the time.

17 Q Kind of chunky?

18 A Yeah.

19 Q I mean, what were they doing to bust the window?

20 A That's when -- I think them and they friends they'd
21 been there earlier. I wasn't there when they done that.

22 Q Oh, I see.

23 A Yeah.

24 Q Did they own up to it?

25 A Yeah.

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1 Q Did they apologize?

2 A Yeah.

3 Q Are they polite young men?

4 A Yeah, they -- yeah.

5 Q Okay. So you walk in the front door, living room. One
6 bedroom on that end?

7 A Uh-huh. (Affirmative response) Yeah.

8 Q But if you walk up to the front door and you turn left
9 -- well, first of all, you're facing the kitchen when you
10 come in?

11 A Right.

12 Q And you've identified the counter?

13 A Uh-huh. (Affirmative response)

14 Q And then if you turn left, is there one other bedroom
15 there?

16 A Yes, sir.

17 Q And that was the master bedroom if you want to call it
18 that?

19 A Yes, sir.

20 Q So this is a two-bedroom place?

21 A Yes, sir.

22 Q Okay. And the bedroom on the left is where you and
23 your daughter stayed?

24 A Yes, sir.

25 Q And the bedroom on the right, the two boys shared?

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1 A Yeah.

2 Q Okay. All right. Now, at any time did you see any of
3 these men go in either bedroom?

4 A No, sir.

5 Q Would they have any business going in either bedroom?

6 A No, I wouldn't think so. No.

7 Q At any time did they ask you to leave and say we got
8 some business to take care of or words to that effect?

9 A No.

10 Q And your testimony is that the only reason you left is
11 to go find your kids?

12 A Find my kids, yes.

13 Q Now, when you were leaving and you saw the white Chevy
14 with these two guys sitting in it, black males you described
15 it, give you any concern?

16 A No. Not really because they was in a car. I mean--

17 Q They were just sitting there?

18 A They was just sitting there.

19 Q Okay. Could you see them clearly?

20 A No.

21 Q And you didn't recognize either one of them?

22 A (Shakes head negatively)

23 Q Was the motor running?

24 A Yes, sir.

25 Q Okay. And when you left to go get your kids, how long

1 had Mr. Johnson been there?

2 A Approximately five minutes or so in the process of me
3 leaving out?

4 Q Okay. And had he told you that there were two guys
5 waiting in the car?

6 A No. I was just kind of at the front door when he kind
7 of came there, getting out the car.

8 Q So you were passing each other?

9 A Yeah. I was at the door. I mean the trailer's so
10 little. I mean, you can see when the car come down. You
11 could see it hit the kitchen window and stuff.

12 Q The headlights?

13 A Yeah.

14 Q Okay. So you testified you were gone for about fifteen
15 to twenty minutes?

16 A That's right.

17 Q And when you came back nobody was in the home?

18 A Nobody.

19 Q And you passed two cars leaving?

20 A Yeah.

21 Q One after the other?

22 A (No verbal response)

23 Q The Chevy first?

24 A Yeah.

25 Q And then the other car whatever it was?

State v Ayer Barnwell - Cross Wyman

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1 A (No verbal response)

2 Q Did the Chevy turn right or left or do you know?

3 A It just came down, going down Jamison, like going down
4 -- going towards Belleville.

5 Q Okay. And was it going fast?

6 A Yes.

7 Q How fast do you reckon?

8 A About sixty or so.

9 Q And was that on -- that wasn't in your driveway?

10 A No.

11 Q It had already left the driveway?

12 A Uh-huh. (Affirmative response)

13 Q Okay. And then was the other car with the other three
14 men in it, was it -- that turned, you said turned right?

15 A Yeah.

16 Q Onto Goff or going toward Goff?

17 A I mean, I mean, it turn a left going onto Goff.

18 Q Okay.

19 A The Chevy made a right, going on Jamison.

20 Q Okay. Other than what you've testified about, do you
21 have any first-hand knowledge to what happened during that
22 twenty minutes while you were gone?

23 A No. I would like to know what happened too.

24 Q Okay. You haven't talked to any of these men about
25 what might have happened in your home?

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1 A A little bit, but not as in what brung the chaos.

2 Q Okay. Thank you.

3 MR. PALMER: No further questions.

4 THE COURT: Mr. Stevens or Ms. Wyman?

5 STEPHANIE BARNWELL CROSS-EXAMINATION

6 BY MS. WYMAN:

7 Q Ms. Barnwell, good to see you again. You remember
8 meeting me last Tuesday, right?

9 A Yes.

10 Q We met with my private investigator Danny McDaniel?

11 A Yes, ma'am.

12 Q We met at Wendy's where you now work?

13 A Uh-huh. (Affirmative response)

14 Q Back three years ago in September, you weren't employed
15 at that time, though; right?

16 A Right.

17 Q But you were able to make rent?

18 A Uh-huh. (Affirmative response)

19 Q You paid that morning, you said?

20 A Yeah.

21 Q And it was just your name on the lease?

22 A Yeah.

23 Q So just you and your kids living there?

24 A Yeah.

25 Q Greg Howell and Alvin [sic] Kennedy, they were at your

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1 house that day?

2 A Uh-huh. (Affirmative response)

3 Q How long were they there?

4 A I guess a couple hours, not that long.

5 Q And their names are not on the lease?

6 A No.

7 Q And you left your house; right? What time was that
8 again?

9 A I guess about 9:40 or so, something like that.

10 Q And they had been there for a couple of hours?

11 A Yeah. Maybe about two hours just looking at a movie.

12 Q I got you. And when you left you saw a white car. And
13 Mr. Johnson got out of that car?

14 A Uh-huh. (Affirmative response)

15 Q And you saw two other guys in the car. They didn't get
16 out?

17 A Yeah.

18 Q And you didn't know those guys?

19 A No.

20 Q So when you left your house inside were Alvin Clark,
21 Greg Howell, And Terrance Johnson?

22 A Yes.

23 Q And when you were pulling out you saw Calvin Kennedy
24 pull up?

25 A Yeah. No, he was -- yeah, when I was pulling out like

1 on the little main little road.

2 Q And you saw that it was clearly him?

3 A Yeah.

4 Q So he came later?

5 A Yeah.

6 Q And then so you were gone you said for like twenty
7 minutes?

8 A Yeah.

9 Q And you came back and you saw blood and bullet holes.
10 And then you just left?

11 A Yeah.

12 Q Went back to your aunts house?

13 A (No verbal response.)

14 Q You didn't call the police, did you?

15 A No.

16 Q You said that Alvin called you later when he was with
17 law enforcement.

18 A Yeah.

19 Q When was that?

20 A I guess when he was at the hospital.

21 Q And he called you at the hospital and you met them back
22 at the house?

23 A Yeah.

24 Q That same night?

25 A Yeah.

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1 MS. WYMAN: Court's indulgence.

2 Q Thank you, Ms. Barnwell.

3 THE COURT: Any redirect?

4 MR. SORENSON: No, Your Honor.

5 THE COURT: You may step down, Ms. Barnwell.

6 Thank you.

7 You may call your next witness.

8 MS. CORNWELL: The State would call Deputy Desi
9 McQueen.

10 MR. SORENSON: May she be excused, Your Honor.

11 THE COURT: Any objection to Ms. Barnwell being
12 excused?

13 MR. STEVENS: No, objection.

14 MR. PALMER: No objection, Your Honor.

15 THE COURT: Ms. Barnwell, you are free to go.

16 MS. CORNWELL: Deputy Desi McQueen, please.

17 THE CLERK: Please place your left hand on the
18 Bible and raise your right.

19 (WHEREUPON, Desi McQueen was duly
20 sworn.)

21 THE CLERK: Please state your name again for the
22 record.

23 MR. MCQUEEN: Desi McQueen.

24 THE COURT: Your witness.

25 DESI MCQUEEN - DIRECT EXAMINATION

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1 BY MS. CORNWELL:

2 Q Deputy McQueen, where do you work?

3 A Orangeburg County Sheriff's Office.

4 Q How long have you worked for the Orangeburg County
5 Sheriff's Office?

6 A Since 2002.

7 Q What is your current position with the Orangeburg
8 County Sheriff's Office?

9 A I'm a school resource officer.

10 Q How long have you been a school resource officer?

11 A This is my second year.

12 Q And prior to working as a school resource officer, what
13 did you do?

14 A Field services patrol.

15 Q And that was also with the sheriff's office?

16 A Yes, ma'am.

17 Q And were you working in that capacity on September 10th
18 of 2012?

19 A Yes.

20 Q And in that capacity, do you recall being dispatched to
21 [REDACTED] ?

22 A Yes.

23 Q What county is that in?

24 A Orangeburg County.

25 Q And what was that call in reference to?

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1 A A shooting incident.

2 Q When you arrived on scene, can you tell the jury what
3 you observed?

4 A I noticed the front door was open. And I saw a lot of
5 blood on the porch and in the front doorway area.

6 Q All right. Did you see any other items of evidentiary
7 value that were on the ground or anything?

8 A Shell casings.

9 Q Okay. And those would be shell casings from a gun?

10 A Yes, ma'am.

11 Q And once you arrived on the scene, what did you do?

12 A Me and another officer went in and cleared the
13 residence, to make sure no one else was inside that
14 location.

15 Q Okay. And when you cleared that residence, did you
16 find anybody else inside the residence?

17 A No, ma'am.

18 Q And after you cleared the residence what did you do?

19 A Turned it over to the crime scene investigator that was
20 on the scene.

21 Q All right. Did you also secure the scene at that time?

22 A Yes, ma'am.

23 Q And can you tell the jury what securing the scene
24 entails?

25 A Taping it off, crime scene tape.

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1 Q Okay. All right. And once the crime scene unit
2 detectives arrived, did you have any further involvement in
3 this case?

4 A No, ma'am.

5 Q Thank you Deputy McQueen. Please answer any questions
6 Defense counsel may have.

7 THE COURT: Mr. Palmer

8 MR. PALMER: No questions.

9 THE COURT: Counsel for Defendant Ayer?

10 MR. STEVENS: Thank you, Judge.

11 DESI MCQUEEN CROSS-EXAMINATION

12 BY MR. STEVENS.

13 Q Good afternoon, Deputy McQueen?

14 A All right.

15 Q I'm just going to ask you some questions about
16 September 10th, 2012; all right?

17 A Yes, sir.

18 Q Okay. You said you were working that night?

19 A Yes.

20 Q And you were on patrol; right?

21 A Yes.

22 Q And you arrived at [REDACTED]?

23 A Yes, sir.

24 Q And you said you received a call to do that?

25 A Yes.

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- 1 Q Where did you get that call from?
- 2 A I was dispatched to go to that location.
- 3 Q And that was at what time?
- 4 A I'm not really sure. Just at some time that night.
- 5 Q I see. But you got there, right?
- 6 A Yes, sir.
- 7 Q And you said you were with another officer?
- 8 A Yes.
- 9 Q And that officer was Sergeant Cook?
- 10 A Sergeant Cook, yes.
- 11 Q And the two of you were together; right?
- 12 A Yes.
- 13 Q And the two of you approached the porch?
- 14 A Yes.
- 15 Q And the two of you saw the stuff on the porch?
- 16 A Yes.
- 17 Q And even though you saw blood on the porch. That was
- 18 one of the things; correct?
- 19 A Yes, sir.
- 20 Q And you also saw -- the other things around?
- 21 A Yes, sir.
- 22 Q Shell casings you said, just outside; right?
- 23 A Yes.
- 24 Q And you still entered the address; correct?
- 25 A Yes, sir.

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1 Q And you were clearing rooms is what you're doing;
2 right?

3 A Yes, sir.

4 Q Okay. When you say you're clearing rooms, that means
5 you're looking for possible people; correct?

6 A Yes.

7 Q And with that much blood on the scene, it was important
8 to make sure that nobody was present; right?

9 A Yes, sir.

10 Q Make sure no one was hurt?

11 A Yes.

12 Q Make sure no other dangers were present?

13 A Yes.

14 Q Not just anybody else in the house, but also you for
15 being there; right?

16 A Yes.

17 Q So that's primarily where your focus was at when you
18 were inside; right?

19 A Checking the residence, yes.

20 Q Okay. Now, just to be clear then. You were not
21 present during the actual incident; correct?

22 A No.

23 Q And you did not personally witness anything that
24 happened during the incident inside that trailer; did you?

25 A No.

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1 Q And you did not personally witness anything that
2 actually occurred at the incident outside that trailer; did
3 you?

4 A No.

5 Q Okay.

6 MR. STEVENS: Court's indulgence. No further
7 questions.

8 Q Thank you Deputy McQueen.

9 THE COURT: Any redirect?

10 MS. CORNWELL: No, Your Honor.

11 THE COURT: You may step down Deputy. Thank you.
12 You may call your next witness.

13 MR. SORENSON: The State calls Alvin Clark.
14 (Off the record bench conference with counsel and the
15 Court.)

16 THE COURT: Ladies and gentlemen, it's almost
17 4:00. It's a good opportunity for us to take our afternoon
18 restroom recess. It'll just take us a few minutes. Please
19 let us know when you're ready to proceed. Again, please do
20 not discuss this case among yourselves.

21 (Jury out at 3:49 p.m.)

22 THE COURT: We'll be at ease for about five
23 minutes

24 (Court in recess for short break at
25 3:49 p.m.)

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1 MR. SORENSON: Yes, ma'am.

2 THE COURT: All right. Let's have our jury,
3 please?

4 THE BAILIFF: Yes, Your Honor.

5 THE COURT: Mr. Clark, are you able to stand up
6 with your shackles on?

7 MR. CLARK: Yes, ma'am.

8 (Jury in at 4:03 p.m.)

9 THE COURT: Ladies and gentlemen of the jury, the
10 Solicitor has called their next witness, Mr. Alvin Clark.

11 Madam Clerk, would you please swear him in.

12 THE CLERK: Please place your left hand on the
13 Bible and raise your right.

14 (WHEREUPON, Alvin Clark was duly
15 sworn.)

16 THE CLERK: Thank you. You may have a seat.
17 Please state your name for the record.

18 MR. CLARK: Alvin Clark.

19 THE CLERK: Thank you.

20 THE COURT: Your witness.

21 MR. SORENSON: Thank you, Your Honor.

22 ALVIN CLARK - DIRECT EXAMINATION

23 BY MR. SORENSON:

24 Q Alvin, if you would, tell the jury how old you are?

25 A Thirty-five.

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1 Q And where did you grow up?

2 A Orangeburg.

3 Q Okay. And obviously, looking at you, you're currently
4 in the Department of Corrections; is that correct?

5 A Yes, sir.

6 Q All right. And you are in there for a trafficking
7 charge; is that correct?

8 A Yes, sir.

9 Q And when did that occur?

10 A I don't remember.

11 Q A couple of years ago?

12 A Yeah.

13 Q And I want to turn your attention, Alvin, back to
14 September 2012, okay? Let me ask you, did you know Gregory
15 Howell?

16 A Yes, sir.

17 Q And tell the jury, how did you know Greg?

18 A School.

19 Q And how long do you think you had known Greg for?

20 A Probably like ten years or more.

21 Q Did he have a nickname that Greg went by?

22 A G Smoke.

23 Q Okay. How about you, did you have a nickname you went
24 by?

25 A No, sir.

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1 Q And how about Calvin Kennedy, do you know Mr. Kennedy?

2 A Yes, sir.

3 Q Okay. And how long have you known Mr. Kennedy?

4 A About the same at the time.

5 Q The three of y'all had all known each for about ten
6 years or so?

7 A (Nods head affirmatively)

8 Q Okay. And did Calvin have a nickname he went by?

9 A C.J.

10 Q C.J. And let me ask you, the evening of September 10th
11 of 2012, were you hanging out somewhere that evening?

12 A At my sister-in-law's.

13 Q Okay. I'm showing you State's Exhibit No. 5. Is that
14 --

15 MR. SORENSON: Bear with me one second.

16 Q I'm showing you State's Exhibit No. 5 Is that your
17 sister-in-law's house?

18 A Yes, sir.

19 Q Okay. And what is her name?

20 A Stephanie Barnwell.

21 Q Okay. And Stephanie has a child by your brother; is
22 that correct?

23 A Yes.

24 Q And that early evening, who else was hanging out over
25 there with you that evening?

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1 A Just me, C.J., and Greg.

2 Q And was Stephanie there at some point in time?

3 A Yeah. She was there and she left to go pick up my
4 niece and the kids.

5 Q Okay. Was anybody else living at that trailer back
6 then besides Stephanie and her children?

7 A Excuse me?

8 Q Who was living in that mobile home back then?

9 A Her and her kids.

10 Q Okay. Now, tell the jury that evening of September
11 10th of 2012, initially, who was initially hanging out at
12 her home that evening?

13 A Me, C.J. and Greg.

14 Q Okay. Now, did there come a time where any of the
15 three of y'all left?

16 A Yeah. We left. Yeah.

17 Q Okay. And did you ultimately come back?

18 A Yes, sir.

19 Q And who was with you when you came back?

20 A It was me and Greg when we got back there. And Calvin
21 appears up later.

22 Q Okay. And that's, I guess, what I'm getting at. So
23 the time kind of closer to when everything happened, who
24 initially was kind of in the trailer then?

25 A Me, Calvin and Greg.

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1 Q Okay. All right. But then you said that y'all had
2 left?

3 A Yeah.

4 Q And then you and Greg came back?

5 A Yeah, I'm trying to -- I don't know. It been so long,
6 I think either me and Greg left together or -- I don't know.

7 Q Okay. I understand, trying to remember the times. But
8 at some point in time -- let me ask you this, the Defendant,
9 Terrance Johnson, do you know Mr. Johnson?

10 A Yeah.

11 Q Okay. About how long had you known Mr. Johnson for
12 back and during that time?

13 A Probably about a year maybe.

14 Q A year or so?

15 A (No verbal response)

16 Q And did there come a time that evening when Mr. Johnson
17 showed up over at Stephanie's home?

18 A Yes, sir.

19 Q And when he got there, who was there when he got there?

20 A It was me, Greg, Steph was there. I think C.J. was
21 there. I'm not quite sure.

22 Q You're not sure whether he was there when Mr. Johnson
23 showed up or not?

24 A The first time, yeah.

25 Q All right. And you said the first time. Did he end

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1 up, did he ultimately -- he, being Terrance Johnson,
2 ultimately end up leaving?

3 A Yeah.

4 Q Okay. And so I want to kind of fast-forward then.
5 Does he ultimately then come back?

6 A Yes, he came back.

7 Q All right. And when he comes back then, who was at the
8 trailer when he comes back over?

9 A It was me and Greg there at first, just me and Greg.

10 Q Okay. Is Stephanie still there, do you remember?

11 A She wasn't there. No, she wasn't there. I think she
12 was leaving.

13 Q You think she was leaving?

14 A She was leaving.

15 Q Okay. All right. And what were y'all doing kind of,
16 just in the home?

17 A Just 'chillin.

18 Q Okay. Were y'all smoking?

19 A Smoking.

20 Q And you've indicated that at some point in time, either
21 right before he got there or as he got there, that Stephanie
22 ended up leaving; is that correct?

23 A Yes.

24 Q Okay. All right. Now, did there come a time when
25 somebody else or anybody else came in the trailer?

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1 A No.

2 Q Okay. Anybody else come in that evening?

3 A The first time or the second time.

4 Q The second time. I'm now up to when everything
5 happens.

6 A Well, Gun -- I mean, Terrance came in first.

7 Q Okay. And then we was in there smoking, and passing
8 the blunt. I asked him who was in the car. He said his
9 homeboys. I tell him to call his homeboys in to smoke. So
10 we been in there 'chillin.

11 Q Okay. So you knew there was a car outside at that
12 time?

13 A Yeah.

14 Q And did you know who was out in the car?

15 A Naw.

16 Q Did you know how many people at that time were out in
17 the car?

18 A No, sir.

19 Q Okay. Now, ultimately, did somebody come in?

20 A Yeah. One person came in?

21 Q Okay. And describe for the jury what that person
22 looked like that came in?

23 A A little short, stocky, brown skin dude, low haircut.

24 Q Had you ever seen that person before?

25 A Naw.

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1 Q Now, do you see him in court today?

2 A Yeah.

3 Q Where? Can you point him out?

4 A (Witness complies)

5 Q Sitting over there with tie and the glasses on his
6 head?

7 A (Nods head affirmatively)

8 Q Ever seen him before that night?

9 A Naw, I don't even know him.

10 Q Didn't know him? Know his name?

11 A No, I still don't know him.

12 Q Now, at some point in time, did C.J., Calvin, come back
13 then?

14 A Yes.

15 Q And tell the jury then -- so Stephanie has left at this
16 point in time?

17 A It was just --

18 MR. STEVENS: Judge, could we have him testify.

19 THE COURT: Don't lead.

20 MR. SORENSON: Yes, ma'am.

21 BY MR. SORENSON:

22 Q When Calvin came over was Stephanie there or had she
23 already left?

24 A She was leaving.

25 Q Leaving, also?

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1 A Yeah.

2 Q Okay. All right. And tell the jury then what kind of
3 now -- so who is now in the mobile home?

4 A Me, C.J., Greg, Terrance and him, whoever he is.

5 Q There was five of y'all?

6 A Yes, sir.

7 Q Okay. And tell the jury what were you doing at that
8 time, Alvin?

9 A I was smoking. And I passed the blunt off. And I went
10 to go get some water out the sink. Leaned down to get some
11 water out the sink. That when I start hearing gunshots.

12 Q Okay. Had you seen a gun before that?

13 A Naw. I ain't seen no gun.

14 Q So you heard gunshots. Tell the jury. What did you
15 see going on?

16 A Well, when I looked up, I seen C.J. and someone
17 tussling with the gun. And I seen Terrance run behind Greg
18 with the gun. And I ran to the back room. And all of the
19 gunfire stopped I came back from around the room and I seen
20 C.J. and the dude tussling with the gun. When the dude seen
21 me running out the room, he tried to take off running. He
22 tripped up fall. So I told C.J. to kill him. Excuse my
23 language. To shoot him. And he shot him. And I tried to
24 pull him back in. And another dude jump out the car and
25 start shooting at me.

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1 Q Okay. All right. Let me back you up there real quick,
2 Alvin, all right? So you were in the kitchen, initially at
3 the sink?

4 A Yes. The kitchen at the sink.

5 Q Okay. And you hear -- you said you heard gunshots?

6 A Yeah. The first gunshot.

7 Q Okay. And you looked up and who did you see C.J.
8 tussling with?

9 A The short stocky dude.

10 Q Okay. The guy that you identified as that Defendant,
11 Mr. Ayer?

12 A Yeah.

13 Q Okay. And where was that occurring?

14 A In the middle of the -- in the doorway.

15 Q Okay. Of the front door?

16 A Front door.

17 Q Okay. And where was Mr. Johnson?

18 A He had done left out. He was running down behind Greg.

19 Q Okay. So when you first saw him, though, when you
20 first looked up you said you saw him with a gun, chasing
21 going after Gregory?

22 A Yeah.

23 Q Where were they at?

24 A Running past the -- running past Calvin and the other
25 dude tussling with the gun.

1 Q Okay. Running towards where?

2 A The door, out the front door.

3 Q The front door? Okay. And you said you heard
4 gunshots. Could you tell who was shooting at that time?

5 A Naw.

6 Q Who did you see with a gun when you looked up from the
7 sink?

8 A Terrance and whatever his name is.

9 Q The two of them?

10 A Yeah.

11 Q And you said that you ended up going where?

12 A In the bedroom.

13 Q Okay. And which bedroom did you go towards?

14 A The master bedroom.

15 Q Okay. So if I come in the front door the master
16 bedroom's to the left?

17 A To the left.

18 Q Okay. And do you know whether -- did anybody shoot at
19 you?

20 A I don't know. I know when -- well, the way I ran, I
21 seen the bullet towards that way in the refrigerator. So
22 eventually, yeah.

23 Q Now, you said that you went back into the bedroom.
24 What did you do then?

25 A Duck down beside the closet until I stop hearing the

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1 gunshots.

2 Q Okay. And after you stopped hearing the gunshots, what
3 did you do?

4 A Ran back around there.

5 Q Okay. And tell the jury when you came back out there,
6 what was it that you saw?

7 A C.J. and the dude tussling, with the gun in the air.

8 Q Where was that that they were tussling?

9 A In the doorway.

10 Q Okay. And let me ask you, let me show you State's
11 Exhibits No. 12 and 13. You see the kind of the disarray in
12 the living room?

13 A (Nods head affirmatively)

14 Q Okay. Was that like that when you went running back
15 into the bedroom?

16 A Naw.

17 Q Was it like that when you came back out of the bedroom?

18 A Yes, sir.

19 Q And you said that you, at that point in time, that you
20 saw that person appear to try to take off running out the
21 front door?

22 A Yes, sir.

23 Q And what happened then?

24 A Tripped up, fall. C.J. shot him. And then someone --

25 Q So C.J. had a gun at that point in time?

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1 A No. C.J. got the gun out of his hand.

2 Q Okay. Did it appear to be the same gun that -- as far
3 as you could tell?

4 A Yeah. It was the same gun.

5 Q Okay. Did he have a gun in his hand then when he was
6 running out the door?

7 A Naw. He ain't had the gun.

8 Q Okay. All right. So you said that -- did you actually
9 see C.J. shoot him?

10 A Yeah. He was standing beside him.

11 Q Okay. And what did you try to do then?

12 A Tried to drag him back in the house.

13 Q Okay. All right. Was he able to get outside?

14 A Yeah. He got outside.

15 Q Okay. And what did C.J. do?

16 A Ran around the house. Ran around the house.

17 Q Inside or outside?

18 A Outside.

19 Q Okay. And what about you? What did you do?

20 A I was still sitting on the floor because the dude start
21 shooting at me. So I wait until the shots stop and then I
22 went outside.

23 Q Okay. And that's what I wanted to get at. So when you
24 came out the door, what happened as you came out the front
25 door?

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1 A At that point, that's when the white Malibu pulling off
2 and C.J. come from around the house and --

3 Q Okay. Let me back you up. When you first initially
4 went to go out the front door, after him and C.J. -- you'd
5 said this earlier but I'm kind of backing up. What did you
6 observe?

7 A The other dude was sitting in the car. And I seen,
8 that when Savage came, came from around the house saying
9 that Terrance shot him in the back. And C.J. came from
10 around the house saying he tried to kill him because his
11 face split wide open.

12 Q Okay. Let me back you up, though. When you first --
13 Alvin, when you first go -- when the guy gets away from you
14 and you try to grab him and he goes out the door. Do you go
15 out after him?

16 A Yes, sir.

17 Q What did you see when you went to go out the door?

18 A Oh. Somebody else jumped out the car and start
19 shooting at me.

20 Q And that's where I wanted to get you. Okay. And where
21 was the car at at that time?

22 A Up under the light pole.

23 Q Let me show you State's Exhibit No. 5. Do you see the
24 kind of the area where the car was located at or --

25 A Yeah. No.

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1 Q Or either State's Exhibit No. -- Let me show you. I'm
2 going to sure this one's in evidence, State's Exhibit No. 4?

3 MR. PALMER: No objection.

4 MR. SORENSON: I'm not sure if 4 is in or not,
5 Your Honor.

6 THE COURT: It's already into evidence.

7 MR. SORENSON: It is, okay. I have two of these
8 three, but I hadn't 4.

9 BY MR. SORENSON:

10 Q All right. Does that kind of show just the general
11 area where that white car was in?

12 A Yeah.

13 Q Okay. Kind of point that out to the jury about where
14 it was?

15 A Right up in here.

16 Q Okay. So it was over in this area here?

17 A Yeah.

18 Q What did you see when you came out the door?

19 A He jumped out the car, leaning over the hood, shooting.
20 Shooting towards me.

21 Q Okay. What did you do when that person -- did you know
22 who that person was?

23 A Naw, I ain't know who that was. I still don't know who
24 that is.

25 Q It wasn't Terrance Johnson, right?

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1 A No, no.

2 Q It wasn't that other guy either; right?

3 A (Shakes head negatively)

4 Q Okay. All right. What did you do then?

5 A Jumped back in the house, slammed the door, sat on the
6 floor until the bullets stopped.

7 Q Could you hear any of them hitting the trailer while
8 you were in there?

9 A (Shakes head negatively)

10 Q All right. Now, ultimately did you have an opportunity
11 to go back outside?

12 A Yes, sir.

13 Q Okay. And tell the jury who did you find? Who was
14 outside when you got out there?

15 A Gregory and C.J. shot.

16 Q You described that earlier. Where did Greg appear to
17 have been shot?

18 A In the back.

19 Q And what about C.J.?

20 A On the face, arm, leg.

21 Q Was he bleeding a lot?

22 A Yep.

23 Q All right. How about the white car, was it there when
24 you came back out?

25 A Yeah. It was pulling off slowly.

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1 Q You saw it pulling out of the driveway?

2 A Yes.

3 Q Did you see either of those two around at that point in
4 time?

5 A Naw.

6 Q Okay. All right. Let me first of all ask you, how was
7 Greg acting when you got out and saw him?

8 A He was like, they shot me in the back. I mean, I
9 thought it wasn't a life and death situation, but -- you
10 know, I mean critical. But he said he shot him in the back.
11 So I tell him -- C.J. jumped in the car to drive to go to
12 the hospital. But he couldn't drive in the condition he was
13 in so I tell him to move over I'm going to drive y'all to
14 the hospital.

15 Q So do you ultimately get in C.J.'s car and drive both
16 Gregory and C.J. to the hospital here in Orangeburg?

17 A Yes.

18 Q Let me ask you this. Did you end up meeting with the
19 sheriff's office at the hospital?

20 A Yes, sir.

21 Q Gave them a written statement that night?

22 A Yes, sir.

23 Q Okay. Did you tell them about who that person was that
24 night?

25 A Yes, sir.

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1 Q Did you tell him the nickname you knew him by and also
2 his real name?

3 A Yes, sir.

4 Q Do you remember, in fact, the next afternoon Sergeant
5 Stokes coming and showing you some photographs just to make
6 sure they knew who you were talking about?

7 A Yes, sir.

8 Q I'm showing you State's Exhibit No. 2. Do you remember
9 that?

10 A Yes, sir.

11 Q Did you circle anybody?

12 A Terrance.

13 Q Okay. That's photograph number four?

14 A Yes, sir.

15 Q You initial that and date it?

16 A (Nod head affirmatively) Yeah.

17 Q State's Exhibit No. 3. You filled that out and signed
18 it indicating why you picked out State's Exhibit No. -- No.
19 4 [sic] out of this photograph.

20 A Yes, sir.

21 MR. SORENSON: Your Honor, at this time we'd offer
22 State's 3 and 4 [sic] into evidence.

23 THE COURT: Any objection?

24 MR. PALMER: No objection.

25 MR. STEVENS: None, Judge.

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1 THE COURT: All right. They're both in.

2 MR. SORENSON: I'm sorry. It's 2 and 3. Did I
3 say 3 and 4? 2 and 3, I'm sorry.

4 (State's Exhibit No. 2, photo, was
5 marked and entered.)

6 (State's Exhibit No. 3, statement,
7 was marked and entered.)

8 BY MR. SORENSON:

9 Q In State's Exhibit No. 2, Alvin, that man right there,
10 Terrance Johnson?

11 A Yes.

12 Q And you told the police about him that night at the
13 hospital?

14 A Yes, sir.

15 Q And then the following day when you met with them and
16 gave them your statement?

17 A Yes, sir.

18 Q You indicated to them in this affidavit in State's
19 Exhibit No. 3 that he was one of the people that shot at
20 you, Greg and Calvin?

21 A Yes, sir.

22 Q Did you ever have a gun that night Alvin?

23 A No, sir.

24 Q Did you fire a gun that night?

25 A No, sir. They taped my hands for gunpowder and I ain't

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1 shot no gun.

2 Q You were around people that were shooting that night
3 though; is that correct?

4 A Yes, sir.

5 Q Did you ever see Gregory with a gun that night?

6 A No.

7 Q And Gregory ran out the door, kind of the minute
8 everything started?

9 A Yes, sir.

10 Q And now you testified that you did ultimately see C.J.
11 with a gun; is that correct?

12 A Yeah. The gun that he took from --

13 Q That was after you came out of the bedroom, after the
14 shots had kind of stopped initially?

15 A They --

16 MR. PALMER: Objection, Your Honor, to the leading
17 question.

18 THE COURT: Please rephrase.

19 BY MR. SORENSON:

20 Q Tell the jury, when was it that you saw C.J. with the
21 gun?

22 A When I came out the room, they was tussling with the
23 gun. And when he seen me running towards them, I guess he
24 let the gun go and that's when Calvin end up with the gun.
25 He tried to run out the door.

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1 Q And the third person that got out of the white car that
2 was shooting at the trailer, have you ever seen that person
3 before?

4 A No.

5 Q Any idea who that person was?

6 A No.

7 Q Thank you, Alvin. Please answer any questions that the
8 Defense lawyers have for you.

9 THE COURT: Cross-examination.

10 MR. PALMER: Thank you, Your Honor.

11 ALVIN CLARK - CROSS-EXAMINATION

12 BY MR. PALMER:

13 Q So one guy gets fatally shot, another guy gets wounded
14 over a blunt; is that your testimony?

15 A Naw. Not over no blunt.

16 Q Well, you said that what you were doing was smoking a
17 blunt and all of a sudden shooting started. Is that a good
18 way to summarize what you said?

19 A Yeah. That's what I said.

20 Q So your testimony is there was nothing else going on
21 besides y'all passing a blunt around?

22 A That's what we was doing.

23 Q And that's your explanation as to why all these guys
24 started shooting at each other?

25 A I don't know. I guess they came to rob us. Their

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1 motive to come in to rob us.

2 Q What was there to rob?

3 A That's what I want to know.

4 Q Okay. And if you had something to rob, how would they
5 have known?

6 A I don't know. Knowing our past history, I guess.

7 Q Past history?

8 A Yeah.

9 Q What are you referring to?

10 A Because I used to be a drug dealer. I guess they
11 thought we was still doing, selling drugs, which we wasn't
12 selling drugs.

13 Q So your testimony is there was no drug transaction
14 going on that night?

15 A Naw, it wasn't no drugs. It wasn't no drug.

16 Q Okay. So the gentleman, the person you've identified
17 over there with a tie on, he wasn't in there in the
18 beginning; is that your testimony?

19 A Naw, he wasn't there in the beginning?

20 Q And y'all said bring him in?

21 A Yeah. I told him to call him in.

22 Q Why?

23 A To smoke.

24 Q You didn't even know the guy.

25 A I know Terrance. And I just told Terrance --

1 Q So you trusted Terrance.

2 A Yeah, I guess -- I did trusted him.

3 Q So just out of the kindness of your heart you said,
4 hey, bring the guy in from the car so he can have some of
5 the blunt. Is that pretty much what you did?

6 A Yeah.

7 Q And then what happened? Was somebody hogging the blunt
8 and that's when the shooting started? Do you have any
9 explanation as to why people -- whoever drew guns and
10 started shooting, other than that?

11 A I don't know. You may need to ask Terrance why they
12 came there. Why they drew guns.

13 Q I'm asking you. What do you think?

14 A I don't know.

15 Q You don't know?

16 A No, I don't know why they came and drew guns. I
17 wouldn't expect for Terrance to do nothing like that.

18 Q So you go to the sink, right?

19 A Yes, sir.

20 Q Which means you're in the kitchen?

21 A Yes, sir.

22 Q And the purpose of going to the sink was to what?

23 A Get some water.

24 Q And why did you need water?

25 A Because I smoking. My mouth was dry?

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1 Q You pretty stoned at that point?

2 A Yes.

3 Q And now was it good weed y'all had?

4 A Yeah. Pretty good. You should try some.

5 Q So do you smoke -- did you smoke a lot of weed at that
6 time?

7 A Uh-huh. (Affirmative response)

8 Q So you could tell good weed from -- what do they call
9 it schwag? Do you understand that term?

10 A No, I never heard that.

11 Q What do you call weed that's not so good, that's kind
12 of commercial.

13 A Bap.

14 Q Say again?

15 A Bap.

16 Q Bap?

17 A Yeah. No good.

18 Q And this wasn't bab. This was quality weed? It's got
19 you really stoned?

20 A Yeah.

21 Q So based on your testimony, is it a fair statement that
22 at the time you describe the shooting started, you were
23 pretty stoned?

24 A No, we just light the blunt up. I wasn't stoned. I'd
25 have been high, but I wasn't stoned. I've been higher than

1 that before.

2 Q Well, how do you differentiate between high and stoned.

3 I mean, you need to educate me a little bit here.

4 A High mean I'm just high. Stoned, mean you don't know
5 what's going on.

6 Q Oh, okay. So you were high but not stoned?

7 A Yeah.

8 Q Okay. But you needed to go to the sink because you
9 were thirsty?

10 A Yeah. I needed some water.

11 Q You needed some water?

12 A (Nods head affirmatively)

13 Q Okay. So before you went over to the sink, is it a
14 fair statement, based on your testimony, your observation
15 and recollection, there was nothing wrong?

16 A Naw, wasn't nothing wrong.

17 Q Terrance was in there. The other dude as you've
18 described him was there; correct?

19 A Yeah.

20 Q And you three guys?

21 A Yes, sir.

22 Q Everybody's getting along. Everything's fine? You get
23 some water and you get some water and then you look up and
24 there's guns and shooting?

25 A Naw.

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1 Q Is that what happened?

2 A Naw. When I went and got some water, that's when I
3 heard the shooting.

4 Q So you heard the shooting before you saw it?

5 A Yeah. I had my head in the sink getting water.

6 Q Okay.

7 A And when I went to bend down to get some water, that's
8 when I heard the first gunshot.

9 Q And where did that come from?

10 A I guess -- with him and Calvin was tussling with the
11 gun.

12 Q Okay. And where did that gun come from?

13 A They brought it there.

14 Q How do you know?

15 A Because we didn't have any guns in there.

16 Q You didn't have a 9 millimeter sitting on the kitchen
17 counter? Is that your testimony?

18 A (No verbal response)

19 Q A black and silver Smith & Wesson was not sitting on
20 the counter when you guys were passing that blunt around?

21 A There wasn't no gun on the counter.

22 Q That's your testimony?

23 A Yes.

24 Q Did you own a gun at the time?

25 A No. I'm a convicted felon.

1 Q Well, how about then?

2 A I was a convicted felon.

3 Q You were then too?

4 A Yeah.

5 Q Well, that's not what I asked you. Did you own a gun
6 at the time?

7 A No, I'm a convicted felon.

8 Q Do you have any experience with firearms?

9 A No.

10 Q Not at all?

11 A No, sir.

12 Q You've never been in a shootout before?

13 A No, sir.

14 Q Has Greg Howell, had he ever been in a shootout before
15 this?

16 A No, sir.

17 Q How about Kennedy?

18 A No, sir.

19 Q You don't know of any instance where either of those
20 guys had ever been in a situation involving the use of
21 firearms?

22 A No, sir.

23 Q Okay. And how well did you know those guys?

24 A Pretty good.

25 Q You were close friends, weren't you?

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1 A Yes.

2 Q Now, you're saying you drove those two guys to the
3 hospital?

4 A Yes, sir.

5 Q You drove straight there?

6 A Yes, sir.

7 Q Did you have a phone on you?

8 A Did I have a phone on me? I believe I did, yeah.

9 Q Did you call 9-1-1?

10 A No, sir.

11 Q Why not?

12 A Because I'm driving them to the hospital.

13 Q So that means you don't have to call the cops?

14 A No. I'm talking them to the hospital. Why call 9-1-1
15 and wait for them to come for both of them to die on the
16 scene?

17 Q I'm asking you. Is it your testimony you didn't bother
18 to call 9-1-1 on the way to the hospital?

19 A Right.

20 Q It had to take at least ten or fifteen minutes to get
21 there, right?

22 A No, five.

23 Q Five minutes?

24 A Yes.

25 Q That's long enough to dial a phone; isn't it?

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1 A Yeah, but I wasn't thinking about dialing no phone.

2 Q You didn't call any authority whether it be law
3 enforcement, sheriff's office, city police or EMS?

4 A No, sir.

5 Q You didn't call the hospital to say I've got a couple
6 of guys coming in with serious gunshot wounds?

7 A No, sir.

8 Q You just drove them up there and dropped them off?

9 A I drove them up there.

10 Q And that's when the Orangeburg County Sheriff's
11 Detective showed up to interview you; right?

12 A Yes, sir.

13 Q And you didn't call him, did you?

14 A No, sir.

15 Q The hospital called him; right?

16 A Yes, sir.

17 Q Okay. And at some point you gave them a statement,
18 correct?

19 A Yes, sir.

20 Q You remember that?

21 A Yes, sir.

22 Q And you told -- let's see. Who did you give this
23 statement to?

24 A Um -- Officer --

25 Q Detective Stokes?

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1 A Well, Stokes or Moore, one of the two.

2 Q Either Stokes or Moore?

3 A Yeah. But I think it was Stokes.

4 Q Okay. And when you wrote out the statement you had
5 plenty of time to think about it?

6 A Think about what?

7 Q And did you say anything in that statement that you
8 didn't say here today?

9 A (Shakes head negatively)

10 Q Is that a no?

11 A No, sir.

12 Q Okay. Did you ever see Terrance Johnson with any kind
13 of firearm?

14 A I'm not sure.

15 Q What was Terrance wearing when he showed up that night?

16 A Tank top, basketball shorts, flip-flops.

17 Q You remember that?

18 A Yeah.

19 Q Because I think you put it in your statement. You
20 remember that?

21 A (No verbal response)

22 Q If I suggested to you that he left one of the flip
23 flops at the scene, would you recognize it?

24 A Uh-huh (Affirmative response)

25 Q I'm showing you State's Exhibit No. 9. Do you

1 recognize the shoe that's in that --

2 A That's it right there.

3 Q And that's the flip flop he was wearing on one foot and
4 he had one just like it on the other; correct?

5 A Yes, sir.

6 Q And around his waist he had basketball shorts?

7 A Yes, sir.

8 Q Like the nylon kind of basketball shorts that have a
9 drawstring and a tank top?

10 A Yeah.

11 Q Anything else he was wearing?

12 A (No verbal response)

13 Q Did you have a chance to observe him that night before
14 you say the shooting started?

15 A Yes, sir.

16 Q I mean, you hung out with him for a few minutes smoking
17 weed; didn't you, and you had a chance to look at him?

18 A Look at him for what?

19 Q Just to see -- I mean, you saw how he was dressed;
20 right?

21 A Yeah.

22 Q And you don't notice anything else about him besides
23 his clothing?

24 A That's all I seen.

25 Q Okay. Was he acting strange?

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1 A Naw, he act like he usually act?

2 Q How's that?

3 A Cool.

4 Q He was acting cool, friendly guy?

5 A Yeah.

6 Q You guys got along well?

7 A Yeah. Yeah.

8 Q And you said there was no hostility going on?

9 A No.

10 Q Okay. Did you observe him in an argument or any
11 altercation with either one of those other two guys?

12 A No, sir.

13 Q No?

14 A (Shakes head negatively)

15 Q And the last time you saw him, he and Greg were heading
16 out the door? I mean, when the shooting started is it fair
17 to say that your observation showed Terrance Johnson beating
18 feet out of that place?

19 A Yeah. With a gun pointed at Gregory.

20 Q Well, you just said he didn't have a gun?

21 A Well, he had a gun when he ran out the door.

22 Q Well, where did he get it?

23 A I couldn't tell you that.

24 Q You can't tell me that?

25 A No, sir.

1 Q You didn't see him pull it out of his basketball
2 shorts?

3 A No. When the first shot went off, I duck down behind
4 the sink. And a shot went off again. So I jumped up. When
5 I went to jump up and run, I seen him -- Terrance and Greg
6 running out the door. But I seen Terrance behind Greg like
7 this, pulling the trigger.

8 Q Of what?

9 A A gun.

10 Q What kind of gun?

11 A What kind of gun, I do not know.

12 Q You don't know?

13 A No, sir.

14 Q You don't know what color it was?

15 A No, sir.

16 Q You don't know what shape it was?

17 A No, sir.

18 Q You don't know what caliber it was?

19 A No, sir.

20 Q No?

21 A No, sir.

22 Q You remember this statement you gave on 9/10/12, the
23 day this happened? Do you remember that?

24 A (No verbal response)

25 Q In your handwriting?

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- 1 A Yeah.
- 2 Q Is that your statement?
- 3 A Yes, sir. This is all me.
- 4 Q Okay. Go ahead and read it.
- 5 A I wrote it.
- 6 Q You wrote it with your own handwriting?
- 7 A Yes.
- 8 Q Okay. And who did you give this statement to?
- 9 A Stokes.
- 10 Q Was the Detective there when you wrote it?
- 11 A Yes, sir.
- 12 Q Okay. Do you remember telling how many shots you
- 13 heard?
- 14 A It was multiple shots.
- 15 Q Multiple shots?
- 16 A Uh-huh. (Affirmative response) A whole lot of shots.
- 17 Q Did you put that in your statement?
- 18 A No, I ain't put that in the statement.
- 19 Q Do you remember how many shots you put in your
- 20 statement?
- 21 A No, sir.
- 22 Q If I suggested to you that you wrote twenty-five, would
- 23 that ring a bell?
- 24 A Probably so.
- 25 Q Okay. And which gun did the twenty-five shots come

1 from? If you know?

2 A I don't know.

3 Q You don't know?

4 A No.

5 Q Because after the shot you ducked down?

6 A Yes, sir.

7 Q I mean, you don't want to catch a bullet, do you?

8 A Naw.

9 THE COURT: Mr. Clark, you need to speak up a
10 little bit.

11 MR. CLARK: Yes, ma'am.

12 THE COURT: Thank you.

13 BY MR. PALMER:

14 Q And so when you were heading back to that bedroom you
15 testified on direct examination, you stopped and looked at
16 the refrigerator?

17 A Naw. I seen all that after the fact.

18 Q Oh, you saw it after the fact?

19 A Yes.

20 Q Okay. So you didn't see the refrigerator get shot.
21 You just saw it was shot afterwards?

22 A After all this shooting, everything that took place, I
23 seen it the next day.

24 Q Oh, the next day, okay. What were you doing there the
25 next day?

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1 A That's my sister-in-law house. We had to go clean up
2 all the blood and all the stuff that was knocked over.

3 Q Oh, you went to clean up. Okay. Did you get rid of
4 anything?

5 A No.

6 Q Did you ever find the gun that those guys were fighting
7 over?

8 A No, sir.

9 Q Do you know what kind of gun that was?

10 A I don't know. It was a silver gun.

11 Q You don't know. What did you say?

12 A It was a silver gun.

13 Q A silver gun.

14 A The gun was silver and black that you said was on the
15 kitchen counter, that was the same gun. That was the gun
16 that he had.

17 Q Okay. Do you know where that gun ended up?

18 A No, sir.

19 Q If I suggested to you it ended up in a field next to
20 this home, would you have any idea how it got there?

21 A No, sir.

22 Q If I suggested to you it was found with blood on it,
23 would you know whose blood that would be?

24 A No, sir.

25 Q When you went back in that bedroom, did you shut the

1 door?

2 A No, sir.

3 Q You just sat there at the doorway with the door open,
4 watching this happening?

5 A I said I was in the closet sitting in the corner.

6 Q Oh, you went in the closet, okay. If I suggested to
7 you that a 9 millimeter shell casing was found right inside
8 the door of that bedroom, would you have any idea how that
9 got there?

10 A No, sir.

11 Q If I suggested to you, and you brought up the
12 refrigerator, that a round went into the freezer on top,
13 would you have any idea how that got there?

14 A No, sir.

15 Q Okay. If I suggested to you that Mr. Ayer that got
16 shot in the arm, are you saying you were an eyewitness to
17 that?

18 A Yes, sir.

19 Q And the person that pulled the trigger to put that
20 round in Mr. Ayer was Mr. Kennedy?

21 A Yes, sir.

22 Q And he was shooting him -- was he on the floor or on
23 the porch or on the ground?

24 A On the porch.

25 Q Was he lying down or standing up?

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1 A Naw. He was lying down trying to get back up.

2 Q Okay. So Kennedy was standing over him and he shot him
3 in the arm?

4 A Yes, sir.

5 Q You saw that?

6 A Yes, sir.

7 Q Now, when you went out on the porch and you saw the guy
8 that you don't know firing from the Chevrolet, what kind of
9 gun did he have?

10 A I don't know.

11 Q How many shots did he fire?

12 A A whole lots.

13 Q A whole lot?

14 A Yeah.

15 Q And where did they go?

16 A In the door, around the door area of the trailer.

17 Q So they must have been coming toward you. Is that what
18 you're saying?

19 A Yeah.

20 Q But none of them hit you? Okay, and you saw that guy
21 shooting after Kennedy shot Mr. Ayer, while he was on the
22 porch or before?

23 A After.

24 Q Okay. After. Okay. Did Kennedy ever fire at the guy
25 in the car?

1 A No, sir.

2 Q How many shots did you see Kennedy fire?

3 A One.

4 Q Okay. And how many shots went off in the house when
5 those guys were fighting over the gun?

6 A Multiple.

7 Q Okay. Can you get a little more specific?

8 A A lots.

9 Q A lot?

10 A Yes, sir.

11 Q And is that part of the twenty-five that you told the
12 detectives in your statement?

13 A Yes, sir.

14 Q Okay. Did you see what Mr. Ayer was wearing?

15 A No, sir.

16 Q Did you see what the guy in the car was wearing that
17 shot back?

18 A No.

19 Q Did you see anything else that you think would help us
20 resolve this case?

21 A No, sir.

22 Q Okay. And do you remember when you were being
23 interviewed by the detectives and you gave this statement,
24 did they swab your hands for gunshot residue?

25 A Yes, sir.

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1 Q You remember that?

2 A Yes, sir.

3 Q Who did it?

4 A I can't remember who did it. I don't know if it was
5 Stokes or Moore.

6 Q Would it have been either one of those two guys?

7 A Yes.

8 Q Okay. Did you agree to that?

9 A Yes, sir.

10 Q Thank you.

11 MR. PALMER: No further questions.

12 THE COURT: Counsel for Mr. Ayer.

13 MR. STEVENS: Thank you, Judge. May it please the
14 Court?

15 THE COURT: Yes, sir.

16 ALVIN CLARK - CROSS-EXAMINATION

17 BY MR. STEVENS:

18 Q How are you doing, Mr. Clark?

19 A All right.

20 Q You've got not just one conviction but several
21 convictions; don't you?

22 A Yes, sir.

23 Q Let's start with your 2008 conviction for drugs, all
24 right? You pled guilty to possession of less than a gram of
25 crack cocaine, first offense; right?

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1 A Yes, sir.

2 Q That's right. And that sentence carried up to three
3 years for the range date; correct?

4 A Yes, sir.

5 Q That's right. That's actually a lower offense than
6 what you were originally charged with; wasn't it?

7 A (No verbal response)

8 Q The charge to the offense you originally had was up to
9 five years; right?

10 MR. SORENSON: Your Honor, I object to -- I think
11 it's improper what he's going into at this point in time.

12 THE COURT: Y'all approach, please?
13 (Off the record bench conference with counsel and the
14 Court.)

15 THE COURT: You may proceed.

16 MR. STEVENS: Thank you, Judge.

17 BY MR. STEVENS:

18 Q So for that 2008 conviction for drugs that carried up
19 to three years, you did plead to that; correct?

20 A Yes, sir.

21 Q And you got only ninety days; correct?

22 A Yes, sir.

23 Q Okay. Now, let's talk about another experience you had
24 in jail. You pled guilty to failure to stop for a blue
25 light on June 22nd, 2011; correct?

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1 A Yes, sir.

2 Q And that carries up to three years in prison; right?

3 MR. SORENSON: Your Honor, I'm going to object. I
4 mean, I thought we just approached and talked about that.

5 MR. STEVENS: Judge, this is about the actual
6 offense to which he did plead.

7 MR. SORENSON: All right. Right -- given the fact
8 that he pled guilty to failure to stop for a blue light.

9 MR. STEVENS: Judge, we can actually get into the
10 facts of the charge itself.

11 THE COURT: Please approach.

12 (Off the record bench conference with counsel and the
13 Court.)

14 THE COURT: Ladies and gentlemen of the jury,
15 we're going to take -- it's 4:45 so I'm sure you've had a
16 long day. It's a good time for us to take our evening
17 recess. I'm going to ask you to come back in the morning at
18 9:30 in the morning. Please do not discuss this case with
19 anyone. That includes among yourselves. And please be back
20 in your jury room at 9:30. We'll see you then.

21 (Jury out at 4:45 p.m.)

22 THE COURT: All right. Mr. Stevens, what's your
23 objection?

24 MR. STEVENS: Our objection, Judge, is that when
25 it comes to -- well, actually, we're not the ones with the

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1 this redacted statement as Court's Exhibit 3?

2 THE COURT: Yes, sir.

3 MR. STEVENS: Thank you, Judge.

4 (Court's Exhibit No. 3, redacted
5 statement was marked.)

6 THE COURT: Ready? Bring our jury, please?

7 (Jury in at 10:43 a.m.)

8 THE COURT: Welcome back, ladies and gentlemen of
9 the jury. Thank you for your patience this morning. We're
10 now ready to proceed with the trial of the case.

11 You may continue your cross-examination.

12 MR. STEVENS: Thank you, Judge. May it please the
13 Court?

14 THE COURT: Yes, sir.

15 ALVIN CLARK - CROSS-EXAMINATION CONTINUED

16 BY MR. STEVENS:

17 Q Mr. Clark, how are you?

18 A All right.

19 Q Okay. Just to clarify. I mean, I know it's been a
20 little while since we had a chance to speak since yesterday.
21 But let's just go ahead and cover what we did touch basis
22 on. Just for clarity purposes, you were convicted in 2008;
23 correct?

24 A Yes, sir.

25 Q And that was a drug conviction; correct?

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1 A Yes, sir.

2 Q Okay. Specifically, possession of crack cocaine?

3 A Yes, sir.

4 Q All right. And you had another experience with the
5 jail as well in 2011; right?

6 A Yes, sir.

7 Q And that was June 22nd, 2011?

8 A I don't remember, but --

9 Q Okay. Where you pled guilty to failure to stop for a
10 blue light; correct?

11 A Yes, sir.

12 Q Okay. So you were running from -- Failure to stop for
13 a blue light; right?

14 A Yes, sir.

15 Q Okay. Well, let's talk about your present attire, all
16 right? That's SCDC issue; correct?

17 A (Nods head affirmatively)

18 Q Okay. So you're presently incarcerated in prison?

19 A Yes, sir.

20 Q And that is stemming from an incident occurring
21 February 10, 2013?

22 A Yes, sir.

23 Q And that's roughly five months after the incident for
24 which we're actually on trial; correct?

25 A Yes, sir. I'm not locked up for the events that

1 happened in February.

2 Q Okay.

3 A I'm not doing time for that.

4 Q Okay. So you're not doing time for --

5 A I'm doing time for the June incident, three months
6 after that.

7 Q Okay. So you're saying --

8 MR. STEVENS: Judge, may we approach?

9 THE COURT: Yes, sir.

10 (Off the record bench conference with counsel and the
11 Court.)

12 BY MR. STEVENS:

13 Q Let's talk about the conviction. That conviction, was
14 for trafficking?

15 A Yes, sir.

16 Q Specifically, tracking between ten to twenty-eight
17 grams of crack cocaine, second offense; correct?

18 A Yes, sir.

19 Q Okay. Now, that was, of course, while this case was
20 presently pending; right?

21 A Yes, sir.

22 Q Okay. And you were sent to prison?

23 A Yes, sir.

24 Q Okay. And you don't really like prison, do you?

25 A Naw.

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1 Q Naw. Okay. And you wouldn't want to stay there for a
2 very long time, would you?

3 A No, sir.

4 Q And you would try and cut time off your current
5 sentence if you could, wouldn't you?

6 A If I could, yes, sir.

7 Q Okay. And you're hoping that testifying today could
8 help your situation?

9 A No, sir.

10 Q Okay. So if the prosecutor could help you reduce your
11 sentence on your testimony today, would you want him to?

12 A If he could, yes, sir.

13 Q Okay. That's what I thought. Now, Mr. Clark, I'm
14 going to ask you some questions about September 10th, 2012,
15 all right?

16 A (No verbal response)

17 Q Now, you said you were at [REDACTED];
18 correct?

19 A Yes, sir.

20 Q All right. And that's not your home is it?

21 A No, sir.

22 Q In fact, it's the home of Ms. Stephanie Barnwell;
23 right?

24 A My sister-in-law.

25 Q Oh, that's right. And after you got there, she left?

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1 A Yes, sir.

2 Q All right. And you were left there?

3 A Yes.

4 Q Mr. Howell was left there?

5 A Yes.

6 Q And from what you said yesterday, Calvin Kennedy would
7 have been there too; right?

8 A Yes.

9 Q Okay. And you spoke with Terrance Johnson on that day
10 too; right?

11 A Yes, sir.

12 Q And he was going to come over to buy drugs?

13 A He was coming to smoke some drugs.

14 Q Oh, smoke some drugs.

15 A Yeah, marijuana.

16 Q Okay. So your testimony is he wasn't coming to buy
17 anything, only to smoke some drugs, even though you are a
18 drug dealer?

19 A I wasn't a drug dealer then. But it got me labeled as
20 a drug dealer.

21 Q Okay. So before that incident, you admitted that you
22 did sell drugs? And after that incident you admitted you
23 did sell drugs?

24 A No.

25 Q Now, just so I'm straight. This incident for which

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1 we're here occurred September 10, 2012. Okay. And you've
2 pled guilty to trafficking on an offense occurring June 28,
3 2013 is what you're saying?

4 A Yes, sir.

5 Q And you agree that the trafficking offense occurred
6 after this present offense; correct?

7 A Yes, sir.

8 Q Okay. But you weren't a drug dealer then is what
9 you're saying?

10 A Naw.

11 Q Okay. So Calvin Kennedy was there too?

12 A Yes, sir.

13 Q Okay. Terrance Johnson came inside?

14 A Yes, sir.

15 Q And at some point he invited someone inside too;
16 correct?

17 A Yes, sir.

18 Q Okay. And that's Mr. Ayer; you're saying?

19 A Yes, sir.

20 Q Okay. Now you claim that Mr. Howell was sitting; is
21 that correct?

22 A Excuse me.

23 Q Mr. Howell, was he sitting or standing?

24 A Yeah. Sitting down.

25 Q Sitting down, okay. In the living room?

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1 A Yes, sir.

2 Q Okay. And you're certain of that?

3 A Positive of it.

4 Q Okay. And this was when you were high, not stoned by
5 just high; right?

6 A Yes, sir.

7 Q So high you actually had to go get some water?

8 A No, I wasn't that high. I just needed some water.

9 Q Okay. Well, explain to us how you got water. Because
10 it says, I believe you bent down to get some water?

11 A Yes, sir.

12 Q Okay. Were you just like putting your face into the
13 tap?

14 A Yeah. I just put my -- like getting it from my hand.

15 Q Oh, okay. From your hand, like this?

16 A Yeah.

17 Q You got some to splash on your face too?

18 A No, I just drank it out my hand.

19 Q Any water in your face at all?

20 A Naw. No.

21 Q Oh, okay. So you weren't so high, you really, you
22 know, just wanted a sip of water. You didn't want a cup?

23 A Naw.

24 Q Okay. So at that time you said you heard gunshots?

25 A Yes, sir.

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1 Q Okay. Now, yesterday you said when you looked up you
2 saw struggles; right?

3 A Yes, sir.

4 Q Okay. So that means, even according to your own
5 testimony, you didn't see anyone pull anything; did you?

6 A No. I just heard shots.

7 Q That's right. So you're assuming from whom the guns
8 came; correct?

9 A I know where the guns -- because we didn't have no
10 guns.

11 Q Let's say what you know what you saw. What did you
12 see?

13 A Them struggling with the gun.

14 Q Okay. And you ran is what you said; right?

15 A Yes, sir.

16 Q Into the bedroom?

17 A Yes, sir.

18 Q Off the kitchen?

19 A Yes, sir.

20 Q Yet you claimed to still have seen everything; right?

21 A Yes, sir. I seen Gunner running behind Greg with the
22 gun pointed at his back.

23 Q And that's from your angle in the bedroom?

24 A No. That's from me running, looking back.

25 Q Oh. So this is when you're in the closet?

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1 A No. I be running. When I went right out the kitchen,
2 I was running, looking back to make sure nobody was coming
3 behind me. When I ran, when I was looking back I seen
4 Gregory and Terrance going out the door.

5 Q That's fascinating. Because that's new even from what
6 you said yesterday isn't it?

7 A No.

8 Q You said the exact same thing yesterday?

9 A Yeah.

10 Q Well, we'll let the jury decide that. Well, let's talk
11 about your statements because you also did, like you said
12 yesterday give a written statement; didn't you?

13 A Yes, sir.

14 Q And that was to Sergeant Stokes?

15 A Yes, sir.

16 Q And that was at the Regional Medical Center; wasn't it?

17 A No, sir.

18 Q That was not at the hospital?

19 A I didn't give a written statement at the hospital. It
20 was at the victim witness, at the victim office.

21 Q Okay. Was it a verbal or a written statement you gave
22 to the victims' witness office?

23 A Written.

24 Q Okay. So we're going to get into that too. So you're
25 saying that you did not give a written statement on

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1 September 10th, 2012, at 11:17 at the Regional Medical
2 Center to Sergeant Stokes?

3 A No, sir. I don't recall.

4 Q Well, would you like to see it?

5 A I remember written a statement at the victims' office.
6 I remember writing one there and pointing out pictures.

7 Q Okay. So what you're saying is there's another written
8 statement out there?

9 A Naw.

10 MR. STEVENS: Judge, may I approach?

11 THE COURT: You may.

12 BY MR. STEVENS:

13 Q I know you've got shackles on. Let me help you out.
14 Would you agree that that date is correct?

15 A Yes, sir.

16 Q Would you agree that this is your handwriting?

17 A Yes, sir.

18 Q Would you agree that that says TRMC?

19 A Yes.

20 Q Would you agree that this is your name?

21 A (No verbal response)

22 Q I'm sorry. I need an answer.

23 A Yes, sir.

24 Q Okay. Now, let's also go back. Would you agree that
25 that's your signature?

1 A Yes, sir.

2 Q And would you agree that this is essentially your
3 statement?

4 A Yes, sir.

5 Q Okay. And so you'd agree that this is your written
6 statement?

7 A Yes, sir.

8 Q On September 10th, 2012 at the Regional Medical Center;
9 right?

10 A Yeah.

11 Q Okay. And, in fact, before you signed you had to
12 acknowledge that this is a factual and complete
13 representation; correct?

14 A Yes, sir.

15 Q And I believe yesterday you indicated -- let's see
16 here. Where was it? Oh, yes, you had plenty of time to
17 think about it; right?

18 A Yes, sir.

19 Q Okay. Now, let's also talk about this too. Because
20 yesterday you also indicated you didn't call 9-1-1 did you?

21 A No, sir.

22 Q You didn't call 9-1-1 when people were at your house;
23 did you?

24 A No, sir.

25 Q Not when they're smoking drugs in your house?

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1 A No, sir.

2 Q You didn't call 9-1-1 after your friends were shot; did
3 you?

4 A No, sir.

5 Q You didn't call 9-1-1 on the way to the hospital; did
6 you?

7 A No, sir.

8 Q Okay. And even when you're in the hospital, you didn't
9 call the police; did you?

10 A No, sir.

11 Q Okay. So basically, don't call us. We'll call you.
12 They came to you; right?

13 A Yeah.

14 Q Okay. Let's talk about that statement. Obviously,
15 like you said you wrote it?

16 A (Nods head affirmatively)

17 Q I need an answer, sir?

18 A Yes, sir.

19 Q You signed it?

20 A Yep.

21 Q You acknowledged it was complete?

22 A Yeah.

23 Q All right. And then you say -- let me just make sure
24 we get this right. I see -- we want to make sure we don't
25 use nicknames. So I'll make sure we don't get any

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1 nicknames. You lean down in the sink and went to look up
2 and see Terrance and the other dude with guns. C.J. grabbed
3 his gun and shoots.

4 A No, C.J. didn't grab his gun. They was tussling with
5 the gun that he brought in the house.

6 Q Okay. So this then is wrong?

7 A Excuse me?

8 Q Your statement today is correct and that statement's
9 wrong?

10 A Well --

11 Q Is that what you're telling the jury today?

12 A No.

13 Q Okay. So this one that you said is signed by you?

14 A Yes, sir.

15 Q Is written by you?

16 A Yes.

17 Q Acknowledges it is complete?

18 A Yes.

19 Q You say that's right?

20 A Yes.

21 Q Okay. Now, C.J. is Calvin Kennedy; right?

22 A Yes, sir.

23 Q Okay. Now you also say I came back out and seen my
24 friend on the floor and Greg outside on the ground; right?

25 A Yes.

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1 Q Okay. And you wrote that?

2 A Yes.

3 Q Okay. And, again, is that signed by you?

4 A Yes.

5 Q Okay. Acknowledges it's complete by you; right?

6 A Yes.

7 Q Okay. And so I jump in the car and rush them to the
8 hospital. So at that time you did; right?

9 A Yes, sir.

10 Q Okay. Now, let's talk about that for a minute, okay?
11 Because yesterday, yesterday for the very first time you
12 said in open court under testimony that Calvin Kennedy ran
13 outside, did you not?

14 A Yes.

15 Q And you said yesterday under testimony with your hand
16 on that Bible, that Calvin Kennedy ran around the trailer;
17 correct?

18 A Yes.

19 Q Right. But that's nowhere in here; is it?

20 A I don't know. This has been four years ago. I don't
21 remember none of that.

22 Q Okay. So what you're saying is --

23 A What I'm saying is we was at the house 'chillin, me and
24 Greg. Calvin came --

25 MR. STEVENS: I think I want to go ahead and ask

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1 questions instead of going off the narrative, Judge

2 THE COURT: Let him answer.

3 A -- Calvin came later after they came. So he was
4 standing in the doorway. Calvin walk by him and standing in
5 front of him. So what Calvin told me. He said --

6 BY MR. STEVENS:

7 Q No, no. Excuse me. I don't want you to give me
8 anything anybody said.

9 A -- he said, don't move.

10 MR. STEVENS: Judge, non-responsive.

11 THE COURT: Mr. Clark. You can't say what anybody
12 else has told you.

13 MR. CLARK: Yes, ma'am.

14 THE COURT: You can answer the question and
15 explain your answer.

16 MR. CLARK: Okay.

17 THE COURT: About what you did and what you saw.

18 MR. CLARK: Yes, ma'am.

19 THE COURT: But you can't say what somebody said.

20 MR. STEVENS: I would move to strike that response
21 about what he said.

22 THE COURT: Stricken.

23 A When he came in the door he told him don't move. So
24 when he told him don't move --

25 MR. STEVENS: Judge, all of this is non-response

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1 to any question I've asked.

2 A I'm telling you what happened. You want the truth of
3 what went on?

4 MR. STEVENS: I was cut off and what was going on
5 when I'm trying to question the witness on cross-
6 examination.

7 THE COURT: All right. Everybody speak one at a
8 time. Repeat your question.

9 MR. STEVENS: Thank you, Judge.

10 BY MR. STEVENS:

11 Q Back to the original question. I believe is what was
12 going on. And then I was cut off. What was going was
13 written in your statement; correct?

14 A Yes.

15 Q Okay. And that statement as you've just acknowledge
16 today is different than what you said today or yesterday;
17 correct?

18 A Yes.

19 Q Okay. And what you said that was four years ago;
20 right?

21 A Yes.

22 Q And your memory was probably a little sharper four
23 years ago than today; right?

24 A Yes.

25 Q Okay. And at that time, when you did write it, you did

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1 not say anything about Calvin Kennedy going outside; did
2 you?

3 A No, sir.

4 Q And at that time when you wrote this statement, you
5 didn't say anything about him going around the trailer; did
6 you?

7 A No, sir.

8 Q Okay.

9 A I believe again, him going around the trailer --

10 Q Now, excuse me. I'm trying to ask you a question here.

11 THE COURT: All right. Mr. Stevens, he can answer
12 yes, no, and then explain his answer.

13 Do you need to explain your answer?

14 MR. CLARK: Yes.

15 A The reason why Calvin went around the trailer was
16 because he was chasing behind him?

17 MR. STEVENS: Judge, that had nothing to do with
18 the question asked. We'd move that it be stricken as
19 unresponsive.

20 A But I'm telling you what happened.

21 THE COURT: He's answered the question. Then move
22 on to the next question.

23 BY MR. STEVENS:

24 Q So like we said before. The question was, in this
25 statement you said nothing about him running outside and

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1 going around the trailer; correct?

2 A I didn't.

3 Q Okay. That's the question. And this was when actually
4 was fresh in your mind; correct?

5 A Yes.

6 Q Okay. And you just said that your memory was more
7 fresh then that it is today; correct?

8 A Yes.

9 Q Okay. That's the question. That's all. Not anything
10 else you're trying to make up. This is the question we
11 asked.

12 MR. SORENSON: I would object to that.

13 THE COURT: Sustained.

14 MR. SORENSON: Thank you.

15 BY MR. STEVENS:

16 Q Let's talk about your knowledge of guns. Yesterday,
17 you indicated you weren't really familiar with guns;
18 correct?

19 A Yes, sir.

20 Q Okay. But in your written statement that you wrote;
21 right? And you signed it; right?

22 A Yes.

23 Q In that written statement you wrote to Sergeant Stokes
24 -- the question was asked, what kind of gun did Terrance
25 have? Answer, .357.

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1 A Yes, sir.

2 Q Okay. I thought you didn't know anything about guns?

3 A I don't know. I know -- I can read.

4 Q So you were close enough to the gun to read it?

5 A I wasn't close enough to the gun to read it, but just
6 looking at it, just looking at it -- I was just saying. It
7 could have been something different. I was saying a .357.

8 Q Maybe a .38?

9 A .38, .357.

10 Q And the question is what kind of gun did the other guy
11 have? You answered a 40 caliber 9 millimeter; right?

12 A Yes.

13 Q Now, let's also talk about that. We're just going to
14 touch on this. We're not talking about any prior
15 convictions of yours at all; right?

16 A (No verbal response)

17 Q Right? But you will recall February 10, 2013, you were
18 in a car with Calvin Kennedy and a gun was present; correct?

19 A Yes, sir.

20 Q And that gun was a .38 caliber revolver; correct?

21 A Yes. Now, can I tell my story?

22 THE COURT: You must just answer the questions
23 asked you.

24 MR. CLARK: Yes, ma'am.

25 MR. STEVENS: Judge, may we approach just real

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1 quick?

2 THE COURT: Yes, sir.

3 (Off the record bench conference with counsel and the
4 Court.)

5 BY MR. STEVENS:

6 Q Just a couple more questions, Mr. Clark. Now,
7 yesterday I believe you said and told this jury that Gregory
8 Howell was never involved in a situation with a gun?

9 A Yes, sir.

10 Q Okay. How long was it you knew Gregory Howell before
11 this incident?

12 A For a minute.

13 Q I need a definition for how long a minute is for you?

14 A A few years.

15 Q A few years? Okay. That's pretty long then. So would
16 it surprise you to learn that Gregory Howell was treated for
17 gunshot wounds to the chest and abdomen just two years
18 before this incident?

19 A Yes, sir.

20 Q Okay.

21 MR. STEVENS: Court's indulgence. No further
22 questions at this time, Judge.

23 THE COURT: Redirect?

24 MR. SORENSON: Just a couple of things, Your
25 Honor.

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1 THE COURT: Yes, sir.

2 MR. SORENSON: May it please the court.

3 ALVIN CLARK - REDIRECT EXAMINATION

4 BY MR. SORENSON:

5 Q Mr. Clark, you were asked by both Mr. Palmer yesterday
6 and Mr. Stevens this morning -- obviously, you did not call
7 9-1-1 when you were going to the hospital; is that correct?

8 A Yes, sir.

9 Q What were you concerned about when you were going to
10 the hospital?

11 A Getting my friends there safely. Making sure they get
12 treatment for their gunshot wounds.

13 Q And you ended up talking to the police at the hospital;
14 is that correct?

15 A Yes, sir.

16 Q When they showed up there?

17 A Yes, sir.

18 Q Were you cooperative with them?

19 A Yes, sir.

20 Q And let me ask you this. Mr. Stevens kind of started
21 off this morning -- obviously, you're in the Department of
22 Corrections. You've been told repeatedly that there is
23 nothing that the State can do for you to help you with your
24 sentence; is that correct?

25 A Yes, sir.

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1 Q Like you said, you may want that to happen but it's not
2 going to happen; is that correct?

3 A Yes, sir.

4 Q And based on the -- and obviously when you had a chance
5 to look back at the statement, it appears that you gave the
6 statement at the hospital that night; is that correct, Mr.
7 Clark? The date's on it? And 11:17 that evening, that'd be
8 accurate?

9 A Yes, sir.

10 MR. SORENSON: I beg the Court's indulgence.

11 BY MR. SORENSON:

12 Q Let me ask you this. When you gave that statement that
13 night at 11:17, did you know how bad your friends were hurt
14 at that point in time?

15 A No, sir.

16 Q And let me ask you this. When you gave this written
17 statement, it was two pages, two pages and a couple lines on
18 the third page, did you write every single detail down about
19 what happened that night?

20 A No, sir. I was just -- No, sir.

21 Q Where everybody ran?

22 A No, sir.

23 Q Every action every person involved did?

24 A No, sir.

25 Q Did you do the best with your ability that night?

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1 A Yes, sir. I was worried about my friends more than
2 writing the statement.

3 MR. SORENSON: That would be all.

4 Q Thank you, Mr. Clark.

5 THE COURT: You may step down, Mr. Clark.

6 MR. STEVENS: Judge, I'm sorry. I do have one
7 more question on recross.

8 THE COURT: No, sir. There was nothing new
9 brought out that gives basis for recross.

10 MR. SORENSON: May he be excused for them to take
11 him back.

12 THE COURT: Any objection.

13 MR. STEVENS: May we approach, Judge.

14 THE COURT: You may.

15 COURT REPORTER: I'm sorry. I didn't hear what
16 you said, Judge.

17 THE COURT: I said he may be excused.
18 (Off the record bench conference with counsel and the
19 Court.)

20 THE COURT: You may call your next witness.

21 MR. SORENSON: The State calls Calvin Kennedy.

22 THE CLERK: Please place your left hand on the
23 Bible and raise your right hand.

24 (WHEREUPON, Calvin Kennedy was duly
25 sworn.)

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1 THE CLERK: Thank you. You may have a seat and
2 please state your name for the record.

3 MR. KENNEDY: Calvin Kennedy.

4 THE CLERK: Thank you.

5 THE COURT: Your witness.

6 MR. SORENSON: Thank you, Your Honor. I beg the
7 Court's indulgence one moment, please? Thank you. I'm
8 sorry, Your Honor.

9 CALVIN KENNEDY - DIRECT EXAMINATION

10 BY MR. SORENSON:

11 Q Calvin, Good morning.

12 A Good morning.

13 Q If you would, please tell the jury how old you are?

14 A Thirty.

15 Q Okay. And where did you grow up?

16 A Orangeburg, South Carolina.

17 Q Do you still live here in Orangeburg?

18 A Yes, sir.

19 Q All right. And let me just kind of initially just go
20 in -- you've been in a little bit of trouble in the past; is
21 that correct?

22 A Yes, sir.

23 Q Back in 2010 conviction for failure to stop for a blue
24 light and child endangerment?

25 A Yes, sir.

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1 Q And then in 2014 a conviction for unlawful neglect; is
2 that correct?

3 A Yes, sir.

4 Q Now, let me kind of start off before I kind of go into
5 the events of September 10th, of 2012, just kind of ask you
6 about how you kind of know some people that are involved in
7 this, okay?

8 A All right.

9 Q All right. Tell the jury how did you know Gregory
10 Howell?

11 A Through school and high school.

12 Q How long do you think you had known Gregory for back in
13 September of 2012?

14 A Years.

15 Q All right. And how about Alvin Clark who just
16 testified?

17 A Yeah. I knew him for years. I grew up with his
18 brothers and stuff like that.

19 Q Okay. And back during that time period, were the three
20 of y'all friends?

21 A Yes, sir.

22 Q Okay. How about Stephanie Barnwell who the jury heard
23 from yesterday? Do you know Ms. Barnwell?

24 A I just know her for about a year and a half, two years.

25 Q Okay. And did you know what her relationship was to

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1 either Gregory or Alvin?

2 A I knew she was Alvin sister's -- I mean, Alvin brother
3 baby mama.

4 Q Okay. All right. Now, how about the Defendant,
5 Terrance Johnson, did you know Mr. Johnson back in September
6 of 2012?

7 A Yes, sir.

8 Q And tell the jury about how long had you known Mr.
9 Johnson?

10 A I didn't really know him. I just knew of him.

11 Q Okay. Was it somebody --

12 A Just seen him around a little -- seen him around here
13 and there.

14 Q Okay. You hang out with him ever?

15 A I mean, not really. You know, we done been in the same
16 vicinity, you know, whatever.

17 Q Okay. You ever had back, prior to the evening of
18 September 12th of -- or 10th of 2012, had you ever had any
19 difficulty with him prior to that?

20 A Oh, no, sir.

21 Q All right. How about the Defendant, Rodsheen Ayer, did
22 you know Mr. Ayer?

23 A Never seen him.

24 Q Never seen him before that night?

25 A Huh-uh. (Negative response)

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1 Q Okay. How about a young man by the name of Taquan
2 Morrison, had you ever seen Mr. Morrison --

3 A Never seen him.

4 Q -- before that day?

5 A No, sir.

6 Q I'm going to turn your attention if I could back to
7 that day of September 10th of 2012. Did there come a time
8 that day when you were over at Stephanie Barnwell's mobile
9 home on Maedrine Street?

10 A Yes, sir.

11 Q Okay. Initially, do you know about what time you
12 initially went over there that day?

13 A Initially, it was about, I'd say about five-something,
14 6:00, somewhere around. Five, five-something.

15 Q Still daylight out?

16 A. Yes, sir.

17 Q And who was over there -- and let me ask, did you end
18 up going over there more than one time that day?

19 A Yes, sir.

20 Q So that first time, who -- tell the jury who was over
21 at that mobile home that first time you went over there?

22 A There wasn't no but Smoke, Alvin, Terrance, and the
23 other dude. Not him, the tall one. The one from the -- you
24 know, the tall one.

25 Q And by Smoke, that's Gregory?

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1 A Yes, sir.

2 Q Okay. So when you first go over it's just you, Alvin,
3 Gregory, Terrance and then this other person -- I'm going to
4 get to when you see him later on. But did you ever see Mr.
5 Ayer there?

6 A No, I didn't see him. Naw.

7 Q And how long do you think you were there that initial
8 time?

9 A That initial time, as soon as I walk in the house,
10 Terrance and the other dude that was in there just talking
11 for a second. It wasn't three or four second then they
12 left. As soon as I walk in, they left.

13 Q Okay. And how long did you end up staying for?

14 A For a few -- for about fifteen, twenty minutes,
15 something like that. Then I left.

16 Q Okay. And how did you get there?

17 A At that point in time I think I was on the scooter at
18 that point in time.

19 Q Okay. All right. Now, did you ultimately end up
20 coming back over to Ms. Barnwell's home later on that
21 evening?

22 A Yes, sir.

23 Q And do you know about what time it was you came back
24 the second time?

25 A I know it was like night as far as we had -- it was

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1 about 8:30, 9:00, something like that.

2 Q Okay.

3 A 8:30, 7:30, 8:00, something like that.

4 Q Okay. So it was getting dark?

5 A Yes, sir.

6 Q Okay. And tell the jury when you got over to her
7 residence what happened? Did you encounter anybody outside?

8 A Yes, sir. When I pulled up the white Malibu was
9 sitting right there in the driveway with their foot on the
10 break. I could tell, you know what I'm saying, because he
11 had the lights on. The brake lights was on.

12 Q Okay.

13 A So I knew he had his foot on the break. He was like,
14 parked right in the horseshoe.

15 Q And that was a white car?

16 A Yes, sir.

17 Q It looked like a Malibu?

18 A Yes, sir.

19 Q All right. And how about -- had you seen any other
20 vehicles out as you were pulling into Stephanie's driveway?

21 A Was there any other vehicles out there?

22 Q Or did you encounter anybody, you come into contact
23 with anybody as you were pulling into the driveway?

24 A Oh, no, sir.

25 Q Let me ask you. Did you see Ms. Barnwell?

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1 A Oh, yes, sir. Like I was coming down the dirt road.

2 Yeah, I met Steph coming down the dirt road.

3 Q Okay. And by Steph, that's Stephanie?

4 A Stephanie, yes, sir.

5 Q Okay. And where was she?

6 A She was coming up the dirt road, like she was like
7 turning on the road on the road, on Maedrine Street she was
8 coming out, you know. I was playing with her, whatnot. And
9 then I pulled -- I passed her, then I yell out the window
10 like where the boys at. She said they was back there to the
11 house.

12 Q Okay. So she was in her vehicle at that time?

13 A Yes, sir.

14 Q Okay. And then as you pull into her driveway, do you
15 actually see this white car that you're talking about?

16 A Yes, sir.

17 Q And you said that the brake light was on so you could
18 tell there was somebody in the vehicle?

19 A Yes, sir.

20 Q Could you tell how many people were in the vehicle at
21 that time?

22 A Yes, sir.

23 Q How many were in there?

24 A One.

25 Q And did you take a look at that person or see whether

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1 or not you could recognize him at that time?

2 A I mean, I mean, I glanced over there but I -- yeah, I
3 glanced but --

4 Q Did you go over and talk to the person?

5 A No, no.

6 Q Okay. And what did you end up doing?

7 A I went in the house.

8 Q Okay. And you, at this point in time -- you said you
9 were on a scooter earlier. How did you get there --

10 A Yeah. I got there in the car this time. Yes, sir.

11 Q Okay. All right. And describe for the jury then what
12 was going on when you got inside?

13 A When I got in the house, like the way the counter, the
14 way the set up is, Smoke was leaning right over -- well,
15 Greg was leaning over the counter smoking a blunt. Playing
16 music on the phone. Gunner was on the other -- I mean,
17 Terrance was on the other side, leaning on the counter. Him
18 and Smoke was just sitting -- I mean, him and Greg was just
19 sitting there talking. Alvin was in the kitchen doing
20 something.

21 Q Okay. And what did you do at that time?

22 A I walked in. I went to the refrigerator. So I was
23 about to get me something to drink. And I turn around. I
24 shut the refrigerator. As soon as I turn around went to
25 walk by Smoke, he was leaning over the counter. I slapped

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1 him on the stomach as I was walking by. He looked back at
2 me. He was like -- you know, you had the little saying like
3 boy you press. And he look back at me and he was like boy
4 you press, and before -- I looked back to my left and I was
5 about to tell him the same think, I was about to say boy,
6 you press. Before I could even say press, my man done pull
7 a gun out, put it right in my side in the back and tell me
8 don't move.

9 Q Okay. Where was that at, where that occurred?

10 A Right by the door.

11 Q Right by the front door?

12 A Yeah. Right by the entrance. He was walking through.
13 Like he was standing right there with a hoodie on, with the
14 hood over his head, with his hand in the pocket.

15 Q And you've testified, had you ever seen that person
16 before?

17 A No. I ain't never seen him.

18 Q Okay. And that's the guy in the white shirt with the
19 tie?

20 A Yes, sir.

21 Q Any question in your mind that that's the person that
22 was in there?

23 A No, no. I know that. No, sir.

24 Q So you get a gun put in your where?

25 A Right here in my back, right here in my side.

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1 Q Okay.

2 A He was like, don't move.

3 Q Okay. What happened then?

4 A I mean, once I hold my hands up, I look down. You
5 know, he was like this tall. I was over the top of the
6 head. He fall back. And when I turn around on him, he shot
7 me in my knee. So that's the first shot, I guess, you know,
8 everybody heard. And then I start tussling with him or
9 whatnot. And at that point, I seen Terrance out the corner
10 of my eye like, you know, I got him hemmed up. So like me
11 and him, I got him on the wall, like hem up. So I look at
12 Terrance like out the corner of -- I see Terrance. He done
13 shot at Alvin. And Alvin went to run in the back. He shot
14 at Alvin. That's how the hole got in the refrigerator. G-
15 Smoke was down like right beside me. So as he was going out
16 the door, Terrance done he done -- oh, excuse me. As he was
17 going out the door, Terrance like he shot -- like the muzzle
18 of the gun. I mean, everything was like right beside me.
19 You see what I'm saying?

20 Q Yes, sir.

21 A Like right where the door was. So I seen the fire come
22 out the muzzle, you know, the screen door ain't even had
23 done closed yet. So I don't know what time that was.

24 Q And so what ended up happening then as far as you? You
25 said that you started fighting with the guy that had put the

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1 gun in your back?

2 A Yeah. Me and him was still fighting on the inside.

3 Q Okay. And where was that occurring at?

4 A Right by the door.

5 Q Okay.

6 A All in the living room area. Everything like -- where
7 all the T.V. and everything got knocked down, that's all me
8 and him.

9 Q I show you State's Exhibit No. 12. Is that all from
10 the two of y'all fighting?

11 A Yes, sir. And see the hole right here in the wall,
12 that's when he told me don't move. And I chopped him in the
13 head with my elbow and he fell back in the wall right there.

14 Q Where my finger is?

15 A Yes, sir.

16 Q Tell the jury then, Calvin, what -- I mean, what
17 happened? What happened after that? So you said you had
18 gotten shot initially in the knee?

19 A Yes, sir. That shot was in the knee. And then after
20 that, I mean, I don't remember all the other getting hit,
21 all the other times because it was so much adrenalin, so
22 much smoke. It was just, you know, like so much chaos. And
23 the last shot I remember like being shot in my face. When I
24 got shot in my face that's just -- I start crying. Once I
25 start crying it was over, like me and him. I just went to

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1 another level and that's how I got the gun from him.

2 Q And show the jury kind of where did you get shot in the
3 face?

4 A Well, it went through my mouth and it came out my jaw.
5 Bust my whole jaw out. So they had to take the bone from --
6 they had to cut my leg from my knee to my ankle, to get the
7 bone from out my leg to build me another jawbone. Because I
8 ain't had nothing like that. It split my tongue, everything
9 in half.

10 Q Ended up going into your left shoulder?

11 A Yes, sir.

12 Q When all this fighting is gong on, do you know where
13 Gregory and Terrance Johnson went?

14 A Outside.

15 Q And how about Alvin, do you know where Alvin went?

16 A Alvin was in the room, in the back room. He ran in the
17 back room.

18 Q And you said that you saw him fire in that direction as
19 he was running that way?

20 A Oh, yeah. Terrance.

21 Q All right. Tell the jury then -- you said that after
22 you got shot in the face you were able to get the gun away
23 from the person?

24 A Yes, sir.

25 Q And tell the jury what happened then?

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1 A Well, after I got the gun from him, you know, he try to
2 bail out, flip him up and he fell like right in the porch
3 area. So as I'm trying to get the gun together to shoot
4 him, you know, I mean, I'm going through because my hand
5 like, the adrenalin I got so much blood and stuff on my
6 hands. But I finally got it together. And when I got it, I
7 hit him one time. Then the next thing you know, the gun,
8 you know, it wouldn't -- I tried to hit him again, but it
9 wasn't no more bullets in the gun so I dropped it. And then
10 my anger, just being so mad, I still wanted to get at him.
11 That's why I went running behind the trailer after him,
12 regardless after I done dropped the gun and all. I just
13 wanted to get at him.

14 Q Okay. So you went running out the door?

15 A Yes, sir, behind him.

16 Q Behind him?

17 A Yes, sir.

18 Q Let me ask you, do you remember where you even left the
19 gun?

20 A No, I don't know even know where -- I just dropped it.

21 Q All right. And where did you then run to?

22 A Well, I ran -- well, he went behind the trailer, like
23 all the way around the trailer. I went around the trailer
24 too. About halfway, like a little couple feet and I seen
25 them over on the other side by the porch and that's when I

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1 turned around and came back the other way.

2 Q I'm showing you State's Exhibit No. 4. I show you
3 State's Exhibit No. 4, Calvin. You recognize that
4 photograph?

5 A Yes, sir.

6 Q All right. Whose mobile home is that?

7 A Stephanie Barnwell.

8 Q Okay. Is that where everything we just were talking
9 about occurred?

10 A Yes, sir.

11 Q All right. Point for me which side was it that you
12 chased him around?

13 A Right here. The back side.

14 Q Around the back side of the trailer?

15 A Yes, sir.

16 Q And you said you chased him all the way around the back
17 of the trailer?

18 A Well, he -- well, I went, you know, like around the
19 corner. Then about the time I got around the corner, he was
20 already on the other side where the porch was. So that's
21 when I stopped. I went like a couple of feet. Like as soon
22 as I got on the back side of the trailer, I went like a
23 couple of feet and I turned around and came back the other
24 way.

25 Q Okay. And by the porch, there's obviously a front

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1 porch in this picture. There's actually a back porch to the
2 trailer too?

3 A Say that again?

4 Q Is there a back --

5 A Oh, yes, sir. There's a back -- yes, sir. There's a
6 back porch.

7 Q There's a porch on each side of the trailer?

8 A Yes, sir.

9 MR. SORENSON: I beg the Court's indulgence one
10 moment.

11 BY MR. SORENSON:

12 Q Let me show you State's Exhibit No. 10. Do you
13 recognize that photograph?

14 A Yes, sir.

15 Q All right. And where is that?

16 A The side, like the back side of the trailer.

17 Q Okay. Is that that end that you ran around?

18 A Yes, sir.

19 Q Okay. So would you have gone by that area when you
20 were chasing after him?

21 A Yes, sir.

22 Q And let me show you State's Exhibit 24. This one's not
23 in evidence yet, but does that show that back porch area
24 that you were talking about?

25 A Yes, sir. Yes, sir. And he went running back that

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1 way.

2 MR. SORENSON: At this time, we'd offer State's 24
3 into evidence.

4 THE COURT: Any objection?

5 MR. PALMER: No objection.

6 THE COURT: Any objection?

7 MR. STEVENS: No objection.

8 (State's Exhibit No. 24, photo, was
9 marked and entered.)

10 BY MR. SORENSON:

11 Q So you're talking about another porch. That's the back
12 porch there?

13 A Yes, sir.

14 Q Who was it that went running back that direction?

15 A Ayer.

16 Q Now, let me back you up, if I could, a second. Calvin,
17 when you came out of the trailer chasing after him --

18 A Yes, sir.

19 Q Did anything else happen when you came out of the
20 trailer?

21 A I mean, when I looked over, like when I came back
22 around, you know, I seen Terrance coming from over there
23 from Greg, like he was just coming over there. Like when I
24 did come back around, he was coming from over there from by
25 Greg and he went to help my man get in the car. So the

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1 other dude was sitting outside at the car. He was just
2 shooting, shooting, shooting, shooting, shooting. At that
3 point in time, I ain't care. Like I ain't care if I got hit
4 no more. I just went and got my homeboy. He was laying
5 over there on the ground. I went all the way over there,
6 got him, brought him to the car, put him in the car. Got in
7 the driver's seat, was about to drive off. And Alvin came
8 running out the house and got in the driver's seat.

9 Q Okay. Let me back you up. So you said you saw, at
10 that point in time, a third individual?

11 A Yes, sir.

12 Q Did that appear to be the person that --

13 MR. STEVENS: Judge, leading.

14 THE COURT: Rephrase.

15 BY MR. SORENSON:

16 Q Had you seen that person earlier, that third
17 individual?

18 A Yes, sir.

19 Q And tell the jury who that -- and where had you seen
20 that person?

21 A Well, I seen him in the house earlier. He was in the
22 house earlier that day. It was the same dude from earlier.

23 Q Okay. And do you know whether he was the individual
24 that was sitting in the driver's seat when you first pulled
25 up?

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1 A Yes, sir.

2 Q And you said you saw that person then shooting. What
3 direction was that person shooting?

4 A At the house. At the trailer.

5 Q And so you ultimately ended up -- you said that you got
6 Greg and the two of you initially into your car?

7 A Yes, sir.

8 Q And were you able to drive away?

9 A No, sir.

10 Q And why not?

11 A Because I mean, I was losing conscious. I kept losing
12 conscious, even when I was on the back side of the house.
13 That's how, you know, the little blood, you know, got on the
14 side of the little house whatever, because I fell against
15 that too. I steadily was losing conscious. I been done
16 lost so much blood. So I mean --

17 Q Who ultimately ended up driving you and Greg --

18 A Alvin.

19 Q Alvin. All right. How about the white car, did it
20 leave?

21 A Yes, sir. It was gone. They done pulled off.

22 Q Did it leave before or after y'all?

23 A They left before us.

24 Q Okay. So when the three of you, you, Greg and Alvin
25 left, was there anybody else left at the trailer at that

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1 point in time?

2 A No, sir.

3 Q And where were you taken?

4 A To the hospital.

5 Q Where at? Do you remember?

6 A Regional Medical Center.

7 Q Right here in Orangeburg?

8 A Yes, sir.

9 -Q Okay. And you kind of showed initially, but let me
10 kind of -- did you end up staying at the Regional Medical
11 Center?

12 A I mean, I don't know. As soon as I got in there, you
13 know, I passed out. As soon as I walked through the door --
14 I mean, I was able to get out the car, walk in the hospital.
15 As soon as I walk in the hospital, I faint. I was over it
16 from there.

17 Q Do you know whether you were, at some point in time,
18 transferred to another hospital?

19 A Oh, yes, sir. I woke up a couple days later to look at
20 the little sign saying Palmetto Richland.

21 Q And that's up in Columbia?

22 A Yes, sir.

23 Q How long were you at Palmetto Richland?

24 A It wasn't about -- I mean, I was supposed to have been
25 in there longer than what it was. But when I found out that

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1 my partner had died, you know, I just, it just got all
2 strength in me, you know. I just got out there, with a big
3 metal thing in my face, everything. I just got up out the,
4 you know, because I had to make it. I just tried to make it
5 to his funeral.

6 Q Greg, he didn't die that night; right? It was several
7 days, several days later?

8 A No, sir. It was several days later. When I find that
9 out, you know, what I'm saying. I was like, devastated.

10 Q And let me ask you. You've got -- I can see right now
11 some scaring on your left jaw?

12 A Oh, yes, sir. Like everything on this side right here,
13 I'll never be able to feel again. Like right now all this
14 right here is numb because I got like a metal plate right
15 there. So, I mean, like they say like, like the nerves and
16 everything, it killed everything. So I never be able to
17 feel none of that no more again.

18 Q So that swelling and that scaring is all from this
19 incident that day?

20 A Yeah. Yes, sir. Yes, sir.

21 MR. SORENSON: Your Honor, could I have him kind
22 of step down in front of the jury just so they can get a
23 little better look at his face?

24 THE COURT: Yes, sir.

25 A (Witness steps down)

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1 BY MR. SORENSON:

2 Q We're just going to start here and we're just kind of
3 walk over there. You said they had to take some bone from
4 your leg?

5 A Yeah.

6 Q Do you have a scar from that now too?

7 A Because they had to cut me. They had to cut me from my
8 knee all the way down to my ankle to get the bone out from
9 under there.

10 Q Okay. Thanks, Calvin.

11 A (Witness takes stand)

12 Q Let me ask you. The person that you described earlier
13 as seeing shoot at Alvin and then shoot at Gregory, is he
14 here in the courtroom?

15 A Yes, sir.

16 Q Point him out for the jury?

17 A Terrance Johnson.

18 Q In the blue shirt?

19 A Yes, sir.

20 Q Any question in your mind about that?

21 A No, sir. No. There ain't no question in my mind.

22 Because when we was in the hospital, you know, Smoke, you
23 know, we was in the car, you know, everybody was emotional
24 and stuff. And just like he said, he can't believe he shot
25 him.

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1 Q All right. And how about the person that you fought
2 with that that shot you, that you said, testified that you
3 ultimately got the gun away from and shot at. Do you see
4 him in the courtroom?

5 A Yes, sir.

6 Q Can you point him out to the jury?

7 A Right there.

8 Q Let me ask you, do you know whether you hit him when
9 you shot him?

10 A Oh, yes, sir. As soon as I shot him, you know, he felt
11 the heat. So he jump up and got like even quicker.

12 Q All right. And then lastly, you had described this
13 third person that you had seen earlier inside the trailer.
14 And that you then saw shooting outside the vehicle. You
15 remember that?

16 A Yes, sir.

17 Q Do you remember, did the sheriff's office ultimately
18 come a couple of weeks later and show you some photographs
19 to see if you could ID that person?

20 A Yes, sir.

21 MR. SORENSON: Can I get this marked?

22 COURT REPORTER: 111 marked for ID.

23 (State's Exhibit No. 111, photo, was
24 marked for ID.)

25 BY MR. SORENSON:

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1 Q Let me show you, Calvin, State's Exhibit No. 111. Do
2 you recognize that, attached photograph?

3 A Yes, sir.

4 Q Okay. And were you able to pick somebody out of that?

5 A Yes.

6 Q And did you indicate that on the attached affidavit,
7 who you picked out and why it was that you picked that
8 person up?

9 A Yes, sir.

10 MR. SORENSON: Your Honor, at this time we'd offer
11 State's 111 into evidence.

12 THE COURT: Any objection?

13 MR. PALMER: No objection.

14 MR. STEVENS: No objection, Judge.

15 THE COURT: All right. It's entered.

16 (State's Exhibit No. 111, photo,
17 was marked and entered.)

18 THE COURT: That's State's 111?

19 COURT REPORTER: Yes, ma'am.

20 BY MR. SORENSON:

21 Q There again. So in that picture number four is
22 circled. And is that your initials and the date and all?

23 A Yes, sir.

24 Q And that's September 28th of 2012?

25 A Yes, sir.

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1 Q And that says after you were after the hospital; is
2 that correct?

3 A Yes, sir.

4 Q You picked out, picked out number four. Had you ever
5 seen that person before that day?

6 A Huh-uh. (Negative response)

7 Q Any idea what his name was that day?

8 A No, sir.

9 Q And you did in the affidavit indicate that was the
10 driver of the car, the one who helped put the other dude in
11 the car after the shootings?

12 A Yes, sir.

13 MR. SORENSON: I beg the Court's indulgence.

14 BY MR. SORENSON:

15 Q Thank you, Calvin. Please answer any questions that
16 either Mr. Palmer or Mr. Stevens have.

17 A All right.

18 THE COURT: Mr. Palmer.

19 CALVIN KENNEDY - CROSS-EXAMINATION

20 BY MR. PALMER:

21 Q How long did you say y'all were there before this,
22 before the guns came out?

23 A I mean, I just walked in the house.

24 Q You had just walked in the house?

25 A Just walked in.

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1 Q And there was some blunts being smoked?

2 A Yeah, there was -- they're smoking as soon as I walked
3 in.

4 Q And what was the general mood of the room at that time?
5 Any hostility?

6 A I mean, you could tell there was about to be something
7 because my man was sitting right by the door with a hood on
8 his head, with his hands in his in his pockets.

9 Q Was he engaged in smoking the blunt?

10 A No. He was just standing there.

11 Q And did you partake in the blunt?

12 A No, sir. As soon as I walked in the house everything
13 went down. I ain't had a chance to do nothing. Nothing.

14 Q You didn't have a chance to do anything?

15 A Nothing. As soon as I walked to the refrigerator, went
16 by, it was on from there.

17 Q So those guys were already there when you came in?

18 A Yes, sir.

19 Q Now, do you remember giving a statement to Corporal
20 Fleming?

21 A No, sir.

22 Q Okay. You don't remember telling him that two males
23 burst in with guns and said give it up?

24 A No, I ain't never -- no, sir. Never did.

25 Q You never said that?

1 A No, sir. If I did, I don't remember it.

2 Q At any point during this struggle with who you say is
3 Mr. Ayer, did you end up on the floor?

4 A No, sir.

5 Q And when you were able to get the gun away from Mr.
6 Ayer, and he was out on the porch --

7 A No, he was still in the house when I got the gun from
8 him.

9 Q He was still in the house?

10 A Yes, sir.

11 Q What position was he in? Was he standing?

12 A Yes, sir.

13 Q He wasn't on his back?

14 A No, sir.

15 Q He never fell down on the porch?

16 A Yeah. After I clipped him.

17 Q After you shot him?

18 A After I clipped him.

19 Q What do you mean by that?

20 A Clipped his foot. When he was trying to run, I clipped
21 his foot.

22 Q Okay. Well, you need to explain to me what clipped
23 means?

24 A Like when you running, I stick my foot, clip his foot,
25 clip the back of his leg so then he fell right in the

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1 doorway.

2 Q Would that be synonymous with you tripped him?

3 A Yes, sir.

4 Q Would that be a fair statement?

5 A Yes, sir.

6 Q Okay. So you tripped him. And then he fell. And he
7 was on the porch or in the house, still?

8 A Halfway, half and half. He was like right in the
9 doorway.

10 Q And that's when you shot him?

11 A Yes, sir.

12 Q And you were going to shoot him again, but the gun
13 didn't have any more rounds in it?

14 A Yes, sir.

15 Q Because the magazine had come out?

16 A Now, I don't know whether the magazine had come out or
17 not. I just know it didn't shoot no more.

18 Q Well, when you said you were struggling to get it
19 together, what were you trying to tell us?

20 A What you mean?

21 Q You said you were struggling to get the gun back
22 together?

23 A Yes. Because once I got the gun from him, my hands was
24 so bloody, I had so much adrenalin, I couldn't get the gun
25 together. Like I couldn't get it straight enough to shoot

1 him.

2 Q So he was still down and you were going to shoot him
3 again?

4 A Yes, sir.

5 Q And you were able to overpower this man; is that
6 correct?

7 A Yes, sir.

8 Q You're a good bit bigger and stronger than him?

9 A That must be what it was. I got shot five times so,
10 hey, that's exactly what it was.

11 Q Didn't you tell Corporal Fleming you got shot three
12 times?

13 A Listen, sir, I got shot in my knee, my wrist. They
14 pulled two slugs out my shoulder and in my face. So how
15 many? That's five times. That's all I'm saying.

16 Q Is it your testimony that all five of those rounds came
17 from the gun that you were struggling over?

18 A I mean, it could have been.

19 Q Could have been?

20 A It could have been. My man was outside shooting too.
21 He was shooting the same round, caliber. So them shots
22 could have hit me too. I don't know.

23 Q Oh, so you're saying when you call them your man,
24 you're talking about the guy in the white Chevy?

25 A Yes, sir.

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1 Q When you saw him firing, were you in his line of fire?

2 A No, sir.

3 Q Where were you?

4 A I was just coming around the house, like if I came from
5 around the house, that's when I seen him fire.

6 Q Okay. And where was he firing in relation to you?

7 A He was firing at the house.

8 Q Okay. But you were not in his line of fire?

9 A No, sir.

10 Q So he couldn't have shot you?

11 A I mean, I don't know, sir. It was just too much going
12 on. Regardless of what I got shot, so somebody shot me.

13 Q Well, we're here to get the details out.

14 A Yes, sir.

15 Q And get to the truth. You agree with that; don't you?

16 A Oh, yes, sir.

17 Q So how do you know these guns were the same caliber?

18 A What you mean how do I know the guns were the same
19 caliber?

20 Q Well, you just said -- you call him your man. But
21 you're referring to the guy in the white Chevy was also
22 shooting?

23 A Yes, sir.

24 Q And you said it was the same caliber as the gun that
25 you were struggling with, with Mr. Ayer.

1 A Yes, sir.

2 Q Didn't you just say that?

3 A Yes, sir.

4 Q How do you know that?

5 A I mean, I found out after the fact that the shell
6 casing that was out there was a 40 caliber.

7 Q You didn't know it at the time?

8 A No, sir.

9 Q And your understanding is they were 40 caliber?

10 A Yes, sir.

11 Q What happened to the gun that you and Mr. Ayer were
12 struggling over?

13 A I dropped it outside.

14 Q And where outside?

15 A Right -- somewhere out there. I mean, I don't remember
16 exactly but I dropped it out there somewhere.

17 Q Do you have any knowledge of anybody picking up that
18 gun and trying to hide it after the fact?

19 A Oh, no, sir.

20 Q Do you know where it was ultimately found?

21 A No, sir.

22 Q If I suggested to you it was found in a field over the
23 fence behind another house --

24 A Yes.

25 Q -- would you have any idea how it got there?

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1 A No, sir.

2 Q And so you're saying you didn't throw it there?

3 A Oh, no, sir.

4 Q Now, when you were running around this house did you
5 know that the window on the end of the mobile home had been
6 broken out?

7 A Not at the time.

8 Q And when did you find out about the broken window?

9 A I mean, that was later on. Later on when I mean
10 somebody said them kids was playing in there and broke the
11 window. I mean, I didn't know at the time.

12 Q Do you have any knowledge of how you blood got on those
13 window blinds?

14 A Running past it, I guess.

15 Q Okay.

16 A I mean, I was bleeding real bad. So, like, running
17 behind him that's probably how it got back there.

18 Q Do you remember brushing up against the window blinds
19 at all?

20 A I mean, I could have. I mean, just like I said, I was
21 faint. I was going in and out. So I mean, I could have.

22 Q Okay. How many shots were fired that you remember?

23 A I just heard a lot of shots, sir. I don't know exactly
24 how many.

25 Q And I gather from your testimony that you're not saying

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1 Terrance Johnson ever shot at you?

2 A No, he ain't he never shot at me, no.

3 Q Okay. And what do you think is the reason all this
4 happened?

5 A Man, I don't know. When he get on the stand, ask him.
6 He's the mastermind. He's the plot behind the whole robbery
7 or whatever they call.

8 Q How do you know --

9 A I don't even know him. Terrance Johnson, he's the
10 mastermind behind everything because we knew him. He used
11 to be like 'chillin with us every now and then, you know
12 what I'm saying? Just like I said, I ain't never been
13 friends with him but I just knew, you know, from being with
14 Smoke and them. So --

15 Q And was there any time that you were around Terrance
16 Johnson you felt threatened or uncomfortable?

17 A No, sir.

18 Q So suddenly Terrance Johnson wants to kill you. Is
19 that what you're saying?

20 A I mean, he wanted to do something. He was broke.

21 Q He was broke?

22 A Yeah. I mean, everybody was saying he's broke. So
23 that's why he did it. So, I mean, I don't know. When he
24 get up here, you ask him that. I can't answer that. I
25 can't answer why he came and did that. I would never expect

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1 him to do nothing like that because, you know, we was -- you
2 know, just like I said, he was their homebody. I mean, I
3 knew of him. Everything was cool. He used to smoke with
4 us. I mean, you have to ask him why he did it. I don't
5 know why he did it.

6 Q Are you trying to suggest that this was a robbery?

7 A I mean, you going to have ask him, sir. I mean, I
8 don't know what it was. They came with guns. We was there
9 'chillin. I mean, like I don't know. They came with guns.

10 Q So your answer is you don't know?

11 A Yeah. I just don't know why -- I mean, I don't know
12 why they did it. I don't know whether it was a robbery. I
13 don't know why. Ask him.

14 Q Okay. And so you're saying now that you don't remember
15 telling Corporal Fleming that two men came in and said give
16 it up?

17 A No.

18 Q You didn't say that?

19 A No. Because there wasn't never the point where two men
20 came in. I walked in the house they was already in there.
21 Buddy told me, don't move. So I know I wouldn't have never
22 said nothing about two men bust in the house saying give it
23 up.

24 Q Okay. And you never said that?

25 A No, sir.

1 Q Have you had any dealings with Terrance Johnson since
2 then?

3 A No, sir.

4 Q You kind of got a beef with him, don't you?

5 A I mean what kind of beef? This man killed my homeboy.
6 Shot him in the -- I mean, if it's a beef in your eyes, I
7 don't see no beef. All I see is animosity because, I mean,
8 it was pointless. Like he shouldn't have even did that.
9 Like, what's the point? You know what I'm saying. Now this
10 man done lost his life for what? You know what I'm saying?
11 Like, that's -- I mean, that's the only animosity I got
12 against him. Like, because that was, that was just whack of
13 him.

14 Q What was Terrance Johnson wearing that day?

15 A Sir, I don't remember all that. Just like I said, when
16 I walked in the house everything happened exactly in a split
17 second. In a split amount of time. I mean, I ain't paid
18 attention to all of that.

19 Q But you do remember Mr. Ayer having a hoodie with hands
20 in his pockets?

21 A Yes, sir. I remember that.

22 Q You remember that part.

23 A Yes, sir. Because when I walked in, he was standing
24 right there, with his hands in his -- thing, with he hood
25 over his head. I remember that like yesterday.

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1 Q Now, we know this has been three years?

2 A Yes, sir.

3 Q And people forget things?

4 A I'm not forgetting nothing. I know everything thing
5 I'm telling you, everything I'm telling you is from my heart
6 and I know what happened.

7 Q So your recollection of this event, which is
8 understandable, it's crystal clear. It's something you
9 don't forget; right?

10 A Yes, sir, you're right. Because I dream about it every
11 night. And that's something nobody can't take away from me.

12 Q But you can't tell us what Terrance Johnson was
13 wearing, even though you saw him earlier that day?

14 A Listen, sir. I can't remember what he had on. I know
15 who shot my homeboy. I know what happened. That's all I'm
16 trying to tell you. You trying to get involved with what he
17 wearing. I don't know what he had on. He had a gun? Yes,
18 he had a gun. Where it came from, I don't know where it
19 came from. Why he did it? Ask him why he did.

20 Q If I suggest to you that he had on basketball shorts,
21 tank top and flip flops --

22 A I couldn't tell you. I couldn't tell you whether I
23 know that for -- I don't know. I couldn't tell you.

24 Q You have no idea?

25 A No, sir.

1 Q Okay. What was Alvin Clark wearing?

2 A I couldn't tell you that either.

3 Q But hadn't you spent some time with him earlier that
4 day?

5 A Sir, I wasn't paying attention. Just like I said when
6 I been there earlier that day, it was a couple of minutes.
7 Came back, everything went down. So it wasn't like I was
8 just -- I'm watching these boys what they got on and stuff.

9 Q What were you wearing?

10 A I mean, I don't even -- I remember I had on some
11 shorts, a shirt and some flip flops when the situation
12 happened.

13 Q You do remember that?

14 A I remember what I had on because that's my person.

15 Q Okay.

16 A I'm not looking at everybody else.

17 Q Understood. You own any firearms?

18 A No, sir.

19 Q Have you ever owned any?

20 A No, sir.

21 Q Have you ever shot a firearm?

22 A No, sir.

23 Q You've never fired a gun?

24 A I mean, yeah, when I shot at him. I don't carry a gun.
25 I use these.

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1 Q That's the only time --

2 A Yes, sir.

3 Q -- that you've ever fired a gun?

4 A Yes, sir.

5 Q Even after this incident?

6 A What you mean? After this incident?

7 Q Yeah?

8 A No, sir, that's the only time I ever fired a gun.

9 Q Okay. And is it the only time you've ever possessed
10 one?

11 A No, sir. I mean, I got one after I got out of the
12 hospital because I was still scared for my life.

13 Q What kind did you get?

14 A A 38 snub nosed.

15 Q What brand.

16 A A 38 snub nosed.

17 Q Well, I know. But snub nosed isn't a brand.

18 A I mean, I don't know the brand or whatever it. It's
19 just a 38.

20 Q Where did you get it?

21 A I got it from a homeboy.

22 Q Oh, you didn't buy it at a store?

23 A No, sir.

24 Q They didn't run a background check?

25 A No, sir.

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1 Q You bought it from an individual?

2 A Yes, sir.

3 Q Okay. And how have you owned that gun?

4 A It was probably about, probably a month or so.

5 Q You bought it a month or so after this incident?

6 A Yes, sir. Because after I got out of the hospital and
7 stuff, that's when I had got it.

8 Q And do you still have it?

9 A No, sir.

10 Q What happened to it?

11 A The police got it.

12 Q Okay.

13 A That's the gun he was referring to they should have did
14 ballistics and all on that, knowing that that's not the gun
15 because Smoke got shot with a 38 that he had and that was a
16 long, long barrel, a long-nosed or whatever your call it.

17 Q And what brand was that gun?

18 A I don't know exactly what brand. I know it was a
19 revolver.

20 Q What color?

21 A I don't know. I seen it in his hand.

22 Q Did you say you were close enough to see the muzzle
23 blast?

24 A Yeah. Exactly. The muzzle blast not the color of the
25 gun. The muzzle blast. Anybody could see like a muzzle

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1 blast, not the color of a gun.

2 Q But you do remember it had a long barrel?

3 A Yes, sir.

4 Q Now, you owned a 38 snub nosed?

5 A Yes, sir.

6 Q And you've seen a long-barrel gun in my client's hand
7 is your testimony?

8 A Yes, sir.

9 Q Which would you expect to be heavier?

10 A What you mean?

11 Q Well --

12 A I mean, I don't know the weight of them, sir. Come on,
13 I don't know the weight of the guns or whatnot. You saying
14 they heavier and all. I don't know that.

15 Q Well, I don't know is an answer.

16 A I don't know which one is supposed to be heavier, sir.

17 Q Okay. Would you expect the one with the longer barrel
18 to be bigger and heavier?

19 A I don't know.

20 Q Than a snub nosed?

21 A I don't know.

22 Q What's your snub nosed made out of?

23 A I don't know, sir. I'm not a gun person. I don't make
24 guns, so I don't know what it's made out of.

25 Q But you handled it, didn't you?

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1 A I mean, I had it. Yes, sir.

2 Q So is it made out of metal, plastic, wood, what's it
3 made out of?

4 A No.

5 Q Okay.

6 A Yes, sir.

7 Q Steel?

8 A Metal, steel.

9 Q And you would expect the other one that you say Johnson
10 had to be made out of steel as well?

11 A Yes, sir.

12 Q And when you saw Johnson at any time that day, did you
13 see the weapon on him?

14 A No, sir.

15 Q So how do you suppose he got in there with a weapon
16 without everybody seeing him?

17 A I couldn't tell you. You got to ask him that.

18 Q Okay. Your answer is I don't know?

19 A That's right. You got to ask him.

20 Q And so the first time you saw it was when the muzzle
21 blast went off?

22 A Yes, sir.

23 Q That's your testimony?

24 A Yes, sir.

25 Q Before that, you didn't see a weapon on either one of

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1 these guys?

2 A No, sir.

3 Q That's your testimony?

4 A Yes, sir.

5 Q Okay. Thank you.

6 MR. PALMER: No further questions.

7 THE COURT: Cross-examination.

8 MR. STEVENS: Court's indulgence.

9 CALVIN KENNEDY CROSS-EXAMINATION

10 BY MR. STEVENS:

11 Q Good morning, Mr. Kennedy?

12 A Good morning.

13 Q Let's start talking about your current conviction,
14 shall we? I guess you want to?

15 A It don't matter.

16 Q So you were recently incarcerated; correct?

17 A Incarcerated for what?

18 Q Well, that's the question, yes or no?

19 A I mean, as far as my memory I don't know when I was
20 incarcerated for nothing.

21 Q So did you or did you not plead guilty to unlawful
22 conduct toward a child in May 15th, 2014?

23 A Oh, yes, sir.

24 Q Would you agree that that's relatively recent from
25 today, as far as maybe a little over a year?

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1 A Yes, sir.

2 Q So you'd agree that you were recently incarcerated?

3 A I didn't get -- I wasn't locked up for it.

4 Q I understand. Okay.

5 A I wasn't incarcerated.

6 Q Okay. At that time, there was -- you were pulled over?

7 A Yes, sir.

8 Q Mr. Clark was with you?

9 A Yes, sir. There was a 38 snub nosed. Yes, sir.

10 Q There was a 38 revolver in the car?

11 A The police got it, which, I mean, y'all should have did
12 ballistics on that.

13 Q And it was loaded; correct?

14 A Yes, sir.

15 Q You're not allowed to possess a gun; right?

16 A Well, I mean, at that point in time I was. I mean, now
17 I wasn't a convicted felon then.

18 Q Okay. Well, let's talk about your 2010 convictions?

19 A All right?

20 Q So February 26 -- I'm sorry. February 26, 2010. You
21 decided not to stop for a blue light; right?

22 A Yes, sir.

23 Q And you pled to it on June 15th, 2010; correct?

24 A Yes, sir.

25 Q Okay. And you were also charged with child

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1 endangerment in the same incident; correct?

2 A Yes, sir. But what do child endangerment and failure
3 to stop for a blue light got to do what a murder case.
4 That's what I want to ask?

5 Q Well, actually we ask the questions when it comes to it
6 on cross-examination, sir. Are we aware of how it works?

7 A All right.

8 Q Okay. You did have those convictions in 2010?

9 A Yes, sir. Yes, sir.

10 Q Okay. And you're saying you still have a right to
11 carry a gun?

12 A No, sir, I didn't have a right to carry a gun but I was
13 scared for my life. I been done got shot five times, lost
14 my homeboy, so I'm fearing for my life. So I didn't have a
15 right to carry but I carried it anyway.

16 Q And you lost that right to carry in 2010; correct?

17 A Yes, sir.

18 Q Okay. Now, let's talk about September 10th, 2012; all
19 right?

20 A Okay.

21 Q You said you were at [REDACTED] ?

22 A Yes, sir.

23 Q And that's not your home is it?

24 A No, sir.

25 Q It's the home of Stephanie Barnwell?

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1 A Yes, sir.

2 Q But she wasn't at home at the time was she?

3 A No, sir.

4 Q And neither were her kids?

5 A No, sir.

6 Q Now, let's talk about what you told police, okay?

7 A All right.

8 Q Now, you --

9 A At the time, at the time it happened; right?

10 Q You met with Sergeant Stokes on September 18th, 2012;
11 correct?

12 A Maybe.

13 Q Did you not go and meet with the police after you were
14 released from the hospital?

15 A Well, yes, sir.

16 Q Okay. And that was here in Orangeburg where you met;
17 correct.

18 A Yes, sir.

19 Q Okay. On Chestnut Street?

20 A Yes, sir.

21 Q Okay. And that was September 18th; right?

22 A I mean, I don't know what the exact date. But if you
23 got it right there, then that's correct.

24 Q Roughly eight days later; correct?

25 A Okay.

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1 Q And you did meet with a deputy; right?

2 A Yes, sir.

3 Q And that was this deputy right here? I'm sorry.
4 Sergeant right here?

5 A I believe so, yes, sir.

6 Q That'd be Deputy Stokes and you told him your story;
7 right?

8 A Yes, sir.

9 Q Okay. And the story is that you fought with someone;
10 right?

11 A Yes, sir.

12 Q Inside the trailer?

13 A Yes, sir.

14 Q And the story you told him then, over a week after was
15 that you struggled for the gun?

16 A Yes, sir.

17 Q And the story you told him at that time, a week after
18 was that the gun went off in the struggle?

19 A Yes, sir.

20 Q Okay. Now, at that time you didn't say how many times
21 the gun went off; did you?

22 A No, sir.

23 Q Okay. But what you told us today is that you were shot
24 five times; correct?

25 A I did not say -- I did not say the five times came from

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1 that gun. I said I was shot five times.

2 Q Today, you said you were shot five times; correct?

3 A That is correct.

4 Q And also when we're talking about those five times
5 today, you said only two slugs were recovered; correct?

6 A They took two out of my arm, two out of my shoulder. I
7 got hit once in my wrist, and once in my knee and once in
8 mouth. Now you add it up.

9 Q And you said just now that all five could have been
10 from the same gun in the struggle with the Defendant;
11 correct?

12 A Yeah. Could have been.

13 Q Okay. And you also said that you were not in the line
14 of fire from the guy shooting over the car, shooting at the
15 house; right?

16 A No, sir.

17 Q Okay. Now, you said you claim you got the gun from
18 him; right?

19 A Yes, sir.

20 Q Okay. And you claim that he ran?

21 A I didn't claim I got the gun from him. I got the gun
22 from him.

23 Q But that's what you told Officer Stokes?

24 A Yes, sir.

25 Q Were talking about that statement?

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1 A Yes, sir.

2 Q All right. A week after?

3 A Yes, sir.

4 Q Okay. And you said you shot him; right?

5 A Yes, sir.

6 Q And you said he was shot at the time; right?

7 A Yes, sir.

8 Q And you said he fell in the doorway and onto the porch;
9 right?

10 A Yes, sir.

11 Q You said a guy was in the car?

12 A Yes, sir.

13 Q You said the guy got out of the car?

14 A Yes, sir.

15 Q And you said he helped the person you shot get in the
16 car; right?

17 A No. No. Huh-uh. (Negative response) Buddy got out
18 the car. Buddy was shooting.

19 Q So whose buddy?

20 A The dude in the white car. The other dude. The
21 Morrison dude or whatever. He was standing at the car
22 shooting.

23 Q Okay. So you're saying what you're saying today is
24 more accurate than what you told Officer Stokes eight days
25 after?

2 (Off record discussion between
3 counsel).

5 Q Excuse me. The 28th: Not the 18th.

7 Q The 28th. So, you had over two weeks to think about
8 this; right?

10 Q You had two weeks --

13 Q But you had two weeks.

16 Q Listen to the question and answer the question.

20 Q This is a murder case. We're trying to get questions
21 from the evidence out of this witness statement here. So
22 please follow the questions asked. Now, it was the 28th of
23 September. Excuse me.

25 Q Okay. And so that's over two weeks to think about it?

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1 A Yes, sir.

2 Q Okay. Now, in that statement you never said anything
3 about the driver shooting at you; correct?

4 A No, sir.

5 Q Okay. And you never said anything about the driver
6 shooting at Alvin Clark; correct?

7 A No, Alvin ain't -- he was shooting at the house.

8 Q Okay. And when you spoke with Officer Stokes on the
9 28th of September, you never said that you ran outside, did
10 you?

11 A Why wouldn't I. If I spoke to him, I should have told
12 him I ran outside because it wasn't no way I wouldn't have
13 told him I ran outside, because I ran outside. So why would
14 I tell him I didn't run outside?

15 Q Well, we're just going off the statement.

16 A Okay. Well, I mean, that was -- it probably was
17 blurry. I know -- all right. Just go ahead. I mean, you
18 just trying to confuse me. And I know what's going on

19 Q Just after two weeks from the incident you didn't tell
20 them you ran outside; right?

21 A I probably didn't.

22 Q Okay. And a little after two weeks after the incident
23 you never told them that the guy you shot at went around the
24 house either, did you?

25 A I probably didn't.

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1 Q Okay. And in that verbal statement you told to him,
2 you never said that Mr. Howell was outside, did you?

3 A No, there ain't no way I couldn't told him that.

4 Q Really?

5 A Yes, sir. I mean, show me. Show me. I mean, you got
6 to show me because I don't --

7 Q You're saying that you never said this to him?

8 A Well, show me. Show me where I said, Smoke ain't --
9 never went outside.

10 Q No. That's just it. You just now said it.

11 A Okay. Well, I mean, I probably forgot about it. I
12 probably left it out.

13 Q Okay. And even today you never said anything about
14 trying to get rid of a gun over the fence; did you?

15 A No, sir. I wasn't trying to get rid of no gun.

16 Q And you never mentioned anything about drugs in the
17 house, other than a blunt?

18 A No, sir. Yes, sir.

19 MR. STEVENS: Court's indulgence.

20 BY MR. STEVENS:

21 Q And according to your testimony you said -- just yes or
22 no -- you don't know why this would have occurred?

23 A No.

24 Q Okay.

25 MR. STEVENS: Court's indulgence. No further

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1 questions, Judge.

2 THE COURT: Any redirect?

3 MR. SORENSON: Very briefly, Your Honor.

4 CALVIN KENNEDY - REDIRECT EXAMINATION

5 BY MR. SORENSON:

6 Q The night this happened Calvin --

7 A Yes, sir.

8 Q -- do you remember talking to any police officers at
9 the hospital that night?

10 A No, sir.

11 Q Were you able to talk even?

12 A No, sir.

13 Q A couple weeks later after you got out of the hospital,
14 you did go in and talk to Sergeant Stokes; is that correct?

15 A Yes, sir.

16 Q On September 28th?

17 A Yes, sir.

18 Q And that's the same day that you picked the person out
19 of this lineup; is that correct?

20 A Yes, sir.

21 Q Did you give them a written statement at that point in
22 time? Anybody ever shown you a written statement that you
23 wrote out?

24 A No, sir. I can't, I can't even remember.

25 Q Did you answer whatever questions you were asked --

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1 A Yes, sir.

2 Q -- by Sergeant Stokes, though?

3 A Yes, sir.

4 MR. SORENSON: That's all I have.

5 THE COURT: You may step down Mr. Kennedy. Thank
6 you.

7 You may call your next witness.

8 MR. SORENSON: The State calls Tenaja Minick.

9 THE CLERK: Please place your left hand on the
10 Bible and raise your right hand.

11 (WHEREUPON, Tenaja Minick was duly
12 sworn.)

13 THE CLERK: Thank you, ma'am. You may have a seat.
14 Please state your name again for the record.

15 MS. MINICK: Tenaja Minick.

16 THE CLERK: Thank you.

17 THE COURT: Your witness.

18 MR. SORENSON: Thank you, Your Honor.

19 TENAJA MINICK - DIRECT EXAMINATION

20 BY MR. SORENSON:

21 Q It's still morning for a couple of minutes. Good
22 morning Ms. Minick.

23 A Good morning.

24 Q Tell the jury, if you would, where is it you live.

25 A Currently?

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1 Q Yes, ma'am.

2 A Hopkins, South Carolina.

3 Q Okay. And back in September of 2012, where were you
4 living at that time?

5 A I was living in Columbia.

6 Q And I'm going to ask you initially, do you know the
7 Defendant, Terrance Johnson?

8 A Yes, I know him.

9 Q And how about the Defendant Rodsheen Ayer?

10 A I know him as well.

11 Q And then there's a third person that the jury's heard
12 about a Taquan Morrison. Do you know that person in that
13 photograph right there, number four?

14 A Yes, I know him.

15 Q Okay. And let's start with him. Tell the jury, back
16 in September of 2012 how did you know Taquan Morrison?

17 A We were dating.

18 Q And how long had you known him back in September of
19 2012?

20 A For about a year.

21 Q Okay. And had y'all been dating basically that time
22 period?

23 A Yes.

24 Q How about Terrance Johnson, how did you know him back
25 in September of 2012?

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1 A I knew him through Taquan.

2 Q Were they friends or related?

3 A They were friends.

4 Q Okay. And how long do you think you had known Mr.
5 Johnson?

6 A I met him probably one time, like in between. I'd
7 heard of him when he came over, but I'd never met him met
8 him.

9 Q And how about the Defendant, Rodsheen Ayer, did you
10 know Mr. Ayer back in September of 2012?

11 A I did. When he came down, that's when I met him.

12 Q Okay. And when he came down, where did he come down
13 from?

14 A New York.

15 Q And how did he know your boyfriend Taquan?

16 A He stayed that that was his god brother.

17 Q That who was whose god brother?

18 A Taquan said that Rodsheen was his god brother.

19 Q Okay. All right. And did you know him by a nickname
20 back then, Mr. Ayer?

21 A As Rah.

22 Q Rah. And he was from New York?

23 A Yes.

24 Q Okay. And back around September 10th of 2012 was that
25 when he had come down from New York?

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1 A He came a little bit before 2012, like around -- like
2 August, like the end of August I would say.

3 Q Okay. So a couple of weeks before what we're here
4 talking about?

5 A Yes.

6 Q And where was he staying at when he was down visiting?

7 A He was staying at our house.

8 Q And was Mr. Morrison staying with you at that time
9 also?

10 A Yes.

11 Q And let me ask you, did you have a car back in
12 September of 2012?

13 A Yes.

14 Q Okay. And tell the jury what kind of car did you have?

15 A A 2010 Chevrolet Impala, white.

16 Q Hold on just one second. Let me show you State's
17 Exhibit 61 and 62. Do you recognize the car that's in those
18 photographs?

19 A Yes.

20 Q And whose car is that?

21 A That's my car.

22 MR. SORENSON: Your Honor, at this time we'd offer
23 State's 61 and 62 into evidence.

24 THE COURT: Any objection?

25 MR. PALMER: No objection.

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1 MR. STEVENS: No objection.

2 THE COURT: They're in.

3 (State's Exhibit No. 61, photo, was
4 marked and entered.)

5 (State's Exhibit No. 62, photo, was
6 marked and entered.)

7 MR. SORENSON: Thank you, Your Honor.

8 BY MR. SORENSON:

9 Q And that was a white, you said a white Chevy Impala;
10 correct.

11 A Correct.

12 Q And it's still got the dealer tag on it?

13 A It still had the dealer tag on it.

14 Q How long had you had that vehicle back in September of
15 2012?

16 A Probably a month. I had it in September 2012, but I had
17 it a month.

18 Q All right. And tell the jury where, Ms. Minick, where
19 back and during that time period, where were you working at
20 that time?

21 A I was working at Teleperformance.

22 Q At teleperformance. And what hours did you usually
23 work there?

24 A It was 4:30 to 1:00 or probably 4:00 to 12:00 but I
25 used to stay at like around 1:00, stay after.

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1 Q Okay. By 4:30 you mean 4:30 in the afternoon?

2 A Correct.

3 Q And 1:00 would be in the morning?

4 A Correct.

5 Q And where was that business located at?

6 A I don't know the exact address. I don't remember, but
7 it was on St. Andrews. I think it was 300 St. Andrews Road.

8 Q That's in the outskirts of Columbia?

9 A Correct.

10 Q And how -- let me ask you. During that time period you
11 had indicated that Mr. Morrison was residing with you during
12 that time period?

13 A Correct.

14 Q Okay. How would you get to work back then, September
15 of 2012?

16 A He would drop me off and he would take my car.

17 Q So 4:30 or so he would leave you at work and then he
18 would have your vehicle until he picked you up after work at
19 1:00 or so in the morning?

20 A Correct.

21 Q Was that pretty much all the time how things were
22 working?

23 A Yes.

24 Q Now, I want to ask you, Ms Minick, did you -- you've
25 been talked to about this obviously by law enforcement way

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1 back when, did you work on September 10th of 2012?

2 A Yes.

3 Q And how did you get there that day?

4 A I got there with my car.

5 Q And who drove that car?

6 A Taquan.

7 Q And did he then have that vehicle when he left you at
8 work that evening?

9 A Yes.

10 Q So he would have had -- So Taquan Morrison would have
11 had this vehicle the evening of September 10th, 2012?

12 A Yes.

13 Q And do you know where Mr. Ayer was at that time? You
14 said he was staying with y'all.

15 A He was.

16 Q But do you know where he was when you got dropped off
17 at work?

18 A I assume at the house because when I left he was there.

19 Q Now, let me ask you this. Have you see or do you
20 recall whether you saw Terrance Johnson at all that
21 afternoon of September 10th, before you went to work?

22 A I don't recall.

23 Q Now, did you -- like with your usual routine, did you
24 get picked up that next early morning after you got off
25 work?

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1 A Yes.

2 Q Okay. So that would be September 11th, 2012?

3 A Yes.

4 Q Okay. And do you know about what time it was that you
5 got picked up?

6 A Probably like around 1:45 a.m., something around that
7 area.

8 Q And who was it that picked you up from work that early
9 morning of September 11?

10 A It was Taquan.

11 Q And in your vehicle?

12 A Yes.

13 Q Okay. Now, tell the jury is there anything different
14 about your car when he picked you up then on the early
15 morning hours of September 11th, 2012?

16 A Yes. It had a foul smell in the car. And I looked in
17 the back seat and there was a sheet back there. And I asked
18 what was that. And he said --

19 Q Okay. You can't --

20 MS. WYMAN: Objection.

21 BY MR. SORENSON:

22 Q You can't say what he said. But let me just ask, did
23 ask Mr. Morrison about this?

24 A Yes.

25 Q Okay. But you can't say what he said. Did you have an

State v Ayer Minick - Direct Sorenson 11/18/15 322

1 opportunity at some point in time to look under the sheet
2 and see what was up with your vehicle?

3 A Yes.

4 Q Okay. And describe for the jury what you saw when you
5 did that?

6 A It looked like, it appeared to be blood.

7 Q Okay. And where was the blood?

8 A On the floor of the floor bed and on the seats and some
9 on the kind of the ceiling of the car.

10 Q Okay. And did you -- let me ask you, where did you go
11 then after you left work with Mr. Morrison?

12 A I went home..

13 Q Okay. And was there anybody at your house when you got
14 back there?

15 A Not that I recall.

16 Q Let me ask you, does the Defendant, Rodsheen Ayer, does
17 he have a brother?

18 A From what I know, from what I was told.

19 Q Okay. What is his brother's name?

20 MR. STEVENS: Objection.

21 THE COURT: If she knows.

22 BY MR. SORENSON:

23 Q Did you know what his brother's name was?

24 A I can't think of -- I can't recall his brother's name.

25 Q That's fine. That's fine. Okay. But let me just ask

State v Ayer Minick - Direct Sorenson 11/18/15 323

1 you this. When you got back to the house that night -- so
2 you got picked up a little before 2:00 a.m.?

3 A Yes.

4 Q Did y'all go straight back to your house?

5 A Yes.

6 Q Okay. Was Mr. Ayer there when you got back there?

7 A No.

8 Q Mr. Johnson there when you got back there?

9 A No.

10 Q Okay. Did there come a time when you saw either one of
11 them again that early morning hours?

12 A I see Mr. Johnson.

13 Q And about what time do you think that was?

14 A Probably around 3:00 a.m.

15 Q And where was that that you saw him?

16 A He came to my house.

17 Q Okay. Did he have anything with him when he came to
18 your house?

19 A Some clothes.

20 Q Wearing them or --

21 A He had them in a laundry, like a laundry bag or
22 something.

23 Q And did you have a washer and dryer at your place?

24 A No.

25 Q Well, let me ask you this. At any point in time did

| State v Ayer Minick - Direct Sorenson 11/18/15 324

1 you see Mr. Ayer again?

2 A Not that early morning, no.

3 Q Okay. Do you ultimately at some point in time go to
4 sleep, I guess, after you got home from work?

5 A Yes.

6 Q And when was it that you then saw him again?

7 A Probably around like, like around 10:00, 11:00 a.m.

8 Q Like after you got back up?

9 A Yes.

10 Q Okay. And describe to the jury what his condition was
11 when you saw him?

12 A He was in a sling.

13 Q Okay. And where was that that you saw him at?

14 A He came to my house.

15 Q Do you know how he got to your house?

16 A Taquan brought him home.

17 Q All right. And did you have an opportunity to ask him
18 -- you said you saw him in a sling. Did you have an
19 opportunity to ask him what had happened to him?

20 A Yes.

21 Q And what did Mr. Ayer tell you had happened to him?

22 A He told me he shot himself.

23 Q Did he tell you where he had shot himself?

24 A In the arm.

25 Q But I mean like where it had occurred?

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1 A No, he didn't tell me.

2 Q Like where they were when it occurred?

3 A No. I don't recall him telling me.

4 MR. SORENSON: I beg the Court's indulgence one
5 moment.

6 BY MR. SORENSON:

7 Q Did he tell you at that point in time that he had shot
8 himself in the arm?

9 A Yes.

10 Q And let me ask you this. So you made that comment when
11 you asked him what was wrong. You said his arm was in a
12 sling.

13 A (Nods head affirmatively)

14 Q Okay. Had you seen him with a gun before?

15 A Yes.

16 Q How about your boyfriend, Taquan, had you seen him with
17 a gun before?

18 A Yes.

19 Q And you said you really hadn't seen Terrance Johnson a
20 whole lot, but had you ever seen Terrance Johnson with a gun
21 that you could recall?

22 A Not that I could recall.

23 Q That afternoon when you got back up around your home,
24 did you see -- were there any guns that were in your home
25 that you saw when you got up on September 11th?

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1 A Not that I can recall.

2 Q Okay. Did you see him with a gun, him being Mr. Ayer,
3 at that point in time. When he, you know, he told you he'd
4 shot himself? Did he show you the gun he shot himself with
5 or did you see it at all, that you recall?

6 A No, not that I can recall.

7 Q All right. Now, let me ask you this. Did you
8 ultimately take a couple of photographs of Mr. Ayer at your
9 home?

10 A (No verbal response)

11 Q You took pictures of him?

12 A I took a picture of him sleeping one time.

13 Q Let me show you.

14 MR. SORENSON: We need these marked for ID.

15 (State's Exhibit No. 112, photo,
16 was marked for ID.)

17 (State's Exhibit No. 113, photo,
18 was marked for ID.)

19 COURT REPORTER: 112 and 113 for ID Judge.

20 THE COURT: Thank you.

21 BY MR. SORENSON:

22 Q Let me show you State's Exhibits 112 and 113 Ms.
23 Minick. Do you recognize those photographs?

24 A Yes.

25 Q And who took those photographs?

State v Ayer Minick - Direct Sorenson 11/18/15 327

1 A I did.

2 Q Did you ultimately provide those to law enforcement
3 after they met with you?

4 A No.

5 Q Provide them to you lawyer who sent them to law
6 enforcement, possibly.

7 A No.

8 Q Let me ask you this. Do you have any idea how law
9 enforcement got these?

10 A I don't know.

11 Q Did you take them, though?

12 A I did take those photos.

13 Q Okay. And who do they show? Who is that in those
14 photos?

15 A They show Mr. Ayer.

16 Q And is that in your home after that night?

17 A Yes.

18 Q Does it show his arm in what appears to be a cast in
19 one of those photographs?

20 A Yes.

21 MR. SORENSON: At this time we'd offer State's 112
22 and 113 into evidence.

23 MR. PALMER: No objection.

24 THE COURT: Any objection?

25 MR. STEVENS: No objection, Your Honor.

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1 THE COURT: They're in.

2 (State's Exhibit No. 112, photo,
3 was marked and entered.)

4 (State's Exhibit No. 113, photo,
5 was marked and entered.)

6 MR. SORENSON: Thank you.

7 BY MR. SORENSON:

8 Q And, again, that's the Defendant, Rodsheen Ayer, in
9 these photographs?

10 A Yes.

11 Q And those were taken by you in your home; is that
12 correct?

13 A Yes.

14 Q Had he had any injury to his arm when you saw him when
15 you went to work on September 10th? When you left to go,
16 was his arm in a sling or a cast or anything when you left
17 to go to work on September 10th?

18 A No.

19 Q Let me just show you, just for ID purposes at this
20 point in time, State's Exhibit No. 65. Do you know who the
21 person is that's in that photograph?

22 A Yes. It's Mr. Ayer.

23 Q Now, you testified earlier Ms. Minick about the
24 condition of your car. What did you do as a result of that
25 and what was done to your car as a result of what you

State v Ayer Minick - Direct Sorenson 11/18/15 329

1 discovered in the back seat?

2 A It was cleaned up.

3 Q Okay. And who cleaned it?

4 A Mr. Morrison did and I did.

5 Q How many times did y'all have to clean it? Were you
6 able to get the blood out of the backseat and the
7 floorboard?

8 A Yes.

9 Q How many times did you have to clean it for that to
10 happen?

11 A Well, he went over -- I don't know many times. But I
12 went over it like at least four or five times.

13 Q Let me ask you. Do you remember ultimately meeting
14 with Corporal Cain with the Sheriff's Office on September
15 18th about a week later?

16 A Yes.

17 Q Do you remember that? Did you give him a statement at
18 that point in time, tell him about kind of what you knew
19 about the night of September 10th and the morning hours of
20 September 11th?

21 A Yes.

22 Q And at that point in time, did you tell them and show
23 them your car?

24 A I told them what had transpired. And they asked me if
25 I had anything to do with it. And they took my car.

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1 Q So they ended up having your car towed to be processed;
2 is that correct, by the sheriff's office?

3 A Yes.

4 Q Just to make sure there's no question, the person that
5 told you, that came back with his arm in a sling and said
6 that he'd shot himself, shot himself in the arm playing with
7 the gun, is he in the courtroom?

8 A Yes.

9 Q Can you point him out for the jury?

10 A Mr. Ayer.

11 Q In the white shirt?

12 A Yes.

13 Q Kind of off-white shirt.

14 MR. SORENSON: Beg the Court's indulgence. That's
15 all I have, Your Honor.

16 THE COURT: Cross-examination.

17 MR. PALMER: Thank you, Your Honor. May it please
18 the Court.

19 THE COURT: Yes, sir.

20 TENAJA MINICK - CROSS-EXAMINATION

21 BY MR. PALMER:

22 Q What's the reason you took those photos?

23 A Just out of playfulness.

24 Q Playfulness? What was playful about the way he
25 appeared?

State v Ayer -- Minick -- Cross Palmer 11/18/15 331

- 1 A I take pictures of people asleep all the time.
- 2 Q You do?
- 3 A Uh-huh. (Affirmative response)
- 4 Q Is it a hobby?
- 5 A It's not really a hobby. I just do that, just to catch
- 6 people off guard.
- 7 Q What did you intend to do with them?
- 8 A Nothing really. Just probably show him when he woke up
- 9 that I --
- 10 Q Excuse me. I didn't mean to talk over you.
- 11 A That's fine.
- 12 Q When you photograph sleeping people, do you ever post
- 13 them on the internet?
- 14 A I have.
- 15 Q Do you have a Facebook page?
- 16 A I do.
- 17 Q And is that where you post them if you're going to post
- 18 them?
- 19 A Sometimes.
- 20 Q Do you write captions under them?
- 21 A Sometimes.
- 22 Q Do you remember posting those photographs on your
- 23 Facebook page?
- 24 A I didn't.
- 25 Q You're sure you didn't?

1 A I'm sure.

2 Q Okay. At any point after you discovered your car had a
3 back seat full of blood and with a sheet over it, and this
4 man was wounded, which he told he you was a gunshot wound --
5 am I accurate so far?

6 A For the most part.

7 Q What did I get wrong?

8 A Well, the sheet was -- well, I discovered -- I didn't
9 see him until after that all transpired. So I didn't see
10 him with the sling in his arm until hours later.

11 Q Was that before or after you went to clean up the car?

12 A The sling I seen him before I went to clean up the car.

13 Q Okay. And then at any time between your getting your
14 car back from Mr. Morrison, your discovering the back seat
15 and the blood and the sheet, and seeing Mr. Ayer with the
16 sling, and taking his photo, did you ever contact law
17 enforcement?

18 A No.

19 Q Why not?

20 A I assumed it was an accident. I took their word for
21 it.

22 Q So you had no suspicions, other than what they told you
23 had happened?

24 A Correct.

25 Q Okay. And Taquan, did he back up this story about Mr.

~~State v Ayer Minick -- Cross Palmer~~

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1 Ayer shooting himself?

2 A Yes.

3 Q You believed him?

4 A Yes, because I wasn't there. So, yes.

5 Q Okay. And so you trusted him obviously?

6 A Yes.

7 Q You had a close relationship with him?

8 A Yes.

9 Q Has that relationship ended or is it still going on?

10 A It's ended.

11 Q Okay. Did the reason your relationship end have
12 anything to do with this incident?

13 A No.

14 Q When you saw Mr. Johnson earlier that morning, you say
15 about 3:00 a.m., he had, you said, a laundry bin full of
16 clothes?

17 A Yes.

18 Q What was he wearing?

19 A I can't recall what he had on but he had -- I mean, he
20 had on, seems like, clothes like to go to the store, I
21 guess. But I can't recall like what he had on.

22 Q Okay. Well, that's fine. You don't remember. And you
23 say it was the usual practice for Mr. Morrison to borrow
24 your car and drop you off at work?

25 A Yes.

1 Q You would work how long a shift?

2 A I would, sometimes eight and a half, sometimes nine,
3 depending on the workload, I would work ten hours.

4 Q And is it your understanding and belief and your
5 testimony that the reason that happened is that Mr. Morrison
6 didn't have his own car?

7 A Correct.

8 Q Is that right?

9 A Correct.

10 Q Did you ever rent a car for anybody?

11 A Him, yes. Mr. Morrison.

12 Q And why would you rent a car for Mr. Morrison?

13 A To get around.

14 Q Okay. And I assume from your answer, and correct me if
15 I'm wrong, the times you rented the car for Mr. Morrison
16 were times that you did not have the white Chevy Malibu?

17 A The Chevy Impala, I didn't have it, no.

18 Q Oh, I'm sorry. Impala. Okay. So the rentals took
19 place when you didn't have a car?

20 A Correct.

21 Q Is that a fair statement?

22 A Correct.

23 Q Okay. All right. Thanks.

24 MR. PALMER: No further questions.

25 THE COURT: Cross-examination.

State v Ayer Minick - Cross Wyman 11/18/15 335

1 MS. WYMAN: Thank you, Your Honor.

2 TENAJA MINICK - CROSS-EXAMINATION

3 BY MS. WYMAN:

4 Q Ms. Minick, you've never been to [REDACTED];
5 right? In Orangeburg?

6 A I don't recall that address.

7 Q So you can't say from your own eyewitness testimony
8 what happened on September 10th, 2012?

9 A Correct.

10 MS. WYMAN: No further questions.

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

12 MR. SORENSON: May she be excused, Your Honor.

13 THE COURT: Yes, sir. Any objection?

14 MR. PALMER: No objection.

15 MR. STEVENS: No objection.

16 THE COURT: Counsel, please approach.

17 (Off the record bench conference with counsel and the
18 Court.)

19 THE COURT: You may call your next witness.

20 MS. CORNWELL: Thank you, Your Honor. The State
21 would call Scarlet Gault.

22 THE CLERK: Please place your left hand on the
23 Bible and raise your right hand.

24 (WHEREUPON, Scarlet Gault Coleman
25 was duly sworn.)

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1 THE CLERK: Thank you. Please have a seat and
2 state your name for the record.

3 MS. GAULT: Scarlet Coleman.

4 THE CLERK: Thank you.

5 THE COURT: Your Witness.

6 MS. CORNWELL: Thank you, Your Honor.

7 SCARLET COLEMAN - DIRECT EXAMINATION

8 BY MS. CORNWELL:

9 Q I'm apologize, Ms. Coleman. I think I called you
10 Scarlet Gault. Was that your maiden name?

11 A Yes.

12 Q And Ms. Coleman, where do you work?

13 A I work at Lexington Medical Center.

14 Q How long have you worked there?

15 THE COURT: Can you speak up a little bit. Make
16 sure we can hear you..

17 A I work at Lexington Medical Center.

18 THE COURT: Thank you.

19 A I've been there for four and a half years now.

20 BY MS. CORNWELL:

21 Q And what do you do at Lexington Medical Center?

22 A I'm an emergency room nurse.

23 Q And were you working in that capacity on September 10th
24 of 2012?

25 A Yes, ma'am.

State v Ayer Coleman - Direct Cornwell 11/18/15 337

1 Q Do you recall treating a patient by the name of Emanuel
2 Ayer?

3 A Yes, ma'am.

4 Q And what type of injury did that person present with?

5 A Is there any way that I can look at a copy of the chart
6 so that I can make sure that I'm recalling everything.

7 MS. CORNWELL: May I approach, Your Honor.

8 THE COURT: You may.

9 BY MS. CORNWELL:

10 Q If you need to refresh your memory of those, feel free
11 to check those notes.

12 A He was there for a gunshot wound in the left forearm.

13 Q And did the patient indicate how he received those
14 injuries?

15 A He said that someone tried to rob him.

16 Q And was he able to tell you where this incident
17 occurred?

18 A No, ma'am. He said he was out of town and doesn't know
19 where it happened at.

20 MR. STEVENS: Objection. That's hearsay.

21 THE COURT: Your position, Solicitor.

22 MS. CORNWELL: That's a statement from your
23 client.

24 THE COURT: Overruled and you may proceed.

25 BY MS. CORNWELL:

State v Ayer Coleman - Direct Cornwell 11/18/15 338

1 Q And I'm sorry, Ms. Coleman. Was he able to tell you
2 where the incident occurred?

3 A No, ma'am. He said he was out of town and didn't know
4 where it was at, where it happened at.

5 Q And I'm going to show you -- this is just for
6 identification purposes, but State's Exhibit 65. Do you
7 recognize that photo?

8 A Yes, ma'am.

9 Q And who is in that photo?

10 A The patient that was treated in emergency room.

11 Q And what was the name that they gave you?

12 A Emanuel Ayer.

13 Q And I'm going to show you what's been marked as State's
14 68. 67, 68, 69, and 70. And look at these photographs.

15 A (Witness complies)

16 Q And those are just for identification purpose right
17 now. But the scars in those photographs, would those be
18 consistent with the injuries received by the person that
19 stated to be Emanuel Ayer?

20 A Yes, ma'am.

21 Q When a patient presents to the hospital with a gunshot
22 wound, is it standard procedure to call law enforcement?

23 A It is. Yes, ma'am.

24 Q And in this case did y'all call law enforcement?

25 A Yes.

State v Ayer Coleman - Direct Cornwell 11/18/15 339

1 Q And did law enforcement respond?

2 A They did, yes, ma'am.

3 Q And did officers from the sheriff's office meet with
4 the Defendant or meet with Mr. Emanuel Ayer, the patient?

5 A Yes, ma'am.

6 Q And after officers from the sheriff's office responded,
7 what happened?

8 A The patient was there until 3:35 a.m. And then we
9 discharged him at that time.

10 Q And going back on that. He discharged at 3:00 -- I'm
11 sorry, what time did you say 3:35?

12 A Yes.

13 Q Do you know what time he presented to the hospital?

14 A 22:48.

15 Q And that's military time so that would be about 10:48?

16 A Yes, ma'am.

17 Q So he was there for roughly four or five hours?

18 A Yes, ma'am.

19 Q And can you tell me the date that he presented?

20 A 9/10/2012.

21 MS. CORNWELL: Court's indulgence?

22 THE COURT: Yes, ma'am.

23 BY MS. CORNWELL:

24 Q Thank you, Ms. Coleman. Please answer any questions
25 Defense counsel may have.

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1 THE COURT: Cross-examination?

2 MR. PALMER: No questions.

3 THE COURT: Cross-examination?

4 MR. STEVENS: Very briefly, Judge.

5 SCARLET COLEMAN - CROSS-EXAMINATION

6 BY MR. STEVENS:

7 Q How you doing today, ma'am. Is it Cope? Am I getting
8 it correctly.

9 A Coleman.

10 Q Coleman. How are you doing today?

11 A Good.

12 Q Just very quickly. I just want to talk about the
13 incident itself. You were not in Orangeburg at [REDACTED]

14 [REDACTED] on September 10th, 2012; correct?

15 A No, sir.

16 Q Okay. And that means you personally didn't see
17 anything happen inside the trailer; isn't that right?

18 A No, sir.

19 Q That's right. And you didn't personally see anything
20 happen outside the trailer; right?

21 A No, sir.

22 Q Okay. You just work as the Lexington Medical Center as
23 a nurse?

24 A Correct.

25 Q And I think that's about all I got. Thank you so much.

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

2 Any redirect?

3 MS. CORNWELL: No, Your Honor. May she be
4 excused.

5 THE COURT: Any objection to her being excused?

6 MR. PALMER: No objection.

7 MR. STEVENS: No objection.

8 THE COURT: You're excused, ma'am. Thank you.

9 You may call your next witness.

10 MR. STEVENS: The State would call Sergeant Day.

11 THE CLERK: Please place your left hand on the
12 Bible and raise your right hand.

13 (WHEREUPON, David Day was duly
14 sworn)

15 THE CLERK: Thank you. Please have a seat and
16 state your name for the record, please.

17 MR. DAY: Yes, ma'am. My name is David Day, D-a-y.

18 THE CLERK: Thank you.

19 THE COURT: Your witness.

20 DAVID DAY - DIRECT EXAMINATION

21 BY MS. CORNWELL:

22 Q Good afternoon, Sergeant Day. Where do you work?

23 A I work with the Lexington County Sheriff's Department.

24 Q And how long have you worked there?

25 A For about twenty years.

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1 Q And what is your current position and rank at Lexington
2 County Sheriff's Office.

3 A Right now I'm a sergeant within the professional
4 standards division, which is also known as internal affairs.

5 Q And prior to working internal affairs?

6 A I was a crime scene investigator.

7 Q And were you working as a crime scene investigator on
8 September 11th of 2012?

9 A Yes.

10 Q Do you recall responding to Lexington Medical Center
11 that morning?

12 A I did.

13 Q What were you called out to Lexington Medical Center
14 for?

15 A I got a phone call from home when I was on weekend duty
16 with reference to a gunshot victim.

17 Q Is it standard procedure for the sheriff's office to be
18 called out in reference to any gunshot wound?

19 A Yes.

20 Q And once you arrived at Lexington Medical Center, what
21 did you do?

22 A The first thing I did, there was a road deputy in the
23 room. I spoke with him, got some general information about
24 who his name was. And basically then just took some general
25 photographs.

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1 Q And what was the name that you were given of the
2 subject?

3 A If I may look at my --

4 Q Yes, please?

5 A I was told that his name was Emanuel Ayer, A-Y-E-R.

6 Q And did you speak with the Defendant? I'm sorry, did
7 you speak with the subject, Emanuel Ayer regarding the
8 incident that had occurred?

9 A I did. Also, besides photographing, I took what they
10 call a gunshot residue test from this hands. He was asleep
11 when he was in the room. And as I was swabbing his left
12 hand, the hand that was injured, he woke up. And just kind
13 of started just a general conversation with him.

14 Q Okay. And what did the Defendant tell you in regards
15 to how he received his injuries?

16 A I said, man, what happened to you? And he said that he
17 was outside at a club smoking a cigarette when two
18 individuals come up and tried to rob him or actually did rob
19 him of his wallet and cellphone. And as he tried to run
20 off, he was shot.

21 Q And was he able to tell you where this incident
22 occurred?

23 A He said he wasn't from South Carolina. He told me he
24 was from New York, so he wasn't very familiar with the area
25 and the location that he was talking with, with the deputy,

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1 he knew a little bit more about that area. It sounded like
2 it was Richland County.

3 Q But he couldn't give you an exact location of where
4 this occurred?

5 A No, he didn't give me an exact location.

6 Q And he indicated he was from where?

7 A New York.

8 Q You had stated that you had taken some photographs?

9 A Yes, ma'am.

10 Q I'm going to show you what's been marked as State's
11 Exhibit 65. Do you recognize that photograph?

12 A I do.

13 Q And who took that photograph?

14 A I did.

15 0 And where was that taken?

16 A In the room, in the ER, Lexington ER.

17 Q And is that a true and accurate depiction of how the
18 subject looked when you saw him?

19 A Yes, ma'am.

20 MS. CORNWELL: Your Honor, at this time the State
21 would move State's 65 into evidence.

22 MR. PALMER: No objection.

23 MR. STEVENS: Our prior objection, Judge.

24 THE COURT: It's in.

25 (State's Exhibit No. 65, photo, was

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1 marked and entered.)

2 BY MS. CORNWELL:

3 Q And when you were speaking with him about the incident
4 that occurred, to your knowledge did the subject wish to
5 prosecute the people that had shot him?

6 A I don't recall him telling me that, but I do remember
7 the deputy, Deputy Hanko saying that he didn't want to
8 prosecute.

9 Q Okay. And the subject that you spoke to in the
10 hospital that night, do you see him in the courtroom today?

11 A I do.

12 Q Can you please point him out to the jury and describe
13 what he's wearing?

14 A Sitting over there. It looks to me like a white shirt
15 maybe, with glasses on his head.

16 MS. CORNWELL: Court's indulgence.

17 BY MS. CORNWELL:

18 Q Thank you Sergeant Day. Please answer any questions
19 Defense may have for you.

20 A Yes, ma'am.

21 THE COURT: Cross-examination.

22 MR. PALMER: No questions.

23 MR. STEVENS: Thank you, Judge.

24 THE COURT: Yes, sir.

25 DAVID DAY - CROSS-EXAMINATION

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1 BY MR. STEVENS:

2 Q Sergeant Day, how you doing today?

3 A Good, sir. Thank you.

4 Q Welcome to Orangeburg, South Carolina

5 A Thank you.

6 Q Very briefly let's talk about the evening of September
7 10th and into the 11th of 2012; all right?

8 A Yes.

9 Q Just briefly. You responded to Lexington Medical
10 Center; right?

11 A Correct.

12 Q And you said you were called from home?

13 A Yes, sir.

14 Q Okay. And so basically you weren't in Orangeburg on
15 the evening of the 10th and into the 11th of September,
16 2012?

17 A No, sir. I was never in Orangeburg at all.

18 Q And so you were not at [REDACTED] in
19 Orangeburg, South Carolina that night; right?

20 A Correct.

21 Q Okay. And so that means you didn't personally witness
22 or see or hear personally anything that happened inside that
23 residence on that night; right?

24 A Correct.

25 Q You didn't personally witness or hear anything

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1 happening outside or around that trailer on that night;
2 correct?

3 A Correct.

4 Q Okay. Thank you, sir.

5 A Thank you.

6 MR. STEVENS: No further questions, Judge.

7 THE COURT: Anything on redirect?

8 MR. SORENSON: No, Your Honor.

9 THE COURT: All right. You may step down,
10 Sergeant. Thank you.

11 SERGEANT DAY: Thank you.

12 MR. SORENSON: May he be excused, Your Honor?

13 THE COURT: Any objection to him being excused?

14 MR. STEVENS: No objection, Judge.

15 MR. PALMER: None.

16 THE COURT: Ladies and gentlemen, it's about
17 12:35. It's a good time for us to take our lunch break. If
18 you would, please remember my instruction not to discuss
19 this case at all, and that includes amongst yourselves or
20 with anyone else. If you would please be back in the jury
21 room in one hour at 1:35, we will then resume with the trial
22 of the case. Have a nice lunch.

23 (Jury out for lunch at 12:35
24 p.m.)

25

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1 THE COURT: Welcome back, ladies and gentlemen of
2 the jury. I hope you had a nice lunch. We are now ready to
3 proceed with the trial of the case.

4 You may call your next witness.

5 MS. CORNWELL: Thank Your Honor. .

6 State would call Sherrell Counts.

7 THE CLERK: Please place your left hand on the
8 Bible and raise your right hand.

9 (WHEREUPON, Sherrell Counts was
10 sworn to tell the truth.)

11 THE CLERK: Thank you. Have a seat and please
12 state your name for the record.

13 MS. COUNTS: Sherrell Counts.

14 THE CLERK: Thank you.

15 THE COURT: Your witness.

16 MS. CORNWELL: Thank Your Honor.

17 SHERRELL COUNTS - DIRECT EXAMINATION

18 BY MS. CORNWELL:

19 Q Ms. Counts, how old are you?

20 A Twenty-four.

21 Q Where do you live?

22 A Columbia, South Carolina.

23 Q Do you know Terrance Johnson?

24 A Yes.

25 Q How do you know Terrance?

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- 1 A We grew up together.
- 2 Q Do you see Terrance in the courtroom today?
- 3 A Yes.
- 4 Q Can you point him out for the jury and describe what
- 5 he's wearing?
- 6 A Blue shirt.
- 7 Q Did you know Terrance back in 2012?
- 8 A Yes.
- 9 Q What was your relationship with Terrance at that time?
- 10 A We were good friends.
- 11 Q Do you recall seeing Terrance on September 11, 2012?
- 12 A I think it was September. I don't know the exact date.
- 13 Q Would you recall if it was kind of the beginning of
- 14 September?
- 15 A It was towards the beginning.
- 16 Q Okay. And when you saw him around that time how was he
- 17 acting?
- 18 A Kind of sketchy, but not really.
- 19 Q Did Terrance stay with you around that time, stay at
- 20 your house with you for a little while?
- 21 A Yes.
- 22 Q About how long was that?
- 23 A About a couple days. I don't know how many days.
- 24 Q Okay. While he was staying with you, do you recall
- 25 having a conversation with Terrance's mom on or around

1 September 15th of 2012?

2 A Oh, yeah. We talked.

3 Q Okay. And what was that conversation about?

4 A That she was going to come to get Terrance.

5 Q And where did she want to take him?

6 A She didn't say until we got in the truck that we was
7 going to Mississippi.

8 Q Okay. Do you know why they wanted to take Terrance to
9 Mississippi?

10 A No.

11 Q Okay. Who drove with you to Mississippi?

12 A It was me and Step.

13 Q Anybody else?

14 A Ms. Shirley.

15 Q And who is Ms. Shirley?

16 A Terrance mama.

17 Q And who is Step?

18 A I guess his cousin.

19 Q And did his sister also ride with you?

20 A Yes, Shema.

21 Q And what kind of vehicle did y'all ride in?

22 A A SUV. I think it was a Expedition.

23 Q Okay. And when you were driving to Mississippi, did
24 they say anything about why they were going to Mississippi?

25 A It was kind of a quiet ride.

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1 Q Okay. When did you return from Mississippi?

2 A Like in that evening, towards that night.

3 Q So you drove from Columbia to Mississippi. How long
4 did you stay in Mississippi?

5 A I'm not really sure. We didn't spend the night there.

6 Q You did or did not?

7 A We did not.

8 Q Okay. So a couple of hours? I mean, you turned right
9 back around and drove right back to Columbia?

10 A Yes.

11 Q Okay. And when you returned from Mississippi, what did
12 you do?

13 A Went back to work.

14 Q Where were you working at the time?

15 A McDonald's.

16 Q Okay. And while you were at McDonald's, did you see
17 any information or get anything about Terrance?

18 A Well, yes. I was at work and my mama, which is my
19 manager, told me to look at the TV because Terrance was on
20 the news.

21 Q Okay. And what was Terrance on the news for?

22 A Two counts of attempted murder.

23 Q Okay. And after seeing Terrance on the news, did you
24 speak to law enforcement regarding Terrance's whereabouts?

25 A I talked to Corporal Cain.

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1 Q Okay. And when you met with law enforcement, did you
2 give a written statement?

3 A Yes.

4 Q And in that written statement, were you fully
5 cooperative with law enforcement?

6 A Huh?

7 Q In that written statement did you tell law enforcement
8 when you saw Terrance last?

9 A Yes.

10 Q And did you tell them where you took him?

11 A Yes.

12 Q Did you give them a description of the person you left
13 him with?

14 A Yes.

15 Q And did you indicate to officers who all went with you
16 to Mississippi?

17 A Yes.

18 Q Did you tell them that you knew why you were going to
19 Mississippi at that time?

20 A I didn't know why.

21 Q Okay. And the information that you gave in your
22 statement that was about -- September 24th of 2012?

23 A Somewhere around that. I don't know the exact day.

24 Q And is the information that you gave in the statement
25 what you told the jury here today?

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1 A Yes.

2 MS. CORNWELL: Court's indulgence.

3 BY MS. CORNWELL:

4 Q Thank you, Ms. Counts. Please answer any questions
5 Defense counsel may have.

6 THE COURT: Cross Examination.

7 MR. PALMER: Thank you, Your Honor. May it please
8 the Court?

9 THE COURT: Yes, sir.

10 SHERRELL COUNTS - CROSS-EXAMINATION

11 BY MR. PALMER:

12 Q Hi, Ms. Counts.

13 A Hey.

14 Q How long have you known Terrance, did you say?

15 A I met Terrance back in 2005 or '06. I'm not really
16 sure of the exact date.

17 Q And this ride to Mississippi, you said it was quiet?

18 A Uh-huh. (Affirmative response)

19 Q Not a whole lot of celebrating?

20 A We weren't talking or nothing. We was listening to the
21 radio.

22 Q And when you first learned that there was some plan to
23 go to Mississippi, who did you learn it from?

24 A Terrance's mom.

25 Q And her name is Shirley Berry?

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1 A Yes.

2 Q Have you known her a while?

3 A Uh-huh. (Affirmative response)

4 Q And do you know enough about her to characterize in
5 your understanding her relationship with her son, Terrance?
6 What kind of mom is she?

7 A She's a great mom.

8 Q Would you classify her as protective?

9 A She's a mother. That's what mothers do, protect their
10 child.

11 Q Right. And you would agree with the statement or the
12 idea that some are more protective than others?

13 A No.

14 Q You wouldn't?

15 A Every mom is protective of their child.

16 Q Okay. So you would say that they had a strong
17 relationship?

18 A Yes.

19 Q They're very close?

20 A Yes.

21 Q Is that a good way to put it?

22 A (No verbal response)

23 Q And do you think Terrance would do what his mother
24 asked him to do or told him to do?

25 A Yes.

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1 Q And do you think that Ms. Berry was acting in his best
2 interest by taking him to Mississippi?

3 A Yes.

4 Q And when you came back, Terrance wasn't with you?

5 A No.

6 Q He had stayed in Mississippi?

7 A Yes.

8 Q Okay. And the only thing you know about this case is
9 what you heard on the news?

10 A Yes.

11 Q Thank you, ma'am.

12 MR. PALMER: No further questions.

13 THE COURT: Cross-examination?

14 MS. WYMAN: Thank you, Your Honor. May it please
15 the Court?

16 THE COURT: Yes, ma'am.

17 SHERRELL COUNTS - CROSS-EXAMINATION

18 BY MS. WYMAN:

19 Q Ms. Counts, on the evening of September 10th, 2012, you
20 were not at [REDACTED]?

21 A No, ma'am.

22 Q And so you cannot say what happened at that location
23 that night?

24 A No, ma'am.

25 Q Thank you, ma'am.

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1 THE COURT: Any redirect?

2 MS. CORNWELL: No, Your Honor.

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

4 You may call your next witness.

5 MS. CORNWELL: May she be excused?

6 THE COURT: Any objection to her being excused?

7 MR. PALMER: No objection, Judge.

8 MR. STEVENS: No objection, Judge.

9 MS. CORNWELL: The State would call Dr. Janis
10 Ross.

11 THE CLERK: Please place your left hand on the
12 Bible and raise your right hand.

13 (WHEREUPON, Janice Ross was duly
14 sworn.)

15 THE CLERK: Thank you. You may have a seat.
16 Please state your name for the record.

17 DR. ROSS: Janice Edwards Ross. R-o-s-s.

18 . THE CLERK: Thank you.

19 THE COURT: Your witness.

20 JANICE ROSS - DIRECT EXAMINATION

21 BY MS. CORNWELL:

22 Q Thank you, Dr. Ross. How you doing this afternoon?

23 A Fine, thank you.

24 Q Dr. Ross, where do you work?

25 A In Newberry, South Carolina with Newberry Pathology

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1 Associates.

2 Q And what is your role or position with Newberry
3 Pathology Associates?

4 A I'm a forensic pathologist and do autopsies for the
5 coroners of the state.

6 Q How long have you been a pathologist?

7 A Thirty-nine years.

8 Q Can you tell the jury a little bit about your training
9 and education?

10 A Yes. I got a bachelor's degree from the University of
11 South Carolina. And then my M.D., Doctor of Medicine, from
12 Upstate Medical Center in Syracuse, New York, where I did
13 further training in the field of pathology.

14 Q And are you a member of any specialized medical or
15 scientific groups or associations?

16 A Yes. The National Association of Medical Examiners and
17 The College of American Pathologists, along with the South
18 Carolina Society of Pathologist.

19 Q And approximately how many autopsies have you performed
20 through the course of your career?

21 A Over nine thousand?

22 Q Have you ever testified in court as an expert in
23 pathology?

24 A Yes.

25 Q Approximately how many times?

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1 A About two hundred times in the State of South Carolina.

2 MS. CORNWELL: Your Honor, at this time, the State
3 would move to introduce Dr. Ross as an expert in the field
4 of pathology?

5 THE COURT: Any voir dire from either Defendant?

6 MR. PALMER: None from this Defendant, Your Honor.

7 MR. STEVENS: No questions, Judge.

8 THE COURT: The Court finds that she is so
9 qualified.

10 MS. CORNWELL: Thank you, Your Honor.

11 BY MS. CORNWELL:

12 Q Dr. Ross, were you working as a pathologist in
13 September of 2012?

14 A Yes.

15 Q And did you perform an autopsy on the victim in this
16 case, Gregory Howell, during that time?

17 A Yes, I did.

18 Q Can you please tell the jury what an autopsy is and
19 what you're looking for when you perform an autopsy?

20 A Yes. We are authorized and asked to do an autopsy by
21 the coroner of the county, the body is -- the patient is
22 brought to us in a body bag in the morgue at Newberry County
23 Memorial Hospital, where we open the bag, taken an inventory
24 of what clothing there is, do photographs of the clothed
25 person and the unclothed person and look for types of

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1 injuries, patterns of injuries. Then we do a methodical,
2 internal examination.

3 Q And is that what you did with the victim in this case?

4 A Yes.

5 Q And can you tell the jury what procedures you performed
6 and what your findings were?

7 A Yes. Externally, we could see evidence of recent
8 surgery and evidence of gunshot wounds. In that case, we
9 did further x-rays to see if there were any bullets still in
10 the body. And we did find two bullets.

11 Q In going through your autopsy report, you indicated
12 that there were gunshot wounds. Do you label those wounds
13 in any particular fashion?

14 A No, we just organize it. In this case, I organized it
15 according to the most important wound being number one and
16 the second wound being number two.

17 Q Okay. And in this case, gunshot wound number one, what
18 were your findings regarding that wound?

19 A That wound entered the right buttock towards the side
20 of the, towards the side of the buttock. It went from right
21 to left and slightly upward and slightly toward the front.
22 And that bullet was found underneath the skin of the left
23 side, left front of the abdomen.

24 MS. CORNWELL: And, Your Honor, may I have Dr.
25 Ross step down for a minute.

1 THE COURT: Yes, ma'am.

2 A (Witness steps down)

3 BY MS. CORNWELL:

4 Q Dr. Ross, if you wouldn't mind just showing the jury on
5 me where that injury would have occurred?

6 A It went in around here -- turn around -- and came and
7 was underneath the skin right about it here. So it went
8 from back to front, right to left, slightly upward.

9 (Witness takes stand)

10 Q And you were able to determine that the entry wound is
11 in the back?

12 A Yes.

13 Q And would you have considered that wound a fatal or
14 non-fatal wound?

15 A That was a fatal wound. The patient made it to the
16 hospital and had surgery. But obviously had had a lot of
17 damage internally that caused, eventually caused his death.

18 Q And in looking at that, were you able to -- I believe
19 that there was a second gunshot wound that you had
20 indicated. What was that gunshot wound?

21 A That gunshot wound was also in the back. It was in the
22 left back. It just stayed underneath the skin. But it
23 entered the back, close to the midline, close to the
24 backbone and went right to left again, and went out of the,
25 out of the skin. So there was an in and out wound and

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1 superficial. It did not go into the abdomen.

2 Q And while you were performing your autopsy, did you
3 recover any items of evidentiary value while performing the
4 autopsy?

5 A Yes. We recovered the bullet that came from the
6 buttocks, from the right buttock, into the left abdomen.
7 And the second bullet actually was near the backbone, but it
8 was an old bullet. It was encased in scar tissue so it had
9 been there for several years.

10 Q Let me show you what's been marked as State's Exhibit
11 14. Do you recognize -- I'm sorry. State's exhibit 114.
12 Do you recognize that?

13 A Yes. This the bullet from Gregory Howell from the
14 autopsy.

15 Q And that's the bullet you retrieved from his person?

16 A Yes.

17 MS. CORNWELL: Your Honor, at this time, the State
18 would move State's Exhibit 114 into evidence.

19 THE COURT: Any objection?

20 MR. PALMER: No objection.

21 MR. STEVENS: No objection, Judge.

22 THE COURT: All right. It's in.

23 (State's Exhibit No. 114, bullet,
24 was marked and entered.)

25 MS. CORNWELL: Thank you, Your Honor.

1 BY MS. CORNWELL:

2 Q While you performed this autopsy on Mr. Howell, did you
3 also take a blood standard from the victim?

4 A Yes.

5 Q And can you tell the jury why you would do that?

6 A We always draw blood for purpose of DNA if necessary on
7 every case.

8 Q And in taking that blood standard, is that something
9 that you would have given over as an item of evidence, along
10 with the bullet?

11 A Yes.

12 Q And Dr. Ross, based on your findings were you able to
13 form an expert opinion concerning the cause and manner of
14 death in this matter?

15 A Yes.

16 Q What was the cause of death?

17 A Multi-organ failure due to the sepsis, due to the
18 gunshot wound to the buttock.

19 Q And what was the manner of death?

20 A Homicide.

21 MS. CORNWELL: Court's indulgence.

22 BY MS. CORNWELL:

23 Q Dr. Ross, can you tell the jury what day did you
24 perform the autopsy?

25 A September 17th, 2012. I'm sorry. September 18th,

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1 2012.

2 Q And in your report, you've indicated that some -- there
3 was something about sepsis?

4 A Yes. The shooting occurred on the 10th and he was in
5 the hospital. The bullet would have gone through some
6 intestine and mesentery and blood vessels and caused some
7 internal infection.

8 Q And is ultimately that also what caused the death?

9 A Yes.

10 Q Okay. And we discussed the bullet that you removed
11 from the body. You had also indicated that you removed a
12 second bullet that was in some scar tissue?

13 A Yes.

14 Q Based on your finding that it was within its scar
15 tissue would that lead you to believe that it was related to
16 this incident?

17 A No.

18 Q So there are two gunshot wounds that are related to
19 this incident; correct?

20 A The one that we call penetrating. In other words, it
21 went into the body but did not come out. And then one we
22 call perforating, which means it went in and then came out.

23 Q So on that second gunshot wound, you would not have
24 found a bullet that related to that wound?

25 A Correct.

1 MS. CORNWELL: Court's indulgence.

2 BY MS. CORNWELL:

3 Q Thank you, Dr Ross. Please answer any questions
4 defense counsel may have.

5 THE COURT: cross-examination.

6 MR. PALMER: Thank you, Your Honor.

7 JANICE ROSS - CROSS-EXAMINATION

8 BY MR. PALMER:

9 Q Hi, Dr. Ross?

10 A Hello.

11 Q You don't have any first-hand knowledge of when the
12 gunshot wound occurred, do you?

13 A Through the coroner I was given the date of September
14 10th, 2012.

15 Q When you get the body, you get that information?

16 A Correct.

17 Q Would there be -- is there any scientific way in your
18 laboratory to verify the exact date and time that bullet
19 entered the victim?

20 A No.

21 Q And the other gunshot wound, would that apply as well?

22 A Which one? There were two that were recently --

23 Q I'm referring to the one where you found the bullet
24 under the skin in the front abdomen that you said was right
25 to left?

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1 A Yes.

2 Q That your testimony is, is it was the cause of the
3 fatality?

4 A Yes.

5 Q And the other bullet wound that you said was an in and
6 out -- you follow me?

7 A Yes.

8 Q Wouldn't it be a better way to say that as far as
9 you're concerned, those were -- your examination and your
10 autopsy, those were recent gunshot wounds?

11 A Yes.

12 Q Recent to your autopsy and from a scientific standpoint
13 without having the information from the coroner, you
14 wouldn't be able to make any independent verification of the
15 date and time those gunshots happened?

16 A No, sir.

17 Q Okay. And then there was another bullet found. You
18 said was from an old gunshot wound?

19 A Correct.

20 Q Do you know what kind of bullet that was?

21 A It looked smaller in caliber than the one we retrieved
22 from the left abdomen from the recent gunshot wound.

23 Q Okay.

24 A It was really densely encased in scar tissue.

25 Q And from the exterior of the body, could you tell where

1 that, the bullet had gone in?

2 A No. There was a scar in the top of the abdomen that
3 was probably the entrance wound. It was difficult to say.

4 Q Now, I'm going to call that smaller one bullet number
5 two. And you said it was encased in scar tissue?

6 A Correct.

7 Q And you're saying that was not a fatal, obviously not a
8 fatal wound?

9 A Correct.

10 Q Any way to determine from your examination and your
11 field of expertise, how long that bullet had been in the
12 body?

13 A No, sir.

14 Q Okay. Because I think you said it's something like
15 several years or a couple of years on direct examination.
16 Is that just an estimate?

17 A Well, you get dense scar tissue in about a month after
18 an injury. And it could be a month to eighty years.

19 Q I see. And can you describe that bullet? Was it lead
20 or was it jacketed in some kind of copper covering or --

21 A It was jacketed.

22 Q And did the bullet appear to be pretty much intact?

23 A Yes.

24 Q Okay. And besides these three gunshot wounds that
25 you've described on the stand here, did you notice any other

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1 scars, marks or any other indication of any kind of puncture
2 wound on this body? Say, for instance, a stab wound?

3 A Now, there were a couple of scars on the front of the
4 body on the front of the belly, but I couldn't tell what
5 they were from.

6 Q Okay. Thank you.

7 MR. PALMER: No further questions.

8 THE COURT: Cross-examination.

9 JANICE ROSS - CROSS-EXAMINATION

10 BY MS. WYMAN:

11 Q Hi, Dr. Ross?

12 A Hello.

13 Q So you obviously weren't there at the shooting
14 incident?

15 A Correct.

16 Q So you can't say first-hand what happened. And you
17 can't say from which firearm was from whose hand; correct?

18 A Correct.

19 Q But what you can say is that the gunshot wound went
20 through the right buttocks?

21 A Yes.

22 Q And up the left side?

23 A Yes.

24 Q In other words, it came from his right, behind him, in
25 the right direction?

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1 A That's correct.

2 Q But, again, you can't say which firearm was in whose
3 hand?

4 A That's correct.

5 Q Thank you.

6 THE COURT: Any redirect?

7 MR. SORENSON: No, Your Honor.

8 THE COURT: You may be excused, Dr. Ross. Thank
9 you.

10 You may call your next witness.

11 MR. SORENSON: William Ketcherside.

12 THE CLERK: Please place your left hand on the
13 Bible and raise your right hand.

14 (WHEREUPON, William Ketcherside was
15 duly sworn.)

16 THE CLERK: Thank you. Have a seat and state your
17 name for the record, please.

18 MR. KETCHERSIDE: William Ketcherside.

19 THE CLERK: Thank you.

20 THE COURT: Your witness.

21 MR. SORENSON: Thank you, Your Honor.

22 WILLIAM KETCHERSIDE - DIRECT EXAMINATION

23 BY MR. SORENSON:

24 Q Investigator Ketcherside, if you would tell the jury
25 where it is that you're employed?

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1 A Orangeburg County Sheriff's Office.

2 Q And how long have you been worked with -- how long have
3 you worked with the Orangeburg County Sheriff's Office?

4 A Ten years.

5 Q And what are your current duties and responsibilities
6 there?

7 A Crime scene investigator.

8 Q Just if you would, just briefly kind of describe for
9 the jury what that consists of?

10 A Basically, we respond to scenes. Once we're on that
11 scene we process the scene, search, document and collect any
12 evidence that may be on that scene.

13 Q And I would turn your attention, if I could
14 Investigator, back in the evening of September 10th of 2012.
15 Did you have an occasion that night to respond to a crime
16 scene at [REDACTED] here in Orangeburg County?

17 A I did.

18 Q And about what time did you arrive at that scene?

19 A Somewhere around midnight, 11:00.

20 Q May I just give you, hand you a copy of your report?

21 A Yes, sir. I would have arrived at 23:05 hours, which
22 is 11:05 p.m.

23 Q If you would, describe that on that, the scene around
24 that residence when you arrived.

25 A Correct. 23:20, 11:20 p.m. Yes, sir.

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1 Q That's when you arrived?

2 A Yes, sir.

3 Q Okay. You'd been notified at 11:05 or --

4 A Yes, sir. I was notified at 11:05.

5 Q And if you would, describe that scene when you got
6 there that evening, Investigator?

7 A The scene consisted of two mobile homes. There was one
8 on Maedrine Street, on the right-hand side. Maedrine Street
9 is a dirt street that loops around and comes back out. And
10 then the actual incident location was at the dead-end at the
11 curve of the street.

12 Q And was that incident location secured by other
13 officers when you arrived there?

14 A Yes, sir, it was.

15 Q All right. Now, were there any occupants of the
16 residence there when you got there?

17 A There was.

18 Q Who was that?

19 A A Stephanie Barnwell was there who gave consent to
20 search the residence.

21 Q Did y'all actually get written consent from her to
22 allow y'all to go in and search and collect any evidence
23 from her residence?

24 A Yes, sir, we did.

25 Q Had you gotten any background when you got there from

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1 the other deputies that were on the scene?

2 A I spoke with Sergeant Cook at the time. It was stated
3 that the victims were at the residence and some male
4 subjects came in attempting to rob them.

5 MR. STEVENS: Objection.

6 THE COURT: Sustained.

7 BY MR. SORENSON:

8 Q The question was did you get information?

9 A Yes, sir.

10 Q And as a result of that, did you kind of learn where
11 the incident had occurred there?

12 A Yes, sir.

13 Q And did you also then learn, I mean, what kind of
14 incident as far as a shooting, it being a shooting incident?

15 A Yes, sir.

16 Q Let me ask you, were any of the victims that were
17 involved in this case, were any of them on the scene?

18 A No, sir, not at the time.

19 Q Did you have any information about where they were
20 located at at that time?

21 A To my knowledge they were at TRMC.

22 Q That's the hospital here?

23 A Yes, sir.

24 Q Now, just briefly just kind of -- with the information
25 that you were provided with and coming upon that scene, just

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1 briefly tell the jury how you went about initially with the
2 plan as far as searching, looking for evidence and
3 documenting it at this crime scene.

4 A I started at the street, at the roadway where a total
5 of seven cartridge casings were found. And then moved from
6 there into the residence, inside and the exterior of the
7 residence.

8 Q And that whole area, was that kind of within the crime
9 scene tape that had been put up?

10 A Yes, sir.

11 Q And ultimately Investigator Ketcherside, did you
12 document that crime scene through photographs?

13 A I did.

14 Q And I'm going to show you State's Exhibits, and some of
15 these are in evidence but most of them are not. State's
16 Exhibits 4 through 58. If you'd just kind of just go
17 through them and initially see if you recognize all of
18 those?

19 A (Witness reviews exhibits). Yes, sir.

20 Q And those, State's Exhibit's 4 through 58, are those
21 some of the photos that you took that night out there?

22 A Correct.

23 Q And do they fairly and accurately depict that crime
24 scene and the items that you found at that scene?

25 A They do.

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1 MR. SORENSON: Your Honor, at this time we'd
2 State's Exhibits -- a few of these are in evidence, but just
3 to be sure I have them all covered, we would offer State's 4
4 through 58 into evidence.

5 MR. PALMER: No objection.

6 MR. STEVENS: No objection, Judge.

7 THE COURT: All right. They're in.

8 MR. SORENSON: Thank you.

9 (State's Exhibit No. 4, photo, was
10 marked and entered.)

11 (State's Exhibit No. 5, photo, was
12 marked and entered.)

13
14 (State's Exhibit No. 6, photo, was
15 marked and entered.)

16 (State's Exhibit No. 7, photo, was
17 marked and entered.)

18 (State's Exhibit No. 8, photo, was
19 marked and entered.)

20 (State's Exhibit No. 9, photo, was
21 marked and entered.)

22 (State's Exhibit No. 10, photo, was
23 marked and entered.)

24 (State's Exhibit No. 11, photo, was
25 marked and entered.)

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1 (State's Exhibit No. 12, photo, was
2 marked and entered.)

3 (State's Exhibit No. 13, photo, was
4 marked and entered.)

5 (State's Exhibit No. 14, photo, was
6 marked and entered.)

7 (State's Exhibit No. 15, photo, was
8 marked and entered.)

9 (State's Exhibit No. 16, photo, was
10 marked and entered.)

11 (State's Exhibit No. 17, photo, was
12 marked and entered.)

13 (State's Exhibit No. 18, photo, was
14 marked and entered.)

15 (State's Exhibit No. 19, photo, was
16 marked and entered.)

17 (State's Exhibit No. 20, photo, was
18 marked and entered.)

19 (State's Exhibit No. 21, photo, was
20 marked and entered.)

21 (State's Exhibit No. 22, photo, was
22 marked and entered.)

23 (State's Exhibit No. 23, photo, was
24 marked and entered.)

25 (State's Exhibit No. 24, photo, was

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1 marked and entered.)

2 (State's Exhibit No. 25, photo, was

3 marked and entered.)

4 (State's Exhibit No. 26, photo, was

5 marked and entered.)

6 (State's Exhibit No. 27, photo, was

7 marked and entered.)

8 (State's Exhibit No. 28, photo, was

9 marked and entered.)

10 (State's Exhibit No. 29, photo, was

11 marked and entered.)

12 (State's Exhibit No. 30, photo, was

13 marked and entered.)

14 (State's Exhibit No. 31, photo, was

15 marked and entered.)

16 (State's Exhibit No. 32, photo, was

17 marked and entered.)

18 (State's Exhibit No. 33, photo, was

19 marked and entered.)

20 (State's Exhibit No. 34, photo, was

21 marked and entered.)

22 (State's Exhibit No. 35, photo, was

23 marked and entered.)

24 (State's Exhibit No. 36, photo, was

25 marked and entered.)

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1 (State's Exhibit No. 37, photo, was
2 marked and entered.)

3 (State's Exhibit No. 38, photo, was
4 marked and entered.)

5 (State's Exhibit No. 39, photo, was
6 marked and entered.)

7 (State's Exhibit No. 40, photo, was
8 marked and entered.)

9 (State's Exhibit No. 41, photo, was
10 marked and entered.)

11 (State's Exhibit No. 42, photo, was
12 marked and entered.)

13 (State's Exhibit No. 43, photo, was
14 marked and entered.)

15 (State's Exhibit No. 44, photo, was
16 marked and entered.)

17 (State's Exhibit No. 45, photo, was
18 marked and entered.)

19 (State's Exhibit No. 46, photo, was
20 marked and entered.)

21 (State's Exhibit No. 47, photo, was
22 marked and entered.)

23 (State's Exhibit No. 48, photo, was
24 marked and entered.)

25 (State's Exhibit No. 49, photo, was

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1 marked and entered.)

2 (State's Exhibit No. 50, photo, was

3 marked and entered.)

4 (State's Exhibit No. 51, photo, was

5 marked and entered.)

6 (State's Exhibit No. 52, photo, was

7 marked and entered.)

8 (State's Exhibit No. 53, photo, was

9 marked and entered.)

10 (State's Exhibit No. 54, photo, was

11 marked and entered.)

12 (State's Exhibit No. 55, photo, was

13 marked and entered.)

14 (State's Exhibit No. 56, photo, was

15 marked and entered.)

16 (State's Exhibit No. 57, photo, was

17 marked and entered.)

18 (State's Exhibit No. 58, photo, was

19 marked and entered.)

20 BY MR. SORENSON:

21 Q Now, Investigator Ketcherside, did you also have an
22 opportunity to prepare a few diagrams, to kind of layout
23 where various items were found?

24 A I did.

25 Q I'm showing you State's Exhibits 103, 104, and 105.

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1 Are those just enlargements of the diagrams that you
2 prepared?

3 A Yes, sir.

4 Q That's what all three of them are?

5 A Yes, sir.

6 Q Okay.

7 MR. SORENSON: Your Honor, at this time we'd offer
8 State's 103 through 105 into evidence.

9 THE COURT: Any objection?

10 MR. PALMER: No objection.

11 MR. STEVENS: No objection, Judge.

12 THE COURT: Okay. They're in.

13 (State's Exhibit No. 103, diagram,
14 was marked and entered.)

15 (State's Exhibit No. 104, diagram,
16 was marked and entered.)

17 (State's Exhibit No. 105, diagram,
18 was marked and entered.)

19 BY MR. SORENSON:

20 Q And do you ultimately, Investigator Ketcherside collect
21 numerous items from not only inside the mobile home, but
22 also the exterior of the mobile home?

23 A Correct, I did.

24 Q And those items were document in photographs and then
25 collected?

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1 A Yes, sir.

2 Q And if could --

3 MR. SORENSON: Permission for him to step down,
4 Your Honor.

5 THE COURT: Yes, sir. You may step down.

6 A (Witness steps down)

7 BY MR. SORENSON:

8 Q I guess if you could kind of -- Let's see here. One
9 second. Make sure we have the numbers here. Looking at on
10 the table here, we've got State's Exhibit 71 through 86.
11 And 91 through 100, I believe are on the table here. So you
12 can kind of -- And actually through 101. Just kind of make
13 sure those are all items that you --

14 A (Witness reviews exhibits) Yes, those are items
15 collected at the scene.

16 Q Those were all -- so 71 through 77 -- 71 through 77,
17 78, 79, 80, 81, 82, and 83. Then 91 through 100. I think
18 that's starting across the top here. 91 through 100 and 84,
19 85, and 86. So those are all items that were collected at
20 the scene?

21 A Yes, sir.

22 MR. SORENSON: Your Honor, at this time we'd offer
23 those numbers 71 through 86 and 91 through 101.

24 BY MR. SORENSON:

25 Q Was that also collected at the scene?

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1 A Yes, sir.

2 MR. SORENSON: Through 101 into evidence.

3 MR. PALMER: Your Honor, may I briefly view the
4 evidence table?

5 THE COURT: Absolutely.

6 (Counsel approaches evidence table)

7 MR. PALMER: No objection.

8 MR. STEVENS: No objection, Judge.

9 THE COURT: All right. They're in. 71 through 86
10 and 91 through 101.

11 MR. SORENSON: Correct. Thank you.

12 (State's Exhibit No. 71, photo, was
13 marked and entered.)

14 (State's Exhibit No. 72, photo, was
15 marked and entered.)

16 (State's Exhibit No. 73, photo, was
17 marked and entered.)

18 (State's Exhibit No. 74, photo, was
19 marked and entered.)

20 (State's Exhibit No. 75, photo, was
21 marked and entered.)

22 (State's Exhibit No. 76, photo, was
23 marked and entered.)

24 (State's Exhibit No. 77, photo, was
25 marked and entered.)

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1 (State's Exhibit No. 78, photo, was
2 marked and entered.)

3 (State's Exhibit No. 79, photo, was
4 marked and entered.)

5 (State's Exhibit No. 80, photo, was
6 marked and entered.)

7 (State's Exhibit No. 81, photo, was
8 marked and entered.)

9 (State's Exhibit No. 82, photo, was
10 marked and entered.)

11 (State's Exhibit No. 83, photo, was
12 marked and entered.)

13 (State's Exhibit No. 84, photo, was
14 marked and entered.)

15 (State's Exhibit No. 85, photo, was
16 marked and entered.)

17 (State's Exhibit No. 86, photo, was
18 marked and entered.)

19 (State's Exhibit No. 91, photo, was
20 marked and entered.)

21 (State's Exhibit No. 92, photo, was
22 marked and entered.)

23 (State's Exhibit No. 93, photo, was
24 marked and entered.)

25 (State's Exhibit No. 94, photo, was

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1 marked and entered.)

2 (State's Exhibit No. 95, photo, was

3 marked and entered.)

4 (State's Exhibit No. 96, photo, was

5 marked and entered.)

6 (State's Exhibit No. 97, photo, was

7 marked and entered.)

8 (State's Exhibit No. 98, photo, was

9 marked and entered.)

10 (State's Exhibit No. 99, photo, was

11 marked and entered.)

12 (State's Exhibit No. 100, photo,

13 was marked and entered.)

14 (State's Exhibit No. 101, magazine,

15 was entered.)

16 MR. SORENSON: And if I could keep him down off
17 the stand, so we can kind of go through this stuff.

18 BY MR. SORENSON:

19 Q All right. Now, you indicated Investigator Ketcherside
20 -- one second. All right. You indicated earlier that kind
21 of the first bunch of stuff that you found was located
22 where? That you collected at least?

23 A In the edge of the driveway or roadway.

24 THE COURT: Hold on a second, Mr. Sorenson.

25 BY MR. SORENSON:

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1 Q I'm showing you State's Exhibit Number 103. Is that
2 one of the diagrams that you prepared?

3 A Yes, sir, it is.

4 Q And describe using that and I'm going to give you
5 State's Exhibits 4, 5, and 6, also. If you could kind of
6 use them, using those photographs as kind of a link to the
7 jury.

8 A This photograph, which is State's Exhibit 4 was taken
9 from this area over here. As we see, it depicts one, two,
10 three, four, five, six and seven in the photograph. And
11 those were -- these numbers would be a representation of
12 those item numbers, which are listed here, along with
13 measurements.

14 Q Okay. And I'm showing you State's Exhibits 71 through
15 77. Are then those the seven shell casings that you
16 collected out in that driveway area?

17 A Yes, sir, they are.

18 Q Bear with me one second. Now, does anything else stand
19 out in this -- you had talked about earlier that you kind of
20 -- is that dirt road that you were talking about kind of
21 coming in?

22 A Yes, sir. This is actually Maedrine Street. The drive
23 comes in and loops around and then comes back out. This is
24 kind of like a grassy area that's got a BPU light post.

25 Q Is that's kind of shown sort of in those photos, I

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1 guess, or maybe not.

2 A The light pole is not but you can see the actual pipe,
3 drainage pipe, which is in here. It's not depicted on here,
4 but that's the drainage pipe there.

5 Q And then these are the two -- you indicated there are
6 two mobile homes down the --

7 A Yes, sir.

8 Q -- end of this kind of drive?

9 A Yeah. This one at the right is [REDACTED]
10 and then [REDACTED].

11 Q All right. And also which of those two is where the,
12 your incident location appeared to be?

13 A [REDACTED].

14 Q All right. And where did -- did you ultimately kind of
15 approach the front door of the mobile home?

16 A Yes, sir, I did.

17 Q And describe for the jury what your findings were as you
18 kind of approach the front?

19 A As we approached the front door, what appeared to be
20 blood droplets on the front steps as well as there appeared
21 to be some bullet impacts to the front of the residence.

22 Q I'm showing you State's Exhibit 105. Does that kind of
23 show, not only the seven casings over here but is that kind
24 of a little closer showing that front porch area also?

25 A Yes, sir.

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1 Q And let me ask you, showing you State's Exhibit Nos. 7,
2 8 and 9, does that kind of document what you're talking
3 about as far as what you observed on the front porch?

4 A Yes, sir, it does.

5 Q Just kind of go through those so the jury can see them
6 also.

7 A Eight would be right in this area. That's blood
8 droplets on the steps, the front steps of the residence.
9 Nine and ten would be blood that was here, as well as a
10 cartridge casing that was on the front.

11 Q And did you collect any of those items from that front
12 porch area?

13 A Yes, sir.

14 Q Okay. And what was it that you collected from there?

15 A I collected swabs from number eight and nine, as well
16 as the cartridge casing, that's number ten.

17 Q State's Exhibit 91 and 92, does that show the swabs
18 that you collected from that porch area?

19 A Yes, sir.

20 Q Describe for the jury when you say -- like in this case
21 when you had at marker eight what would appear to be blood;
22 is that correct?

23 A Yes, sir.

24 Q Just looking at it with the naked eye. How do you go
25 about collecting a swab from that area?

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1 A We take two sterile swabs. In this case that area it
2 was still, the blood was still wet. Take two sterile swabs
3 and swab the tips of the Q-tip swabs. Then they're allowed
4 to air dry, sealed and packaged and submitted.

5 Q Okay. And you had also indicated that that marker ten
6 was another shell casing; is that correct?

7 A Yes, sir.

8 Q Okay. I'm showing you State's Exhibit No. 78. Is that
9 that shell casing?

10 A Yes, sir, it is.

11 Q Now, did you -- you ultimately kind of go around the --
12 did you go in at that point in time or go around the kind of
13 the exterior of the residence?

14 A More so the exterior of the residence.

15 Q Describe for the jury as you kind of go what other
16 items were found kind of about. You talked earlier about
17 some bullet impacts in the trailer?

18 A Yes, sir.

19 Q I'm going to come back to them kind of at that -- in a
20 little while. But right now as far as other evidentiary
21 items what else did you --

22 A Yes, sir. There was more blood found towards the end
23 of -- this end of the residence. As well as a cellphone.
24 And then as you go around the end of the residence there was
25 also more blood as well as a broke out window. And then as

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1 you go around the rear of the residence, there's also more
2 blood droplets.

3 Q Okay. So initially -- let me show you State's Exhibit
4 17 and 18 and ask you if you kind of recognize those?

5 A Yes, sir.

6 Q What do those items represent?

7 A This is of the light pole. It's item eleven on the
8 sketch. It's basically blood transfer that's on the meter
9 base of the residence.

10 Q Okay. Describe what you mean by blood transfer?

11 A That's basically where something has blood on it. It
12 hits the surface and it leaves blood behind.

13 Q So if I'm bleeding and got blood on the arm of my
14 sleeve or something and I rub up against it --

15 A Yes, sir.

16 Q -- is that a transfer?

17 A Yes, sir.

18 Q Did you have an opportunity then to collect a blood
19 swab from that meter base that's marked as marker eleven.

20 A I did.

21 Q Let me show you State's 93. Is that that blood swab?

22 A Yes, sir.

23 Q Okay. All right. Let me show you State's Exhibit No.
24 19.

25 A 19 is a white Ford Crown Vic that also had blood

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1 transfer on the passenger side door, right at the mirror.

2 And that's marked as item number twelve.

3 Q And going back to State's Exhibit 103, show the jury
4 where that vehicle was located at?

5 A It would be right in this area on the passenger's side.
6 These vehicles were backed in and that one was pulled
7 straight forward.

8 Q State's Exhibit No. 17 also kind of shows -- you can
9 see that off to the right of the photograph; is that
10 correct?

11 A Yes, sir. Yes, sir.

12 Q And did you have an opportunity then to collect a blood
13 swab from there?

14 A Yes, sir, I did.

15 Q And showing you State's Exhibit No. 94, is that that
16 blood swab?

17 A Yes, sir, it is.

18 Q And on all of these -- let me ask you. These are all
19 little coin envelopes?

20 A Yes, sir.

21 Q Who put them in the coin envelopes?

22 A I did.

23 Q Okay. And what did you document on the outside of each
24 of those envelopes?

25 A On each envelope, the case number, what it is. Of

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1 course it's two swabs. Where it's from. It's going to have
2 the item number as well as the date and time that it's
3 collected as well as my initials underneath that. And then
4 the back side actually has a seal and then I initial and
5 date that as well.

6 Q Okay. Ultimately like I can now look back at this and
7 see where it says on here two swabs in parenthesis, blood.
8 Passenger's side door, white Crown Victoria. It's got the
9 date 9/11/2012 at 2:48 in the morning. And then it
10 references a number twelve?

11 A Yes, sir.

12 Q So that would correspond with the marker twelve; is
13 that correct?

14 A Correct.

15 Q Moving on to State's Exhibit No. 20. What is that
16 located there?

17 A That's item thirteen. That's blood that's on the front
18 corner of the residence. It's some blood transfer as well
19 as it could be some cast-off as well.

20 Q I'm showing you State's Exhibit No. 95. Is that then
21 the swabs collected from that suspected blood at the corner
22 of the trailer?

23 A Yes, sir.

24 Q And ultimately, you've made reference to this earlier
25 that going around the trailer, did you find on that kind of

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1 end of the trailer any evidentiary items?

2 A Yes, sir. There was a cellphone on the ground.

3 Q Okay. And that's in --

4 A Right here.

5 Q -- marker fourteen?

6 A Yes, sir.

7 Q And going around.

8 A Around, yes, sir. I found a window broken out as well
9 as some blood droplets around that corner on the ground and
10 on the window blinds itself.

11 Q I'm showing you State's Exhibit 10, 22, and 23. Does
12 that kind of show what you found on the exterior of that end
13 of the trailer?

14 A Yes, sir.

15 Q Okay. And State's Exhibit -- so this is that end right
16 there?

17 A Yes, sir.

18 Q Is that correct?

19 A That's correct.

20 Q And that was the condition of that window blind that
21 you discovered there?

22 A Yes, sir.

23 Q Now, let me ask you this. I'm going to kind of jump
24 forward a little bit. Did you have an opportunity to go --
25 what room is right on the other side of that window?

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1 A That is a bedroom on that end.

2 Q Okay. I'm showing you State's Exhibit No. 11. Is that
3 that bedroom?

4 A Yes, sir.

5 Q Did you find any items of evidentiary value at all in
6 that bedroom there?

7 A No, sir.

8 Q Any evidence from looking on the inside, was there any
9 blood in that bedroom?

10 A No, sir.

11 Q Blood on any of those jerseys that are hanging up?

12 A No, sir. None at all.

13 Q On the interior of the blinds?

14 A No, sir.

15 Q Did you ultimately though find any, what appeared to be
16 blood on the, kind of the exterior of the blinds that are
17 hanging out of the broken window?

18 A Yes, sir. I did.

19 Q Okay. I'm showing you State's Exhibit No. 22. Does
20 that document, does that kind of show some of that, some of
21 the red marking on there?

22 A Yes, sir. It does.

23 Q And what did you do as a result of that?

24 A Once it was documented by photographs, I took swabs for
25 collection.

~~State v. Ayer Ketcherside - Direct Sorenson 11/18/15 394~~

1 Q I'm showing you State's Exhibit No. 96. That would be
2 the swabs from the, pertaining to that marker fifteen?

3 A Yes, sir.

4 Q And in that general vicinity did you find any other
5 items of potential evidentiary value on the ground in that
6 area?

7 A Yes, sir. There was some blood droplets on the ground
8 on that end of the residence as well.

9 Q I'm showing you State's Exhibit No. 23. Does that kind
10 of --

11 A Yes, sir.

12 Q And where is that located at in relation to that
13 window?

14 A It's pretty much beneath it, towards the back a little
15 more. But the tongue of the mobile is actually at that end.

16 Q Okay. And looking at State's No. 10, you can kind of
17 relate that.

18 A Yes, sir.

19 Q The tongue of mobile home with that other picture in
20 the marker?

21 A Correct. Yes, sir.

22 Q Did you have an opportunity then to collect a swab from
23 that suspected dropping on the ground there?

24 A Yes, sir. I did.

25 Q I'm showing you State's Exhibit No. 97 and ask you if

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1 you recognize that item?

2 A That's the swabs for item number sixteen.

3 Q And you continued that moving around the back side now
4 of the trailer?

5 A Yes, sir. I did.

6 Q And did you find anything back in that area?

7 A Yes, sir. I found more blood droplets on the back of
8 the residence, towards the back porch as well as the
9 opposite end of the trailer, where would be more the
10 northerly end.

11 Q And I'm showing you State's 24 and 26. Do those two
12 photographs kind of depict --

13 A Yes, sir.

14 Q -- where you put down markers?

15 A Yes, sir.

16 Q And how many suspected areas of blood did you find on
17 the back of that trailer?

18 A Three.

19 Q And what markers then identified that?

20 A Item seventeen, eighteen, and nineteen.

21 Q Did you then collect swabs from those areas?

22 A I did.

23 Q Let me show you State's Exhibit 25, 27 and 28. That
24 showed kind of a closeup on 25 and the marker seventeen --

25 A Yes, sir.

~~State v Ayer Ketcherside - Direct Sorenson 11/18/15 396~~

1 Q -- with what appears to be the blood droppings on the
2 ground?

3 A Yes, sir.

4 Q 27, is that up close of marker eighteen?

5 A Yes, sir.

6 Q And the same thing, Exhibit 28 would be marker
7 nineteen?

8 A Yes, sir.

9 Q I need to show you then -- you then collected swabs
10 from those three areas?

11 A Yes, sir.

12 Q And State's 98, 99, and 100, do those represent those
13 swabs you collected from those three markers seventeen,
14 eighteen and nineteen?

15 A They do.

16 Q Did you find anything else outside that we haven't
17 talked about?

18 A No, sir.

19 Q Other than the dealing with the bullet holes -- that go
20 inside?

21 A No, sir.

22 Q Okay. All right. Did you have an opportunity then to
23 enter the mobile home and kind of do a search inside there?

24 A I did.

25 Q I show you diagram 104. Is that the diagram you have

State v Ayer Ketcherside - Direct Sorenson 11/18/15 397
1 prepared with regards to that interior of that mobile home?

2 A It is.

3 Q And I show you State's Exhibits 29 through 39. What's
4 the one on the top?

5 A 40.

6 Q 29 through 40. And the bottom ones -- make sure
7 there's no other interior ones are.

8 All right. Investigator Ketcherside, if you could just
9 kind of go through that State's Exhibit 29 through 40. And
10 I'm also going to hand you a couple of other ones too of the
11 living room area, 12, 13, 14, 15. So if you could just kind
12 of go through them for the jury and kind of like, using the
13 diagram indicate kind of what they show. And I guess the
14 ones that have markers that you collect something, I'll see
15 if they're over here and give them to you to look at.

16 A Okay. This is from the front porch of the residence,
17 into the door.

18 Q If you'll hold the picture so they can see.

19 A Okay. You can see from the front porch, into the
20 residence, which will be from here inside. And you can see
21 the counter as well as part of a chair or couch that's -- a
22 chair that's right in here.

23 Q State's Exhibit No. 30. You don't have to hold them up
24 if you don't want to. Just take a look at it.

25 A That's the kitchen towards the master bedroom. That

State v Ayer Ketcherside -- Direct Sorenson -- 11/18/15 398

1 would have been taken from here towards that direction.

2 Q The master bedroom was kind of on one end of the mobile
3 home?

4 A It would be -- looking at the front door, it would be
5 towards the left, which would be more the northeasterly end.

6 Q That's this end down here, like going across; is that
7 correct?

8 A Yes, sir.

9 Q And obviously there's a refrigerator in that room; is
10 that correct?

11 A Yes, sir, there is.

12 Q And let me ask you, were you able to determine, was
13 there any damage to that refrigerator?

14 A Yes, sir. There was a bullet impact to the front of
15 the freezer door, in the handle.

16 Q And I'm showing you State's Exhibit No. 14, does that
17 show that impact?

18 A Yes, sir.

19 Q Did you have an opportunity to look inside the freezer
20 and see if there was, anything had actually penetrated the
21 freezer?

22 A Yes, sir, I did.

23 Q And what, if anything, did you find?

24 A There was a fired bullet fragment inside the of the
25 freezer.

~~State v Ayer Ketcherside -- Direct Sorenson 11/18/15 399~~

1 Q State's Exhibit No. 40, does that kind of show, just
2 kind of the damage to the ice trays in there also?

3 A Yes, sir.

4 Q Do you see that fragment? Is it in there?

5 A It's going to be towards the back, right in here.

6 Q I'm showing you State's Exhibit No. 82. Is that show
7 the fragments that were recovered from inside the freezer?

8 A Yes, sir.

9 Q So it's not a whole, in one piece bullet; is that
10 correct?

11 A No, sir.

12 Q And then this kind of -- as you turn and you come into
13 the front door and kind of turn to the right, what is over
14 that area?

15 A There was an area of blood on the floor as well as a
16 bunch of CDs all over the floor. I think the --

17 Q I show you State's 12, does that depict that are?

18 A Yes, sir. You can see the television is knocked over.
19 It appeared that there was some type of struggle right
20 there.

21 Q And did you find any items of evidentiary value kind of
22 living room area?

23 A Yes, sir.

24 Q And what -- let me show you what I guess Exhibit 31
25 through 33. And I'll kind of deal with those initially.

- State v Ayer : Ketcherside - Direct Sorenson 11/18/15 400

1 A Markers item twenty-nine is a magazine for a semi-auto
2 pistol, which is marked right here on the sketch and 30,
3 which is a fired cartridge casing.

4 Q Okay. And those are depicted in kind of the general
5 kind of vicinity of those --

6 A Yes, sir. That was right on the inside the doorway.

7 Q I show you State's Exhibit No. 101. That was the
8 magazine that was recovered?

9 A Yes, sir.

10 Q So is there a closeup of that one of those photographs,
11 also?

12 A There is.

13 Q And let me ask you. Is this -- were there any bullets
14 in this?

15 A Yes, sir, there was.

16 Q And those -- those bags that are in there?

17 A Yes, sir.

18 Q We'll come back to that in a few minutes. All right.

19 And then what was the other one indicated that was on the
20 floor? It was marker, what, thirty?

21 A Thirty, yes, sir. That would have been a fired
22 cartridge casing.

23 Q That's higher up against the wall up there?

24 A Up against the wall, yes, sir.

25 Q Okay. I showing you State's 79. Is that that

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1 cartridge casing?

2 A Yes, sir, it is.

3 Q And then in that same area it shows State's Exhibit 34
4 and 35. And those are in that same kind of living room
5 area?

6 A Yes, sir, they are.

7 Q What are those items or that item that is found in
8 those photographs?

9 A It's going to be a, what appears to be a fired bullet
10 on the floor, in front of the -- down in this area as it's
11 depicted on the sketch.

12 Q And what's the marker on that?

13 A Thirty-one.

14 Q Thirty-one. I'm showing you State's Exhibit No. 81.
15 Is that, that that --

16 A Yes, sir.

17 Q Found along the floor in that living room area?

18 A Correct.

19 Q Okay. I'm going to show you State's 13, just kind of
20 another picture of that kind of living room area?

21 A Yes, sir, it is.

22 Q Seeing all the couches a little better?

23 A Yes, sir.

24 Q Okay. And is there -- I think we had mentioned earlier
25 was there any possible blood that was found in that area?

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1 A Yes, sir, there was.

2 Q And showing you State's Exhibit 38 and 39, do those --
3 I know they're kind of dark. But do those show that area
4 where you found some possible blood evidence inside?

5 A They do.

6 Q Okay. And if you'll show the jury.

7 A That's the living room with some CDs on the floor.
8 There's some blood on the door as well as on top of the
9 coffee table. And this is a wide range photograph of the
10 blood on top of the coffee table. There's the marker
11 thirty-seven.

12 Q Would you then show State's Exhibit No. 84 and 85 and
13 collect swabs from those marked as thirty-six and thirty-
14 seven?

15 A Yes, sir.

16 Q Any other evidentiary items found in kind of in that
17 part of the living room area that we haven't gone through
18 that you're aware of?

19 A No, sir.

20 Q Now, ultimately, did you find -- I'm showing you
21 State's Exhibit No. 36 and 37. Did you find another item
22 kind of down in the master bedroom area?

23 A Yes, I did.

24 Q Okay. And tell the jury what that was?

25 A It's a fired cartridge casing on the floor, inside the

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1 master bedroom by the bed. And you can see it right here in
2 the photograph. This is a mid-range shot here.

3 Q And go back to that first photograph because it's kind
4 of -- that's being shot from in the kitchen area, looking
5 down --

6 A Yes, sir.

7 Q -- facing the hallway into that, into the master
8 bedroom?

9 A Correct.

10 Q And it's sitting basically right, pretty much right in
11 front of that marker; is that correct?

12 A Yes, sir.

13 Q Okay. I'm showing you State's Exhibit 80 would that
14 have been that shell casing that was collected from kind of
15 right inside that master bedroom?

16 A Yes, sir, it is.

17 Q And while I'm talking about -- you said you collected
18 State's Exhibit No. 101, the magazine; is that correct?

19 A Yes, sir.

20 Q But in the pictures does it appear that it's got -- I
21 mean, is there blood -- is there blood on that magazine?

22 A Yes, sir.

23 Q And what, if anything, did you do with that magazine?

24 A I would have collected swabs from it of the blood.

25 Q I'm showing you State's Exhibit No. 86. Would that

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1 have been your item twenty-nine point one?

2 A Yes, it is.

3 Q Showing that it came from your item 29, I guess; is
4 that correct?

5 A Yes, sir.

6 Q All right. Now, you had testified earlier about --
7 when you kind of approached the front of the residence there
8 appeared to be some bullet impacts --

9 A Yes, sir.

10 Q -- in the front of that residence; is that correct?

11 A That's correct.

12 Q I show you -- going back to State's Exhibit 105. Could
13 you kind of just -- obviously not to scale, but at least
14 kind of show kind of the location of those bullet impacts
15 into on the front of the residence and kind of the direction
16 that they traveled forward in?

17 A Yes, sir. The arrow indicates the direction of the
18 travel. They're in the front wall as well as the door of
19 the residence. There's a post that there's a bullet packed
20 into as well as a post at the AC. There was a window unit
21 outside on the front of the residence. And there was also a
22 bullet impact to that post.

23 Q Okay. I'll show you State's Exhibit No. 41. And does
24 that document, State's 41, a couple of those bullet impacts?

25 A It does.

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1 Q Okay. And did you put kind of markers next to them
2 also?

3 A Yes, sir, I did.

4 Q I'm showing you State's 42 and 43. Does that have a
5 closeup of those two bullet impacts?

6 A It is.

7 Q Okay. And first of all, going back to State's 41 --
8 kind of where my two fingers are, does that kind of show me
9 those two impacts?

10 A Yes, sir.

11 Q And these other two photographs are just kind of
12 closeups of those; is that correct?

13 A Yes, sir. They are.

14 Q And then those two forward impact in the trailer were
15 you able to locate a bullet anywhere in relation to those?

16 A No, sir..

17 Q Did they penetrate into the trailer or into the
18 underpinning of that one --

19 A Yes, sir. Well, item twenty penetrated and actually
20 went underneath the residence, where we were unable to
21 locate it. And 21 went into the residence and we were
22 unable to locate that one.

23 Q I'm going to get to it in a moment. But were there
24 some further kind of bullet impacting the interior of the
25 residence?

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1 A Yes, sir. There was.

2 Q Okay. And I'll talk to you about those in a minute.

3 All right. So your marker is twenty and twenty-one. I show
4 you State's Exhibit No. 44. Does that show the forward
5 impact that you marked on number twenty-two?

6 A Yes, sir. That's a bullet impact to the storm door of
7 the front of the residence.

8 Q And that can be seen also in -- up close in State's 45;
9 is that correct?

10 A Yes, sir.

11 Q And further just kind of in the side of State's Exhibit
12 No. 46; is that correct?

13 A Yes, sir.

14 Q Now, that impact to the storm door, are you able to
15 tell -- were you able to tell what the direction of travel
16 was for that bullet impact?

17 A Yes, sir. That impact is consistent with actually
18 being fired from inside the residence and coming out. You
19 can see that the metal is actually pushing out, which is
20 consistent with the direction of travel of that bullet on
21 the inside of that.

22 Q Can you see that even more clearly on 45?

23 A Yes, sir.

24 Q So that photo's taken from the exterior?

25 A The exterior. Yes, sir.

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1 Q All right. And I'm showing you again on State's
2 Exhibit No. 46, would that then depict a further impact on
3 there?

4 A Yes, sir. It does. It's going to be into the handrail
5 of the residence, the front porch of the residence.

6 Q The marker. It's hard to see on there.

7 A Twenty-three.

8 Q Twenty-three, I believe?

9 A Yes, sir.

10 Q And that's where my finger is right there?

11 A Yes, sir.

12 Q And I'm showing you State's Exhibit No. 47 and 48.
13 What does that show you? 47, 48, and 49 does that show the
14 next couple?

15 A Yes, sir, it does.

16 Q Okay. Where are those located at?

17 A Those are between the front porch and the actual AC
18 unit that's in the front window of that residence.

19 Q And I'm showing you State's Exhibit No. 50.

20 A Yes, sir. That's the impact to the post that supports
21 the air conditioner unit.

22 Q That's over in here?

23 A Yes, sir.

24 Q So that's the post that's holding that holding that air
25 conditioning unit up that -- into that window?

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1 A Yes, sir.

2 Q Let me ask you. On that one, were you actually able to
3 recover anything from that, from that impact?

4 A Yes, sir. I was.

5 Q I'm showing you State's Exhibit No. 83. Is that the
6 item that was recovered?

7 A Yes, sir, it is.

8 Q Okay. And that was basically out of that one; correct?

9 A Yes, sir.

10 Q And let me ask you. Did you then have an opportunity
11 to go back and kind of put some dowels kind of into the
12 holes to kind of get an idea of what the direction of the
13 travel for those?

14 A Yes, sir.

15 Q I'm showing you State's 51 through 55. Does that kind
16 of document those -- those bullet impacts that you've just
17 talked to the jury about?

18 A Yes, sir. It does.

19 Q And what is that? What is kind of the direction of
20 travel, where I'm going to show you on State's Exhibit No.
21 52 so you basically have put a dowel kind of into each of
22 the bullet impacts that's depicted in that photograph?

23 A Yes, sir.

24 Q What is the direction of travel for all of those
25 impacts that you found to the exterior of the trailer?

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1 A All of the impacts to the exterior residence with the
2 fiberglass rods inserted, indicated that they were
3 consistent with the direction of the location of the
4 cartridge casings in the driveway.

5 Q All right. I asked you earlier about any bullet
6 impacts inside the residence. Is that correct?

7 A Yes, sir.

8 Q Okay. I'm showing you State's Exhibit No. 50. Do you
9 recognize that photograph?

10 A Yes, sir. I do.

11 Q And where's that located at?

12 A That's the kitchen window of the residence, actually on
13 the back of the residence.

14 Q Going back to State's Exhibit 104 --

15 A It would be right here.

16 Q And that appears to be something that is impacting with
17 that window?

18 A Yes, sir.

19 Q Okay. That would be consistent with a bullet going
20 through it?

21 A Yes, sir.

22 Q All right. And then I'm showing you -- did you find in
23 the living room area here any bullet impacts in the living
24 room area?

25 A Yes, sir. I did.

State v Ayer Ketcherside - Direct Sorenson 11/18/15. 410

1 Q Okay. And I'm showing you State's Exhibit No. 56.

2 Does that show one of those impacts you found?

3 A It does. This would be an impact to the wall right
4 here, where it turns to go this bathroom and bedroom.

5 Q And were you able to locate that bullet in that wall?

6 A No, sir.

7 Q Were you able to locate on the other side of the wall
8 anything --

9 A It traveled through the wall, exited the bedroom side
10 of the wall.

11 Q I'm showing you Exhibit 57. Does that show the exit on
12 the other side of that wall?

13 A It does.

14 Q And ultimately where did it appear that ultimately kind
15 of impact?

16 A It went into the bathroom, through that wall and ended
17 in the corner of the residence in the shower.

18 Q I'm showing you State's 58. Does that appear to be
19 where that --

20 A Yes, sir.

21 Q Were you able to locate that bullet?

22 A No, sir. We were not.

23 Q Now, Investigator Ketcherside, were there any other
24 items that were collected out there that night that you're
25 aware of that we haven't talked about?

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1 A No, sir.

2 Q What time -- do you know about what time it was that
3 you kind of got out of there that morning?

4 A Some time after 5:00 a.m.

5 Q And did there come a time later on, kind of that
6 morning, when you were called back out to this area?

7 A Yes, sir.

8 Q And what was the nature of you getting called back out
9 there?

10 A A gun was located across the fence, near the residence.

11 Q I'm showing you State's Exhibit 103. Can you show the
12 jury kind of where the general area we're talking about that
13 that gun was found?

14 A It would be over in this area.

15 Q So right on the other side of this of this fence that
16 runs along between this property here and the other one over
17 there?

18 A Yes, sir. There's a fence line with a little bit of
19 vegetation, but then there's grass over here on this side of
20 the fence.

21 Q I'm showing you State's Exhibits 59 and 60. Does that
22 depict where that gun was located at and where you put a
23 marker down?

24 A Yes, sir.

25 MR. SORENSON: At this time I'd offer 59 and 60

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1 into evidence.

2 THE COURT: Any objection?

3 MR. PALMER: No objection.

4 MR. STEVENS: None.

5 (State's Exhibit No. 59, photo, was
6 marked and entered.)

7 (State's Exhibit No. 60, photo, was
8 marked and entered.)

9 BY MR. SORENSON:

10 Q State's Exhibit No. 60 I think you actually see the --
11 not the middle but the kind of the two end --

12 A Yes, sir.

13 Q Correct?

14 A Yes, sir.

15 Q And just so we're clear. Where my finger, the trail
16 that my finger is on is -- is that correct?

17 A Correct.

18 Q And then State's Exhibit No. 59 is just a closeup of
19 that?

20 A Yes, sir.

21 Q Of that firearm; is that correct?

22 A Yes, sir.

23 Q What was the condition of that firearm when you located
24 it?

25 A It had no magazine in it, as well as it appeared to be

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1 blood-stained.

2 Q All right. I'm going to show you State's Exhibit No.
3 102. Is that the item that you collected?

4 A Yes, sir.

5 MR. SORENSON: Your Honor, at this time we offer
6 State's 102 into evidence.

7 THE COURT: Any objection.

8 MR. STEVENS: No objection.

9 MR. PALMER: No objection.

10 THE COURT: It's in.

11 (State's Exhibit No. 102, firearm,
12 was marked and entered.)

13 BY MR. SORENSON:

14 Q And that would be it. Now, basically you have -- other
15 than the fact that it's obviously been cleaned up at this
16 point in time.

17 A Yes, sir.

18 Q But other than that, that's the condition it was in.

19 A Correct.

20 Q It didn't have the gun lock on it?

21 A Yes, sir.

22 Q The magazine that you had collected inside the
23 residence, is that the, I think, type of magazine that would
24 ultimately go into --

25 A Yes, sir. It's a Smith and Wesson magazine.

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1 Q Okay. Now, did you have an opportunity Investigator
2 Ketcherside -- and you have indicated and we can actually
3 see it, But Exhibit 59 what appears to be blood on that
4 weapon?

5 A Yes, sir.

6 Q Is that correct?

7 A Yes, sir.

8 Q Did you have an opportunity then to take swabs of that
9 suspected blood from that?

10 A I did.

11 Q And did you have an opportunity then to swab any other
12 part of that weapon?

13 A I also swabbed the grips of the gun as well as the
14 trigger area.

15 Q I'm showing you State's Exhibits No. 87 and 88. You
16 recognize those swabs that were taken?

17 A Yes, sir.

18 Q From the -- not only of the suspected blood but also
19 the grip and the trigger of the Smith and Wesson?

20 A Yes, sir.

21 MR. SORENSON: At this time, Your Honor, we'd
22 offer State's 87 and 88 into evidence.

23 THE COURT: Any objection?

24 MR. PALMER: No objection.

25 MR. STEVENS: No objection.

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1 THE COURT: They're in.

2 MR. SORENSON: Thank you.

3 (State's Exhibit No. 87, swabs, was
4 marked and entered.)

5 (State's Exhibit No. 88, swabs, was
6 marked and entered.)

7 BY MR. SORENSON:

8 Q Hold on one second. Are all of these items that we've
9 just talked about that are on the table here. We've talked
10 about collecting them, that they were individually sealed?

11 A Yes, sir.

12 Q Initialed with your --

13 A Correct.

14 Q And when you collected them an all of that?

15 A Yes, sir.

16 Q What ultimately was done with all of these items of
17 evidence?

18 A They were submitted into our evidence storage and then
19 submitted to SLED.

20 Q To either firearms, or DNA --

21 A Yes, sir.

22 Q -- to do whatever they're going to do with it?

23 A Correct.

24 Q Each of them packaged separate and just how they are
25 packaged today?

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1 A Yes, sir.

2 Q You can take your seat, Investigator.

3 A (Witness takes stand)

4 Q Now, Investigator Ketcherside, did there come a time
5 when you learned that one of the victims in this case,
6 Gregory Howell had passed away from his injuries?

7 A Yes, sir.

8 Q And were you aware that an autopsy was performed on
9 him?

10 A Yes, sir.

11 Q Did you actually attend that autopsy?

12 A I did.

13 Q And were any items turned over to you by Dr. Ross at
14 Newberry Pathology after that autopsy?

15 A There was.

16 Q Okay. Specifically, what's been entered already
17 State's Exhibit 114, the bullet that was recovered?

18 A Yes, sir.

19 Q There also was a blood standard to be transferred to
20 SLED for DNA given to you also?

21 A It was.

22 Q And what did you do with those items that were turned
23 over to you on September 18th of 2012?

24 A I took those directly to SLED and submitted them.

25 Q Now, on the following day on September 19th of 2012,

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1 did you have an occasion to come into contact with a white
2 Chevy Impala?

3 A Yes, sir, I did.

4 Q And where was that Chevy Impala located at?

5 A At the Orangeburg County Sheriff's Office impound lot.

6 Q And did you have an opportunity to process that vehicle
7 for any potential evidence?

8 A I did.

9 Q I'm showing you State's Exhibit 51 through 64. Do you
10 recognize -- 61 and 62 are already in evidence. Was that
11 the vehicle that you processed?

12 A Yes, sir. It is.

13 Q And Showing you State's 63 and 64 are those photographs
14 that you took of possible evidence in that vehicle?

15 A Yes, sir. It is.

16 MR. SORENSON: Your Honor, at this time we'd offer
17 State's 63 and 64 into evidence.

18 THE COURT: Any objection.

19 MR. PALMER: No objection.

20 MR. STEVENS: No objection, Judge.

21 THE COURT: They're in.

22 MR. SORENSON: Thank you.

23 (State's Exhibit No. 63, photo, was
24 marked and entered.)

25 (State's Exhibit No. 64, photo, was

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1 marked and entered.)

2 BY MR. SORENSON:

3 Q Now, obviously that's the vehicle we're talking about;
4 is that correct?

5 A Yes, sir. It is.

6 Q All right. Did you have a chance to kind of look in
7 that vehicle to see if there was any potential evidence?

8 A I did.

9 Q Okay. And what did you find that you thought was
10 potential evidence in this case?

11 A The rear passenger door appeared to have blood stain on
12 it as well as some -- I think there was a camera inside
13 there.

14 Q All right. Specifically, as to that possible blood
15 stain, I'm showing you State's Exhibit No. 63. Does that
16 show that?

17 A Yes, sir.

18 Q Okay. Did you have an opportunity then to collect a
19 swab from that area, also?

20 A I did.

21 Q And where is that located at?

22 A That is on the door, rear passenger's door below the
23 actual locking mechanism.

24 Q And specifically as to what was sent out to SLED, did
25 you -- I'm showing you State's Exhibit No. 90 and 89. Were

State v Ayer Ketcherside - Direct Sorenson 11/18/15 419
1 those swabs that were taken from that vehicle that were sent
2 out to SLED for possible DNA comparison?

3 A Yes, sir.

4 Q And State's Exhibit No. -- let's start off first on 89.
5 What is that?

6 A 89 is marked as my item forty-five. It's swabs from
7 the driver's steering wheel for touch DNA.

8 Q Did you see or could you tell who may have been
9 operating the vehicle?

10 A Yes, sir.

11 Q All right. And then State's Exhibit No. 90, what is
12 State's Exhibit No. 90?

13 A That's swabs, two swabs from rear passenger's door,
14 with blood in parenthesis.

15 Q And that was depicted in 69?

16 A Yes, sir.

17 Q Which is where you swabbed?

18 A Yes, sir. That's marked as my number forty-eight.

19 MR. SORENSON: Your Honor, at this time we'd offer
20 State's 89 and 90 into evidence.

21 MR. PALMER: No objection.

22 MR. STEVENS: No objection, Judge.

23 THE COURT: They're in.

24 (State's Exhibit No. 89, swabs, was
25 marked and entered.)

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1 (State's Exhibit No. 90, swabs, was
2 marked and entered.)

3 BY MR. SORENSON:

4 Q Let me ask you. The items that were recovered, the
5 gun, the magazine -- and you testified, about there was a
6 broken cellphone that was found outside also; is that
7 correct?

8 A Yes, sir.

9 Q Were you able to attempt to see if you could get any
10 fingerprints off of any of those items before you swabbed
11 the gun and magazine for blood?

12 A Yes, sir.

13 Q And any fingerprints of any value that you observed or
14 were able to find on any of those items?

15 A No, sir. There were none developed.

16 Q And last, just a couple more things Investigator. Did
17 you have an opportunity on November 20th of 2014 to --
18 pursuant to a court order to -- hold on one second. Let me
19 make sure I get the right one here. To take, what is called
20 a buccal swab, in other words, the cheek swab from the
21 Defendant in this case, Terrance Johnson?

22 A Yes, sir.

23 Q I'm showing you State's Exhibit No. 110. Is that
24 basically the swabs that you collected from him?

25 A Yes, sir.

State v Ayer Ketcherside - Direct Sorenson 11/18/15 421

1 MR. SORENSON: Your Honor, at this time we'd offer
2 State's 110 into evidence.

3 THE COURT: Any objection?

4 MR. PALMER: No objection.

5 MR. STEVENS: No objection, Judge.

6 THE COURT: They're in.

7 (State's Exhibit 110, buccal swabs
8 of Terrance Johnson, was marked and entered.)

9 BY MR. SORENSON:

10 Q And specifically as to what you did in this case, did
11 you have an opportunity also on July 9th of this year, 2015,
12 to take two buccal swabs from Calvin Kennedy?

13 A Yes, sir. I did.

14 Q I'm showing you State's Exhibit No. 109. Do you
15 recognize those?

16 A Yes, sir.

17 Q And you collected those?

18 A Yes, sir. I did.

19 Q Okay. And describe for the jury in both of those cases
20 with Mr. Kennedy and with Mr. Johnson, how you go about
21 collecting those?

22 A Well, we use two sterile swabs, Q-tip swabs. We go
23 between the cheek and gum of the mouth collecting saliva and
24 also skin cells from the mouth. And that was air dried. Or
25 either, in those cases packaged with a plastic sleeve and

State v Ayer Ketcherside - Direct Sorenson 11/18/15 422
1 then sealed and initialed and dated.

2 MR. SORENSON: Your Honor, I'd offer State's 109
3 into evidence. I'm not sure I did that not.

4 MR. PALMER: No objection.

5 MR. STEVENS: No objection, Judge.

6 THE COURT: 109 is in.

7 (State's Exhibit No. 109, buccal
8 swab of Calvin Kennedy, was marked and entered.)

9 BY MR. SORENSON:

10 Q And those were ultimately sent out to State Law
11 Enforcement Division with all the other evidence also?

12 A Yes, sir. They are.

13 Q Let me ask you. Are you aware of the fact that Mr.
14 Ayer also had buccal swabs taken?

15 A Yes, sir.

16 Q And that was by another investigator in your office?

17 A Yes, sir. It was.

18 Q I believe that he's going to be testifying so I will
19 wait and review that to him.

20 MR. SORENSON: I beg the Court's indulgence one
21 moment. That's all I have.

22 BY MR. SORENSON:

23 Q Thank you, Investigator.

24 A Yes, sir.

25 THE COURT: Cross-examination.

State v Ayer Ketcherside - Cross Palmer 11/18/15 423

1 MR. PALMER: Thank you, may it please the Court.

2 WILLIAM KETCHERSIDE - CROSS-EXAMINATION

3 BY MR. PALMER:

4 Q How are you, sir?

5 A Good. How are you.

6 Q You don't need to get up again. I'll come over here.

7 First, I want to talk about this diagram. And you've
8 already testified about these lines you've drawn?

9 A Yes, sir.

10 Q Based on the dowels that you placed into the puncture
11 holes in the exterior of the holes?

12 A Yes, sir.

13 Q And your testimony has been that using those -- I call
14 them trajectory rods.

15 A Yes, sir.

16 Q Is that a fair label?

17 A Yes, sir.

18 Q You've determined that, of course, these bullet holes
19 were made by projectiles that came from the vicinity of
20 where these cartridge casings were recovered?

21 A Yes, sir.

22 Q Did you determine what caliber they were?

23 A No, sir. I personally did not.

24 Q Okay. Did you determine what brand of ammunition it
25 was from the cartridge casing?

State v Ayer Ketcherside - Cross Palmer 11/18/15 424

1 A The cartridge casings have the head stamps on them, as
2 to what manufacturer and caliber.

3 Q These were spears. To your recollection is that right?

4 A Yes.

5 Q Or do you remember?

6 A I would have to look at each one of them to say
7 definite.

8 Q Okay. And it's your recollection that they were all
9 from -- all the same brand?

10 A Yes, sir.

11 Q Okay. And which you could infer that they came from
12 the same weapon?

13 A They were from the same area. Everything was in the
14 same general area.

15 Q Now, any of these -- did you determine that any of
16 these rounds -- I know one ended up in the 4x4 post under
17 the air conditioner?

18 A Yes, sir.

19 Q You got that bullet?

20 A Yes, sir.

21 Q Did you recover bullets on all the rest of these holes?

22 A No, sir. We were unable to collect them.

23 Q And were you able to determine whether any of those
24 bullets actually went through the exterior wall and into
25 that residence?

State v Ayer Ketcherside - Cross Palmer 11/18/15 425

1 A Yes, sir.

2 Q Okay. And the living room wall -- I think these are
3 the two exhibits that you testified about this. Did the
4 trajectory of any holes in the exterior that went all the
5 way through, match up with the trajectory of this bullet
6 hole?

7 A Yes, sir.

8 Q So from that I know you can't be that conclusive, but
9 can you infer that this bullet might have come from the
10 outside?

11 A Yes, sir.

12 Q So that takes care of one of them. Did you determine
13 any other bullets that entered the exterior and came through
14 and went into the residence besides that one?

15 A I would have to look at the photograph of the inside of
16 that front wall and I could tell you definitely.

17 Q Okay. I'm just going to hand you a pile of stuff here.

18 A That's no problem. We know that one came from outside
19 and went through, next to the door. Came out the casing,
20 door casing on the interior and actually went through the
21 door and back out. We do know that happened. And that's
22 depicted in this photograph. Which would also be the one to
23 the left of the steps in that one.

24 Q Okay. So if I understand your testimony --

25 A Where it went once inside, I can't definitely tell you.

State v Ayer Ketcherside - Cross Palmer 11/18/15 426

1 Q So State's Exhibit 55 and 51 are, based on your
2 investigation, from the same bullet?

3 A Yes, sir.

4 Q Okay. So if I understand, it entered the skin of -- if
5 you want to call it that -- the residence, outside wall,
6 right next to the front door casing?

7 A Yes, sir.

8 Q And then punctured the door and that's what this --

9 A Came out of the casing and went through the door and
10 came out on the front side.

11 Q Okay. Does that indicate that the door was open at the
12 time --

13 A Yes, sir. It was partially open at the time.

14 Q Okay. So as I understand your testimony, that's two of
15 the seven that were fired from that area that went through
16 the outside wall into the residence.

17 A Yes, sir. And you also have, of course, the recovered
18 bullet out of the AC we talked about.

19 Q That's three. And that leaves four unaccounted for.
20 Is that a fair characterization?

21 A Yes, sir.

22 Q Okay. So as you recall, you recovered three of the
23 seven, if you understand what I'm getting at?

24 A There was one that was recovered outside that I
25 definitely can say came from the roadway.

State v Ayer Ketcherside - Cross Palmer 11/18/15 427

1 Q Okay.

2 A From inside. I can't say that any of those -- I'm not
3 qualified to say what gun they came from.

4 Q Sure. The one you just described though that came from
5 the roadway that you found outside, where was it found
6 outside?

7 A In the AC post.

8 Q Okay.

9 A There's a support post under the air conditioner and it
10 was lodged inside of that.

11 Q That's one of the three that we we're talking about?

12 A Yes, sir.

13 Q Okay. Now, the round that went to the
14 freezer/refrigerator --

15 A Yes, sir.

16 Q Did you do a trajectory rod for that?

17 A I did not. It was pretty much straight, parallel with
18 the door or straight on with the door. No, sir, I did not.
19 do a trajectory rod with that.

20 Q Does that mean from your observation that the bullet
21 came from a perpendicular angle to the freezer?

22 A Yes, sir.

23 Q And not an oblique or --

24 A Yes, sir. It's fairly straight on with the freezer.

25 Q Okay. So if I look at the face of the freezer and what

State v Ayer Ketcherside - Cross Palmer 11/18/15 428

1 you observed to be the possible trajectory and you can see
2 basically a ninety degree angle, if you see what I'm getting
3 at?

4 A If you were looking -- it would be like me sitting here
5 looking at that door going into the hallway.

6 Q Okay. All right. And if I were shooting at that
7 freezer based on what you observed, I'd be shooting at it
8 straight-on just like a target, like at a range?

9 A I'd say straight-on. There was no trajectory rod put
10 in, there was no rods put in it, so I can't tell you an
11 exact angle.

12 Q Is there a reason you didn't use a trajectory rod on
13 that one?

14 A No, sir, no particular reason. The bullet was inside
15 of the freezer. It was at the front of the freezer door.
16 It's possible that it came from the living room area. We
17 didn't see a need in actually trying to recreate or
18 reconstruct that.

19 Q Would it be fair to say that if it wasn't anything
20 other than a ninety degree angle, if it wasn't some kind of
21 angle, oblique, it was a slight angle. And that would be a
22 fair characterization?

23 A I'd have to look at it really good to tell you that.
24 It happened from in front of the freezer. I can give you
25 that much.

State v Ayer Ketcherside - Cross Palmer 11/18/15 429

1 Q Okay. Did you make any observation as to, like, when
2 you opened that freezer as to what that bullet struck when
3 it went through?

4 A Well, there was some -- looked like some ice trays in
5 there as well as some frozen meat inside of that freezer.

6 Q And that bullet, as I understand your testimony,
7 fragmented?

8 A Yes, sir.

9 Q I mean, it didn't distort, it fragmented?

10 A Well, it separated.

11 Q Right.

12 A What we were able to collect was actually the copper
13 jacket on the bullet.

14 Q Okay. And would you say that that copper jacket was
15 distorted?

16 A I'm not qualified to say how distorted. It was
17 separated from the lead.

18 Q But that is in one of your -- I mean, you have the live
19 exhibit here; correct?

20 A Yes, sir.

21 MR. PALMER: I beg the Court's indulgence.

22 BY MR. PALMER:

23 Q Is it in a Glassine envelope or is in a sealed
24 envelope?

25 A It should be in a clear, plastic envelope.

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1 Q Okay. All right. So this is the bullet fragment as
2 you found it?

3 A Yes, sir.

4 Q Did you find any other sign of it, like any lead or
5 alloy that would have been inside of the --

6 A No, sir. We didn't find any lead.

7 Q Okay. And can you tell or are you qualified to tell
8 from this fragment what type of bullet it was?

9 A No, sir. I'm not a firearms examiner. I can't.

10 Q Okay. Fair enough. Now, the other one I'm curious
11 about is the bullet hole you found in the kitchen window?

12 A Yes, sir.

13 Q Was there any way to do a trajectory study or
14 observation on that bullet hole?

15 A No, sir. It went out the window and I have no clue as
16 to where it went from there.

17 Q And even if you had a trajectory rod, it's just a piece
18 of glass; right?

19 A Yes, sir.

20 Q No way to tell from what direction that bullet might
21 have come?

22 A No, sir.

23 Q All right. Thank you.

24 MR. PALMER: No further questions.

25 THE COURT: Cross-examination

State v Ayer Ketcherside - Cross Stevens 11/18/15 431

1 MR. STEVENS: Thank you, Judge. May it please the
2 Court.

3 THE COURT: Yes, sir.

4 WILLIAM KETCHERSIDE - CROSS-EXAMINATION

5 BY MR. STEVENS:

6 Q Investigator Ketcherside, how you doing?

7 A Good. How are you?

8 Q I'm doing well. Let me just ask you a few questions
9 today if I may?

10 A Yes, sir.

11 Q Let me start with just questions about September 10th,
12 2012; all right?

13 A (No verbal response)

14 Q First, you were working that night; correct?

15 A Yes, sir.

16 Q And you did respond to [REDACTED], right?

17 A Yes, sir.

18 Q Okay. That's here in Orangeburg?

19 A Yes, sir.

20 Q And that was in regard to two shootings?

21 A Yes, sir.

22 Q Now, you did not personally witness that incident at
23 all; did you?

24 A No, sir.

25 Q Okay. And you arrived around twenty after eleven at

1 night?

2 A Yes, sir.

3 Q And, obviously, this was after the incident was over;
4 correct?

5 A Correct.

6 Q Okay. Now, let's talk about what you saw when you
7 arrived. It was a trailer; correct?

8 A Yes, sir.

9 Q Okay. A single-wide trailer, not a double-wide?

10 A A single-wide mobile home; yes, sir.

11 Q A mobile home. Okay. It had a small porch on there?

12 A Had a small porch on the front.

13 Q Okay. And there's a doorway at the side of the porch;
14 correct?

15 A Yes, sir.

16 Q And you said that it had a storm door?

17 A Yes, sir.

18 Q And that was an aluminum storm door; right?

19 A Yes, sir. Well, I'm not sure what material but it's a
20 metal storm door.

21 Q And it was kind of open when you arrived?

22 A Somewhat, yes.

23 Q Okay. And also a regular door; right?

24 A Yes, sir.

25 Q And that door was on the inside?

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1 A Yes, sir. It was hinged on the left.

2 Q Hinged to the left. Okay. Now, let's focus on -- I'm
3 sorry. That door was also open?

4 A Yes, sir, when I arrived.

5 Q Okay. Now, let's focus on what you saw inside, all
6 right? Now, a single-wide mobile home so you wouldn't
7 characterize this as a very open spacious area; correct?

8 A Correct.

9 Q It's a little on the modest side?

10 A Yes, sir.

11 Q Okay. Nothing wrong with that. Just a little on the
12 modest side when it comes to size; right?

13 A Yes, sir.

14 Q Okay. Now, as you walk into the door, there's a
15 counter top right there; right?

16 A Yes, sir.

17 Q And that actually divides two rooms?

18 A The kitchen and the living room.

19 Q Okay. And as you're looking at it, the kitchen would
20 be on the left-hand side?

21 A Yes, sir.

22 Q And the living room area would be on the right-hand
23 side?

24 A Correct.

25 Q And it's the counter top in between that acts as a

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1 divider?

2 A Yes, sir.

3 Q Okay. Now, the kitchen on the left-hand side has a
4 bedroom going out the back of it you said?

5 A Yes, sir. The master bedroom.

6 Q Okay. Now, let's focus on the floor when you're
7 walking in through the main door?

8 A Yes, sir.

9 Q You said there was blood on the floor?

10 A Yes, sir.

11 Q And there was a gun magazine on the floor; correct?

12 A Correct.

13 Q Okay. And that gun magazine still had bullets in it;
14 correct?

15 A Yes, sir.

16 Q And you recovered the magazine?

17 A Yes, sir.

18 Q After you swabbed it, of course?

19 A No, sir. It's collected and packaged and then taken
20 back to our lab and swabbed.

21 Q Excellent. I trust the bullets were taken out?

22 A Oh, yes, sir.

23 Q And counted as well?

24 A Yes, sir.

25 Q And there were thirteen bullets left in that magazine

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1 casing?

2 A Yes, sir.

3 Q No more, just thirteen?

4 A Yes, sir.

5 Q Okay. Now, you also recovered some shell casings
6 inside?

7 A Yes, sir.

8 Q And also on the porch; right?

9 A Yes, sir.

10 Q Okay. And that was relatively close to the door;
11 right?

12 A Yes, sir.

13 Q The door that was slightly open when you got there?

14 A Correct.

15 Q Okay. Now let's focus on some of the things you saw
16 outside of the trailer, in addition to what was on the
17 porch, okay? We'll start with the porch. You had blood on
18 the porch. You saw that too; correct?

19 A Yes, sir.

20 Q Okay. And the steps?

21 A Yes, sir.

22 Q And on the power box and the pole?

23 A Yes, sir.

24 Q Okay. That's in front of the trailer; right?

25 A Yes, sir. That's correct.

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1 Q And blood was on there; right.

2 A Yes, sir.

3 Q Okay. And then going toward the side of the trailer,
4 you also saw some more blood in the corner; correct?

5 A Yes, sir. There was some transfer on that corner.

6 Q And then around the end you also saw blood there on the
7 window?

8 A Yes, sir.

9 Q Well, on the window blinds?

10 A Yes, sir.

11 Q And those were sticking out?

12 A Yes, sir.

13 Q And there's also some down on, I guess, you said the
14 tongue and the hitch?

15 A Yes, sir.

16 Q On the ground?

17 A On the ground as well as I think there may have been a
18 little bit on the tongue.

19 Q Okay. So a little bit, both in those areas; right?

20 A (Nods head affirmatively)

21 Q Now, you went around the back as well; right?

22 A Yes, sir.

23 Q And you found more blood there too?

24 A Correct.

25 Q Okay. And that was on the ground?

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1 A Yes, sir.

2 Q All right. And you collected many of these blood
3 samples yourself; correct?

4 A Yes, sir.

5 Q Okay. And you used swabs to do it you said?

6 A Correct.

7 Q To collect the blood?

8 A Yes, sir.

9 Q And that was from inside? You collected blood with
10 swabs on the inside?

11 A Yes, sir.

12 Q And on the outside?

13 A On the outside as well.

14 Q Okay. Did you also collect blood from the door frame
15 inside?

16 A No, sir.

17 Q You did not collect any blood from the door frame?

18 A Not from the door frame. Of the house?

19 Q Yes. When you're on in that threshold right there?

20 A No, sir. On the floor?

21 Q On the floor?

22 A I collected blood from the floor, yes, sir. But not
23 the door frame.

24 Q Okay. You collected blood from the power box?

25 A Yes, sir.

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1 Q From the end of the trailer?

2 A Yes, sir.

3 Q From the blinds?

4 A Yes, sir.

5 Q From the ground in the back?

6 A Yes, sir.

7 Q Did you collect it from the magazine?

8 A Yes, sir. From the magazine?

9 Q Oh, I'm sorry. That was done at the lab.

10 A I did that in the lab, yes.

11 Q In the lab?

12 A Yes, sir.

13 Q Okay. Got you. Now, let's be clear. From what you
14 said, there were some items you just didn't see; correct?

15 A What?

16 Q Well, for example, if there was a bullet that was shot
17 through something and you didn't see the bullet --

18 A I didn't find them. I didn't locate.

19 Q Okay.

20 A I saw the bullet impacts but I didn't see the actual
21 projectiles.

22 Q Is it fair to say you can't collect what you don't
23 find?

24 A Correct.

25 Q Okay. Very good. So, for example, you didn't find a

State v Ayer Ketcherside - Cross Stevens 11/18/15 439

1 slug to match every shell casing; correct?

2 A No, sir.

3 Q And you did see a lot of shell casings at the scene,
4 both inside and out; correct?

5 A Yes, sir.

6 Q Okay. And that night, anyway, you didn't see any guns,
7 did you?

8 A No, sir, not that night.

9 Q Okay. And, again, you can't recover something if you
10 don't see it; right?

11 A Yes, sir.

12 Q Okay. And you said you left the trailer around 5:21?

13 A Yes, sir.

14 Q Okay. That's a long night. Let's talk about what you
15 saw the next day, okay?

16 A Okay.

17 Q And you returned to the mobile home?

18 A Yes, sir.

19 Q Okay. And that was the next day; correct?

20 A Yes, sir. Well, that same morning?

21 Q That same morning, the 11th?

22 A Yes, sir. I left there at 5:20 and was back that same
23 morning a few hours later.

24 Q Right. And it was around 10:00 a.m.; correct?

25 A Yes, sir.

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1 Q All right. And at that time you saw a handgun; right?

2 A Yes, sir.

3 Q And it was on the ground?

4 A It was on the ground of property across the fence from

5 [REDACTED].

6 Q Okay. So it was a totally different lot?

7 A Yeah. It was a totally different piece of property.

8 Q Okay.

9 A It was across a fence.

10 Q Okay. And that fence, that wasn't exactly like the
11 little white picket fence; right?

12 A No, sir.

13 Q That was a pretty tall fence; right?

14 A Yes, sir.

15 Q And like you said, it had some growth on it from vines
16 and whatnot?

17 A Yes, sir.

18 Q Okay. So it's not just something you step over?

19 A No, sir.

20 Q Okay. Nothing you could just walk right through
21 either; correct?

22 A No, sir.

23 Q Okay. So you went to where the gun was?

24 A Yes, sir.

25 Q And obviously it was a two-toned pistol?

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1 A Yes, sir.

2 Q Silver and black?

3 A Yes, sir.

4 Q Semi-automatic?

5 A Yes, sir.

6 Q Smith and Wesson; right?

7 A Yes, sir.

8 Q Now, the slide when you recovered it was full; is that
9 correct?

10 A Correct. I would have to look at the photograph to
11 verify.

12 Q Sure.

13 A I may have it over here in this stack.

14 Q Let me show you State's Exhibit No. 59, showing your
15 item number thirty-eight.

16 A Yes, sir.

17 Q I believe that's the pistol on the ground.

18 A Yes, sir. It was --

19 Q Is that the condition that you actually saw it in?

20 A Yes, sir.

21 Q And you agree the slide is forward on that gun;
22 correct?

23 A Yes, sir.

24 Q Okay. It's not locked back or anything; right?

25 A No, sir.

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1 Q Okay. Thank you. Did you collect it?

2 A Yes, sir.

3 Q And eventually it was swabbed?

4 A Yes, sir.

5 Q You did the swabbing, correct? In the lab?

6 A Yes, sir. I did the swabbing.

7 Q Now, you don't analyze what you collect; correct?

8 A No, sir. I do not.

9 Q Okay. So let's talk about what you sent to SLED, okay?
10 Now, we went through your report and got a list on there of
11 everything you sent to SLED; right?

12 A Yes, sir. There should be a report from SLED of the
13 items that were actually submitted to SLED.

14 MR. STEVENS: Court's indulgence?

15 THE COURT: Yes, sir.

16 BY MR. STEVENS:

17 Q If you would just briefly look through that for us.
18 You don't have to read out loud or anything what it is.

19 A It's my case file.

20 Q You've got your case file. Is that a copy of the
21 report you actually submitted?

22 A Yes, sir.

23 Q Along with the attachments; right?

24 A Yes, sir.

25 Q Now, in your report you do show the items that you

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1 collected that were sent to SLED; correct?

2 A Yes, sir.

3 Q And there were actually other items that were sent to
4 SLED as well?

5 A Yes, sir.

6 Q And that's part of your report?

7 A Yes, sir.

8 Q Okay. Can you go to that section on there where it
9 does show where you submitted. I just want to verify a
10 couple of things.

11 A (Witness complies)

12 MR. STEVENS: May I approach, Judge.

13 THE COURT: Yes.

14 A This is actually the SLED request form. As well as
15 this one, also, which was actually later.

16 BY MR. STEVENS:

17 Q Oh, okay. I understand. So just generally speaking --

18 A Yes, sir.

19 Q You spent items to SLED including cartridge casings
20 taken from the scene?

21 A Yes, sir.

22 Q Okay. And you sent blood swabs taken from the scene?

23 A Yes, sir.

24 Q And you sent the magazine taken from the scene?

25 A The magazine was sent with the handgun.

State v Ayer Ketcherside - Cross Stevens 11/18/15 444

1 Q Okay. So both of those were sent?

2 A Yes, sir.

3 Q If you also look on there, on that separate sheet we're
4 talking about, there's a submission for a GSR kit from Alvin
5 Clark; right?

6 A Yes, sir. I did not collect that GSR kit.

7 Q But you did submit it; right?

8 A I didn't submit, no, sir. It was taken with all the
9 items.

10 Q Oh, so it was all taken from the evidence?

11 A Our evidence custodian actually transports the stuff.

12 Q Okay. I understand. And the name of your evidence
13 custodian?

14 A Kimberly Pugh.

15 Q Kimberly Pugh?

16 A Yes, sir.

17 Q And according to your report that you did, she took it
18 up; right?

19 A Yes, sir.

20 Q Okay. Now -- thank you, sir. I'll just get all that
21 out your way, if that's all right. I don't want the
22 evidence, just the report. Thank you, sir. Now, just to
23 finish up Investigator Ketcherside, you didn't personally
24 witness anything that happened in that mobile home on the
25 night of this thing; did you?

State v Ayer	Ketcherside - Cross Stevens	11/18/15	445

1 A No, sir. I was not there when the incident occurred.

2 Q Very good. So you didn't personally see anything that
3 happened inside that trailer during that incident?

4 A No, sir.

5 Q And you didn't personally see anything that happened
6 outside of that trailer during the incident?

7 A No, sir.

8 Q Thank you, sir.

9 MR. STEVENS: No further questions.

10 THE COURT: Any direct?

11 MR. SORENSON: No, Your Honor.

12 THE COURT: You may step down Investigator.

13 INVESTIGATOR KETCHERSIDE: Thank you.

14 THE COURT: Ladies and gentlemen, it's a good time
15 for us to take an afternoon break. We'll be back in about
16 fifteen minutes. Again, please remember my instructions.
17 Please do not discuss this case amongst yourselves or with
18 anyone else.

19 (Jury out at 3:40 p.m.)

20 (Court in recess for short break at
21 3:40 p.m.)

22 (Court in session after short break
23 at 3:57 p.m.)

24 THE COURT: Everyone may have a seat.

25 (Juror No. 21 enters courtroom.)

State v Ayer Carter - Direct Cornwell 11/18/15 - 451
1 would call Lieutenant Gerald Carter.

2 (WHEREUPON, Gerald Carter was duly
3 sworn.)

4 THE CLERK: Please have a seat and state your name
5 for the record, please.

6 MR. CARTER: Gerald Carter.

7 THE CLERK: Thank you.

8 THE COURT: Your Witness.

9 GERALD CARTER - DIRECT EXAMINATION

10 BY MS CORNWELL:

11 Q Lieutenant Carter, where do you work?

12 A Orangeburg County Sheriff's Office.

13 Q How long have you been employed by the Orangeburg
14 County Sheriff's Office?

15 A Almost twenty-three years.

16 Q And what's your position and rank there?

17 A Currently, I am the lieutenant and supervising officer
18 over forensic services.

19 Q And what does working in forensic services entail?

20 A In general terms, it's either the locating or
21 developing of any kind of evidence. All types of physical
22 evidence and documentation, collection and preservation of
23 that evidence. In simple terms, that's what we do.

24 Q Okay. And in that capacity did you assist in the
25 investigation of a shooting on Maedrine Street back in 2012?

State v Ayer Carter - Direct Cornwell 11/18/15 452

1 A I did assist Investigator Ketcherside on the scene,
2 yes, ma'am.

3 Q But ultimately it was Investigator Ketcherside's scene;
4 is that correct?

5 A Yes. I did assist by helping him to search the scene
6 but I did not actually collect any evidence at that scene.

7 Q Okay. And fast forwarding a little bit after 2012, did
8 you have an occasion to be involved in taking some DNA
9 samples in this case?

10 A Yes, ma'am. I did.

11 Q Okay. And what DNA sample did you take?

12 A I took buccal swabs from Rodsheen Ayer, buccal swabs
13 being Q-tip swabs of the inner cheek in the mouth.

14 Q Okay. And what was the purpose of getting that buccal
15 swab, that cheek swab?

16 A That is to collect and establish a standard that we
17 know to be the DNA of a particular individual. In this
18 case, Rodsheen Ayer.

19 Q Okay. And can you tell the jury what the procedure you
20 used was to take a buccal swab?

21 A Yes, ma'am. I would put on gloves, a fresh set of
22 gloves. I would open a closed pack of sterile Q-tips,
23 swabs. I would then take the swabs. It would be two swabs.
24 I would gently stroke the inside of the cheek of the mouth
25 approximately twenty-five times to be sure and collect a

State v Ayer Carter - Direct Cornwell 11/18/15 453

1 good sample. Then these would be sealed so they can't be
2 contaminated in any way.

3 Q And is that a standard protocol that you use?

4 A Yes, ma'am. That's standard.

5 Q I'm going to show you what's been marked as State's
6 Exhibit 108. Do you recognize that item?

7 A Yes, ma'am. I do.

8 Q What is that item?

9 A This is the coin envelope that the swabs, the buccal
10 swabs were sealed in when I collected them from Mr. Ayer
11 here at the courthouse.

12 Q And after collecting those swabs, do you or somebody
13 from office send those off anywhere?

14 A I would have logged these into evidence storage at the
15 Orangeburg County Sheriff's Office with instructions that
16 they be transferred to the SLED Forensic Laboratory.

17 MS. CORNWELL: Your Honor, at this the State would
18 move State's Exhibit 108 into evidence.

19 THE COURT: Any objection?

20 MR. PALMER: No objection.

21 MR. STEVENS: No objection, Judge.

22 THE COURT: They're in.

23 MR. STEVENS: Excuse me. Subject to my previous
24 objection.

25 THE COURT: Yes, sir. Subject to your previous

State v Ayer Carter - Direct Cornwell

11/18/15 454

1 objection.

2 (State's Exhibit No. 108, buccal
3 swabs of Rodsheen Ayer, was marked and entered.)

4 BY MS. CORNWELL:

5 Q And the Defendant, Rodsheen Ayer, that you took that
6 buccal sample from, is he in the courtroom today?

7 A Yes, ma'am. He is.

8 Q Can you point him out to the jury?

9 A Yes, ma'am. It'd be the gentleman at the corner of the
10 table in the bright yellow shirt.

11 Q Okay. And in addition to taking the buccal swabs, did
12 you also take photographs of Rodsheen Ayer?

13 A Yes, ma'am. I did.

14 Q Okay. I'm going to show you what's been marked as
15 State's Exhibits 67, 68, 69, 70. Take a look at those
16 photographs.

17	A	(Reviews photographs)

18 Q And who took those photographs?

19 A I did.

20 Q Where were those photographs taken?

21 A Here at the courthouse.

22 Q And who's in those photographs?

23 A Rodsheen Ayer.

24 Q And what was the purpose of taking those photographs
25 that day?

State v Ayer Carter - Direct Cornwell 11/18/15 455

1 A These photographs were taken to document scaring on his
2 left arm from some type of injury.

3 Q And are those true and accurate depictions of the
4 photographs that you took that day?

5 A Yes, ma'am. They are.

6 MS. CORNWELL: Your Honor, at this time, the State
7 would move to have State's 67 through 70 into evidence.

8 THE COURT: Subject to previous objection.

9 MR. PALMER: No objection.

10 THE COURT: They're in.

11 (State's Exhibit No. 67, photo, was
12 marked and entered.)

13 (State's exhibit No. 68, photo, was
14 marked and entered.)

15 (State's Exhibit No. 69, photo, was
16 marked and entered.)

17 (State's Exhibit No. 70, photo, was
18 marked and entered.)

19 BY MS. CORNWELL:

20 Q And looking at 67, is that just a full shot of the
21 Defendant?

22 A Yes, ma'am. It's an identification shot. It shows
23 him.

24 Q And photograph 68 and 69, can you tell the jury what
25 those photographs are?

State v Ayer Carter - Direct Cornwell 11/18/15 456

1 A These would be photographs to document a scar tissue on
2 the outside of Mr. Ayer's left forearm.

3 Q And 69, is that just a closer up photograph of --

4 A Yes. That's a closeup of the same injury.

5 Q And that's on his left forearm you said?

6 A Yes, ma'am.

7 Q And I'm looking at State's 70. What is that a
8 photograph of?

9 A This is a photograph to document scaring on the inner
10 part of the left forearm.

11 Q So he had scaring on the outside of the left forearm
12 and on the inside of the left forearm?

13 A Yes, he did.

14 Q And Lieutenant Carter, did you also have occasion to
15 take photographs of any tattoos or identifying marks on the
16 Defendant's body?

17 A Yes, I did.

18 Q And I'm going to show you what's been marked as State's
19 66. Would that be a photograph of those tattoos?

20 A Yes, ma'am. It would.

21 Q And who took that photograph?

22 A I took this picture.

23 Q Where was it taken?

24 A Here at the courthouse.

25 Q And is that a true and accurate depiction of how you

1 saw him that day?

2 A Yes, it is.

3 MS. CORNWELL: Your Honor, at this time the State
4 would move State's Exhibit 66 into evidence.

5 THE COURT: Any objection?

6 MR. PALMER: No objection.

7 MR. STEVENS: Subject to our previous objections,
8 Judge.

9 THE COURT: All right. They're in.

10 (State's Exhibit No. 66, photo, was
11 marked and entered.)

12 BY MS. CORNWELL:

13 Q And in State's 66, are there any tattoos on the
14 Defendant?

15 A Yes, there are.

16 Q What are they?

17 A There's a series of stars tattooed across the upper
18 part of the chest. The center star is slightly larger and
19 appears to be the name or word, Kaden (sp), is tattooed in
20 the middle of that star.

21 Q Thank you. And Lieutenant Carter, after taking the
22 buccal swabs from the Defendant as well as taking the
23 photographs of his scars and tattoos, have you had any
24 further involvement in this case?

25 A No, I have not.

State v Ayer Carter -- Cross Wyman 11/18/15 458

1 Q Thank you. Please answer any questions Defense Counsel
2 may have for you.

3 THE COURT: Cross-examination

4 MR. PALMER: No questions.

5 THE COURT: Cross-examination.

6 GERALD CARTER - CROSS-EXAMINATION

7 BY MS. WYMAN:

8 Q Now, you said you were a supervising officer in what,
9 again?

10 A Forensic services.

11 Q Forensic services?

12 A Yes, ma'am.

13 Q And in that capacity, you didn't go out to the scene?

14 A I was actually there that night. I did help search. I
15 helped Investigator Ketcherside search the scene, but I
16 didn't actually collect any evidence.

17 Q I got you. But you weren't there when the incident
18 happened?

19 A Not when it happened. No, I was not.

20 Q So you can't say from your own personal eyewitness what
21 happened at the scene?

22 A During the incident you're asking, when it actually
23 occurred?

24 Q Correct?

25 A No. I was not present when the incident occurred.

State v Ayer Stokes - Direct Cornwell 11/18/15 459

1 Q So you can't say what firearm was in whose hands;
2 correct?

3 A I cannot.

4 Q Okay.

5 MS. WYMAN: Court's indulgence. Nothing further,
6 Your Honor.

7 THE COURT: Any redirect?

8 MS. CORNWELL: No, Your Honor.

9 THE COURT: You may step down, sir. Thank you.
10 You may call your next witness.

11 MS. CORNWELL: Thank you, Your Honor. The State
12 would call Sergeant John Stokes.

13 Your Honor may Lieutenant Carter be excused?

14 MR. PALMER: No objection.

15 MR. STEVENS: No objection.

16 THE COURT: You may be excused, sir.

17 (WHEREUPON, John Stokes was duly
18 sworn.)

19 THE CLERK: Thank you. Please have a seat and
20 state your name for the record.

21 MR. STOKES: Sergeant John C. Stokes.

22 THE CLERK: Thank you.

23 JOHN STOKES - DIRECT EXAMINATION

24 BY MS. CORNWELL:

25 Q Sergeant Stokes, where do you work?

State v Ayer Stokes - Direct Cornwell 11/18/15 460

1 A Orangeburg County Sheriff's Office.

2 Q And how long have you been employed by the Orangeburg
3 County Sheriff's Office?

4 A Probably about twelve years.

5 Q What's your current position and rank with the
6 sheriff's office?

7 A I'm a Sergeant within the criminal investigations unit
8 of the sheriff's office.

9 Q Were you working in that capacity on September 10th of
10 2012?

11 A I was.

12 Q And in that capacity, did you assist in the
13 investigation of a shooting that occurred at Maedrine Drive
14 in Orangeburg?

15 A I did.

16 Q What county is that in?

17 A County of Orangeburg.

18 Q And what was your role in that investigation?

19 A Lead investigator.

20 Q Can you tell the jury what being a lead investigator
21 entails?

22 A Well, basically, lead investigator is an administrative
23 role. You delegate any other officer, any other
24 investigators to do certain tasks within the investigation.
25 And you also are responsible for arrests and search warrants

State v Ayer Stokes - Direct Cornwell 11/18/15 461

1 for this case.

2 Q And that would include assigning officers to speak with
3 witnesses?

4 A Correct.

5 Q Victims?

6 A Correct.

7 Q Things of that nature?

8 A Correct.

9 Q How did you first become involved in this matter?

10 A I first became involved when I responded out to TRMC,
11 which is The Regional Medical Center here in Orangeburg to
12 assist Investigator Moore in reference to a shooting
13 incident.

14 Q Okay. And approximately how far away is the Regional
15 Medical Center from Maedrine Drive?

16 A I would say less than ten minutes.

17 Q And when you arrived at TRMC, what did you do?

18 A Once I arrived on scene I made contact with several
19 officers from the Orangeburg County Sheriff's Office who
20 were already there. They advised me there were two victims
21 at the hospital at the time that had gunshot wounds. I was
22 also advised there was a third person that was on scene
23 during the time of the incident.

24 Q And who was that third person?

25 A It was Alvin Clark.

State v Ayer Stokes - Direct Cornwell 11/18/15 462

1 Q And did you have an opportunity to meet with Alvin
2 Clark that evening?

3 A I did.

4 Q And where was that?

5 A At the hospital.

6 Q Okay. And after meeting with Alvin, was he able to
7 give you any information that assisted in your investigation
8 as to what happened that night?

9 A Well, basically, he said that it was himself --

10 MR. STEVENS: Objection, Judge. Hearsay.

11 BY MS. CORNWELL:

12 Q What information, if any, without saying what somebody
13 said was he able to give you that assisted you in your
14 investigation? Was he able to identify anybody involved in
15 the shooting?

16 A Yes.

17 Q Who did he identify?

18 A Well, basically he gave a --

19 MR. STEVENS: Objection, Judge. May we approach?

20 THE COURT: You may.

21 (Off the record bench conference with counsel and the
22 Court.)

23 THE COURT: You may proceed.

24 MS. CORNWELL: Thank you, Your Honor.

25 BY MS. CORNWELL:

State v Ayer Stokes - Direct Cornwell 11/18/15 463

1 Q In speaking with Mr. Clark was he able to give you any
2 information as to who was involved in this shooting?

3 A Mostly he gave me a nickname that the possible suspect
4 went by. But he did state that the suspects name was
5 Terrance but he was not sure of the last name, either
6 Johnson or Bowman.

7 Q Okay. And was he able to give you any other
8 identifying information that helped you in trying to find
9 out who this Terrance person was?

10 A Basically, he stated that the suspect possibly was from
11 the Bowman area. And also was a student at Denmark Tech.

12 Q Was he able to give you a description of any vehicles
13 that could have been involved in this?

14 A He said it was a white Chevy. He wasn't sure about the
15 make or the model. He stated he --

16 MR. STEVENS: I may, just a continuing objection
17 on the same basis of State versus Cain.

18 THE COURT: Yes, your objection is overruled.

19 BY MS. CORNWELL:

20 Q I'm sorry. You were saying a white Chevy?

21 A Said it was a white vehicle. He wasn't sure whether it
22 was an Impala or either a Malibu.

23 Q Okay. And after getting that information, what did you
24 do?

25 A Initially, I went back to our office, CID office and

State v Ayer Stokes - Direct Cornwell 11/18/15 464

1 try to identify the name that was given to me. I came up
2 with a Terrance L. Johnson that was living in the
3 Harleyville/St. George area. When I developed that, I sent
4 off to SLED for a photo lineup of that person.

5 Q Okay. And just to back you up a little bit. Before
6 going back to your office after leaving the hospital, at any
7 point did you respond to the crime scene?

8 A Oh, yeah. Once I left the hospital, I went back to the
9 crime scene and met with the crime scene investigators.

10 Q And would that have been Investigator Ketcherside?

11 A Yes, that's correct.

12 Q And what did you observe when you got on the crime
13 scene?

14 A Once I got there, I observed some blood on the porch
15 and also on the door and on the shell casings on the outside
16 of the house and the exterior of the house and also the
17 interior of the house.

18 Q And with forensics being there did you collect any
19 evidence or anything like that?

20 A No.

21 Q And after you were at the scene, I believe you said you
22 went back to your office to try to locate this Terrance?

23 A Yes, sir. [sic]

24 Q And you mentioned you got up got a lineup based on a
25 Terrance that lived in the Bowman area?

State v Ayer Stokes - Direct Cornwell 11/18/15 465

1 A It's the Harleyville/St. George area.

2 Q Okay. And you sent that off for SLED to do a lineup;
3 is that correct?

4 A /Correct.

5 Q Let me show you what's been marked as State's Exhibit
6 1. Do you recognize that?

7 A Yes, I do.

8 Q Is that the photograph or the photo lineup that you
9 originally had created?

10 A It is.

11 Q Okay. And going back to the Terrance person, did the
12 witness, Mr. Clark, indicate that he knew this Terrance
13 person.

14 A Yes. He stated that he knew him for years from the
15 neighborhood. And he also if he saw him again he would be
16 able to identify them. And he just stated they were
17 friends.

18 Q Okay.

19 MR. STEVENS: Judge, you do understand that our
20 objection is continuing; is that correct?

21 THE COURT: Yes, sir.

22 MR. STEVENS: Thank you, Your Honor.

23 BY MS. CORNWELL:

24 Q And when you showed the witness State's Exhibit 1, was
25 he able to identify who Terrance was in that photograph?

State v Ayer Stokes - Direct Cornwell 11/18/15 466

1 A No, ma'am. He wasn't.

2 Q Did he indicate he was not in that lineup?

3 A He stated that the person responsible was not in that
4 lineup.

5 Q All right. And this is a true and accurate depiction
6 of the lineup that you showed him that night?

7 A It is.

8 Q And about what time? Did you date and time when you
9 showed that to him?

10 A Yes. It was September 11, 2012 at about 1:38 a.m.

11 Q And when you responded to the hospital, about what time
12 was that on the initial call?

13 A If you can see my report, I can might get a better
14 time. I know it was on the 10th of September. I'm not sure
15 about the time. It appears to be around 10:24 p.m.

16 Q And so you showed him this lineup within about four or
17 five hours of the incident occurring?

18 A Correct.

19 Q After he indicated that the person he knew as Terrance
20 was not in that lineup, what did you do?

21 A I did some additional investigative work. I was able
22 to locate a Terrance S. Johnson that lived in the Bowman
23 area.

24 Q Okay. And once you found Terrance S. Johnson, what did
25 you do with that information?

State v Ayer Stokes - Direct Cornwell 11/18/15 467

1 A Once I located that I also sent off for another photo
2 lineup from SLED. And they sent it back and then I met with
3 the witness, Alvin Clark, again.

4 Q Okay. And the second time that you met with Alvin
5 Clark, where did you meet with him?

6 A I met with him that time at my office.

7 Q Okay. And I'm going to show you what's been marked as
8 State's Exhibit 2 and 3. Do you recognize those items?

9 A Yes, ma'am.

10 Q And what are those items?

11 A The first item is the actual six-pack photo lineup.
12 The second item is actually the photo line-up. We call it
13 the pick out sheet.

14 Q And I've got those marked as two separate exhibits. Do
15 you normally attach -- are they normally attached with each
16 other?

17 A They normally are attached and stapled here with the
18 cover sheet on top and the lineup on the back.

19 Q Okay. And is this the photo lineup you showed, the
20 second photo lineup you showed Mr. Clark?

21 A That's correct.

22 Q And was he able to identify the person he knew as
23 Terrance in that lineup?

24 A He did.

25 Q And how did he indicate that that was the person that

State v Ayer Stokes - Direct Cornwell 11/18/15 468

1 he knew as Terrance?

2 A He circled the picture, put his initials and put the
3 date and time?

4 Q Okay. And did you also have him fill out the affidavit
5 regarding that photographic lineup?

6 A I did.

7 Q And is that his signature with the affidavit?

8 A It is.

9 Q And how did he identify the person as number four?

10 A He stated that the -- first, he had his name, I, Alvin
11 Clark, after careful consideration of all photos shown to me
12 in a lineup presented to by Investigator John C. Stokes have
13 identified suspect number four as being the person who shot
14 at me and Calvin and Greg. And dated it September the 10th,
15 2012.

16 Q And are these the original and actual --

17 A It is.

18 MS. CORNWELL: Your Honor, at this time the State
19 would move State's 2 and 3 into evidence.

20 THE COURT: I believe those area already in.

21 MS. CORNWELL: Thank you, Your Honor.

22 BY MS. CORNWELL:

23 Q And so Alvin Clark identified number four as the person
24 he knew as Terrance Johnson?

25 A Correct.

State v Ayer Stokes - Direct Cornwell 11/18/15 469

1 Q And that's the person that he indicated shot at them?

2 A Correct.

3 Q And that was indicated in his affidavit?

4 A Correct.

5 Q And the second lineup that you showed him, what date
6 and time was that?

7 A This lineup was done on September 11th, 2012 at around
8 1:45 p.m.

9 Q So still within about a day of the incident; correct?

10 A Correct.

11 Q And based on that information and getting a positive
12 identification, what did you do?

13 A At that time, I was able to get a arrest warrant on
14 Terrance S. Johnson for three counts of attempted murder.

15 Q And the reason that you got three counts of attempted
16 murdered, at the time was the other victim -- he was still
17 alive at that time; is that correct?

18 A Correct.

19 Q Okay. And did you have any information on the other
20 two suspects?

21 A Not at that time.

22 Q At some point, did you respond back to the crime scene?

23 A Yes. We received a call through dispatch from a
24 concerned citizen stated that a firearm was near the
25 incident location.

State v Ayer Stokes - Direct Cornwell 11/18/15 470

1 Q And did you go to the crime scene to see if you could
2 locate that firearm?

3 A I did.

4 Q Okay. And I'm going to show you what's been marked as
5 State's 59. Is that the firearm that you located?

6 A It is.

7 Q All right. And that would also be State's 102?

8 A It is.

9 Q All right. Did you first locate that item?

10 A No, I didn't.

11 Q What did you do once you found the item?

12 A Well, Investigator Ketcherside of the forensic unit
13 came out. He photographed it. He collected it.

14 Q Okay. After doing that, what did you do next?

15 A Well, next, I made contact with Corporal Leonarde Cain
16 who is our -- who works in our warrant division here at the
17 sheriff's office. He's also attached to the U.S. Marshall's
18 Fugitive Task Force Team. In reference to the apprehension
19 of Terrance Johnson.

20 Q Okay. And did you also get any information regarding
21 any injuries that the other suspects may have received?

22 A Yes. We also received information that a possible
23 suspect had actually been shot during the incident. So at
24 that time we did put out a BOLO, which is a be on the
25 lookout to neighboring counties, to hospitals to see if

State v Ayer Stokes - Direct Cornwell 11/18/15 471

1 anyone came into the hospital during the time of the
2 incident for any type of injuries.

3 Q Okay. And you also mentioned that you had reached out
4 to Corporal Cain with the warrants division?

5 A Correct.

6 Q As the lead investigator, any information that Corporal
7 Cain got, would he have relayed that information back to
8 you?

9 A Yes, ma'am.

10 Q And to your knowledge, was Corporal Cain able to get
11 any additional information that assist you with the
12 investigation while looking for Terrance Johnson?

13 A Yes. Corporal Cain contacted me and advised me that he
14 made contact with Ms. Minick, I think it's Tenaja Minick.

15 MR. STEVENS: Objection, Judge. That's hearsay of
16 hearsay.

17 BY MS. CORNWELL:

18 Q Corporal Cain met with the witness Tenaja Minick?

19 A Yes, ma'am.

20 Q And through that meeting, was there any information
21 regarding Terrance Johnson or the incident that happened
22 that assisted you in your investigation?

23 A Yes. She was able to give two additional names. One
24 was a Taquawn Morrison. And also another subject that went
25 by the name of Rah.

State v Ayer Stokes - Direct Cornwell 11/18/15 472

1 MR. STEVENS: Judge, these are over our prior
2 objection.

3 THE COURT: Yes, sir.

4 BY MS. CORNWELL:

5 Q And was he also able to get information regarding any
6 vehicle that was involved with those two suspects?

7 A He was.

8 Q And what kind of vehicle was that?

9 A It was a white in color Chevy Impala.

10 Q And after getting that information, what did you do?

11 A After we had that information, at that time, we had a
12 photograph -- first what we did was subpoena the Lexington
13 Medical Center. Because, you know, after we sent the BOLO,
14 we had information that they had a person that came in with
15 a gunshot wound. Once I got that information, I was able to
16 get a subpoena for their medical records. And after I got
17 those records back, it came back that a suspect by the name
18 of Emanuel Ayer came from treatment --

19 MR. STEVENS: Objection.

20 THE COURT: Overruled.

21 A He came for treatment, yes.

22 Q Okay. And what did you do with that information?

23 A Once I had the information, I also forward that to
24 Corporal Cain to see if we can get any type of information
25 on Emanuel Ayer. We were able to ascertain a photo from

State v Ayer Stokes - Direct Cornwell 11/18/15 473

1 Lexington County Sheriff's Office who responded at the
2 Lexington Medical Center. Once we got that photo, Corporal
3 Cain sent that off to NYPD.

4 Q I'm showing you State's 65. Is that the photograph
5 that you received from Lexington County Sheriff's Office?

6 A That's it.

7 Q And you also received information regarding where this
8 person resided?

9 A Correct.

10 Q Okay. So where was that?

11 A New York.

12 Q And so you gave that information to Investigator Cain
13 who followed up with New York; is that correct?

14 A That's correct.

15 Q Going back to the information that you got with Mr.
16 Morrison. You had met with Alvin Clark and Calvin Kennedy
17 at some point after that?

18 A I did.

19 Q And did you present photographic lineups of Taquawn
20 Morrison at that time?

21 A I did.

22 Q And looking at State's 111. Do you recognize that?

23 A Yes.

24 Q And is that the lineup and affidavit that you showed
25 Calvin Kennedy?

State v Ayer . Stokes - Direct Cornwell 11/18/15 474

1 A It is actually the six-pack photo lineup that I was
2 given back by SLED for Taquan Morrison.

3 Q Okay. And was Calvin Kennedy able to identify anybody
4 in that photo lineup?

5 A He was. He was able to identify picture number four.
6 And also on his pick out sheet he stated that the suspect in
7 picture number four is the driver of the car. And the one
8 who helped the other dude in the car at the shooting.

9 Q Okay. Did you also show a lineup to Alvin Clark?

10 A I did.

11 Q Was he able to identify anybody in that lineup with Mr.
12 Morrison?

13 A He wasn't.

14 Q Eventually, was Corporal Cain able to get any
15 information on regards to who this Rah person was?

16 A Yes. At some point, I'm not really sure of the exact
17 date. If I could see my notes -- but he was able to get
18 information back from NYPD in reference to the photo that we
19 submitted under their facial recognition.

20 MR. STEVENS: Objection, Judge.

21 BY MS. CORNWELL:

22 Q What was the name that he was able to get?

23 A Rodsheen Ayer.

24 Q And based on that information were you able to get
25 information on the individual known as Rodsheen Ayer?

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1 A I was.

2 Q And were you able to match that information with the
3 suspect that you knew as Emanuel Ayer?

4 A Yes.

5 Q Okay. And based on that information, what were you
6 able to do? And was Rodsheen Ayer the same person that you
7 knew of as Emanuel Ayer?

8 A Correct.

9 Q And with that information, what were you able to do?

10 A Based on the information I gathered back from NYPD and
11 also the Calvin Kennedy that was also picking Taquan
12 Morrison out of the photo lineup, I was able to get arrest
13 warrants on both Taquan Morrison and also Rodsheen Ayer.

14 Q Okay. And once you got the warrants on those two
15 suspects, what did you do?

16 A Once I got arrest warrants I gave all that information
17 over to Corporal Cain so he could so his fugitive
18 investigation.

19 Q And I'm going to backtrack a little bit. At some point
20 during this investigation, did the victim Gregory Howell
21 succumb to his injuries?

22 A He did.

23 Q At that point, did you change the warrants on his case?

24 A I did.

25 Q And what did you change it to?

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1 A Murder.

2 Q When you gave the warrants to Corporal Cain, are you
3 aware as to whether or not he was able to track down the
4 suspects?

5 A He was.

6 Q And where was he able to find them?

7 A Terrance Johnson was located in Mississippi. And
8 Rodsheen Ayer and Taquan Morrison were located in New York.

9 Q After the Defendants were located and returned -- I
10 assume they were located and returned to South Carolina?

11 A (Nods head affirmatively)

12 Q After they were located and returned to South Carolina,
13 did you have any further involvement in this case?

14 A Other than arraignments and preliminary hearings, no, I
15 didn't.

16 Q Thank you, Sergeant Stokes. Please answer any
17 questions Defense counsel may have.

18 THE COURT: Cross-examination.

19 MR. PALMER: Thank you, Your Honor. And may it
20 please the court?

21 THE COURT: Yes, sir.

22 JOHN STOKES - CROSS-EXAMINATION

23 BY MR. PALMER:

24 Q So is it Investigator Stokes?

25 A Sergeant Stokes.

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1 Q Sergeant?

2 A Yes, sir.

3 Q Okay. Let's see.

4 MR. PALMER: Where's the lineup from Mr. Clark?

5 MS. CORNWELL: It's right there.

6 MR. PALMER: Is that here?

7 MS. CORNWELL: Calvin Kennedy.

8 MR. PALMER: Oh, there it is. Thank you.

9 BY MR. PALMER:

10 Q This lineup you did with Alvin Clark?

11 A Correct.

12 Q September 11th, 2012 at 11:45 -- oh, excuse me. 1:45
13 p.m.?

14 A Correct.

15 Q And your understanding of this incident that gave rise
16 to all this stuff happened the night before?

17 A Correct.

18 Q So do you know what -- did Alvin Clark reveal to you
19 what he had been doing between the time of the incident and
20 the time you met with him?

21 A No.

22 Q Did he give you this lineup information the first time
23 you met with him or the second?

24 A The first time.

25 Q Okay. So the first time you spoke with Mr. Clark was

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1 the afternoon following the night before of the incident; is
2 that right?

3 A The first time I spoke to Alvin Clark was on the 10th,
4 was the night of the incident. Yes, sir.

5 Q Okay. But he didn't give you this lineup information
6 until the next day?

7 A He gave me it the same night.

8 Q I'm going to show it to you so maybe you can clear this
9 up for me. It does say September 10th, 2012. But then it
10 says date 9/11/12, 1:45 p.m.

11 A That would be the date of the incident. I didn't meet
12 with me and Calvin and Greg on September the 10th, 2012.
13 And this would be the time that he signed it as identifying.
14 This is the incident right here.

15 Q Yeah. And that's what I what I was asking you?

16 A Yes, sir.

17 Q Just so we're clear --

18 A Yes, sir.

19 Q It says on September 10th, 2012 is his statement of
20 when the incident happened?

21 A Correct.

22 Q And below it, September 11th, 2012 1:45 p.m. is when
23 you were meeting with him and he did the lineup?

24 A Yes, sir.

25 Q Okay. Now, you said that Alvin Clark told you that he

1 knew Terrance Johnson?

2 A Correct.

3 Q Did he indicate that he knew any of these other guys?

4 A No, sir.

5 Q No. Okay. Did you specifically ask him that?

6 A When I present that photo lineup, I just -- I say, you
7 know, the suspect responsible may or may not be in the
8 lineup.

9 Q And that's your standard procedure?

10 A Standard procedure, yes, sir.

11 Q You don't bother to ask if he knows any of the guys in
12 the photo?

13 A No, sir.

14 Q Okay. But he had previously told you that he knew Mr.
15 Johnson?

16 A Correct.

17 Q And this handwriting that filled out this form, is that
18 Mr. Clark's handwriting?

19 A Which one, now?

20 Q The narrative where he fills in the blanks here, here
21 and there?

22 A That may be mine there. That's him here.

23 Q Okay.

24 A And I may have -- I put the case number, wrote his name
25 in and my name in. He did the photograph number and the

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1 little short sentence there. Yes, sir.

2 Q Okay. So just to summarize that, you basically set the
3 form up for him to provide the information. You wrote in
4 the case number, his name and Investigator J.C. Stokes,
5 handed it to him. Says, pick out if you see anybody that
6 was involved or whatever you asked him. And you gave it to
7 him and he took a pen and wrote the words, shot at me and
8 Calvin and Greg?

9 A Correct. And also the photograph number?

10 Q Right.

11 A Yes, sir.

12 Q He put in the number four?

13 A Yes, sir.

14 Q And wrote shot at me and Calvin and Greg?

15 A Correct.

16 Q So that's his handwriting?

17 A Yes.

18 Q And was he given sufficient time to think about this?

19 A As far as -- that would be -- he would fill the sheet
20 out after he identified the picture.

21 Q Okay?

22 A Yes, sir.

23 Q And this circle that was drawn around Mr. Johnson's
24 photograph --

25 A Yes, sir.

1 Q -- that's his writing there?

2 A Yes, sir.

3 Q And you asked him to initial it and date it and put the
4 time?

5 A Correct.

6 Q And that's all his handwriting?

7 A Yes, sir.

8 Q Okay. And then after that, you gave him the form and
9 he wrote in number four and the words shoot at me and Calvin
10 and -- or shot at me and Calvin and Greg?

11 A Correct.

12 Q Did he date it or did you date it?

13 A He should have dated it.

14 Q Okay. And that's -- you saw him sign down there?

15 A Yes. I was there to eyewitness at that part.

16 Q Okay. At that particular meeting, which took place on
17 September 11th, at 1:45 p.m., was there any other
18 transaction or anything else transpire, other than your
19 presenting him with this six-pack lineup and getting him to
20 fill out this form?

21 A That was it.

22 Q Okay. At any point did you take a GSR swab of his
23 hands?

24 A I don't think so, no.

25 Q You're sure?

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1 A It would have been past the standard four hours of a
2 GSR.

3 Q How about the night before, did you do a GSR on him?

4 A I can't really remember who did the GSR on his hands to
5 be honest with you.

6 Q Okay. Were you here when he testified that you did?

7 A I heard him, yes, sir.

8 Q Okay. And you're saying that's not true?

9 A I can't remember if I did or not.

10 Q Okay. If I suggested to you that the GSR sample was
11 submitted to the SLED forensic lab, would you agree that you
12 could have done that?

13 A I could have.

14 Q Okay. And what would be your procedure -- say you had
15 taken a GSR of course, GSR standing for gunshot residue --

16 A Yes, sir.

17 Q -- of his hands. What would you have done with that
18 swab?

19 A Put it into evidence. Sealed it and put it in the
20 evidence locker.

21 Q Would it have been in similar to one of these
22 containers?

23 A It has its own packet.

24 Q Okay. So it has -- and what does it look like?

25 A If you have a GSR kit, it would be the actual GSR kit.

1 Q Yeah. I'm just asking what does a GSR kit consist of?

2 A What does it consist of?

3 Q Yeah?

4 A It has some swabs you dab on the back and the inside.

5 And it has also some Q-tips, some containers that you put

6 inside a white -- like an envelope. And you fill out the

7 outside, the exterior of the bag and you have a crime scene

8 seal. And then you put it in evidence.

9 Q Okay. Besides any GSR swab that you might have taken
10 of any of these subjects, did you yourself gather any
11 physical evidence, other than that?

12 A No, sir.

13 Q Okay. That was Detective Ketcherside?

14 A Yes, sir.

15 Q Did anybody else participate in the crime scene
16 processing or the gathering of physical evidence besides
17 Ketcherside?

18 A Lieutenant Carter was there but as he as he stated, he
19 didn't collect anything.

20 Q Okay. Did you -- do you remember if you conducted a
21 GSR swab in any other individuals the night of the incident?
22 And what I'm talking about is -- when I say the night of the
23 incident, we know it was September 10th, 2012 carrying over
24 into that early morning, which would technically be the
25 11th. But when I refer to the night I mean that particular

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1 night or early morning?

2 A Yes, sir. No, sir.

3 Q And you don't seem to remember whether you took a GSR
4 swab of Mr. Clark. Let's assume you did. Can you give a
5 reason why you would have?

6 A The only reason why you would is because a shooting
7 took place. And it's normal, just the standard procedure.
8 The beginning stage of an investigation you not knowing, you
9 know, what's going on or anything. So you would normally do
10 it.

11 Q Okay. And are you confident that you followed standard
12 procedure in this case?

13 A Standard procedure would be basically within a time
14 period of getting a GSR, which is anything -- not more than
15 four hours.

16 Q Okay.

17 A I'm not even sure I took a GSR kit on him. I mean, I'm
18 not even sure.

19 Q Okay. Would anything in your file or your notes
20 refresh your recollection?

21 A It could possibly, yes.

22 Q Okay. Do you have that with you?

23 A I have my notes, but I don't have anything listed about
24 a GSR. If you have the SLED report it would say who
25 submitted the GSR.

- 1 Q Okay. Well, let me show you one document. This is a
2 document entitled SLED laboratory forensic services request.
- 3 A Uh-huh. (Affirmative response)
- 4 Q Is that the type of document you just referred to?
- 5 A Correct.
- 6 Q And what does that say?
- 7 A It says investigating officer, John Stokes.
- 8 Q And, of course, that's you?
- 9 A Correct.
- 10 Q And then what type of evidence does it make reference
11 to?
- 12 A A GSR kit.
- 13 Q What's the purpose of that form?
- 14 A It's the forensic services request where we have
15 analysis done at SLED.
- 16 Q Okay. And is that something that is filled out in a
17 routine, as a routine part of an investigation like this?
- 18 A This is the information that SLED gives you back.
- 19 Q Okay. Does that tell you whether or not a GSR kit for
20 Alvin Clark was submitted?
- 21 A It does.
- 22 Q And what does it tell you?
- 23 A That the kit was submitted.
- 24 Q Okay. That doesn't give you the result; correct?
- 25 A This doesn't.

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1 Q Okay. Now, assuming you take the GSR kit like you've
2 described. It's got its own kit. You put it in the
3 envelope, seal it up, put it into evidence. What happens to
4 it from there?

5 A It goes into our evidence, our evidence room.

6 Q Okay. And then?

7 A At some point the evidence custodian, she takes it to
8 SLED to be analyzed.

9 Q Do you know who the evidence custodian was in this
10 case?

11 A Kimberly Pugh.

12 Q Okay. And do you have any knowledge whether -- or now
13 that you know a GSR kit was done, do you have any knowledge
14 whether Kimberly Pugh took that to SLED?

15 A That evidence is in your hand.

16 Q Okay. This indicates that Kimberly Pugh took it to
17 SLED?

18 A Correct.

19 Q Does it indicate whether SLED received it?

20 A It's their document.

21 Q And the signature of Nikki P. Hughes indicates that --
22 which she is labeled a forensic technician, indicates the
23 GSR kit was received at SLED?

24 A I guess so. That's their document. That's the
25 document that SLED sends back.

1 Q Okay.

2 A Yes, it does. Yes.

3 Q So it says submitted by Kimberly Pugh. There's a
4 signature. Do you recognize that signature as Kimberly
5 Pugh's signature?

6 A I can't see.

7 Q Oh, sorry. My bad.

8 A I couldn't tell you. Because, I mean, her name is at
9 the bottom. So I guess.

10 Q Do you have any reason to believe it's not her
11 signature?

12 A I wouldn't have any reason to believe it's not.

13 Q And then do you recognize the signature of Nikki P.
14 Hughes?

15 A I've seen it before.

16 Q Does it look familiar?

17 A It does.

18 Q And what time does indicate it was received?

19 A It says September the 18th at 11:18 a.m.

20 Q Okay. So assuming the GSR kit was taken within the
21 requisite four hours as you've described, would it be
22 unusual for it to remain in your evidence locker until --
23 well, for about seven or eight days until it's submitted?

24 A I couldn't answer that. That's a question that only she
25 could answer. I have no clue.

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1 Q Okay. Now, let's see. You also did another lineup on
2 your same form here, you call it a pick out form?

3 A Yeah.

4 Q Pick out sheet?

5 A Yeah, that's it.

6 Q Got it right?

7 A Yeah.

8 Q Okay. And that's dated September 28th. So it was a
9 good while after this was supposed to have happened?

10 A I guess, yes.

11 Q I'm talking about the one on Calvin Kennedy?

12 A Okay.

13 Q And the same questions. You set up the form for him
14 but he actually filled out the relevant information?

15 A Correct.

16 Q In this case he indicated number four, which he also
17 initialed and gave a date and time?

18 A Correct.

19 Q Okay. And the same procedure. Then he signed the
20 form?

21 A Correct.

22 Q And he signed it in your presence?

23 A Yes.

24 Q And did he fill out this language?

25 A He did. And also the photograph number.

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1 Q Okay. And so he wrote the words -- was the driver of
2 the car and the one who helped put the other dude in the car
3 after the shooting?

4 A Correct.

5 Q That's what he wrote?

6 A Correct.

7 Q And do you recall whether he was given sufficient time
8 to look over these photos and fill out the form?

9 A Here again, that first form is after the photo was
10 actually identified. So once he identifies that, then he
11 fills the form out. Yes, sir.

12 Q Okay. But you didn't rush him. You gave him plenty of
13 time?

14 A Yeah.

15 Q Okay. Great. Thank you.

16 MR. PALMER: I have no further questions.

17 THE COURT: Cross-examination.

18 JOHN STOKES - CROSS-EXAMINATION

19 BY MR. STEVENS:

20 Q Good afternoon, Sergeant Stokes. How you doing?

21 A Pretty good. How about yourself.

22 Q Doing well. This isn't the first time we've had a
23 conversation is it?

24 A It's not.

25 Q Okay. I'm going to start by asking you some questions

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1 about September the 10th, 2012.

2 A Okay.

3 Q All right?

4 A Okay.

5 Q You responded to The Regional Medical Center that
6 night; correct?

7 A Correct.

8 Q Okay. And like you said, that was in response to a
9 shooting; right?

10 A Correct.

11 Q I take it to mean, that means you were not there at the
12 incident location when it happened; correct?

13 A No, sir.

14 Q You didn't personally see it happen?

15 A No, sir.

16 Q And that means you also arrived after it happened?

17 A Yes, sir.

18 Q Okay. And you did write a report about your
19 investigation; correct?

20 A Yes, sir.

21 Q I'm just making positive. I just want to ask a few
22 questions about writing reports?

23 A Okay.

24 Q All right. Now, you did receive at least some training
25 on how to write reports; correct?

1 A Correct.

2 Q Okay. And I mean, you're a sergeant. You've written a
3 lot of reports; right?

4 A I have.

5 Q Okay. And you've also got a dangerous job; right?

6 A Correct.

7 Q I mean, you frequently carry a gun to protect yourself?

8 A On duty or off duty?

9 Q Well, do you carry a gun?

10 A I do.

11 Q Okay. And when you carry it, ostensibly it's to
12 protect yourself?

13 A And others.

14 Q And others as well; that's right?

15 A Yes, sir.

16 Q And other citizens as well too; correct?

17 A Correct.

18 Q Okay. Now, thankfully you're here today; right?

19 A Well, by God's grace, yes, sir.

20 Q But you could get injured; right?

21 A Yes, sir.

22 Q On your job or get in an accident on your job or in
23 your vehicle?

24 A I could get into an accident at any time, yes, sir.

25 Q That's true.

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1 A Yes.

2 Q And if you're injured or unavailable, other offers
3 might need to rely on your report for your investigation;
4 correct?

5 A Yes, sir.

6 Q Okay. Right. It's one of the reasons why you want to
7 make sure you do write a good and detailed report?

8 A Correct.

9 Q Okay. And so after drafting it, the report's filed;
10 right?

11 A Correct.

12 Q Okay. And your supervisor sees it?

13 A Yes.

14 Q I'm sorry. You are the supervisor; right?

15 A I don't know if I was at the time. I may have been
16 just an investigator

17 Q Okay. So your supervisor would have seen it?

18 A Yes, sir.

19 Q Okay. And obviously attorneys see it?

20 A Yes.

21 Q Judges might see it?

22 A I guess.

23 Q So, in other words, a lot of folks are going to review
24 your report; right?

25 A That's correct.

1 Q And so you do the best job you can to make sure its
2 accurate and complete and truthful; right?

3 A Correct.

4 Q Okay. So let's get back to your report of this
5 incident; okay?

6 A Yes, sir.

7 Q Now, it says you met with Alvin Clark that night?

8 A Yes, sir.

9 Q And he did speak with you?

10 A He did.

11 Q And even if he didn't give you a written -- oh, I'm
12 sorry. He did give you a written statement that night;
13 right?

14 A He gave Investigator Moore a written statement that
15 night.

16 Q Okay. So the written statement -- let's go back to
17 that?

18 A Yes.

19 MR. STEVENS: Court's indulgence.

20 BY MR. STEVENS:

21 Q Okay. He gave the written statement to Officer Moore
22 you said?

23 A Yes, sir.

24 Q Okay. And you also spoke with him in person that night
25 too; right?

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1 A Yes.

2 Q And you did actually kind of take your own notes
3 regarding what his verbal statement was to you; correct?

4 A Correct.

5 Q Okay. And at some point that night -- you're not
6 specific whether it was you or Office Moore, gunshot residue
7 swabs were taken of his hands; correct?

8 A Correct.

9 Q Which was later put into evidence?

10 A Correct.

11 Q And later sent to SLED?

12 A Correct.

13 Q And that was for SLED to analyze for gunshot residue
14 particles; correct?

15 A Correct.

16 Q Okay. And you didn't speak with that night; right?

17 A No, sir.

18 Q Okay. And you didn't speak with Gregory Howell that
19 night; right?

20 A No, sir.

21 Q Okay. And you did say that whenever -- you do respond
22 to shooting incidents at the hospital; right?

23 A We do, yes, sir.

24 Q And when you do, part of your standard operating
25 procedure is to swab for those GSRs; right?

1 A On most shooting incidents, yes, sir.

2 Q Okay. But in this case you're not aware of any GSR
3 swabs taken from Calvin Kennedy?

4 A I'm not.

5 Q Okay. And you're not aware of any GSR swabs taken from
6 Gregory Howell?

7 A I'm not.

8 Q Okay. Well, let's move on and talk about photo
9 lineups, okay?

10 A Okay.

11 Q All right. You said you developed a possible suspect;
12 correct?

13 A Which one?

14 Q Well, just --

15 A Yes, sir. Yes, sir.

16 Q -- that night you say?

17 A Yes, sir.

18 Q And it obviously was a man, not a woman?

19 A It was.

20 Q Okay. And you got a photo?

21 A Of?

22 Q Of the man that you developed as a suspect?

23 A A DL photo, yes.

24 Q And that's from the DMV; correct?

25 A Correct.

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- 1 Q Okay. And you put him in a photographic lineup?
- 2 A I did.
- 3 Q And you showed it to Mr. Clark?
- 4 A I did.
- 5 Q And he didn't identify anybody in that photographic
- 6 lineup; did he?
- 7 A The first one?
- 8 Q Right?
- 9 A Yes.
- 10 Q Okay. So then you get another photograph?
- 11 A Yes.
- 12 Q Of another man?
- 13 A Another photo from DMV; yes.
- 14 Q From DMV?
- 15 A Yes, sir.
- 16 Q Similar name?
- 17 A Similar name. Yes, sir.
- 18 Q And you put it into another lineup?
- 19 A Correct.
- 20 Q And that was later on. It wasn't on the 10th; correct?
- 21 A It was the 11th.
- 22 Q Okay. And you had -- then Mr. Clark came to 1032
- 23 Chestnut Street in Orangeburg, South Carolina?
- 24 A That's correct.
- 25 Q Okay. And so it was there on September 11th that Mr.

1 Clark went through that photographic identification;
2 correct?

3 A Yes, sir.

4 Q And he also gave yet another verbal statement to you;
5 correct?

6 A I believe so, yes, sir.

7 Q And later on in your report, I think you'll agree, you
8 developed yet another suspect as well; correct?

9 A Yes, sir.

10 Q And that individual's name is Rodney Glover; correct?

11 A Yes, sir.

12 Q Okay. And it indicated Rodney Glover as the driver;
13 right?

14 A Allegations, yes, sir.

15 Q Okay.

16 A Yes, sir.

17 Q And so you got Rodney Glover's photograph?

18 A Correct.

19 Q And you put Rodney Glover's photograph in a
20 photographic lineup?

21 A I believe so. Yes, sir.

22 Q And again, your report indicates you showed that
23 photograph lineup of Rodney Glover to Alvin Clark; right?

24 A If that what my notes say, yes, sir.

25 Q Okay. Well, would it help refresh your recollection?

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1 A It would.

2 Q All right. Let's go ahead and do that.

3 MR. STEVENS: May I approach, Judge.

4 THE COURT: Yes, sir.

5 BY MR. STEVENS:

6 Q Look on page nine.

7 A Yes.

8 Q So we're on the same page with that?

9 A Yeah. Yeah. Yeah.

10 Q Okay. Now, you showed that to Mr. Clark; correct?

11 A Correct.

12 Q And that was just a couple days later again?

13 A It says on the 13th.

14 Q I just want you to use it to refresh your recollection.
15 I don't want you to read it.

16 A Okay. That's fine.

17 Q Now, and that's because you thought that Mr. Clark may
18 have seen the driver; correct?

19 A Correct.

20 Q Okay. Now, he didn't identify anybody in that
21 photograph; correct?

22 A That's correct.

23 Q Okay. And yet again, you develop another photographic
24 lineup around September 19th; correct, 2012?

25 A I don't know the exact date.

1 Q Okay. But another one was developed; right?

2 A It was. Yes, sir.

3 Q Okay. And in that photographic lineup, Taquan
4 Morrison's photograph is put into it; correct?

5 A Correct.

6 Q Okay. And you also showed that photographic lineup to
7 Alvin Clark?

8 A Correct.

9 Q And once again, Mr. Clark could not identify anybody in
10 that photographic lineup?

11 A That's correct.

12 Q Just like he couldn't identify whether Rodney Glover
13 was there, the person in the prior photographic lineup?

14 A Correct.

15 Q And he did Mr. Morrison as the driver?

16 A He couldn't identify him.

17 Q Okay. Okay. Enough with photo lineups. Let's go
18 ahead and talk about your meeting with Mr. Calvin Kennedy.
19 All right?

20 A Okay.

21 Q Okay. Now, you met with Mr. Kennedy on September 28th,
22 2012; correct?

23 A Correct.

24 Q Okay. And that was after he was released from the
25 hospital?

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1 A That's true. Yes, sir.

2 Q Okay. And he met with you at 1032 Chestnut Street in
3 Orangeburg; is that right?

4 A Yes, sir.

5 Q And I'm guessing that's a place where you have an
6 office?

7 A There's an office. Yes, sir.

8 Q Okay. And so that was a little over two weeks after
9 the incident; correct?

10 A You could say that. Yes, sir, the 28th.

11 Q I mean, the incident's on September 10th?

12 A Yes, sir.

13 Q And it's the 28th. So a little over two weeks; right?

14 A Yes, sir.

15 Q Okay. And he told you his story about the incident?

16 A That's correct.

17 Q Okay. And you wrote down his verbal statement in your
18 report; right?

19 A Correct.

20 Q Okay. And, again, when you do take notes you want to
21 be accurate and compete and truthful; right?

22 A Correct.

23 Q That's your --

24 A Yes, sir.

25 Q Okay. Now, so just to be clear, you didn't personally

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1 witness anything that happened during the incident; correct?

2 A No, sir.

3 Q You were not at [REDACTED] on September 10th,
4 2012; correct?

5 A No, sir.

6 Q Okay. And you did not personally see anything happen
7 inside that mobile home that night; did you?

8 A No, sir.

9 Q And you did not personally see or hear anything that
10 happened outside that mobile home during the incident; did
11 you?

12 A No, sir.

13 Q Okay.

14 MR. STEVENS: Court's indulgence?

15 THE COURT: Yes, sir.

16 MR. STEVENS: No further questions.

17 BY MR. STEVENS:

18 Q Thank you Sergeant Stokes.

19 THE COURT: Any redirect?

20 MS. CORNWELL: Very briefly, Your Honor.

21 JOHN STOKES - REDIRECT EXAMINATION

22 BY MS. CORNWELL:

23 Q You met with the victim, Mr. Clark, at the hospital
24 that night?

25 A Yes.

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1 Q Was Mr. Clark cooperative with you?

2 A He was.

3 Q We've heard a little bit about a gunshot residue test.
4 Was that given to you voluntarily?

5 A It was.

6 Q And you didn't have to get a search warrant or anything
7 like that for it?

8 A No, ma'am.

9 Q And while you were at the hospital speaking to Mr.
10 Clark, did he also give assistance in making sure that the
11 owner of the residence where this occurred met y'all out
12 there to give consent?

13 A Correct.

14 MR. STEVENS: Beyond the scope of cross-
15 examination, Judge.

16 MS. CORNWELL: I'll withdraw it.

17 BY MS. CORNWELL:

18 Q And you indicated that no GSR was done on Calvin
19 Kennedy or Gregory Howell that night?

20 A Correct.

21 Q Why is that?

22 A For one, Calvin Kennedy was flown out to Palmetto
23 Richland. And also, Mr. Howell, he was out of it. So
24 that's why we didn't do anything on him.

25 Q Is it safe to say that they had suffered wounds

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1 themselves and were being medically treated at the time?

2 MR. STEVENS: Objection. Leading.

3 A That's correct.

4 MS. CORNWELL: Nothing further, Your Honor.

5 THE COURT: You may step down.

6 Would counsel please approach.

7 (Off the record bench conference with counsel and the
8 Court.)

9 THE COURT: All right. You may call your next
10 witness.

11 MS. CORNWELL: Thank you, Your Honor. The State
12 would call Corporal Leonarde Cain.

13 (WHEREUPON, Leonarde Cain was sworn
14 to tell the truth.)

15 THE CLERK: Thank you. Have a seat. Please state
16 your name for the record.

17 MR. CAIN: Leonarde Cain.

18 THE CLERK: Thank you.

19 LEONARDE CAIN - DIRECT EXAMINATION

20 BY MS. CORNWELL:

21 Q Good afternoon, Corporal Cain?

22 A Good afternoon.

23 Q Where do you currently work?

24 A At Orangeburg County Sheriff's Office.

25 Q And how long have you been employed by the Orangeburg

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1 County Sheriff's Office?

2 A This coming January will be seven years.

3 Q What is your position or rank with the Orangeburg
4 County Sheriff's Office?

5 A I'm a corporal in the warrant division. And I'm also
6 assigned to the U.S. Marshall's Task Force in Columbia,
7 South Carolina.

8 Q And were you working in that capacity on September 10th
9 of 2012?

10 A Yes, ma'am.

11 Q In that capacity, did you assist in the investigation
12 of a shooting that occurred at Maedrine Drive in Orangeburg?

13 A Yes, ma'am.

14 Q How did you first become involved with this case?

15 A I was contacted by Sergeant Stokes in reference to
16 locating Terrance Johnson, who had outstanding warrants with
17 the sheriff's office for three counts of attempted murder.

18 Q Okay. And after you were contacted by Sergeant Stokes
19 regarding this matter, what did you do?

20 A I started doing research on Mr. Johnson and information
21 was received that he had -- he was a student at Denmark
22 Technical College. Again, I went to Denmark Tech in
23 reference to locating Mr. Johnson. I also made contact with
24 his mother and his sister there also.

25 Q Okay. Do you recall his mother and sister's names?

1 A Yes. Ms. Shirley Berry and Ms. Tashima Berry.

2 Q Okay. And do you recall what date you were on campus
3 meeting with them?

4 A September --

5 Q Would it help if you saw your report?

6 A Yes. September 14th.

7 Q Okay. And on September 14th when you met with Ms.
8 Shirley Berry and Ms. Tashima Berry, did you let them know
9 why you were looking for Terrance Johnson?

10 A Yes, ma'am.

11 Q And at that time, did they indicate that they knew
12 where Terrance Johnson was?

13 A No, ma'am.

14 Q All right. After meeting with them, what did you do?

15 A After meeting with Ms. Berry and her daughter at
16 Denmark Technical College, I then made contact with Ms.
17 Tenaja Minick in Columbia, South Carolina.

18 Q And what day did you meet with Ms. Tenaja Minick?

19 A It was September 18th.

20 Q Okay. And did she indicate she knew who Terrance
21 Johnson was?

22 A Initially, she did not until I showed a photograph of
23 him. She only knew him by his nickname.

24 Q Okay. And did she know -- and when you showed her the
25 photo, she knew him, the nickname. Was that a photo of

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1 Terrance Johnson?

2 A Yes, ma'am.

3 Q And that's the person that she identified that she
4 knew?

5 A Yes.

6 Q All right. Did she know where the Defendant was at
7 that time?

8 A No, ma'am.

9 Q Was she able to give you any information that assisted
10 in your investigation at that time?

11 A Yes, ma'am.

12 Q And through that information, did she give you any
13 names of individuals that were with her or staying with her
14 at that time?

15 A Yes, ma'am.

16 Q And what were those names?

17 A She advised that Mr. Johnson --

18 MR. STEVENS: Objection, Judge --

19 THE COURT: Yes, sir.

20 You may proceed.

21 A She advised that Mr. Johnson and her boyfriend Taquan
22 Morrison were friends. She also advised that she owed a
23 white Chevrolet Impala. She also advised that on the
24 incident night her boyfriend Taquan Morrison was in
25 possession of her vehicle. She also advised that when she

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1 got off work that morning --

2 Q I'm going to back you up a little bit before you go too
3 far. Other than Mr. Morrison, was there another individual
4 that was staying at her house at that time?

5 A Rah. A fellow by the name of Rah.

6 Q Rah?

7 A Yes.

8 Q Did she know Rah's real name?

9 A No, ma'am.

10 Q Did she know his last name?

11 A No, ma'am.

12 Q Did she know where he was from?

13 A Yes.

14 Q And where was he from?

15 A The State of New York.

16 Q And was she able to give you any telephone numbers or
17 anything like that that would help?

18 A Yes, ma'am. She gave a number for the Rah subject and
19 for her boyfriend, Taquan Morrison.

20 Q Okay. And after meeting with Tenaja Minick, what did
21 you do?

22 A After meeting with her, her vehicle was towed to the
23 Orangeburg County Sheriff's Office to be processed that
24 evening. I followed the vehicle to the sheriff's office and
25 took the vehicle over to Sergeant Stokes. I also made

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1 contact with Lexington County Sheriff's Office with
2 reference to any individuals going to their hospitals in
3 their county, receiving treatment with a gunshot wound. I
4 was advised, yes. They also advised me that there was a
5 photo of the individual who received treatment at Lexington
6 Medical Center. I also conducted interviews at the hotels
7 around the hospital in reference to an individual staying
8 there at any time after leaving the hospital for treatment.
9 I received information from the Hampton Inn --

10 MR. STEVENS: Objection. Again, objections.
11 throughout this witness as well as the last. Hearsay.

12 THE COURT: All right, sir.

13 THE COURT: You may proceed.

14 BY MS. CORNWELL:

15 Q In your investigation, you met with Hampton Inn?

16 A Yes.

17 Q And were you provided with information that matched a
18 suspect that you were looking for?

19 A Yes.

20 Q And you stated that you had contacted Lexington County
21 Sheriff's Office. They provided you a photo. Is that the
22 photo they provided you with?

23 A Yes, ma'am.

24 Q And that was State's 65, Your Honor. When you spoke
25 with Lexington County Sheriff's Office regarding the suspect

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1 in State's 65, did you also get a name for this suspect?

2 A Yes.

3 Q What was that name?

4 A Emanuel Ayer.

5 Q Okay. And did you get a location of where this Emanuel
6 Ayer was allegedly from?

7 A New York.

8 Q And once you had that information, what did you do?

9 A I then made contact with the United State's Marshall
10 Task Force in the State of New York. They gave me a photo
11 of Emanuel Ayer.

12 Q And were you able to get that photo?

13 A Yes, ma'am.

14 Q Okay. And after looking at that photo, were you able
15 to determine whether Emanuel Ayer was the person in that
16 photograph?

17 A Emanuel Ayer was not that person in the photograph.

18 MS. CORNWELL: Court's indulgence.

19 (State's Exhibit No. 115 was marked
20 for ID.)

21 COURT REPORTER: State's 115 for ID, Judge.

22 BY MS. CORNWELL:

23 Q I'm going to show you for identification purposes.

24 (Off record discussion with
25 counsel)

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1 BY MS. CORNWELL:

2 Q You received a photograph of Emanuel Ayer?

3 A Yes, ma'am.

4 Q It didn't match the photograph of the person that you
5 knew to be Emanuel Ayer in that picture, State's 65?

6 A No, ma'am.

7 Q After you realized that that was not Emanuel Ayer, what
8 did you do?

9 A I then again made contact with the U.S. Marshall's Task
10 Force in the State of New York. And I asked them to assist
11 me in locating family members of Emanuel Ayer. And
12 individuals by the name of Rah or Rah Rah, that they may
13 have had contact with.

14 Q And through that investigation, were you able to
15 develop a suspect?

16 A Yes, ma'am.

17 Q And who was that suspect?

18 A Rodsheen Ayer.

19 Q And through that investigation were you able to view a
20 DMV photograph of Rodsheen Ayer?

21 A Yes, ma'am.

22 Q And were you able to tell if it identified as the
23 person in State's 65?

24 A Yes, ma'am.

25 Q And did you ultimately give all of this information to

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1 Sergeant Stokes?

2 A Yes, ma'am.

3 Q And to your knowledge were warrants signed out for
4 Rodsheen Ayer and Taquan Morrison as well?

5 A Yes, ma'am.

6 Q In the meantime, were you still trying to locate
7 Terrance Johnson at that time?

8 A Yes, ma'am.

9 Q What did you do in regards to Terrance Johnson after
10 you met with Ms. Minick?

11 A I then made contact with a friend of Mr. Johnson, a
12 Sherrell Counts. I made contact with her at a place of
13 employment. And she advised me that she, Ms. Shirley Berry,
14 Stephanie Jenkins and Tashima Berry took Mr. Johnson to the
15 State of Mississippi.

16 Q And did she advise you on what date she took Mr.
17 Johnson to Mississippi?

18 A She advised on the 15th.

19 Q And would that have been after you had met with the
20 Defendant's mother and sister regarding his whereabouts?

21 A Yes, ma'am.

22 Q And after you had informed them that warrants were out
23 for his arrest?

24 A Yes, ma'am.

25 Q After learning about Terrance's whereabouts, what did

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1 you do?

2 A I then made contact with the U.S. Marshall's Task Force
3 in Gulf Port, Mississippi and a collateral deed was sent to
4 them in reference to apprehending Mr. Johnson.

5 Q And to your knowledge, was Mr. Johnson apprehended in
6 Mississippi?

7 A Yes, ma'am.

8 Q And was he extradited back to South Carolina at that
9 time?

10 A Yes, ma'am.

11 Q Okay. To your knowledge, were Rodsheen Ayer and Taquan
12 Morrison ever apprehended?

13 A Yes, ma'am.

14 Q Where were they apprehended?

15 A In the State of New York.

16 Q And ultimately they were transported back to South
17 Carolina as well?

18 A Yes, ma'am.

19 Q And after transporting the Defendants -- did you
20 personally transport the Defendant's back?

21 A I transported Mr. Ayer and Mr. Morrison back.

22 Q But not together?

23 A Not together, no, ma'am.

24 Q After transporting the Defendants back to South
25 Carolina, did you have any further involvement in the case?

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1 A No, ma'am.

2 MS. CORNWELL: Court's indulgence.

3 BY MS. CORNWELL:

4 Q Thank you, Corporal Cain. Please answer any questions
5 the Defense may have.

6 THE COURT: Cross-examination.

7 LEONARDE CAIN - CROSS-EXAMINATION

8 BY MR. PALMER:

9 Q Corporal, is it accurate to say you personally never
10 had any contact with Terrance Johnson?

11 A Never had any contact with him?

12 Q Well, you said you didn't bring him back?

13 A No, I did not bring him back. He was transported back
14 by a transport company.

15 Q Okay. And you weren't involved in that?

16 A I arranged the transport.

17 Q Other than arranging it, you weren't on board, so to
18 speak?

19 A No, sir.

20 Q So you never spoke with him? You never took a
21 statement from him, never actually saw him correct?

22 A No, sir.

23 Q Okay. Thanks.

24 MR. PALMER: No further questions.

25 THE COURT: Cross-examination.

State v Ayer Cain - Cross Stevens

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1 MR. STEVENS: Just a few, Judge.

2 LEONARDE CAIN - CROSS-EXAMINATION

3 BY MR. STEVENS:

4 Q Good afternoon, Corporal Cain. How you doing today?

5 A All right. And you, sir?

6 Q Doing well. Just quickly. You didn't personally
7 witness anything that happened during the incident; correct?

8 A No, sir.

9 Q Okay. And on the evening of September 10th, 2012, you
10 were not at [REDACTED]?

11 A No, sir.

12 Q Okay. And you didn't personally see anything happen
13 inside the mobile home?

14 A No, sir.

15 Q And you didn't personally see anything happen outside
16 the mobile home; correct?

17 A No, sir. Did not.

18 MR. STEVENS: No further questions, Judge.

19 BY MR. STEVENS:

20 Q Thank you, Corporal Cain.

21 THE COURT: Any redirect?

22 MS. CORNWELL: No, Your Honor.

23 THE COURT: Thank you. You may step down,
24 Corporal. Thank you.

25 CORPORAL CAIN: Thank you.

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1 THE COURT: Ladies and gentlemen of the jury, it's
2 about 5:15. It's a good time for us to take our evening
3 recess. Ms. Brown, since you're sitting there in the
4 foreman's chair, I'm going to appoint you as our forelady of
5 the jury. And again, that you're the liaison to the Court
6 in that capacity. So if the jury has any questions during
7 your deliberations or at any time, you would send that
8 through Ms. D here.

9 Again, please remember not to discuss this case with
10 anyone. That includes amongst yourselves, your family or
11 friends or anyone associated with the case. Also, please do
12 not do any independent research or look on the news or any
13 kind of news accounts about the case. Have a good evening
14 and we'll see you at 9:30.

15 (Jury out at 5:15 p.m.)

16 MR. PALMER: Your Honor, not to belabor this, but
17 in the interest of being thorough, apparently Mr. Jenkins is
18 back here now. Out in the passageway.

19 THE COURT: All right, sir.

20 MR. PALMER: If we could just question him and see
21 what he's talking about.

22 THE COURT: Okay.

23 MR. PALMER: Well, he's not in the hallway.

24 THE COURT: Well, if he comes back, we'll question
25 him.

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1 Anything further at this time? I understand that the
2 parties are getting together if they can work out or at
3 least agree to 609 issues regarding the Defendants
4 anticipated testimony if he testifies. If y'all would get
5 together and see if y'all can agree then we'll take that up
6 in the morning.

7 MR. PALMER: Yes, Your Honor.

8 MR. STEVENS: If I may, Judge. Just for purposes
9 of posterity, the conversation from the bench earlier if I
10 may?

11 THE COURT: Yes, sir.

12 MR. STEVENS: Thank you, Judge. Previously during
13 testimony from Sergeant Stokes we objected on the basis of
14 hearsay as well as State versus King. Our position was that
15 essentially the officer is testifying regarding the content
16 of out-of-court statements. And that those statements are
17 being offered for the truth of the matter asserted. Based
18 on our position, we didn't think that that was -- even
19 though he is the lead investigating officer. Also,
20 subsequently with Corporal Cain we had the same issue. With
21 Sergeant Stokes, the State argued State versus Brown in
22 response to say it was in the course of the investigation.
23 Our position is even if it's in the course of the
24 investigation, you still can't testify to the content of an
25 out-of-court statement for the truth of the matter asserted.

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1 And that was essentially the basis of our argument. We were
2 overruled. Our understanding was that it was going to be a
3 continuing objection. I just wanted to make sure that we're
4 on the same page. And, again, we came across this similar -
5 - actually, some of the same issue with Corporal Cain. We
6 objected on the same basis. Our understanding again was
7 that it was going to be for him as well as Sergeant Stokes,
8 it was to be a continuing objection based upon that same
9 hearsay problem from our perspective. Thank you, Judge.

10 THE COURT: Solicitor?

11 MS. CORNWELL: Your Honor, as Mr. Stevens said I
12 did argue that it was being offered for the limited purposes
13 of a government investigation. Off the top of my head, I do
14 believe it's State v. Brown. I would want to double check
15 to make sure I'm giving you the right case cite. But it is
16 allowable under the limited purposes for government
17 investigation. In this instance, it was simply to get the
18 name out so that the jury could hear how the investigation
19 process and how those suspects were developed when the
20 investigation went through as well as the white vehicle. So
21 for the purposes of, you know, a government investigation we
22 thought that it was an exception.

23 MR. STEVENS: And again that was also our basis
24 for Investigator Cain when they're doing the exact same
25 thing. Our understanding is it also may be a continuing

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1 objection?

2 THE COURT: Yes, sir. Mr. Stevens. And the Court
3 found that it is admissible based upon the investigation of
4 both Corporal Cain and Investigator Stokes, that basically
5 they were following the investigative process. They didn't
6 testify to the truth of the matter asserted. They were told
7 these people were convicted or and that they actually
8 committed the crimes for which they were being prosecuted
9 for. So your motions are overruled.

10 MR. PALMER: Your Honor, and just for the record I
11 would join in counsel's objections and arguments.

12 THE COURT: Anything further before we recess for
13 the evening.

14 MR. PALMER: It appears now Mr. Jenkins is in the
15 courtroom, Your Honor.

16 THE COURT: Is there a Mr. Jenkins in the
17 courtroom?

18 MR. JENKINS: Yes.

19 THE COURT: Mr. Jenkins, come on up.

20 (Mr. Jenkins come forward.)

21 THE COURT: All right. Mr. Jenkins if you would
22 place your hand on the Bible and raise your right hand.

23 MR. JENKINS: (Complies)

24 THE COURT: Do you swear or affirm the testimony
25 you're about to give is the truth, the whole truth and

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1 CHAD SMITH - DIRECT EXAMINATION

2 BY MR. SORENSON:

3 Q Good morning Agent Smith?

4 A Good morning.

5 Q Would you please tell the jury where it is that you're
6 employed?

7 A I'm employed with the South Carolina Law Enforcement
8 Division, which is also know as SLED. Specifically, I work
9 in the firearms department at SLED's Forensic Services
10 Laboratory in Columbia.

11 Q Okay. And how long have you worked in the firearms
12 department at SLED?

13 A Seven years.

14 Q Okay. And if you would, just give the jury kind of
15 your educational background?

16 A I attended Clemson University where I earned a
17 Bachelor's of Science Degree in Biological Sciences. And I
18 started at SLED in 2008 and entered the training program of
19 the firearms department. This training program is taught
20 in-house by the court-qualified examiners of the firearms
21 department. It lasts between three to five years. It
22 involves extensive reading and studying. There are multiple
23 tests and examinations given during this period. Later in
24 my training period, I was able to help the other examiners
25 prepare their own casework. At the end of the training

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1 period, I received a comprehensive multi-part examination,
2 which I successfully passed and began receiving my own
3 casework?

4 Q Okay. And when was that that occurred?

5 A That was in July of 2012.

6 Q And since that time, so in the last three and a half
7 years then, have you been basically working cases on your
8 own at SLED then?

9 A Yes, sir.

10 Q Had an opportunity then to come testify in court about
11 your findings in some of those cases?

12 A Yes, sir.

13 Q About how many times have you testified?

14 A Eighteen times.

15 Q And you were qualified as an expert those eighteen
16 times?

17 A Yes, sir.

18 MR. SORENSON: Your Honor, at this time we'd offer
19 Agent Smith as an expert in the field of firearms analysis.

20 THE COURT: Any voir dire.

21 MR. PALMER: We'll stipulate, Your Honor.

22 MR. STEVENS: No objection, Judge.

23 THE COURT: I find him qualified.

24 MR. SORENSON: Thank you, Your Honor.

25 BY MR. SORENSON:

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1 Q Now, if you would, Agent Smith, could you describe for
2 the jury kind of what types of analysis you're able to do
3 out at SLED with regards to either firearms and ammunition
4 components that are submitted to you?

5 A My main responsibility is the examination of firearms,
6 ammunition components such as cartridges, cartridge cases
7 and bullets. What we do the majority of the time is try to
8 determine if a fired piece of evidence, such as a cartridge
9 case or a bullet was fired by a specific firearm. And how
10 we're able to do this is during the manufacturing process of
11 the firearm itself, there remain microscopic marks that are
12 place on the surface of the firearm. These are just done
13 through the machining process and other processes. It's
14 done just totally randomly. It's not something that the
15 manufacturer intends to put in there, but what they are is
16 they are microscopic defects. And when a cartridge is fired
17 out of the firearm, those defects place microscopic marks on
18 the fired component itself, the bullet and the cartridge
19 case. So what we can do is we can look at that those image
20 components under the microscope. We have a very expensive
21 piece of equipment. Each examiner has their own. It's
22 called a Pearson microscope. And it's basically two
23 microscopes that are connected by an optical bridge system
24 so you can compare two samples simultaneous. And you're
25 looking for these marks. And what we do is we compare fired

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1 evidence against each other. And then we have a firearm to
2 compare the evidence to. We can test fire that firearm and
3 look at the marks that are reproduced on the test fires
4 against the evidence itself. And we use that comparison
5 microscope to match up different marks and that's how we're
6 able to determine if a specific ammunition is fired by a
7 firearm.

8 Q So in other words, if you have a bullet from either a
9 crime scene or recovered from an autopsy, it can be compared
10 to a particular firearm to see if that firearm fired that
11 bullet?

12 A Correct.

13 Q And describe for the jury just for some of us that may
14 not be familiar with the components of a bullet, you talked
15 about cartridge casings and projectiles. I mean, what are
16 the differences in those?

17 A Well, a round of ammunition, one unit of ammunition
18 would be a cartridge itself. A lot of people just refer to
19 the whole thing as a bullet. But technically, that's
20 incorrect. The projectile, the part that actually comes out
21 of the barrel, that would be considered the bullet. And the
22 cartridge case is basically a container with all the other
23 components. It holds the bullet. It holds the gunpowder
24 and also has a primer, which is the ignition system for the
25 whole cartridge itself. So you've got the cartridge and

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1 then you've got the bullet and then you've got the cartridge
2 case. So when that cartridge is fired, you've got the
3 bullet that is going toward this target. And then you've
4 got the part that is ejected from the firearm, which would
5 be the cartridge case.

6 Q And just like I just asked you about comparing a bullet
7 to a particular firearm, and then as you had talked about
8 those microscopic defects that are left on the cartridge
9 casings, you can also compare them to a particular firearm
10 if you have a firearm to see whether that cartridge case was
11 fired in that firearm?

12 A Right. Correct.

13 Q And let me ask you also, what about in situations where
14 you don't have a firearm. If you have multiple cartridge
15 casings that are found at a crime scene, can you compare
16 them to each other to see whether the same firearm fired
17 them?

18 A Right. That's what we would do. If we had bullets by
19 themselves or cartridge cases by themselves, we would just
20 compare the bullets with each other and the cartridge cases
21 with each other and try to determine possibly if more than
22 one firearm was involved or the same firearm fired the
23 cartridge cases or the bullets and that sort of thing. With
24 the bullets, what we can do, is we have a database that
25 lists a lot of different manufacturers. We can take

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1 measurements from those bullets with the different markings
2 and everything. Plug them into this data base and it can
3 give you a list of possible makes of firearms that fired
4 that bullet. So we can provide an investigator -- say
5 there's a -- they recover a bullet from a scene and they
6 want to possibly know what sort of firearm fired it. Then
7 we can give that to them.

8 Q Okay. All right. And if you would, before I kind of
9 turn to the evidence that you got in this case, could you
10 also explain for us the difference between a semiautomatic
11 handgun and a revolver?

12 A Those are basic, two types of handguns. A lot of
13 people just call them -- lump them altogether and just call
14 them pistols. But technically, that's incorrect. A
15 revolver would be like if you ever watch any of the western
16 movies or anything like that, you've got a cylinder which
17 holds the cartridges itself. And so the cylinder revolves
18 inside the firearm. And that's how the mechanism operates.
19 But a semiautomatic pistol uses a magazine, which cartridges
20 are basically place right next to each other. And for every
21 pull of a trigger, that firearm, the mechanism is going to
22 fire the cartridge, eject the cartridge case and then load
23 another cartridge into the chamber for firing.

24 Q So if you have a semiautomatic handgun and it's fired,
25 say, three times at a scene, if it's operating properly you

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1 would expect to find three cartridge casings at that scene?

2 A Correct.

3 Q But with a revolver, if it was fired three times,
4 unless somebody had specifically opened it and emptied out
5 the casings, you would expect to find zero; right?

6 A Right. Because the cartridges when they're fired
7 inside a revolver, the cartridge cases typically remain
8 inside the cylinder itself until you manually remove them.

9 Q Okay. Now, Agent Smith, if we could now kind of turn
10 to this case. I think it's your lab number L1211461. Were
11 you provided several items out there at SLED for your
12 review?

13 A Yes, sir. I was. I had several bullets and cartridge
14 cases, fired cartridge cases, as well as a firearm.

15 Q Okay. I'm going to show you initially kind of some of
16 these, the projectiles, a bullet that you received out
17 there, specifically States 114, and then States 81, 82, and
18 83. And I ask you if you recognize those items?

19 A Yes. These were the fired projectiles that I received
20 for analysis. And how I'm able to determine that these are
21 the actual ones that I received, we mark each piece of
22 evidence with a scribe so it's permanently engraved onto
23 the evidence itself. And what we do is we put the SLED lab
24 case number, the item number that it was submitted as and
25 our initials. And I can see my markings on these pieces of

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1 evidence. And the packaging itself is labeled with the item
2 number, the SLED lab case number and my initials. And also
3 it has been sealed by myself on a seal date and it has not
4 been opened since I sealed it.

5 Q Okay. And then additionally did you receive, I believe
6 it was ten fired cartridge casings also for your review?

7 A Yes, sir.

8 Q I'm showing you State's Exhibits 71 through 80. If you
9 could kind of identify --

10 A Yes, sir. These are the cartridge cases I received.
11 And, again, I can see my markings on the actual pieces of
12 evidence themselves as well as on the packaging.

13 Q Okay. And then did you received any firearms in this
14 case?

15 A Yes, sir. I received one pistol with the magazine and
16 five cartridges.

17 Q Okay. Let me show you State's Exhibit 102 and ask you
18 do you recognize that item?

19 A Now, ladies and gentlemen, when I'm handling this
20 firearm, I'm looking to make sure that it's safe to handle
21 and it is. It also has a cable lock on it through the
22 barrel. So it is unable to fire. Yes, sir. This is the
23 firearm I received. And, again, my markings are on three
24 different places on this actual firearm. And I can see
25 clearly my markings.

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1 Q All right. And you also indicated that you received a
2 magazine and some casings or some unfired cartridges. Let
3 me show you State's Exhibit No. 101 and ask if you recognize
4 that?

5 A Yes. These are the unfired cartridges that I received
6 as well as the magazine.

7 Q Okay. And is that State's Exhibit 102, I think it was,
8 is that the only firearm that you received through this
9 case?

10 A Yes, sir.

11 Q And did you have an opportunity to initially determine
12 whether State's 102 was in working order and operable?

13 A Yes, sir. That's part of our examination. When we
14 receive a firearm we make sure that there's no signs of
15 defects that would cause it from working improperly. So
16 during my examination I found that this firearm is in proper
17 working order with no signs of defects.

18 Q Now, explain to the jury -- if you could, take out
19 State's Exhibit 102. And did it have the magazine in it
20 when you received it or --

21 A I'll check my notes. No, sir. The magazine, as I
22 received it, was actually inside this bag by itself with the
23 unfired cartridges.

24 Q Explain to the jury, does that magazine is that a
25 magazine that would be consistent with going with State's

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1 Exhibit No. 102?

2 A Yes, sir. It is. It is a proper magazine for that
3 pistol.

4 Q Okay. Now, ultimately, before -- I have to ask you a
5 few more questions about that specific pistol, did you have
6 an opportunity then to take a look at those other items that
7 I had just shown you, the projectiles and the cartridge
8 casings to see, to then compare them to State's Exhibit No.
9 102 and see whether it fired those items?

10 A Yes, sir.

11 Q And specifically, with regards to State's Exhibit No.
12 102 and the magazine, which is State's 101, how many rounds
13 does that gun hold?

14 A This particular magazine holds sixteen cartridges. So
15 if the magazine was inside the pistol, the total actually,
16 number of cartridges that the pistol could hold would be
17 seventeen. Because you could have one in the chamber and
18 then you could also top-off the magazine with sixteen more.
19 So you could have a total of seventeen.

20 Q Okay. So if that magazine was fully loaded and just
21 put in there, it would hold sixteen?

22 A Correct.

23 Q And you said how many live rounds were still in that
24 magazine when you received?

25 A There were thirteen unfired cartridges.

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1 Q Okay. So it could have an additional -- either three
2 or potentially four?

3 A Right.

4 Q And by topping it off, explain to jury so we understand
5 what you're talking about by doing that?

6 A What you can do is you can have the magazine loaded to
7 full capacity, in this case, sixteen cartridges. You can
8 insert it into the firearm itself and then charge it, make
9 sure that it's -- when I say charge it, I mean, release the
10 slide and it's going to actually feed a cartridge from the
11 magazine into the chamber. So it is ready to fire at that
12 point. Then you can remove that magazine and then put
13 another cartridge in the magazine, like replacing that
14 cartridge that just went into the chamber. So you're
15 basically loading the firearm to its full capacity.

16 Q Okay. Now, explain for the jury if you would, that
17 magazine, how is removed from -- I guess we can pull it out
18 with the gun. How is it inserted into State's Exhibit No.
19 102 and then how is it removed from State's Exhibit No. 102?

20 A This area of the pistol is called the magazine well.
21 That's where the magazine is going to go in this particular
22 pistol. So you can insert it here. It's locked in there.
23 This button right here is the magazine release for that
24 pistol. So you push it and the magazine comes out. So it's
25 locked in there when it's full seated. And then you can

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1 remove it by depressing this button.

2 Q That's all it takes is just depressing that button and
3 it will fall out?

4 A Yes, sir.

5 Q And let me ask you this. When you initially put that
6 magazine in there, what do you have to do to make that gun
7 then ready to fire, when they insert, let's say, a full
8 loaded magazine in there?

9 A Once you have the magazine in there, all you have to do
10 is release it and then let it go. And it's going to
11 chamber, take a cartridge from that magazine and chamber it
12 into the pistol. Then it's ready to fire at that point.

13 Q And then each time you pull the trigger, as you talked
14 about earlier, it's going to eject that spent cartridge
15 casing?

16 A Yes, sir.

17 Q And obviously, the projectile will go out the barrel;
18 is that correct?

19 A Correct.

20 Q And then what does it do to make itself ready to fire
21 again?

22 A What happens, there's a spring in here, what are called
23 the recoil spring. And as that bullet's being pushed out
24 the barrel, there's a force on that cartridge case being
25 pushed back. So that force actually goes up against -- this

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1 is called the breach face area. This unit here is called
2 the slide portion of the pistol. So what happens is that
3 cartridge case is putting pressure on the rear part of the
4 slide and it's going to make the pistol recoil backwards.
5 Well, at the same time, there's a spring in here that's
6 being compressed. And so once it reaches it's full travel
7 backwards, then that spring is going to shoot the slide
8 forward. And then it just cycles itself over again. It's
9 going to take another cartridge from the magazine and insert
10 it into the chamber.

11 Q All right. And let me ask you kind of one more
12 question before I get into your analysis of the cases and
13 all. So when that gun -- well, actually, two more things I
14 want to ask you about. You talked about the cartridge
15 casing ejecting when you pull the trigger. Where, on that
16 particular gun, does it eject on a particular side of the
17 gun?

18 A It's designed -- this area here is called the ejection
19 portion. That's part of the slide where the fired cartridge
20 case is going to come out of. So it's designed to be
21 extracted out of the chamber and ejected to the right side
22 if holding it properly.

23 Q Okay. Let me ask you this. Is there any way to look
24 at -- if you have a shell casing that's found in the crime
25 scene, is there any way to look at that shell casing, where

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1 it's located at and then say exactly where the person was
2 when they pulled the trigger on that gun?

3 A Typically, no. That's an area that's known as ejection
4 pattern analysis. That's not something that we do in our
5 department. And the reason is there are so many variables,
6 unknown variables, that can determine where that cartridge
7 case is going to end up after being fired. Depending on how
8 you hold that firearm, the cartridge case can either go off
9 to the right. If you hold it like this, it's going to go
10 actually to the left. The kind of surface that that
11 cartridge case is going to land on after it's ejected from
12 the firearm makes a difference. Is it a hard surface; is it
13 going to bounce? Is it a sloped surface; is it going to
14 roll? So it could hit any number of different things on the
15 ground, especially if there are people around. They can be
16 kicking the cartridge casings around. So there's so many
17 variables that it's not really a scientific thing for us to
18 do.

19 Q. And the last thing as far just specifically the
20 workings of State's Exhibit No. 102, if it's got -- it's
21 properly loaded and a round has been cycled up and chambered
22 in the gun, and the magazine is then falls out of the gun.
23 Okay? So now it still has one round it, would that be
24 correct? In the gun itself?

25 A Right.

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1 Q Would that gun, State's Exhibit No. 102 be capable of
2 being fired that one time?

3 A Yes, it would. And actually, on the firearm itself the
4 manufacturer put a warning which reads, caution, capable of
5 firing with magazine removed. Some pistols, they're
6 designed to have what's know as a magazine safety or a
7 magazine lockout device. So that when the magazine is
8 removed the pistol can't fire. But this particular firearm
9 does not have those devices. So if you have one in the
10 chamber and you have the magazine removed, you pull the
11 trigger, it would fire.

12 Q Okay. And then what would happen after it fired that
13 one time?

14 A It would actually just -- the slide would just go
15 forward and that would be the end of it. Typically, if you
16 have a magazine still in the pistol and you fire the last
17 round, what's going to happen is part of that magazine is
18 going to engage this lever here, which is called the slide
19 stop lever. So what happens is, when you empty all your
20 cartridges from the magazine by firing, and then after that
21 last round, where the slide is traveling back to the rear,
22 it's going to engage that slide stop lever. So what happens
23 is like this. It's going to lock back. If you don't have a
24 magazine in it, and you fire that last round, it's just
25 going to go forward again because there's nothing to push up

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1 on that slide release to engage the slide.

2 Q Thank you. All right. Now, Agent Smith, let's talk
3 about some of the items you received and what, if anything,
4 you were able to tell about them. I'll start off kind of
5 initially looking at the bullets that you received. Let me
6 take them back so I can kind of hand them to you. All
7 right. And specifically, let's start with State's Exhibit
8 No. 114, which was the bullet that was recovered from the
9 autopsy of Gregory Howell. Tell the jury what, if anything,
10 you were able to determine about that bullet?

11 A Through my examination and what I would do is weigh the
12 bullet, also measure the diameter of the bullet. And
13 looking at its physical characteristics to try to determine
14 what caliber this bullet was. So through my examinations, I
15 determined it was most consistent with being either a .38
16 Special caliber or a .357 Magnum caliber. Both of those
17 calibers have the same diameter bullet and they can use the
18 same bullet weights. And, also, a .38 Special caliber can
19 be fired in a firearms chamber of a .357 Magnum caliber.

20 Q All right. And you said with bullets you've been able
21 to give kind of a list of potential firearms?

22 A Correct.

23 Q Were you able to do that in this case?

24 A I was. There was a number of firearms on my list.

25 Q Okay. Let me just specifically ask you. Out of those

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1 list of firearms were any of those revolvers?

2 A Yes, sir. There's several of them that I'm not
3 familiar with on this list. But the ones that I am familiar
4 with are -- do make revolvers.

5 Q And specifically then -- let me ask you. Kind of
6 State's Exhibit No. 102, the firearm. I'm not sure I've
7 asked you this yet, but what caliber of firearm is State's
8 Exhibit No. 102?

9 A It's .9 millimeter Luger caliber.

10 Q Okay. And describe for the jury what .9 millimeter and
11 what does that refer to?

12 A The .9 millimeter part, when I say caliber, generally
13 speaking it's referring to the diameter, inside diameter of
14 the barrel, the bore diameter. So it's going to mean what
15 size of a bullet is basically going to be fired from this
16 firearm. And when I say .9 millimeter Luger, that's the
17 specific cartridge that this firearm is designed to fire.
18 So you've got your bullet and your cartridge case, and that
19 makes the cartridge. So that's the official designation of
20 that cartridge that that firearm is designed to fire.

21 Q Okay. And, therefore, State's Exhibit No. 114, you
22 testified that was consistent with either a .38 Special or a
23 .357; is that correct?

24 A Correct.

25 Q And could that have been fired by State's Exhibit No.

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1 102?

2 A It could not have.

3 Q Is that bigger or smaller than the projectile fired by

4 --

5 A They're about the same diameter. But one thing that I
6 didn't get into was the rifling. Manufacturers put rifling,
7 what's known as rifling inside their barrels. And if you
8 look down a rifled barrel, you could see it was sort of a
9 twisting pattern inside that. That twisting pattern can be
10 manufactured by removing material from the inside of the
11 bore in a twisting fashion. So you basically have got
12 raised portions and you've got lower portions. So we've got
13 -- the higher portions are called lands and the lower
14 portion is called grooves in our terminology. And so the
15 number of those lands and grooves can differ per
16 manufacturer, per make of that manufacturer. They determine
17 that in advance how many lands and grooves a rifle bearing
18 is going to have. And also too, the widths of those lands
19 and grooves is determined by the manufacturer. So that's
20 something that we can measure. The firearm itself has six
21 lands and grooves -- let me make sure -- with a right-hand
22 twist. Now, these bullets have eight lands and grooves with
23 a right-hand twist, so it's physically impossible for that
24 bullet to have come from that firearm.

25 Q Okay. Now, how about we show you State's Exhibit No.

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1 82. And this is what has been previously testified as the
2 bullet fragments that were removed from the freezer?

3 A Yes. These are actually just fragments of the bullet
4 jacket itself. A jacketed bullet has sort of a softer
5 inside, a core material, which is usually lead, with the
6 outer harder material, usually some sort of copper alloy
7 jacket. So what I've received in State's Exhibit 82 was two
8 of the outer covering of that bullet. Again, the markings
9 from that rifle or from the rifle barrel, the firearm, are
10 placed onto the jacket material itself. So I could
11 determine that State's Exhibit 82 is most consistent with
12 being a .38 Special, a .357 Magnum caliber. And also to the
13 -- with the eight right rifling impressions, it could not
14 have been fired by that firearm.

15 Q Were you then able, though, to look at and determine
16 whether the same weapon fired this bullet say from Exhibit
17 No. 114 and these fragments. I did do a comparison with
18 both of those. And my results were inconclusive. So it's
19 possible that the same firearm fired both of those items of
20 evidence or two separate firearms could have fired it too.

21 Q Okay. So it could have been fired by the same gun.
22 You just say definitively so?

23 A Yes, sir.

24 Q But they are consistent as far as being the same
25 caliber?

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1 A Right. And the measurements, with the land and groove
2 measurements that I mentioned were the same. So there's
3 nothing to say that it was not fired by the same firearm.

4 Q All right. Now, let me show you the other two bullets
5 that you received, State's Exhibit No. 83, which was the
6 bullet that was test fired, that was removed from the air
7 conditioner post outside of the residence. And then State's
8 Exhibit No. 81, which was the projectile located at marker
9 thirty-one, inside the residence. Did you have a chance to
10 examine those two?

11 A Yes, sir. I did. And I determined that they're most
12 consistent with being .9 millimeter Luger caliber and that
13 they were fired by the same firearm, but not this firearm
14 here because this has nine lands and grooves with a left-
15 hand twist, and the firearm has six lands and grooves. So
16 it could not have been fired by that firearm. But they were
17 fired by the same firearm.

18 Q Fired by the same type, as far as same type of
19 ammunition as could be fired out that gun. But those two
20 specifically were not fired by State's Exhibit No. 102?

21 A Correct.

22 Q And I believe those were all of the bullets or
23 projectiles or bullet fragments that you received; is that
24 correct?

25 A I did receive one more bullet.

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1 Q We had one, I think one that was described as kind of
2 an old bullet from some scar tissue at the autopsy?

3 A Correct.

4 Q Okay. Were you able just to determine what the caliber
5 was of that?

6 A That was most consistent with being a .25 auto caliber.
7 So a much smaller bullet than the .9 millimeter or the .357,
8 .38.

9 Q Not consistent with anything, other evidence that you
10 received; is that correct?

11 A No, sir.

12 Q All right. I'm going to turn to the shell casings. I
13 want to talk about -- initially, kind of break them down
14 into two groups. State's Exhibit 71 through 77, which are
15 the cartridge casings that were found outside at markers one
16 through seven initially. And then the other three, okay?
17 So we'll deal with those first. I think it's your items 10
18 through 16?

19 A Correct.

20 Q It gets a little confusing. Did you have an
21 opportunity to review those seven shell casings, State's 71
22 through 77?

23 A I did. And I determined that all of those cartridge
24 casings were fired by the same firearm. Again, not by this
25 particular firearm. Based on the characteristics present on

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1 those cartridge cases, it has a different sort of a -- when
2 I mentioned earlier that this area here is called the breach
3 face. That's the part of the firearm that the cartridge
4 case would contact in firing. So the markings on those
5 breach face are imprinted or make other markings on the
6 cartridge case itself. So this has a different type of
7 breach face than the items, State's Exhibit 71 through 77
8 exhibit. So it's not fired by this particular firearm.

9 Q Okay. Now, let me ask you. So what was the caliber,
10 though on State's Exhibit 71 through 77?

11 A They were the same caliber. They were .9 millimeter
12 Luger.

13 Q Let me ask you. Is there any way to take -- I've got
14 to go back real quick.

15 A All right.

16 Q State's Exhibits 83 and 81 that you testified about
17 being fired by the same gun; is that correct? It's that one
18 from the AC post and the one --

19 A Yes, sir. Correct.

20 Q And what was the caliber of those two?

21 A Those are .9 millimeter Luger.

22 Q Is there any way to determine whether either of these
23 bullets came from any of these cartridge casings?

24 A That's not an examination that we perform. Some
25 laboratories do do that sort of examination, but we do not.

1 So we could not determine that.

2 Q Are they consistent though as far as being the proper
3 caliber and everything to have come from those cartridge
4 casings found at markers one through seven?

5 A Right. It would have been the same caliber.

6 Q All right. And then again, your testimony is that
7 these seven shell casings then are not, were not fired by
8 State's Exhibit 102; is that correct?

9 A Correct. Yes, sir.

10 Q All right. And then lastly you had an opportunity to
11 look at those three. That's State's, what, 78, 79, and 80
12 maybe?

13 A You've got them there.

14 Q Oh, okay. I'm sorry. I grabbed the wrong three. The
15 nickle plated ones. Hold on one second.

16 A It would have been my item 17, 18, and 19.

17 Q There's two of them right there. Is that State's 78,
18 79 and 80; is that correct?

19 A That's correct.

20 Q Okay. First of all, describe for the jury what those
21 three items are?

22 A These are three fired .9 millimeter Luger caliber
23 cartridge cases. I also compared those with each other and
24 with the other cartridge cases that I received. And I
25 compared those with the test fires from the pistol itself.

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1 And was able to determine that those three cartridge cases
2 were fired by State's Exhibit 102.

3 Q And those are the markings that are on the packaging
4 are found on the living room floor, at marker thirty. The
5 bedroom floor at marker thirty-two, and the front steps at
6 marker 10; is that correct?

7 A Correct.

8 Q So the three of them were all fired by the same gun.
9 In your opinion, State's Exhibit No. 102?

10 A Correct.

11 MR. SORENSON: I beg the Court's indulgence.

12 A I made a mistake. This firearm has five lands and
13 grooves with a right-hand twist. It doesn't change any of
14 the results of my examinations. But earlier I said it had
15 six, but there are five lands and grooves.

16 MR. SORENSON: I beg the Court's indulgence.

17 THE COURT: Yes, sir.

18 BY MR. SORENSON:

19 Q That's all I have Agent Smith. Please answer any
20 questions the Defense counsel has.

21 THE COURT: Cross-examination

22 MR. PALMER: May it please the Court.

23 THE COURT: Yes, sir.

24 CHAD SMITH - CROSS-EXAMINATION

25 BY MR. PALMER:

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1 Q Agent Smith?

2 A Yes, sir.

3 Q How re you this morning?

4 A Fine.

5 Q Scott Palmer is my name. I have some questions. First
6 of all, I noticed from looking at these, this is a different
7 type of ammunition than the brass colored casing; correct?

8 A Correct. There are two different manufacturers.

9 Q And this is known as +P ammunition; did you notice
10 that?

11 A That would be correct, yes. This is loaded to a higher
12 pressure than the standard .9 millimeter Luger.

13 Q And also, if you look at the unfired rounds that you
14 examined and testified to, which I believe would -- and
15 correct me if I'm wrong -- but that would be the same brand
16 ammunition as these fired cartridges?

17 A Correct. The unfired cartridges I received as State's
18 Exhibit 101 are the same -- what we call it is a head stamp.
19 It is basically the information that the manufacturer puts
20 on the head of the cartridge case. Usually, it's
21 manufacturer and also what caliber. So the same head stamp,
22 same information as the State's Exhibit 78 through 80.

23 Q And does the FC, does that stand for a particular
24 manufacturer?

25 A Yes, sir. Well, these particular cartridge cases are

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1 Speer.

2 Q Speer?

3 A Speer brand manufacturer, yes.

4 Q These are the FCs?

5 A Right. And that would be Federal, Federal brand.

6 Q And those are two different companies?

7 A Yes, sir.

8 Q And the other way they may differ, and please correct
9 me if I'm wrong, is that as far as the projectiles, these
10 appear to be hollow point bullets; is that correct?

11 A Yes, sir. They are. Hollow point is the type of
12 bullet where the nose of the bullet is open so it's made to
13 expand when it hits its target.

14 Q But they contain some level of a copper jacketing in
15 addition to being hollow points?

16 A Right. The core itself, the inside of the bullet is
17 made of lead. And then it has an outer jacket material,
18 which is some sort of copper alloy material.

19 Q So the difference in design, can you comment on the
20 purpose of that type of hollow point ammo as opposed to,
21 say, something like this -- well, not this one. But the
22 other unfired bullet? This is just a round-nosed copper
23 jacketed projectile?

24 A That's correct. That particular bullet, which is
25 State's Exhibit 81 is known as a round-nosed full metal

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1 jacket bullet, where the jacket actually goes across,
2 encloses the whole nose itself. It's called a round nose
3 because its actually got a round profile. But as far as the
4 purpose of the particular projectiles, the projectiles that
5 are present in State's Exhibit 101, the hollow points are
6 designed for mostly personal protection. Law enforcement
7 agencies use it. And some of the large calibers they use it
8 for hunting as well.

9 Q Is it your understanding that hollow point ammunition
10 is not restricted to law enforcement; it's available to
11 everyday consumers?

12 A Sure. Yes, sir.

13 Q And the round nose that you call it, also synonymous
14 with what they call ball ammo?

15 A That's correct.

16 Q Military ball?

17 A Yep.

18 Q So these two different .9 millimeter's that you
19 examined, very different types of bullets within that
20 caliber; correct?

21 A Yes, sir.

22 Q And you've determined that they were definitely fired
23 by two different .9 millimeter firearms?

24 A That's correct. Yes, sir.

25 Q So in the context of what this evidence is on this

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1 table in front of you, it's pretty definite we have two
2 different .9 millimeter pistols involved?

3 A Correct.

4 Q Were you able to pin down -- I know you've got a whole
5 list of manufacturers here?

6 A Yes. In specific, if you're referring to my items 9
7 and 20, which are State's Exhibit 81 and 83 -- is that
8 correct?

9 Q Yes?

10 A Okay. Again, the number of lands and grooves on that
11 bullet itself, and you can see them. We can count them.
12 There were nine lands and grooves with a left-hand twist.
13 When I say left-hand, that means that the twisting can
14 either go left or to the right depending on how the
15 manufacturer wants to do it. And so these have a left-hand
16 twist with nine lands and grooves. And currently the only
17 known manufacturer with those rifling specifications is a
18 brand of firearms called Hi-Point Firearms.

19 Q Okay. Now, the brass colored ones, the regular non +P,
20 is that the ones that came from the Hi-Point? Is that what
21 you determined?

22 A No, the bullets I can determine they can from a Hi-
23 Point.

24 Q Okay. The round nose, not the hollow point?

25 A Correct.

1 Q Yeah. Okay.

2 A Now, the cartridge cases themselves, you know, I can
3 determine they were all fired by the same firearm. And
4 although they have characteristics of being fired by a Hi-
5 Point, I cannot conclusively say that they were fired by a
6 Hi-Point because that's not something that we can
7 conclusively do as far as cartridge cases are concerned.
8 The bullets, you know, we can look at those rifling
9 impressions and get a list.

10 Q And just out of general interest, is it common for you
11 investigating this type of evidence extracted from a crime
12 scene, to have an intact, unfired bullet like that?

13 A Yes, sir.

14 Q Is it?

15 A Yeah. We do. Depending on what sort of surface a
16 bullet would impact, you know, depends on what sort of
17 damage it would have. But we do get intact bullets without
18 very much damage.

19 Q And can you tell from that bullet what it might have
20 passed through before it came to rest?

21 A Sometimes we can depending on if there is -- in a
22 particular case, like they went through some sort of wood
23 object or something. There would be possible wood fibers on
24 it. So sometimes we can have an idea of what it impacted.

25 Q Did you find anything significant on that particular

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1 projectile?

2 A This is State's Exhibit 81, which is my item number 20.
3 And that particular bullet, I did not observe any sort of
4 material. And, also, too what we do is when we get bullets
5 in, we go ahead and decontaminate them. Because we really
6 don't know what the origin is. So just to be on the safe
7 side for our purposes, we like to go ahead and, you know,
8 soak them in some sort of alcohol or some sort of
9 decontaminating agent to get any kind of germs or anything
10 off of it. But when I received it, and just doing a cursory
11 examination of it, I did not see any sort of material on it.

12 Q And your typical examination, would that reveal whether
13 or not a bullet like that had passed through any kind of
14 organic tissue or have blood on it?

15 A Right. A lot of times we can determine if we see some
16 sort of material that we possibly think could be blood, we
17 would swab it. So we would collect that material in case it
18 would become relevant in an investigation. In this
19 particular instance, I did not see anything like that.

20 Q Okay. Thank you. Now, I see that -- what I don't see
21 is that it looks like there's a fired round from the Smith &
22 Wesson. Were you provided one of those?

23 A No, sir. I did not receive any actual fired
24 projectiles or bullets from this firearm, just the cartridge
25 cases.

1 Q Okay. Now, does your area of expertise include any
2 type of ballistic testing?

3 A No, sir. Ballistics is really the science of
4 projectile motion. That's what the definition is. People
5 who study ballistics are more concerned with the way a
6 projectile will behave or how it will perform after it exits
7 the barrel. So what we're interested in are the markings
8 that are created during firings. So while the projectile is
9 still inside the firearm itself. So in our department we do
10 not really do any sort of ballistics.

11 Q A couple of questions about that particular .9
12 millimeter pistol. You indicated that the magazine -- and
13 it says on there that it holds sixteen rounds; correct?

14 A Correct. The magazine itself has these indicators --
15 we call them witness holes. So what you do is when you load
16 the magazine with cartridges, you can actually see to what
17 level the magazine is loaded to. And it is actually marked
18 sixteen. And we do a magazine capacity. So we actually see
19 how many cartridges we can get in here to determine if, you
20 know, the markings are correct or not. And which, in my
21 testing, I determined that sixteen cartridges would fit.

22 Q And just so the jury understands your term, topping
23 off. Would a typical procedure for topping off a weapon
24 like that be to insert a full magazine, chamber a round,
25 extract the magazine and then add another round to the mag

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1 and then reinsert it?

2 A Yes, sir. That would be the process.

3 Q And so in that situation, assuming it goes through that
4 process, you've got seventeen live rounds, one in the
5 chamber and the weapon is ready to fire?

6 A Correct.

7 Q Does that particular weapon have a safety?

8 A It has two safety devices on this firearm. It's got a
9 trigger safety, which it's hard to see. But you have to
10 actually pull the trigger to fire it. Just jarring the
11 trigger around will not fire it. It's designed to where you
12 have to actually place your finger on the trigger and pull
13 it down to where it's going to fire. It also has what's
14 known as a fire pin safety. And that's actually built into
15 the slide here. So you have -- basically, it's designed so
16 that the firearm won't go off on its own or if it's hit hard
17 enough it won't fire. You have to pull the trigger, and
18 then it depresses the fire pin safety, which allows the
19 firing pin to pass through unobstructed is what's happening.
20 So it's got two safeties built in.

21 Q Okay. And just to follow-up with that, assuming --
22 let's go back to my scenario where I've loaded the weapon,
23 topped off the mag, reinserted it. It's combat ready. Is
24 than accurate?

25 A That would be correct, yes, sir.

1 Q Okay. The weapon is combat ready. If the weapon is
2 drawn in that condition, is there any independent mechanism
3 that needs to be activated before or can you just pull the
4 trigger and it'll fire?

5 A You have to intentionally pull the trigger for it to
6 fire.

7 Q Okay. But there's no safety switch or slide or
8 anything?

9 A No. There's nothing, we refer to them as like thumb
10 safeties, or something you have to depress or switch on or
11 off like some firearms have. This particular firearm does
12 not have that. But it has these two built-in safeties to
13 prevent accidental firing. But you would still have to
14 intentionally put your finger on the trigger and pull it for
15 it to fire.

16 Q Now, one thing I noticed about that weapon is that you
17 described the different parts, the slide and the frame. The
18 slide is metal, the barrel is metal, but the frame appears
19 to be some kind of plastic or polymer?

20 A That's correct. Many manufacturers have switched to
21 different designs. Most of the major manufacturers have at
22 least one sort of model that has a plastic or a polymer
23 frame. One good example is the Glock pistol, which all
24 Glock pistols have a polymer frame and some sort of a metal
25 slide and other components. But this particular model, the

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1 Smith & Wesson pistol has a polymer or plastic frame.

2 Q Glock sort of wrote the book on that didn't they?

3 A They're one of the ones that started the trend, yes.

4 Q And what's the advantage, in your expertise, of having
5 a plastic or polymer frame over say a steel or metal frame?

6 A There are several advantages. It's lighter weight.
7 Cheaper to produce is one for manufacturers. It's also very
8 tough. It's chemical resistant. Any sort of saltwater or
9 blood or anything that could be corrosive does not attack
10 polymer. So it has advantages.

11 Q Is this the type of weapon that would be available to
12 the general public?

13 A Yes, sir.

14 Q Assuming they qualify to own one?

15 A Yes, sir.

16 Q Okay. So you could buy that in a pawn shop or a gun
17 shop?

18 A Correct.

19 Q Now, I want to ask you -- get some other exhibits. I'm
20 looking at State's Exhibit 114. And this appears to be a
21 different type of bullet. That's the one you identified as
22 being a .38 or a .357?

23 A Yes, sir. This -- again, you can see it has a lead
24 core. And then it has a jacket around it. Some sort of
25 copper alloy jacket. I can't tell if it was originally some

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1 sort of hollow point or what's also known as a jacketed soft
2 point. Which basically, if you took a hollow point but you
3 put lead, instead of where that cavity for the hollow point
4 is going to be, basically the lead's going to be exposed and
5 you're going to have jacket around. So I couldn't determine
6 -- it's been slightly damaged -- if it was one or the other.

7 Q Are those the only two options? Could that have been a
8 fully jacketed projectile?

9 A That is possible, but just based on the
10 characteristics, I mean, I couldn't determine that. It
11 certainly could have been a jacketed bullet with some of the
12 jacket have been torn off. Typically, we see a lot of
13 revolver rounds or cartridges that have a jacketed soft
14 point or that sort of thing, or lead, plain lead bullets.
15 But I can't say conclusively.

16 Q One thing else I noticed about that particular
17 projectile, compared to the fired .9 millimeter which is
18 State's 83, is that the .9 millimeter is not jacketed on
19 what you call the butt of the projectile?

20 A Right, the base.

21 Q The base?

22 A Yes. That's referred to as -- the full metal jacket
23 does not have a enclosed base. So the jacket does not cover
24 the base itself on a full metal jacket.

25 Q Is there some -- is that a design that's specific to .9

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1 millimeter? In other words, could you have a fully jacketed
2 .9 millimeter round?

3 A If it's fully jacketed, we refer to it as a total metal
4 jacket, a TMJ. And that would indicate that the whole
5 bullet itself is jacketed. So there is no area to see any
6 sort of core material, which this full metal jacket you can
7 clearly see the base or the core, the lead material, itself.

8 Q And conversely, could the .38 round be designed like
9 State's Exhibit 83, to have the base exposed?

10 A Right. There are definitely .38 Special and .357
11 Magnum caliber bullets that are full metal jacketed or built
12 the same way.

13 Q Okay. Now, State's Exhibit 82, is, as you've noted,
14 two separate pieces of copper jacketing and are very
15 distorted. Would you agree with that?

16 A Correct.

17 Q And are you able to determine just from this evidence
18 whether it's the same type of -- it started out as the same
19 type of projectile as State's Exhibit 114?

20 A May I see it, please? It does have the same
21 characteristics. State's Exhibit 114 and State's Exhibit 82
22 both have a enclosed base. The bottom of the bullet is
23 jacketed and it shares other characteristics as well.

24 Q Now, a couple of things I noticed is that they're
25 different colors. Do you have an explanation for that?

1 Could they be made out of different materials?

2 A More than likely one has been exposed to some sort of
3 damage. Or also, too, the coloring, the jacket material,
4 that copper jacket can also tarnish over time. So I really
5 don't know what caused the color differences. But they do
6 tarnish.

7 Q Well, let me ask you. I mean, let me just get to my
8 point. Are you able to state in your area of expertise with
9 any degree of certainty whether that's the same type and
10 brand of ammunition between those two?

11 A I can't say conclusively. They're consistent with
12 being the same type just based on the observable physical
13 characteristics that I can see. But to actually determine
14 conclusively, I cannot.

15 Q Okay. Now, what is the IBIS system?

16 A IBIS, we pronounce it as IBIS. It's the Integrated
17 Ballistics Identification System. And what that is is a
18 tool for law enforcement to be able to put evidence, such as
19 fired cartridge cases -- and we used to be able to put
20 bullets in our system as well. But our new system does not
21 have that capability. But what it does is it allows
22 unrelated cases to be -- like if you've got -- you put in
23 the evidence for one case and you put in evidence from
24 another case, they compare them against each other, just
25 through the system itself to determine if there was some

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1 sort of link between cases. So you've got IBIS systems
2 throughout the nation and they're basically comparing stuff
3 with each other to see if possibly there's links with other
4 cases in other areas.

5 Q Now, I notice your report concludes by saying that item
6 6, 8, and 9. And your item number 8 is the same as -- it's
7 basically the fragment jacket?

8 A Right. That's State's Exhibit 82.

9 Q Yeah. 82. You didn't put that in the IBIS System.
10 And why is that?

11 A That's because it was too damaged. We have a certain
12 criteria -- well, at that point we weren't bullets still in
13 the system whereas, just a few years ago. Our new system
14 does not allow for bullets. But at this particular time, it
15 would have been too damaged to put into the system.

16 Basically, the IBIS system required that the bullets be in
17 more pristine condition for it to be used.

18 Q Okay. And so is it fair to say that as far as IBIS is
19 concerned, that particular fragment was worthless?

20 A Right. It would have been unsuitable for our entry
21 purposes.

22 Q Okay. So just to conclude what I understand is your
23 testimony, you can state with certainty that among all this
24 evidence, there were two .9 millimeter pistols involved?

25 A Right. Possibly three if you count that the bullets

1 that were fired, were fired by a different firearm that
2 fired the group of cartridge cases that were not fired by
3 this. But if you're saying that there's the same firearm
4 that fired the bullets that fired the other group of
5 cartridge cases, then there would have been two .9
6 millimeters.

7 Q Let me make sure I understand that?

8 A Okay. Items or State's Exhibits 81 and 83, which I
9 have here, these two .9 millimeter bullets were fired by the
10 same firearm. I can say that it's most consistent with
11 being a Hi-Point based on its characteristics. And that's
12 the only known manufacturer that has those rifling
13 specifications that are present on here. Now, the group of
14 cartridge cases, which were State's Exhibits 71 through 77
15 that were not fired by this firearm, could have been or
16 possibly it could have been a different firearm that fired
17 State's 81 or 83.

18 Q Okay. So just to encapsulate that, there's a degree of
19 certainty that there were at least two .9 millimeters
20 involved and possibly three?

21 A. Correct.

22 Q Now, with regard to the .38/.357 -- and while we're
23 talking about that, is it my understanding correct that the
24 difference between those two calibers is just the charge
25 behind the bullet?

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1 A There's some physical differences as well. The .357
2 Magnum is basically a lengthened .38 Special. So the
3 cartridge case and the overall length of the cartridge case
4 or cartridge itself is longer in the .357 Magnum than it is
5 the .38 Special. So you're able to fire .38 Special caliber
6 cartridges in a .357 Magnum firearm, but you cannot do it
7 conversely. But the main difference is the .357 is a lot
8 more powerful round than a .38 Special.

9 Q And based on your report, your examination and your
10 expertise, we've cleared up about the .9s. And your
11 testimony and your findings are that there's at least one
12 .38 and possibly two involved between this evidence?

13 A Right. .38 or .357.

14 Q Yeah.

15 A Because they're inconclusive with each other. So I
16 can't say for sure that they were fired by the same firearm?

17 Q Now, are .38s and/or .357s, do they contain polymer or
18 plastic?

19 A There are some revolver designs that are kind of like a
20 polymer. It's still a relatively new technology for
21 revolvers. But some manufacturers have gone to polymer.

22 Q Traditionally, would a typical .357 be considered a
23 heavier gun?

24 A Typically, yes.

25 Q Yeah. Okay. Thank you, sir.

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1 MR. PALMER: No further questions.

2 THE COURT: Cross-examination.

3 CHAD SMITH - CROSS-EXAMINATION

4 BY MR. STEVENS:

5 Q Good morning, Agent Smith. How you doing today?

6 A Good morning. Fine.

7 Q All right. I'd just like to ask you some questions
8 first about September 10th, 2012. Okay?

9 A Okay.

10 Q Now, you were not at the incident scene when it
11 happened; correct?

12 A No, sir.

13 Q Okay. So you didn't personally see anything happen;
14 right?

15 A No, sir.

16 Q Okay. Well, let's focus on what you were able to do in
17 this case, okay? Obviously, you analyzed items sent to
18 SLED; right?

19 A Right.

20 Q Okay. And ostensibly because they're related to this
21 incident; right?

22 A Right. They had been submitted to our laboratory for
23 examination under this case.

24 Q Okay. And here that included one handgun; correct?

25 A Right.

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1 Q And that handgun was a Smith & Wesson semiautomatic
2 pistol?

3 A Correct.

4 Q Okay. And that's that silver and black firearm before
5 you; right?

6 A Right.

7 Q And you also examined the magazine as well in this
8 case; correct?

9 A Correct.

10 Q And that magazine was also able to fit inside that
11 Smith & Wesson handgun?

12 A Correct.

13 Q Okay. Now, let's also be very clear. You did not
14 receive any .38 caliber revolver or .357 revolver in this
15 case for your analysis; correct?

16 A No, sir.

17 Q Okay. Nothing was submitted to you for your analysis;
18 correct?

19 A Correct.

20 Q So you can't say whether one was actually there and
21 involved with somebody. But you can say you didn't get one
22 to analyze?

23 A Right.

24 Q Okay. But you also examined the bullets too; right?

25 A Correct.

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1 Q Okay. So let's talk about some of those bullets. Now,
2 you have previously indicated -- I just want to make sure --
3 that none of the bullets you examined were examined from
4 that Smith & Wesson semiautomatic pistol; correct?

5 A Correct.

6 Q So to your knowledge, you didn't receive for your
7 analysis anything taken out of any of the victims that were
8 from that gun; correct?

9 A Correct.

10 Q Okay. You did receive one bullet, your item number 5,
11 right? State's Exhibit No. 114?

12 A Yes, sir.

13 Q Okay. And that was for or more consistent with a .38
14 caliber or a .357; correct?

15 A Correct.

16 Q Okay. And like you said, guns that -- there are
17 typically some guns that can fire both of those types of
18 bullets; correct?

19 A Right.

20 Q Okay. And many of those guns are revolvers; correct?

21 A. Correct.

22 Q Okay. So what you're saying is that bullet could have
23 been fired by a .38 caliber revolver; correct?

24 A Correct.

25 Q Okay. And I believe you provided a report; right?

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1 A Yes, sir.

2 Q And in your report you did include a long list of
3 possible .38 caliber guns and .357 caliber guns; correct?

4 A Right.

5 Q And even in your report it says, you know, may have
6 been fired by -- and then this list includes manufacturers
7 that may have done it, but it's not limited to; right?

8 A These are the only ones that are known inside of our
9 database.

10 Q So it's not an exhaustive list; right?

11 A No, sir.

12 Q It's a pretty long list; correct?

13 A Correct.

14 Q Now, another bullet fragment was recovered that you
15 analyzed as well; right?

16 A Which item?

17 Q Your number 8. The State's Evidence No. 82; correct?

18 A Correct.

19 Q And according to your analysis, that was also possibly
20 either a .38 caliber or a .357; correct?

21 A Correct.

22 Q Okay. Now you said you can't conclusively say that it
23 was fired from the same gun, though; correct?

24 A Correct.

25 Q Okay. And, again, just to be clear, you did not

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1 examine any other bullet that you claim was fired by that
2 gun or that you can match up to that gun?

3 A Correct, yes, sir.

4 Q Okay. And, again, you didn't personally see anything
5 that happened inside the mobile home on the night of the
6 incident; right?

7 A No, sir.

8 Q Or outside the mobile home on the night of that
9 incident; right?

10 A No, sir.

11 Q Thank you. I appreciate it, Mr. Smith.

12 THE COURT: Any redirect?

13 MR. SORENSON: No, Your Honor.

14 THE COURT: You may step down, sir. Thank you.

15 MR. SMITH: Thank you.

16 THE COURT: You may call your next witness.

17 MR. SORENSON: The State calls Samuel Stewart.

18 May Agent Smith be excused, Your Honor.

19 THE COURT: Any objection?

20 MR. PALMER: No objection.

21 THE COURT: He's excused. Thank you, Agent.

22 MR. SORENSON: Thank you, Your Honor.

23 THE CLERK: Please place your left hand on the
24 Bible and raise your right hand.

25 (WHEREUPON, Samuel Stewart was duly

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1 sworn.)

2 THE CLERK: Thank you. You may have a seat and
3 please state your name again for the record.

4 MR. STEWART: Samuel Stewart.

5 THE COURT: Your witness.

6 MR. SORENSON: Thank you, Your Honor. I beg the
7 Court's indulgence one moment.

8 SAMUEL STEWART - DIRECT EXAMINATION

9 BY MR. SORENSON:

10 Q Good morning, Agent Stewart.

11 A Good morning.

12 Q If you would, please tell the jury where it is that
13 you're employed?

14 A I worked for the South Carolina Law Enforcement
15 Division, commonly known as SLED.

16 Q Okay. And what department do you work in?

17 A I work for the DNA casework department.

18 Q Okay. And how long have you worked for the DNA
19 Department at SLED?

20 A Approximately three and a half years.

21 Q Okay. And if you would just, could you go through your
22 educational background for us, please?

23 A Yes, sir. I received my Bachelor's in Science and
24 Biology from Francis Marion University. I also received in-
25 house SLED training under other court qualified analyst for

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1 over a year and a half. I had to successfully complete a
2 written exam, an oral exam, a competency and a mock trial
3 before I was deemed competent as a DNA analyst.

4 Q Okay. And how long -- when did you accomplish all of
5 that?

6 A About a year and a half after being hired at SLED.

7 Q Okay. And so how long have you been kind of reviewing
8 cases and doing cases on your own now?

9 A About two years now.

10 Q Two years?

11 A Uh-huh. (Affirmative response)

12 Q And have you had a chance, Agent Stewart to testify
13 about your findings?

14 A Before in Court?

15 Q Yes, sir.?

16 A Yes, I have, sir.

17 Q And about how many times?

18 A Nine.

19 Q Nine. You've been qualified as expert in DNA analysis
20 those nine times?

21 A Yes, I have.

22 MR. SORENSON: Your Honor, at this time, I'd offer
23 Agent Stewart as an expert in the field of DNA analysis.

24 THE COURT: Any voir dire?

25 MR. PALMER: No objection.

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1 MR. STEVENS: Without objection, Judge.

2 THE COURT: So qualified.

3 MR. SORENSON: Thank you.

4 BY MR. SORENSON:

5 Q Now, Agent Stewart, if you could briefly start by
6 explaining to the jury what DNA is?

7 A DNA stands for Deoxyribonucleic Acid. It is the
8 genetic material that's found in every person and it's
9 responsible for certain traits, such as our eye and our hair
10 color. DNA is contained in dense plants known as
11 chromosomes, which you'll find in any cell in any human
12 body, excluding red blood cells. We receive half of our
13 chromosomes from our mother and the other half from our
14 father. We target certain locations on those chromosomes
15 known as STRs, which stands for short tandem repeats. We
16 compile sixteen different of those STR locations that are
17 found on those various chromosomes to develop what is known
18 as a DNA profile, which we use to identify a person from
19 another person, excluding identical twins.

20 Q My next question was going to be is your DNA unique to
21 you?

22 A Yes, it is, excluding identical twins.

23 Q And tell the jury, so where is your DNA found within
24 your body?

25 A It can come from skin. It can come from blood. It's

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1 also found in semen as well.

2 Q Okay. And then with regards to the DNA department at
3 SLED, just tell the jury what are y'all's kind of
4 capabilities when it comes to testing and comparing DNA?

5 A Well, what we usually do is we get a standard, which is
6 to come from a victim or a subject. And we try to develop a
7 DNA profile from that standard. And then we also evidence
8 in that case and we try to develop a DNA profile from that
9 as well. And we compare that DNA profile from those known
10 standards to the evidence. And we try to see whether or not
11 that person, the victim or the subject can be included or
12 excluded as a possible contributor from to that DNA profile
13 from the evidence.

14 Q So you have in many cases evidence that's collected at
15 a crime scene, such as either potential blood evidence or
16 potentially, in a sexual assault, possibly semen. You can
17 then attempt to compare the DNA that you, that DNA profile
18 of those items that are found at a crime scene to either a
19 suspect or a victim?

20 A That is correct.

21 Q And let me ask you this. And you testified that your
22 DNA is found obviously in your blood. Is it found in your
23 skin cells?

24 A Yes, sir. It is.

25 Q So if you touch an item -- I mean, by touching this

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1 podium right here, if someone came behind me and swabbed
2 that, would it be possible then that you could get my DNA
3 off of that podium?

4 A Yes, it is possible.

5 Q And let me ask you this. Your DNA found within your
6 blood, DNA found within your skin cells, is it the same
7 thing?

8 A Yes. The DNA profile that we develop from your blood
9 will be that same DNA profile that we develop from your
10 blood would be that same DNA profile that we developed if
11 you left skin cells.

12 Q So in other words -- and you talked about you get
13 sometimes standards that are sent out to you, either from a
14 victim or a suspect; is that correct?

15 A That is correct.

16 Q And the jury has heard testimony about some buccal
17 swabs being collected?

18 A Yes.

19 Q Okay. Is that often how you get those standards, is
20 those skin cells that are scraped from the inside of the
21 cheek?

22 A That is correct.

23 Q Okay. And then also in this case you received, I
24 think, a blood standard from the deceased victim in this
25 case; is that correct? From Gregory Howell?

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1 A Yes, I did.

2 Q Just so we're clear, if you were to do, take buccal
3 swabs from me and they were done properly, you would be able
4 to then develop my DNA profile off of those?

5 A That is correct.

6 Q Okay. And if you took a blood standard from me and it
7 was yet again done properly, you'd be able to develop a DNA
8 profile from my blood standard also?

9 A That is correct.

10 Q And those two DNA profiles would then match?

11 A Those two profiles would be the same.

12 Q I turn your attention to this case that we're here
13 about, Agent Stewart. First off, did you receive any
14 standards from anybody in this case to attempt to develop
15 DNA profiles from to compare to the other evidence?

16 A Yes, I did.

17 Q Okay. And did you receive a blood standard from
18 Gregory Howell?

19 A Yes, I did.

20 Q Were you able to develop a DNA profile from Gregory
21 Howell's blood standard that was taken at his autopsy?

22 A Yes, I was.

23 Q And did you receive buccal swabs from three other
24 individuals, a Rodsheen Ayer, Terrance Johnson and Calvin
25 Kennedy?

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1 A Yes, I did.

2 Q And as to those three items, were you able to
3 ultimately develop DNA profiles from those cheek swabs from
4 Mr. Ayer, Mr. Johnson, and Mr. Kennedy?

5 A Yes, I was.

6 Q Now, you also, Agent Stewart, received several swabs
7 that were collected by the crime scene investigator that
8 were submitted then to attempt to compare to those four
9 standards, Mr. Howell, Ayer, Johnson, and Kennedy?

10 A That is correct.

11 Q All right. And I want to show you -- show you kind of
12 -- you've got State's Exhibits No. 85, 84, 91 through 100,
13 and then 86 through 90. So it's actually 84 through -- it
14 looks like it should be 100 here. I ask you if you received
15 all of those items?

16 A Yes, I did.

17 Q Okay. And those, I believe there's seventeen swabs
18 that you received all of those?

19 A Yes, I did.

20 Q And were you able to attempt to develop DNA profiles
21 off each of those seventeen items that were submitted?

22 A Yes, sir. Yes, I did.

23 Q And let me show you what's been marked as State's
24 Exhibit No. 106. Are you familiar with that kind of
25 diagram?

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1 A Yes, I am.

2 Q And does that kind of lay out, not only those seventeen
3 items, kind of what they are, where they were located at,
4 marker-wise, your item number that they were given and then
5 result of your DNA analysis?

6 A Yes, sir.

7 Q Okay. And would that aid the jury in kind of going
8 through and explaining your results for each of those
9 seventeen items?

10 A Yes, it would.

11 MR. SORENSON: Your Honor, at this time, we'd
12 offer State's 106 into evidence.

13 MR. PALMER: No objection.

14 MR. STEVENS: No objection, Judge.

15 THE COURT: All right. It's in.

16 (State's Exhibit No. 106, diagram,
17 was marked and entered.)

18 BY MR. SORENSON:

19 Q And before I kind of get into your results, in those
20 seventeen items were you able to develop just a kind of
21 single DNA profile off of some of those items?

22 A I was.

23 Q And then compare that to the standards from Mr. Howell,
24 Mr. Ayer, Mr. Johnson, and Mr. Kennedy?

25 A Yes, I was.

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1 Q Were there other instances where you found something
2 called a mixture?

3 A Yes, that is correct.

4 Q Okay. And if you would describe -- describe if you
5 would, Agent Stewart, what a mixture is?

6 A A mixture is when we have more than one person
7 contributing their DNA to a piece of evidence.

8 Q Okay. So in other words, if you had a situation where
9 two individuals were bleeding on an item and it was then
10 swabbed, could you then get a mixture of -- let's say you
11 were cut and I was cut and we both bled on this table and it
12 was swabbed. Would you then potentially expect to find a
13 mixture of our DNA?

14 A Yes, that is possible.

15 Q Okay. How about when you find -- when you have an item
16 -- you have testified earlier that you can DNA from, not
17 only from a person's blood but also from their skin cells;
18 is that correct?

19 A That is correct.

20 Q So let me ask you this hypothetical. If I handled an
21 item, I could potentially leave my skin cells behind; is
22 that correct?

23 A That is correct.

24 Q If you were then cut or shot and bled onto that item,
25 obviously your blood could be on that item. If your item is

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1 then swabbed, would yet again you potentially expect to find
2 a mixture of our DNA?

3 A Yes, that is possible.

4 Q And if you found that mixture, is there any way to
5 differentiate between what is blood as opposed to what is
6 skin cells on that item?

7 A No, there is not.

8 Q All right. And I guess, Agent Stewart, if I could get
9 through -- I've got -- and you have a copy of this, right,
10 that you can kind of follow along?

11 A Yes, sir.

12 Q Just kind of go through, kind of starting with the
13 swabs that were taken, the testimony that were taken inside
14 of the residence. So specifically, with State's Exhibit No.
15 85, which was taken from marker thirty-seven off the coffee
16 table, were you able to develop a DNA profile off of that
17 item?

18 A Yes, I was.

19 Q Okay. And who, if anybody's DNA profile did that match
20 that you were able to develop off of that swab from the
21 coffee table?

22 A The DNA profile developed, item 41, matches the DNA
23 profile of Calvin Kennedy. The probability of randomly
24 selecting an unrelated individual having a DNA profile
25 matching that item is approximately in three hundred and

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1 seventy sextillion. Gregory Howell, Rodsheen Ayer and
2 Terrance Johnson are excluded as possible contributors of
3 that item.

4 Q So one in three hundred and seventy sextillion?

5 A That is correct.

6 Q Okay. Do you know what the population of the earth is
7 approximately right now?

8 A Approximately seven billion.

9 Q So that is well beyond --

10 A Yes, sir.

11 Q Okay. And so in your opinion and to a reasonable
12 degree of scientific certainty, whose DNA was that that was
13 collected off of that coffee table?

14 A The DNA of Calvin Kennedy.

15 Q Okay. And were you able to tell -- let me ask you
16 this. Is there any testing that's done initially to
17 determine whether blood was present during any of those?

18 A Yes, there was testing done for that.

19 Q And as to that one off of the coffee table, what was
20 the results of that?

21 A Presumptive testing for blood was positive.

22 Q So that was blood and that it was Calvin Kennedy's
23 blood on that coffee table?

24 A Yes.

25 Q Is that correct? All right. And moving on to your --

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1 it was your item 40, but it's the State's Exhibit No. 84 and
2 the marker thirty-five off the floor at the doorway. But
3 it's in your item 40.

4 A The DNA profile developed from item 40 is a mixture of
5 at least two individuals. The DNA profile of the major
6 contributor to this mixture matches the DNA profile of
7 Calvin Kennedy. The probably of randomly selecting an
8 unrelated individual or having a DNA profile matching the
9 major contributor to this mixture is also one in three
10 hundred and seventy sextillion.

11 Q So yet, again, the major contributor to that is Calvin
12 Kennedy?

13 A That is correct.

14 Q All right. And then how about -- now, you said that
15 when you have a mixture you're sometimes able to determine a
16 major contributor and a minor contributor; is that correct?

17 A That is correct. When we have a mixture, occasionally
18 there is occasions where one person is contributing more
19 than one -- they're contributing more DNA to that item than
20 another person. And so in those instances sometimes we're
21 able to pull out what is known as a major contributor, that
22 individual who contributed more DNA to that item.

23 Q Okay. And in this case, were you able to determine
24 anything with regards to the minor contributor in that
25 mixture?

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1 A The possible DNA developed from the minor contributor
2 to this mixture was insufficient for interpretation. Which
3 that means that I just did not have enough genetic material
4 to make any kind of determination as far as to the minor.

5 Q The minor contributor could be any of the people you
6 had. You can't tell. It could be just somebody we don't
7 know?

8 A That is correct. I just did not have enough
9 information.

10 Q Yet, again with the floor being swabbed, I mean, it
11 could be just skin cells off of the floor conceivably?

12 A That is possible.

13 Q All right. And moving on to State's Exhibit 91, which
14 is your item 30, also which is from marker eight off of the
15 front steps. Were you able to develop a DNA profile off of
16 that item?

17 A Yes. The DNA profile developed from item 30, matches
18 the DNA profile of Calvin Kennedy. The probability of
19 randomly selecting an unrelated individual having a DNA
20 profile matching that item is also one in three hundred and
21 seventy sextillion.

22 Q Let me ask you -- and I didn't ask you about the --
23 going back to your item 40. Were you able to test that to
24 determine whether it was blood or not?

25 A Yes, I was.

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1 Q Okay. And what was the result of that?

2 A Presumptive testing for blood was positive.

3 Q All right. And so within a reasonable degree of
4 scientific certainty, that would be Calvin Kennedy's blood
5 that was collected at marker eight on the front steps?

6 A Yes, I can say that.

7 Q Okay. And then moving on to the next one. Marker
8 nine, State's Exhibit No. 92. And, again, off the front
9 steps. Your item 31?

10 A That DNA profile also matches the DNA profile of Calvin
11 Kennedy. And the probability of randomly selecting an
12 unrelated individual having that DNA profile is also one in
13 three hundred and Seventy sextillion.

14 Q And then how about -- was that, yet again, as far as
15 the blood testing?

16 A Yes. Presumptive testing for blood was positive for
17 that item.

18 Q All right. And then going on to marker eleven, from
19 the electric meter base. State's Exhibit No. 93, your item
20 32. First of all, initially, was that positive for blood?

21 A Yes. Presumptive testing for blood was positive for
22 that item.

23 Q Okay. And were you able to develop a DNA profile from
24 those swabs?

25 A Yes. The DNA profile developed from item 32 matches

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1 the DNA profile of Calvin Kennedy. And the probability of
2 randomly selecting an unrelated individual is approximately
3 one in three hundred and seventy sextillion.

4 Q So in those last three items, 30 -- your item 30, 31,
5 and 32 all are -- in your opinion, Calvin Kennedy's blood?

6 A Yes.

7 Q All right. And then moving to State's Exhibit 94,
8 which is the swab from marker twelve, from the white Crown
9 Victoria. That's your item 33. First of all, was that --
10 as far as the presumptive test for blood, what was the
11 result of that?

12 A Presumptive testing for blood was positive.

13 Q And were you able to develop a DNA profile from those
14 swabs from the white Crown Victoria?

15 A Yes, I was. The DNA profile developed from item 33 is
16 a mixture of at least two individuals. The DNA profile
17 developed on the major contributor to this mixture matches
18 the DNA profile of Calvin Kennedy. The probably of randomly
19 selecting an unrelated individual having a DNA profile
20 matching the major contributor to this mixture is one in
21 three hundred and seventy sextillion. Rodsheen Ayer cannot
22 be excluded as a possible minor contributor to this mixture.
23 The probably of randomly selecting an unrelated individual
24 who could have contributed their DNA to this mixture is one
25 in twenty thousand.

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1 Q So as far as the major contributor, it would be your
2 opinion that based on that number, one in three hundred
3 seven sextillion, that Calvin Kennedy is a major contributor
4 to that blood?

5 A That is correct.

6 Q That profile? And as far as the minor contributor, you
7 can't exclude Mr. Ayer in about one in twenty thousand
8 people?

9 A That is correct.

10 Q So definitely consistent with him being the minor
11 contributor?

12 A Yes, I can say that.

13 Q Nothing that would exclude him from being the minor
14 contributor?

15 A That is correct.

16 Q And yet again, if you had that -- in going back and
17 talking about mixtures. If you have somebody who is, let's
18 say, around somebody and that they then rub up against an
19 item, that could leave, if the person had blood on them, DNA
20 behind but also leave their skin cells or potentially their
21 blood also if they're also bleeding; is that correct?

22 A That is correct.

23 Q All right. And then moving on to State's 95, marker
24 thirteen, at the end of the mobile home. That's your item
25 34. Were you able to develop a DNA profile off of that

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1 item?

2 A Yes. The DNA profile developed from item 34 matches
3 the DNA profile of Calvin Kennedy. The probably of randomly
4 selecting an unrelated individual having a DNA profile for
5 matching this item is one in two hundred and ninety
6 quintillion. Gregory Howell, Rodsheen Ayer and Terrance
7 Johnson are excluded as possible contributors to this item.

8 Q And those swabs also the presumptive test positive for
9 blood?

10 A Yes. Item 34 was presumptive tested for blood was
11 positive.

12 Q Okay. So, yet again, that number is, I guess, a little
13 bit smaller than the other numbers that you had for Calvin
14 Kennedy but still, I mean, well beyond the population of the
15 earth; is that correct?

16 A That's correct.

17 Q Okay. So within a reasonable degree of scientific
18 certainty whose blood is that that was found at the end of
19 that mobile home?

20 A I can say it was Calvin Kennedy.

21 Q All right. And then moving onto State's Exhibit No.
22 96, which is marker fifteen from the window blind. That's
23 your item 21. First of all, what was that as far as the
24 presumptive testing for blood?

25 A Presumptive testing for blood was positive.

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1 Q And were you able to develop a DNA profile from those
2 swabs, our item 21?

3 A Yes. The DNA profile developed from item 21 is a
4 mixture of at least two individuals. Of the DNA profile,
5 the major contributor to this mixture matches the DNA
6 profile of Calvin Kennedy. The probability of randomly
7 selecting an unrelated individual having a DNA profile
8 matching this major contributor to this mixture is
9 approximately one in seven point six quadrillion. Rodsheen
10 Ayer cannot be excluded as a possible minor contributor to
11 this mixture. The probability of randomly selecting an
12 unrelated individual who could have contributed to this
13 mixture is approximately one in eight hundred and forty
14 million. Gregory Howell and Terrance Johnson are excluded
15 as possible minor contributors to this profile.

16 Q And so yet again your opinion within a reasonable
17 degree of medical certainty or scientific certainty, that
18 Calvin Kennedy is the -- that's his blood or his DNA at
19 least?

20 A Yeah. He's the major contributor to this profile.

21 Q And that Rodsheen Ayer --

22 A Cannot be excluded as a possible minor contributor.

23 Q And that tested presumptive positive for blood also? I
24 think I asked you that. I'm not sure if I did or not, but
25 just to be sure?

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1 A Yes, sir.

2 Q Okay. All right. And then moving onto State's Exhibit
3 97, which is marker sixteen, the ground at the end of the
4 trailer. That is your item 35. Were you able to -- first,
5 of all, able to test that for the presumptive test for
6 blood?

7 A Yes, I did.

8 Q And what were the results of that?

9 A It was positive.

10 Q Okay. And were you able to develop a DNA profile from
11 the ground at the end of the trailer there at marker
12 sixteen?

13 A Yes, sir. The DNA profile for item 35 matches the DNA
14 profile of Calvin Kennedy.

15 Q And that's yet again, the same number the one in three
16 hundred and seventy sextillion that we had developed
17 earlier?

18 A That is correct.

19 Q All right. And moving on to your item 36. I'm going
20 to actually kind of lump the next three together. Your
21 items 36, 37, and 38. Those are swabs from markers
22 seventeen, eighteen and nineteen. Did you have an
23 opportunity to, first of all, test them whether they tested
24 positive for blood?

25 A Yes, sir. Items 36, 37, and 38 all tested positive for

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1 the presumptive -- presumptive testing for blood was
2 positive. Excuse me.

3 Q All right. And were you able to develop a DNA profile
4 on each of those items?

5 A Yes, I was.

6 Q Okay. And what were the results of your then comparing
7 them to the DNA standards that you had?

8 A The DNA profile developed from items 36, 37, and 38
9 matches the DNA profile of Rodsheen Ayer. The probability
10 of randomly selecting an individual matching the DNA profile
11 from these items is approximately one in thirty-six
12 trillion. Calvin Kennedy, Gregory Howell and Terrance
13 Johnson are excluded as possible contributors to these
14 items.

15 Q So those three swabs taken from the rear of that
16 trailer, within a reasonable degree of scientific certainty,
17 whose blood was that found in those three swabs?

18 A Rodsheen Ayer.

19 Q All right. And then moving on to your item 39, which
20 is the swabs from the .9 millimeter magazine found at
21 sheriff's office marker number twenty-nine. Were you able
22 to, first of all, test that for presumptive test for blood?

23 A Yes. And it was positive.

24 Q And were you able then to develop a DNA profile off of
25 your item 39?

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1 A Yes. The DNA profile developed from item 39 is a
2 mixture of at least two individuals. The DNA profile of the
3 major contributor to this mixture matches the DNA profile of
4 Calvin Kennedy. The probably of randomly selecting an
5 unrelated individual having a DNA profile matching a major
6 contributor to this mixture is approximately one in three
7 hundred and seventy sextillion. Rodsheen Ayer cannot be
8 excluded as a possible minor contributor to this mixture.

9 The probably of randomly unrelated individual who could have
10 contributed to this mixture is approximately one in thirty-
11 six hundred. Gregory Howell and Terrance Johnson are
12 excluded as possible minor contributors to this mixture.

13 Q Then again, that magazine it tested positive for blood;
14 is that correct?

15 A That is correct.

16 Q And the major contributor in your opinion is Calvin
17 Kennedy?

18 A That is correct.

19 Q But there's a mixture and Rodsheen Ayer cannot be
20 excluded as the minor contributor?

21 A As a possible minor contributor. That is correct.

22 Q And as I asked you earlier, you can't differentiate
23 between whose, you know -- the overall swab tested positive
24 for blood; is that correct?

25 A That is correct.

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1 Q But you can't determine if the minor contributor,
2 whoever that may be, that could be skin cells that
3 contributed to the minor, the minor part of that profile?

4 A That is possible.

5 Q All right. And moving on to State's Exhibit No. 88,
6 which is your item 23. The swabs from the grip and the
7 trigger of the .9 millimeter handgun. Were you able to --
8 first of all, did that test positive for blood?

9 A Yes. Presumptive testing for blood was positive.

10 Q And were you able to develop a DNA profile off of that
11 item?

12 A The DNA profile developed from item 23 is a mixture of
13 at least two individuals. Rodsheen Ayer and Calvin Kennedy
14 cannot be excluded as possible contributors to this mixture.
15 The probably of randomly selecting an unrelated individual
16 who could have contributed to this mixture is one in twenty-
17 one million. Gregory Howell and Terrance Johnson are
18 excluded as possible minor contributors -- excuse me.
19 Possible contributors to this mixture.

20 Q And let me get you to explain that. So that is a
21 mixture like a couple of these other ones have been. But
22 with the other ones, you've talked about you've been able to
23 differentiate a major contributor and a minor contributor?

24 A That's correct.

25 Q Now, explain to the jury what was different about what

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1 the DNA profile that you developed in this case, in this
2 incident?

3 A Well, usually, like I said before, with a major, you
4 have that individual contributing much more DNA than the
5 other contributors to that mixture. In this case, they've
6 both contributed a significant amount of DNA to this item.
7 So there was no way to actually pull out a major. But I
8 could definitely see both individuals contributed to that
9 mixture.

10 Q Both Mr. Kennedy and Mr. Ayer?

11 A That's correct.

12 Q All right. And then moving on to the, your item 24,
13 which would be the other swabs from the suspected blood on
14 the .9 millimeter handgun. First of all, did that test
15 positive for blood?

16 A Yes, it did.

17 Q And what were the results of the -- were you able to
18 develop a DNA profile from those swabs?

19 A Yes. The DNA profile developed from item 24 is a
20 mixture of at least two individuals. The DNA profile of the
21 major contributor of this mixture matches the DNA profile of
22 Calvin Kennedy. The probability of randomly selecting an
23 unrelated individual having a DNA profile matching the major
24 contributor to this mixture is one in ten billion. Rodsheen
25 Ayer cannot be excluded as a possible minor contributor to

State v Ayer Stewart - Direct Sorenson 11/19/15 592.

1 this mixture. The probability of randomly selecting an
2 unrelated individual who could have contributed to this
3 mixture is approximately one in eight hundred and forty
4 million. Gregory Howell and Terrance Johnson are excluded
5 as possible minor contributors to this mixture.

6 Q So, yet, again with your item 24, within a reasonable
7 degree of scientific certainty, I mean, one in ten billion,
8 you can say that that's Calvin Kennedy's DNA on that swab?

9 A Yeah. As the major contributor, yes, sir.

10 Q As a major contributor. And one in eight hundred and
11 forty million -- I mean, it's fairly consistent that that's
12 Mr. Ayer as the minor contributor; is that contributor; is
13 that correct?

14 A That's correct.

15 Q And yet, again, that just shows that they -- the two of
16 them DNA, whether it be skin cells or blood have come into
17 contact with that handgun; is that correct?

18 A That's correct.

19 Q And then your item 22, the swabs from the Impala
20 steering wheel, which is State's 89. Were you able to
21 develop a DNA profile from that item?

22 A Yes, sir. I was.

23 Q Okay. Let me ask you that, did those test positive for
24 blood, your State's [sic] 22?

25 A I did not do any presumptive blood testing for 22.

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1 Q Okay. Typically, I guess, from the steering wheel,
2 you're looking for ownership or to figure out, see if you
3 can determine who possibly was driving the vehicle?

4 A That is correct.

5 Q Okay. And were you able to -- you said you were able
6 to develop a profile from those swabs. Were you able to
7 compare that profile to the four standards that you have?

8 A The partial DNA profile developed from item 22 is
9 insufficient for reliable interpretation, which means that I
10 just did not have enough genetic material to do any kind of
11 interpretation or comparison to any individuals.

12 Q All right. And then lastly, the last swab that you
13 received was your item 25, which was the swab from the
14 Impala, the rear passenger door; is that correct?

15 A That's correct.

16 Q Okay. And first of all, were you able to determine, to
17 do the presumptive test for blood on that?

18 A Yes, I was.

19 Q And what was the result of that?

20 A Presumptive testing was positive.

21 Q And were you able to develop a DNA profile off of your
22 item 25?

23 A Yes. The DNA profile developed on item 25 matches the
24 DNA profile of Rodsheen Ayer. The probability of randomly
25 selecting an unrelated individual with a DNA profile

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1 matching this item is one in six hundred and seventy
2 quadrillion. Gregory Howell, Terrance Johnson, and Calvin
3 Kennedy are excluded as possible contributors to this item.

4 Q Yet again, was that number one in six hundred and
5 seventy quadrillion within a reasonable degree of scientific
6 certainty whose blood was that on those swabs off of the
7 rear door of that Impala?

8 A Like I said, it's Rodsheen Ayer.

9 Q And let me just ask you, just kind of briefly, if you'd
10 kind of describe for the jury -- you've obviously talked
11 about, you know, the profiles that you've developed. And
12 then the statistics that come along with that that are on
13 this diagram that you talked about. Just briefly, kind of
14 just describe for the jury how those statistics are arrived
15 at?

16 A We have a formula at every location that we use. We do
17 use a computer generated database that is managed by the FBI
18 to generate it a little bit faster than, you know, you doing
19 it by hand. And so those generate -- those statistics are
20 generated from those databases that we use.

21 Q So you're able to look at it. And basically just kind
22 of go back a little bit to what you talked about at the
23 beginning. When you're developing a DNA profile that you're
24 looking at a series of different locations?

25 A That's correct. We're looking at each location and

SAMUEL STEWART - CROSS-EXAMINATION

State v Ayer Stewart - Cross Stevens 11/19/15 596

1 BY MR. PALMER:

2 Q With the exception of your item 22, which is the Impala
3 steering wheel, you said it was insufficient for
4 interpretation?

5 A That is correct.

6 Q Did any of your analysis of any of the other items
7 match the DNA sample provided by Terrance Johnson?

8 A No.

9 Q Is it fair to say that he was excluded from the rest of
10 those items, per your report?

11 A Yes, that is correct.

12 Q Thank you, sir.

13 MR. PALMER: No further questions.

14 THE COURT: Cross-examination.

15 MR. STEVENS: Thank you, Judge. May it please the
16 Court?

17 THE COURT: Yes, sir.

18 SAMUEL STEWART - CROSS-EXAMINATION

19 BY MR. STEVENS:

20 Q How are you doing today, Agent Smith?

21 A I'm Stewart. Fine.

22 Q I'm sorry. Stewart. Mr. Smith is the ballistics
23 expert?

24 A Yeah.

25 Q Well, let's start off with just talking about DNA

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1 testing itself, okay? Earlier you mentioned that DNA is
2 developed from cells; correct?

3 A That's correct.

4 Q And you said it can be from blood cells or skin cells;
5 right?

6 A That is correct.

7 Q Now, what test did you perform to separate the blood
8 cells from the skin cells, from the sample of blood swab
9 from the items actually analyzed?

10 A There's no test to do that.

11 Q So you're saying you can't say for sure whether the DNA
12 developed from blood swabs was from blood or skin cells;
13 right?

14 A It is possible that DNA can be developed from skin
15 cells when I do presumptive testing for blood; that is
16 correct.

17 Q Right. And you can't say which one is from one, which
18 one is from the other based on the testing you did; right?

19 A No, I cannot.

20 Q That's right. Okay. And just briefly, you examined a
21 lot of swabs; correct?

22 A Yes, sir.

23 Q Okay. And when you do examine the swabs, first they go
24 to serology; right --

25 A Uh --

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1 Q -- to see if there's blood present; right?

2 A Well, usually that would be, but I did all my serology
3 testing for this case.

4 Q Okay. So there was serology testing done?

5 A That is correct.

6 Q And serology testing just means there's testing to see
7 if blood was present; right?

8 A Or any other body fluids; that's correct.

9 Q Right. And just to walk through them, I think you did
10 it before. We'll be a little more quick about it so we
11 don't put anyone to sleep. Item number 40 was presumptive
12 for blood; right?

13 A Yes, that's positive. That's correct.

14 Q And that was blood on the floor by the doorway; right?

15 A That is correct.

16 Q Item number 39 was presumptive for blood; correct?

17 A That is correct.

18 Q And that was on the Smith & Wesson magazine; correct?

19 A That is correct.

20 Q Okay. And Items 38 and 31 were also presumptive for
21 blood?

22 A That is correct.

23 Q Okay. And that was the porch steps; right?

24 A Yes. Yes, that's correct.

25 Q Let's kind of walk through those. Item 40, which was

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1 presumptive for blood. You said Calvin Kennedy was one of
2 the profiles?

3 A Yes. He was the major contributor; that's correct.

4 Q And in item 39, which was also presumptive for blood,
5 the Smith and Wesson magazine, right? You said it was a
6 mixture of two people?

7 A That is correct.

8 Q Okay. And you said Calvin Kennedy was one?

9 A Yes, sir. He was the major contributor of that
10 profile.

11 Q And Rodsheen Ayer was the other profile; correct?

12 A Yes, sir. Couldn't be excluded as a minor contributor.

13 Q And on the porch steps, that was Calvin Kennedy?

14 A Item 30.

15 Q 30 and 31; yes, sir?

16 A Yes, that is correct.

17 Q Not Rodsheen Ayer; correct?

18 A No. He was excluded.

19 Q Okay. Now, let's talk about item 32. That was also
20 presumptive for blood; correct?

21 A That is correct.

22 Q Okay. And it was the one on the power meter?

23 A That is correct.

24 Q Okay. And, again, it was Calvin Kennedy?

25 A That is correct.

1 Q Not Rodsheen Ayer; correct?

2 A That is correct.

3 Q Okay. So there's one on the car door of a mixture of
4 at least two people in item 33?

5 A That is correct.

6 Q And that was presumptive for blood?

7 A That is correct.

8 Q And Calvin Kennedy for sure; right?

9 A Yes. He was the major contributor.

10 Q Right. And Ayer could not be excluded as the other;
11 right?

12 A That is correct.

13 Q Okay. Now, at the end corner of the trailer, item 34,
14 that also tested presumptive for blood; correct?

15 A That is correct.

16 Q Okay. And that was Calvin Kennedy's blood?

17 A That is correct.

18 Q Not Rodsheen Ayer's blood; correct?

19 A That is correct.

20 Q Now item number 21, also presumptive for blood; right?

21 A Excuse me. What item?

22 Q Item number 21?

23 A Yes, that is correct.

24 Q Okay. And those were -- that was on the blinds at the
25 end of the trailer?

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1 A That's correct.

2 Q And that was at least two people as well; correct?

3 A That is correct.

4 Q Okay. Calvin Kennedy for sure?

5 A That is correct?

6 Q And Mr. Ayer could not be excluded; correct?

7 A That is correct.

8 Q All right. Now, let's talk about around the back of
9 the trailer, items 36 and 37. Those were also presumptive
10 for blood?

11 A That is correct.

12 Q And that was Rodsheen Ayer; correct?

13 A That is correct.

14 Q Okay. And, again, there was more blood behind the
15 trailer with item number 38; correct?

16 A That is correct.

17 Q Okay. And that was also presumptive for blood?

18 A That is correct.

19 Q And that was Calvin Kennedy for sure?

20 A 38 matches Rodsheen Ayer.

21 Q 38, excuse me. Ayer, okay. And there was also another
22 person in the mixture as well for 38?

23 A No, that was a single source profile.

24 Q A single source profile. I see. Well, let's not
25 forget, there was blood on the Smith and Wesson handgun;

1 correct?

2 A Which item?

3 Q Item number 24?

4 A That is correct.

5 Q And that swab was presumptive for blood; right?

6 A That is correct.

7 Q And that was with two contributors in the mixture?

8 A That is correct.

9 Q There was Calvin Kennedy as one contributor?

10 A The major contributor; that is correct?

11 Q And there was Rodsheen Ayer as well; correct?

12 A That is correct.

13 Q Okay. And then finally swabs from the grip and

14 trigger, item number 23?

15 A Yeah. That is correct.

16 Q Okay. And that was presumptive for blood; correct?

17 A That is correct.

18 Q Okay. And that was also a mixture of two people?

19 A That is correct.

20 Q That was Mr. Kennedy and Mr. Ayer; correct?

21 A That is correct.

22 Q Okay. And, again, like you said, you cannot say for
23 certain whether the DNA developed from those blood swabs was
24 from blood cells or skin cells themselves; right? You
25 couldn't differentiate from that sample?

State v Ayer Stewart - Cross Stevens 11/19/15 603

1 A That is correct.

2 Q There was no way in your testing that you have that you
3 can perform that to do; right?

4 A That's correct.

5 Q Okay. All right. Just a couple of last things, Agent
6 Stewart. You did not personally witness anything that
7 happened during the incident itself; did you?

8 A No, I did not.

9 Q You weren't at [REDACTED] in Orangeburg?

10 A No, I was not.

11 Q You didn't personally see anything happen inside?

12 A No, I did not.

13 Q And you didn't personally see anything happen on the
14 outside?

15 A No, I did.

16 Q You just work at SLED and analyze things for us to talk
17 about; right?

18 A That is correct.

19 Q Thank you.

20 MR. STEVENS: No further questions, Judge.

21 THE COURT: Any redirect?

22 MR. SORENSON: No, Your Honor.

23 THE COURT: You may step down, Agent. Thank you.

24 AGENT STEWART: Thank you.

25 MR. SORENSON: May he be excused, Your Honor.

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1 (Court in session after short break
2 at 11:57 a.m.)

3 THE COURT: Counsel, everybody ready to proceed?

4 MR. PALMER: Yes, Your Honor.

5 MR. STEVENS: Yes, Judge.

6 MR. SORENSON: Yes.

7 THE COURT: Could we have our jury, please?

8 THE BAILIFF: Yes, Your Honor.

9 (Jury in at 11:57 a.m.)

10 THE COURT: Welcome back, ladies and gentlemen of
11 the jury. We're ready to proceed.

12 Mr. Palmer.

13 MR. PALMER: Thank you, Your Honor. May it please
14 the Court?

15 THE COURT: Yes, sir.

16 MR. PALMER: We'd call Terrance S. Johnson.

17 THE CLERK: Please place your left hand on the
18 Bible and raise your right hand.

19 (WHEREUPON, Terrance S. Johnson
20 was duly sworn.)

21 THE CLERK: Thank you. You may have a seat.
22 Please state your name again for the record.

23 DEFENDANT JOHNSON: Terrance Johnson.

24 THE CLERK: Thank you.

25 TERRANCE S. JOHNSON - DIRECT EXAMINATION

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1 BY MR. PALMER:

2 Q Mr. Johnson, how old are you?

3 A Twenty-seven.

4 Q Where do you live, sir?

5 A Right now in Orangeburg, South Carolina.

6 Q And are you a native of Orangeburg?

7 A I'm originally from Bowman, South Carolina.

8 Q Bowman?

9 A Yes, sir.

10 Q That's where you were born and raised?

11 A Yes, sir. Born in Orangeburg, but raised in Bowman.

12 Q Is your family from Bowman?

13 A Yes, sir.

14 Q Okay. Where did you go to school?

15 A I started out at Bowman Elementary. Then I went to --
16 moved to Orangeburg went to William J. Clark. And then I
17 went to Chapin High School. That's like past Irmo in
18 Chapin, South Carolina. And then I went to Denmark Tech,
19 Denmark Technical College.

20 Q Did you complete a degree from Denmark Tech?

21 A I would have in May, but unfortunately I caught this
22 charge right here.

23 Q Okay. So this case disrupted your education; is that a
24 fair statement?

25 A Yes, sir.

State v Ayer Johnson - Direct Palmer 11/19/15 617

1 Q \ Okay. Since that happened, since you stopped going to
2 Denmark Tech, have you worked anywhere?

3 A Yes, sir.

4 Q Where did you work?

5 A At the airport in Columbia. I worked at Alsco. It's
6 a linen company in Charleston, South Carolina. We deliver
7 linen to, like restaurants, Fatz, Ruby Tuesday. You know,
8 like we deliver linen to them. I worked at The Morrow
9 Company. That's like a window company. We do shutters and,
10 you know, windows and all of that, etcetera.

11 Q And what time did you last work at?

12 A Before this? I was working at the Alsco. I was
13 delivering linen at Alsco in Charleston, Charleston, South
14 Carolina.

15 Q Excuse me. When did you last work at Alsco.

16 A My trial was scheduled originally September 28th. I
17 worked up until that date. And I quit two weeks in advance
18 to prepare for my trial.

19 Q Now, are you married or single?

20 A Single.

21 Q Have any children?

22 A Yes, sir.

23 Q How many?

24 A Three.

25 Q And what are their ages?

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1 A Four, three and one.

2 Q And do they live in the area?

3 A Yes, sir.

4 Q Do you get to see them?

5 A Yes, sir.

6 Q Okay. Now, how do you know Taquan Morrison?

7 A Actually, me and him went to Denmark Tech together and
8 we have a mutual friend. That's how I know him.

9 Q How long have you known?

10 A Maybe, maybe -- I want to say five years. Five years
11 plus, something like that.

12 Q And where is Taquan from?

13 A New York.

14 Q How long has he lived down here that you know about?

15 A As of when I know him, maybe two years. Two years.

16 Q Okay: How long have you known Calvin Kennedy?

17 A Maybe a year, maybe two years plus, you know, something
18 like that.

19 Q Okay. And Alvin Clark?

20 A I know him for a long time like pretty -- well, not a
21 long, long time. Maybe, I want to say five plus years.
22 Five plus years.

23 Q Would you call Clark a friend?

24 A I would call all of them friends.

25 Q Okay. And how about Mr. Howell, Gregory Howell?

1 A Yeah. I would call him a friend.

2 Q Known him a long time?

3 A I've mostly have known of him a long time, more so
4 rather than knowing him.

5 Q Okay. How about Stephanie Barnwell, have you known her
6 a long time?

7 A Oh, yes. We used to stay in the same neighborhood.

8 Q And Tenaja Minick?

9 A I don't really know her.

10 Q How about Sherrell Counts?

11 A Yes, sir. I know her.

12 Q How do you know her?

13 A We grew up in Columbia together, yeah.

14 Q So she's an old friend as well?

15 A Yes, sir.

16 Q Okay. Now, how about Rodsheen Ayer, this gentleman at
17 the same table as you?

18 A I don't know him.

19 Q I mean, you'd recognize him; right?

20 A Yeah. Yeah.

21 Q And have you interacted with him on any occasion?

22 A I met him two days prior to this incident. I would say
23 maybe two days prior to this incident.

24 Q Do you know whether or not he's a friend of Taquan
25 Morrison?

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1 A From my understanding they're god brothers. If I'm not
2 mistaken, they're god brothers or something like that.

3 Q Okay. Now, we're here in 2015, but we need to talk
4 about something that happened about three years ago.

5 A Yes, sir.

6 Q Before I ask you any specific questions, I want to ask
7 you how well you recall that sequence of events. And I'm
8 talking about September 10th, 2012?

9 A Man, that night changed my whole life. It like it just
10 changed my whole life.

11 Q And at that time you were actively a student at Denmark
12 Tech?

13 A Yes, sir, I was.

14 Q Where were you living?

15 A On campus.

16 Q Oh, you were?

17 A Yes, sir.

18 Q Okay. And you had some children back then?

19 A Yes, sir.

20 Q Okay. Well, getting back to my question, how well do
21 you remember those events that happened that day?

22 A I remember everything. I remember everything.

23 Q Okay. Well, what I want you to do then is take us back
24 there and give us a logical, detailed account of everything
25 that happened. Do you think you can do that?

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1 A Yes, sir. I can.

2 Q Let's start with the morning of September 10th. When
3 did you first see Taquan Morrison?

4 A The first person I seen that morning was Calvin
5 Kennedy. Me and him pretty much like we was dealing with
6 the same two -- like he dealt with one cousin and I dealt
7 with the other cousin and we would stay the nights over to
8 the young ladies house. You get what I'm saying? He woke
9 me up that morning. I didn't see Mr. Morrison until maybe
10 after noon. I didn't see him until the afternoon.

11 Q Okay. So you saw Calvin Kennedy that morning? And
12 where was that?

13 A On Kings Street at the apartments, at the apartments on
14 Kings Street.

15 Q What was Calvin doing there at the apartments?

16 A Like I stated, he was talking to one cousin and I was
17 talking to the other cousin. So we pretty much stayed in
18 the same house together.

19 Q Okay. So you were roommates, you and Calvin Kennedy?

20 A I wouldn't call it roommates because, you know, like at
21 that time, you know, we was dealing with a lot of different
22 females, you get what I'm saying. So we would just end up
23 over there at the same time. You get what I'm saying? So
24 that's -- I wouldn't call it roommates.

25 Q Okay. So he woke you up. Then what happened?

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1 A He woke me up that morning and he asked me, he was like
2 we about to go send for something. Do you want to send your
3 money or whatever the case may be. I was like no because I
4 had to go back on campus and I'm not going to have enough to
5 get rid of the product that I would purchase. You get what
6 I'm saying? I wouldn't have enough time to get rid of it,
7 like that. So I was like, no, sir. I ain't want to do it.
8 Don't worry about it. Like that.

9 Q Okay. What are you talking about? We don't know what
10 you're saying. Let's assume that.

11 A It was cocaine. We were selling cocaine. He asked me
12 did I want to send my money? You get what I'm saying? So
13 we could go in on a pack together, so all us could get the
14 product, you get what I'm saying? Because the more you get,
15 the cheaper it is. Instead of individually buying it. You
16 get what I'm saying?

17 Q Did you have any money to buy cocaine?

18 A Yes, sir.

19 Q How much did you have?

20 A I don't want to -- I'm not going to get on the stand
21 and lie and make up an amount. I don't remember the exact,
22 what amount that I had.

23 Q Was it a lot of money like over a hundred bucks?

24 A Oh, yes, sir. Yes, sir.

25 Q Over a thousand?

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1 A Yeah. It wasn't a lot over a thousand but it was over
2 a thousand.

3 Q Okay. So your testimony is that Calvin Kennedy asked
4 you if you wanted to go in on a cocaine buy; is that what
5 you're saying?

6 A Yeah. Yeah.

7 Q Okay. And what did you told him?

8 A Like I told him, I said, no. Because I was going back
9 on campus. I was going back on campus later that day to
10 get, to go back on, you know, to school. I was in school.
11 I was staying on campus. I only came home for like the
12 weekends or whatever the case may be.

13 Q Okay. So what happened after that?

14 A Time went on, you know, him and Mr. Howell and Mr.
15 Clark, I guess they left together and they went -- you know,
16 Mr. Howell was driving his car. So all of them got in the
17 car. They left. I stayed at the house or whatever the case
18 may be. My friend went to class, she was going to Claflin
19 University.

20 Q Can I slow you down a second?

21 A Yes, sir.

22 Q You talking about Gregory Howell?

23 A Yeah.

24 Q The decedent in this case?

25 A Yes, sir.

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1 Q So he was there too?

2 A Yes, sir.

3 Q Okay. So when you said everybody got in his car, who
4 was it and what kind of car was it?

5 A It was white Crown Victoria. And it was Mr. Kennedy,
6 Mr. Clark, and Mr. Howell. Mr. Howell was driving. They
7 came to pick up Mr. Kennedy from the apartment.

8 Q And you rode with them where?

9 A No. I didn't ride with them. I stayed at the house.
10 I stayed at the house. I would have rode with them if I
11 would have sent my money, you know, because like we were all
12 friends. You get what I'm saying. Like all of us were
13 friends. We were like friends, friends.

14 Q Okay. So is it your testimony then that they left in
15 the Crown Victoria?

16 A Yes, sir.

17 Q Where did they go; do you know?

18 A I have no idea where they went.

19 Q Okay. And did you see them later again that day?

20 A Yes, sir.

21 Q Did you get any phone calls or did you make any calls
22 to any one of those individuals after they left they
23 apartment?

24 A Yes, sir. I did.

25 Q And who did you call or who did you receive a call

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1 from?

2 A At first, Alvin called me back and he said, hey, you
3 want to meet him at the house, see what this shit look like.
4 Excuse my language. Said, you want to see what this shit
5 look like or whatever the case may be. Because you should
6 have sent your money. It's clean. Those were his exact
7 words. It's clean. So I was like give me a little second.
8 I'll be over there shortly. At that time, I received a call
9 from somebody who wanted to purchase some cocaine from me or
10 whatever the case may be. So what I did was I went, I
11 called Alvin and I ask Alvin, I was like hey, such and such
12 and such and such. Pretty much, I was middle-manning it. I
13 didn't spend my money so I would put a higher price on it,
14 on whatever somebody called me for, I would put a higher
15 price on it and to make just commission and he would get his
16 money. That's what it was.

17 Q Okay. So you were middle-manning a drug deal; is that
18 your testimony? And between whom?

19 A At that time, there was a guy who called my phone. He
20 wanted some cocaine. It wasn't my co-defendants at the
21 time. It was just a random guy who wanted to purchase some
22 cocaine.

23 Q Okay. Is that guy in the courtroom?

24 A Oh, no, sir.

25 Q Okay. So then what happened?

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1 A So me and the guy went over there. The guy came and
2 picked me up from the apartment on King Street. Me and the
3 guy went over there, whatever the case may be. Everything
4 was everything, just a normal day, right? Like we laugh.
5 Excuse my language, shoot the shit, you know, like that was
6 that.

7 THE COURT: Mr. Johnson, I'm going to ask you not
8 to cuss in my courtroom, okay. You can use a different
9 term.

10 DEFENDANT JOHNSON: Yes, ma'am. I apologize.

11 A But, you know, just a regular day. We was just hanging
12 out, having fun, you know. That was that.

13 BY MR. PALMER:

14 Q Did you see Taquan Morrison that day?

15 A Actually, I received a call from him because I was
16 going to purchase some marijuana. Because Mr. Ayer came
17 from New York. He had, you know, like a large amount of --
18 a high potent marijuana, exotic.

19 Q Is that the day that you met Mr. Ayer?

20 A No. I actually met Mr. Ayer two days because I
21 purchased marijuana from Mr. Ayer like before, before then.
22 You get what I'm saying. I purchased -- I met him like two
23 days. I bought me -- it was four ounces of QP, of QP from
24 him or whatever the case may be, two days prior to this
25 event.

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1 Q Okay. And did Kennedy, Howell or Clark have anything
2 to do with that transaction?

3 A No, sir.

4 Q Okay. And so Ayer was in town from New York?

5 A Yes, sir.

6 Q Is that when you first met him?

7 A Yes, sir.

8 Q Okay. And what about my question about, did you see
9 Taquan that day?

10 A The day I purchased the marijuana?

11 Q Yeah?

12 A Yeah, yeah.

13 Q How about the day, the September 10th, the day we're
14 talking about this incident?

15 A Yes, sir.

16 Q Okay. When did you see him and under what
17 circumstances?

18 A Okay. Mr. Ayer was getting ready to return back to New
19 York. And I guess he wanted take some cocaine or crack back
20 up north, because he said we had a better grade and it would
21 be cheaper down here versus him going to New York getting it
22 and step on it or whatever the case may be. So he wanted to
23 purchase it from down here.

24 Q All right. And did you offer to help him do that?

25 A Yes, sir. I did.

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1 Q Okay. So what was the plan?

2 A The initial plan was they were going to purchase it
3 from me. They were just going to get it from me. But like
4 I stated before, I didn't have any product because I was
5 going back to school later on that day. So, again, I
6 middle-manned that transaction.

7 Q Were you going to profit from that middle-man?

8 A Yes, sir.

9 Q What was the deal going to be?

10 A Okay. Well, the initial price for the cocaine, was
11 going to be -- I think it was eleven hundred dollars. I was
12 going to charge him twelve hundred and fifty dollars and
13 just keep the extra off the top.

14 Q So you were going to get a commission off the sale. Is
15 that a fair way to put it?

16 A Yes, sir.

17 Q Okay. And did that sale ever materialize?

18 A Huh-uh. (Negative response) No.

19 Q Well, tell us what happened? Take your time.

20 A All right. Mr. Morrison called me or whatever the case
21 may be. I told him I didn't have any product or whatever
22 the case may be. I would call my home boys. So I called
23 Mr. Clark and Mr. Clark told me give him a second. He
24 wasn't at the house or whatever the case may be. And then
25 Mr. Morrison and Mr. Ayer, you know, like we went to Bowman,

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1 or whatever the case may be, where I'm from or whatever the
2 case may be, to my cousin house. And we just sat there. We
3 just smoked or whatever the case may be, until Mr. Clark
4 called me back. Mr. Clark, called me back or whatever the
5 case may be. I came to Orangeburg or whatever the case may
6 be, to go to the house on Maedrine Street, because that was
7 like the initial spot where everyone would be at, you know,
8 transactions would be getting and made or whatever the case
9 may be.

10 Q Let me stop you a second. This house on Maedrine
11 Street where this incident we'll see happen, had you been
12 there before?

13 A Yeah. Yeah. Many times.

14 Q And you said you knew Stephanie Barnwell. Is that
15 where she lived?

16 A Yeah.

17 Q And under what circumstances had you had to visit that
18 house before?

19 A To take marijuana over there. Ms. Barnwell would
20 purchase marijuana from me. To take -- it was a mutual. It
21 was a safe haven for all of us because all of us were
22 friends. I know Ms. Barnwell before I knew really any of
23 these guys because we stayed in Corona Apartments together.
24 She stayed on the back side. I stay like on the side and
25 she would, you know, come purchase marijuana and that would

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1 be that.

2 Q Are you familiar with the term trap house?

3 A Yes, sir.

4 Q What does trap house mean?

5 A A dope house more like where you make transactions at
6 with different people with different drugs. And we would
7 sit in there and everyone would make plays. And when I make
8 plays was sell whatever narcotics we had.

9 Q So was [REDACTED], in your mind, a trap
10 house?

11 A Yes. Yes, it was.

12 Q Had you ever met with Alvin Clark, Calvin Kennedy or
13 Gregory Howell there before?

14 A Yeah.

15 Q For the purpose of any interaction with drugs?

16 A Yes, sir.

17 Q How many times?

18 A Numerous times. I was in school and so I had a
19 advantage of meeting more people than, you know. I started
20 talking to this girl from North Carolina. And I met the
21 girl from North Carolina and I met her cousin. And her
22 cousin, you know, like had a large quantity of cocaine. So
23 she introduced me to her cousin. So I would go to North
24 Carolina, you know, like because I would get it for a
25 cheaper price than versus me getting it down here. And

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1 those guys would send their money with me, Mr. Howell, Mr.
2 Kennedy, he didn't really too much. It was me and Mr.
3 Howell and Mr. Clark. We would all, you know, pretty much
4 go in and send -- I would go to North Carolina and bring the
5 drugs back. And that's where we would meet at to divide it
6 up.

7 Q So getting back to that day, did you actually end up
8 meeting those individuals that day at [REDACTED] ?

9 A Yes, sir.

10 Q Well, tell us in as much detail as you remember the
11 sequence of events, what happened; who was there and any
12 other facts that you think are relevant.

13 A Before anything went sour, it was Mr. Howell there by
14 himself. Mr. Howell was -- well, could I give an example.

15 DEFENDANT JOHNSON: Can I --

16 THE COURT: You can give an example but you're not
17 to cuss.

18 DEFENDANT JOHNSON: No, I'm not cursing now.

19 A Mr. Howell, when I approached the house, Mr. Howell was
20 sitting in the living room area with his feet kick up, you
21 know, like cross, looking at TV or whatever the case may be.
22 I came in the house by myself. Because like I said, I was
23 charging those guys more than what they were going to pay
24 for it.

25 BY MR. PALMER:

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1 Q Wait. Can I stop you a second. First of all, how did
2 you get there?

3 A Mr. Morrison.

4 Q In what car?

5 A At first it was the -- I think it's the Impala, the
6 white Impala.

7 Q The white Chevy Impala?

8 A Yes.

9 Q And is that the one that's been discussed this week in
10 this courtroom?

11 A Yeah. Yes, sir.

12 Q That's the same car?

13 A Yes, sir.

14 Q And what was your understanding of who owned that car?

15 A Ms. Minick. I guess Taquan girlfriend.

16 Q Okay. And so did Taquan show up to pick you up in the
17 white Impala?

18 A Yeah. Because he was going to take me back on campus
19 because I had -- I put my clothes back in his trunk.

20 Because after everything was over, he was going to take me
21 back on campus and he had to make it back to Columbia to
22 pick his girlfriend up from work.

23 Q All right. And was anybody with him when he picked you
24 up?

25 A Yes, sir.

1 Q Who was with him?

2 A Mr. Ayer.

3 Q And when you say Mr. Ayer, are you talking about the
4 gentleman seated at the defense table with the necktie on?

5 A Yes, sir.

6 Q And no suit?

7 A Yes, sir.

8 Q Okay. And you recognize him from that day?

9 A Yes, sir.

10 Q Here in Court?

11 A Yes, sir.

12 Q Okay. And at that point, it sounds like you'd only
13 known him about a day?

14 A Yeah. Maybe a day or two. I didn't know him like know
15 him, know him.

16 Q All right. So you arrive at [REDACTED],
17 white Chevy Impala, Taquan's driving?

18 A Yeah.

19 Q What seat are you in?

20 A At that time, I'm in the back. I'm in the back because
21 they're going to pick me up. Mr. Ayer was in the front. I
22 was in the back.

23 Q Okay. So then what happened? What happened after you
24 arrived there?

25 A I went in the house whatever the case may be.

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1 Q I'm sorry to cut you off, but where did you park the
2 car?

3 A It was like -- like the driveway is a U over there,
4 whatever the case may be. He parked like in the driveway
5 like facing the house. You know what I'm saying?

6 Q Okay. Continue, please?

7 A Okay. So I got out, whatever the case may be. Alvin
8 Clark nor Mr. Kennedy was there at the time. It was just
9 Mr. Howell. And we were kind of pressed for time or
10 whatever the case may be. So I went in the house. Then I
11 just -- I asked Mr. Howell was like where Alvin went to?
12 He's like, I don't know where he went to you. You know what
13 I'm saying? He should be coming right back thought. So I
14 was like all right. Well, I don't got enough time for that.
15 I was like I don't have time for that. So I got in the car,
16 and I left. While we was pulling our or whatever the case
17 may be, to get at the top of the road, Ms. Barnwell and Mr.
18 Clark was turning in. Mr. Clark called me phone. He's
19 like, hey, brother that's you. Turn around in the road. I
20 was like, yeah. That is me or whatever. Nigger turn
21 around. It was me and that was them turning in. So we bust
22 a U-turn to --

23 Q You might want to refrain from the use of the N-word.
24 I mean, we get it, okay?

25 A Okay. Oh, okay. Okay. So I bust a U-turn and went

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1 back to the house or whatever the case may be. Ms. Barnwell
2 pulled in front of the house. And we pulled like behind Ms.
3 Barnwell. And I got out, went in the house. Alvin got out,
4 went in the house. Ms. Barnwell got out and went in the
5 house but she didn't stay. I don't know if she went in
6 there and got something, whatever. But she didn't stay
7 whatever the case may be. And so I was like -- whatever the
8 case. She's like what's up Bootsy. And she left or
9 whatever the case may be. So Mr. Clark went in the kitchen
10 or whatever the case maybe, and went to the microwave -- he
11 was about to do the process of cooking crack cocaine. You
12 know what I'm saying.

13 Q Okay. Wait a minute. Let me stop you there. What was
14 the purpose of that?

15 A Cooking crack cocaine?

16 Q Yeah.

17 A It's a trap house. I mean, you have crack there, you
18 know.

19 Q Is it your testimony that that was what was going to be
20 sold to Mr. Ayer?

21 A I don't want to lie and say it was crack cocaine. I
22 don't remember which one it was going to be. But I think it
23 was cocaine.

24 Q Okay. And you saw Mr. Clark with it?

25 A Yes, sir.

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1 Q Okay. So then what happened?

2 A Mr. Clark was in the kitchen cooking up the drugs or
3 whatever the case may be. Me, Mr. Howell was the only two
4 in the house at that time and Mr. Clark, you get what I'm
5 saying? Mr. Kennedy wasn't there yet. He arrived after
6 Steph left earlier whatever the case may be. That's when he
7 arrived or whatever the case may be.

8 Q Steph, you mean Ms. Barnwell?

9 A Yeah. Ms. Barnwell.

10 Q So let me make sure I understand you. You're in the
11 house, Mr. Howell's in the house, Mr. Clark's in the
12 kitchen. Ms. Barnwell leaves --

13 A That's it. It's just us there. You get what I'm
14 saying? And the other two guys are in the car. They never
15 got out.

16 Q You're talking about Mr. Ayer and Mr. Morrison are in
17 the car with the motor running?

18 A Yes, sir.

19 Q Okay. Continue?

20 A Okay. So, you know, like we just 'chillin or whatever
21 the case may be. Mr. Clark opened up the cocaine or
22 whatever the case may be. Me and Mr. Howell, you know, like
23 we snorted it or whatever the case may be. We took some out
24 there to roll a B, a blunt, you know, like it's marijuana
25 and cocaine mixed. We took some out there to smoke a blunt

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1 or whatever the case may be. We rolled them up. We smoked
2 them. We're smoking, you know, everything, everything is
3 normal. Everything is good. Mr. Kennedy arrived, you know,
4 like -- I guess he was in an uproar. He wasn't in a uproar,
5 uproar, but you could tell he was -- he just got through
6 arguing with somebody, you get what I'm saying? So Mr.
7 Kennedy came stand by the door, you know, what I'm saying.
8 That was that.

9 Q Stand by what door?

10 A The front, the door where you come in the house.

11 Q The front entrance?

12 A Yes, sir.

13 Q Okay.

14 A So he was leaning on the door. Me and Mr. Howell was
15 leaning on the bar, on the bar area, watching Mr. Clark cook
16 the dope or whatever the case may be. And so -- I think Mr.
17 Morrison, I think he blew the horn or something like that
18 because we were kind of pressed for time. That's when Mr.
19 Clark said, hey, tell your home boys to come in. Like that
20 right there. He was like tell your home boys. He's like
21 hey, y'all come in. He told them to come in. I never told
22 them to come in.

23 Q Now, let me stop you there a second. Up to this point,
24 had you been in touch by phone with Mr. Clark?

25 A Oh, yeah. Yeah.

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1 Q I mean, other than the call about turn your car around
2 and come back. Had you called him to set up this deal?

3 A Yeah. Actually, I was over there earlier telling him,
4 you know, like these guys are coming. You know, like this
5 -- You know, like this is what he's -- and at that same time
6 they purchased marijuana also. They also purchased a little
7 bit of marijuana earlier that day from these guys too.

8 Q What do you mean these guys? What guys?

9 A Mr. Ayer and Mr. Morrison.

10 Q And when Morrison and Ayer picked you up --

11 A Uh-huh. (Affirmative response)

12 Q Was there any discussion about this transaction?

13 A Yeah. That was the initial reason for them coming to
14 Orangeburg.

15 Q And were you made aware that either one of those guys,
16 I'm talking about Morrison or Ayer, had any cash on them?

17 A Yeah. They had cash.

18 Q Did you know how much?

19 A I know it was over -- maybe like three thousand dollars
20 or something like that.

21 Q And any point did you make Howell, Clark or Kennedy
22 aware that they had that much money?

23 A I mean, that's common sense. They're coming to buy
24 drugs.

25 Q Well, the question is, did you make them aware?

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1 A No. The only thing I just said, hey, look my people's
2 coming down here. This is this right here. But you're
3 going to charge them twelve five. Tell them twelve five,
4 you know, and that's going to be my extra cash. You know
5 what I'm saying.

6 Q So the deal was you were going to get the drugs from
7 Clark?

8 A And take it back to the car. That's why they never got
9 out.

10 Q And you were going to get twelve five. Is that twelve
11 hundred and fifty dollars?

12 A Yeah.

13 Q You were going to take that back inside and give it to
14 them?

15 A Yeah.

16 Q Were you going to take any for yourself?

17 A Yeah. That's why -- the initial plan was for to charge
18 them more so I could get me out the deal -- so I could get
19 me off the top, you know what I'm saying. Like it's middle
20 manning. And that's like if I have a car and I only want
21 three thousand dollars for it, but you're going to try to
22 sell it for me, you're going to tell the next person thirty-
23 five hundred dollars for it. You get what I'm saying. And
24 you're going to give me my three thousand dollars and you're
25 going to keep the five hundred for yourself.

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1 Q Okay. Got you. All right. So what happens next?

2 A Well, we're in the house, whatever the case may be.

3 Alvin received a phone call. I'm not sure from who, but he
4 was laughing, whatever the case may be. And the guys like
5 C.J. sold me this -- And you know, like it was just laughing
6 about. You know, Alvin was like, don't worry about it.

7 I'll get it straight like that. And Mr. Howell said that
8 boy going to F you up, C.J. And he's like I ain't press.
9 Mr. Kennedy said I ain't press.

10 Q What does that mean?

11 A He's not worried about it. Like that, whatever the
12 case may be. So they're laughing or whatever the case may
13 be, Mr. Ayer came in. Like, he was standing -- like he
14 didn't stand. He didn't -- He had on a polo shirt.

15 Q Let me stop you. How did Mr. Ayer know how and when to
16 come in. Who told him to come in?

17 A Mr. Clark told him to come in.

18 Q How did he do that. Did he call him?

19 A He's like tell him to come in. I went to the door, I
20 stuck my head out the door, Hey, my people said you could
21 come in.

22 Q So you actually told him to come in?

23 A Yeah. Yes, sir.

24 Q What? Did you just wave at him and say --

25 A No, I just stuck my head out the door like -- I open

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1 up, I pushed the door open. I like, hey, my people said you
2 could come in. Like that right there.

3 Q Okay. And did Mr. Ayer then get out of the white
4 Impala and come in the residence.

5 A Yes, sir.

6 Q What happened to Mr. Morrison?

7 A Mr. Morrison stayed in the car.

8 Q Okay. All right. Continue, please.

9 A Mr. Ayer came in. You know, everything was everything.
10 You know, like my back was turned. You know, like me and
11 Mr. Howell was leaning on the bar. And so my back was
12 turned. And we can't see what's going on because Mr.

13 Kennedy is leaning on the door with his arm fold. And Mr.
14 Ayer is like standing behind us. You get what I'm saying.

15 Q Okay. I'm going to stop you.

16 MR. PALMER: And, Judge, if I can get the witness
17 off the stand and to the diagram that I've already put on
18 the --

19 THE COURT: Over this way?

20 MR. PALMER: Excuse me? Okay. Right here, Judge?

21 THE COURT: Yes, sir.

22 MR. PALMER: Okay.

23 A (Witness steps down)

24 BY MR. PALMER:

25 Q All right. Mr. Johnson, would you please stand next to